FINAL ENVIRONMENTAL IMPACT REPORT

Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

State Clearinghouse #: 2017042022

January 2018

PREPARED FOR:
Humboldt County
Planning & Building Department
3015 H Street
Eureka, CA 95501

Final
Environmental Impact Report
For the

Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

SCH# 2017042022

PREPARED FOR

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ACRONYMS AND ABBREVIATIONS

AUMA	Adult Use of Marijuana Act
BMPs	best management practices
CBC	California Building Code
CCR	California Code of Regulations
CDFA	California Department of Food and Agriculture
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
CEU	Code Enforcement Unit
CMMLUO	Commercial Medical Marijuana Land Use Ordinance
DEIR	Draft Environmental Impact Report
DPR	Department of Pesticide Regulation
DWR	California Department of Water Resources
GHG	greenhouse gases
GIS	geographic information system
MCRSA	Medical Cannabis Regulation and Safety Act
MMRP	Mitigation Monitoring and Reporting Program
NCUAQMD	North Coast Unified Air Quality Management District
NOP	notice of preparation
NPDES	National Pollutant Discharge Elimination System
PG&E	Pacific Gas & Electricity
PM_{10}	respirable particulate matter with an aerodynamic resistance diameter of 10 micrometers or less
PRC	Public Resources Code
RRNA	Rural Residential Neighborhood Area
RRR	Retirement, Remediation, and Relocation
RWQCB	Regional Water Quality Control Board
SMAs	Streamside Management Areas
SRA	State Responsibility Areas
SWRCB	State Water Resources Control Board
TPZ	Timber Production Zone
USFWS	US Fish and Wildlife Service
USGS	United States Geological Survey

1 INTRODUCTION

This document has been prepared under Humboldt County's (County) direction, as lead agency, in accordance with the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code [PRC] Section 21000-21177) and the State CEQA Guidelines (California Code of Regulations [CCR], Title 14, Division 6, Chapter 3, Sections 15000-15387) ("CEQA Guidelines"). This document contains responses to comments received on the draft environmental impact report (DEIR) for the proposed Amendments to the Humboldt County Code Regulating Commercial Cannabis Activities (project or proposed ordinance), as well as revisions to the DEIR in response to comments. The Final EIR for the proposed ordinance consists of the DEIR and this document (response to comments document). For convenience, this document is referred to as the Final EIR or FEIR. All references to the FEIR are intended to include the DEIR, responses to comments, and all supporting documentation.

1.1 PURPOSE AND INTENDED USES OF THIS FEIR

CEQA requires a lead agency that has prepared a DEIR to consult with and obtain comments from responsible and trustee agencies that have jurisdiction by law with respect to the project, as well as from other interested parties including the public, and to provide an opportunity to comment on the DEIR. The FEIR is the mechanism for responding to these comments. This FEIR has been prepared to respond to comments received on the DEIR; to present corrections, revisions, and other clarifications and amplifications to the DEIR made in response to these comments and as a result of the County's ongoing planning efforts; and to provide a Mitigation Monitoring and Reporting Program for the project. The FEIR will be used to support the County's decision regarding whether to approve the proposed ordinance.

This FEIR will also be used by CEQA responsible and trustee agencies to ensure that they have met their requirements under CEQA before deciding whether to approve or permit project elements over which they have jurisdiction. It may also be used by other state, regional, and local agencies that may have an interest in resources that could be affected by the project or that have jurisdiction over portions of the project.

The following federal, responsible, and trustee agencies may have jurisdiction over elements of the project:

- U.S. Army Corps of Engineers;
- California Coastal Commission;
- California Department of Consumer Affairs, Bureau of Cannabis Regulation;
- California Department of Fish and Wildlife, Region 1;
- California Department of Food and Agriculture;
- California Department of Forestry and Fire Protection,
- California Department of Parks and Recreation;
- California Department of Pesticide Regulation;
- California Department of Public Health;
- California Department of Transportation, District 1;
- California Department of Water Resources;
- North Coast Regional Water Quality Control Board (Region 1);
- North Coast Unified Air Quality Management District; and
- State Water Resource Control Board.

1.2 PROJECT LOCATION

Humboldt County is located along the north coast of California. It is bounded by the Pacific Ocean, Del Norte, Siskiyou, Trinity, and Mendocino counties (see DEIR Exhibit 2-1). The proposed ordinance would address appropriately zoned lands in the unincorporated area of Humboldt County and would not apply to the incorporated cities, tribal, state, and federal lands (see DEIR Exhibit 2-2).

Humboldt County consists of approximately 2.3 million acres, 75 percent of which is forested. Approximately 30 percent of the county is under federal, state, and tribal ownership. Incorporated cities consist of 24,000 acres and agricultural operations make-up 460,000 acres of the County. The reader is referred to DEIR Section 3.2, "Agriculture and Forest Resources," and 3.3, "Biological Resources," for a further description of the County's natural resources.

1.3 OBJECTIVES OF THE PROPOSED ORDINANCE

The overall purposes of the proposed ordinance are to establish legal commercial (in addition to medical) cannabis activities and expand upon the existing regulations set forth under the existing Commercial Medical Marijuana Land Use Ordinance (CMMLUO). Recognizing the requirements of state law related to the use and distribution of cannabis, the primary objectives of the proposed ordinance include the following:

- expand the scope of the Ordinance 2554 and 2559 to include commercial marijuana operations for adult recreational uses now authorized by AUMA, under the same general regulations as medical cannabis;
- establish local land use regulations to allow for continued commercial cannabis operations in the unincorporated area of the County that ensure the health and safety of residents, employees, County visitors, neighboring property owners, and end users of cannabis;
- provide consistency with state agency regulations associated with commercial cannabis operations;
- establish requirements that address land use and environmental impacts of cannabis operations, consistent with state agency regulations;
- support the local cannabis industry through maximizing participation of existing non-permitted cannabis farmers in the County's permitting program;
- improve baseline environmental conditions in the County by removing existing cannabis cultivation operations from environmentally sensitive locations and relocating them to areas with public services; and
- relocating existing non-permitted cannabis related activities into more centralized locations with better infrastructure (e.g. nurseries, community propagation centers, processing centers).

1.4 SUMMARY DESCRIPTION OF THE PROJECT

The project would update the County's existing Commercial Medical Marijuana Land Use Ordinance (Section 313-55.4 and 314-55.4 of Chapter 3 of Division 1 of Title III of the County Code) as well as repeal of the Medical Cannabis Testing and Research Laboratories provisions and on-site consumption prohibition found in Sections 313-55.3.15, 314-55.3.15, 313-55.3.11.7, and 314-55.3.11.7 of Division 1 of Title III of the County Code, respectively. These regulations establish land use regulations for the commercial cultivation, processing, manufacturing, distribution, testing, and sale of cannabis within the County.

1.5 MAJOR CONCLUSIONS OF THE ENVIRONMENTAL ANALYSIS

The EIR identified the following significant impacts related to the project:

Air Quality and Greenhouse Gas Emissions

- Operation of new commercial cannabis operations under the proposed ordinance would result in the increase in particulate matter (PM_{10}) emissions during the harvest season that would exceed North Coast Unified Air Quality Management District (NCUAQMD) thresholds and contribute to the nonattainment status of the North Coast Air Basin for PM_{10}. No feasible mitigation is available to reduce this impact. Therefore, the impact would be **significant and unavoidable** (Impact 3.3-2).

  The project's contribution to cumulative air quality impacts involving particulate matter (PM_{10}) emissions **would be cumulatively considerable** and **significant and unavoidable**.

- Operation of new commercial cannabis operations under the proposed ordinance could generate objectionable odors to nearby residents. Mitigation has been recommended to reduce this impact. However, this mitigation measure would not completely offset the odor impact. Therefore, the impact would be **significant and unavoidable** (Impact 3.3-4).

  The project's contribution to cumulative impacts from exposure of people to objectionable odors **would be cumulatively considerable** and **significant and unavoidable**.

Biological Resources

- Construction and operation of new commercial cannabis operations under the proposed ordinance would result in the disturbance and potential loss of special-status wildlife species and habitat. Mitigation has been recommended to reduce this impact to **less than significant** (Impact 3.4-1).

- Surface water diversions from new commercial cannabis cultivation that may occur under the proposed ordinance could adversely affect several special-status fish species. Mitigation has been recommended to reduce this impact to **less than significant** (Impact 3.4-2).

- Construction of new commercial cannabis operations under the proposed ordinance could result in the loss of special-status plant species. Mitigation has been recommended to reduce this impact to **less than significant** (Impact 3.4-3).

- Construction of new commercial cannabis operations under the proposed ordinance could result in the disturbance or loss of sensitive natural communities in the County. Mitigation has been recommended to reduce this impact to **less than significant** (Impact 3.4-4).

- Construction of new commercial cannabis operations under the proposed ordinance could result in the disturbance or filling of waters of the US. Mitigation has been recommended to reduce this impact to **less than significant** (Impact 3.4-5).

- Construction and operation of new commercial cannabis operations under the proposed ordinance could result in the disturbance of wildlife movement in the County. Mitigation has been recommended to reduce this impact to **less than significant** (Impact 3.4-6).

Cultural Resources

- Construction of new commercial cannabis operations under the proposed ordinance could result in the damage or loss of historic resources. Mitigation has been recommended to reduce this impact to **less than significant** (Impact 3.5-1).

- Construction of new commercial cannabis operations under the proposed ordinance could result in the damage or loss of archaeological resources. Mitigation has been recommended to reduce this impact to **less than significant** (Impact 3.5-2).

Geology and Soils

- Construction of new commercial cannabis operations under the proposed ordinance could result in the damage or loss of paleontological resources. Mitigation has been recommended to reduce this impact to **less than significant** (Impact 3.6-5).

Hazards and Hazardous Materials

- Construction of new commercial cannabis operations under the proposed ordinance could result in the accidental release of unknown contamination or hazardous waste. Mitigation has been recommended to reduce this impact to **less than significant** (Impact 3.7-2).

Hydrology and Water Quality

- Operation of new commercial cannabis operations under the proposed ordinance could result in the water quality impacts. Mitigation has been recommended to reduce this impact to **less than significant** (Impact 3.8-2).

- Operation of new wells associated commercial cannabis operations under the proposed ordinance could result in the localized groundwater and well impacts. Mitigation has been recommended to reduce this impact to **less than significant** (Impact 3.8-3).

- Construction and operation of new commercial cannabis operations under the proposed ordinance could alter drainage patterns that result in on-site or off-site flooding impacts. Mitigation has been recommended to reduce this impact to **less than significant** (Impact 3.8-4).

- Operation of new commercial cannabis operations under the proposed ordinance could result in could result in the surface water resource impacts from diversions. Mitigation has been recommended to reduce this impact to **less than significant** (Impact 3.8-5).

Noise

- Construction of new commercial cannabis operations under the proposed ordinance could result in excessive (though temporary) noise levels for nearby noise-sensitive land uses. Mitigation has been recommended to reduce this impact to **less than significant** (Impact 3.10-1).

Utilities and Service Systems

- Operation of new commercial cannabis operations under the proposed ordinance would increase the demand for wastewater service and exceed the capacity of public wastewater systems. Mitigation has been recommended to reduce this impact to **less than significant** (Impact 3.13-1).

- Operation of new commercial cannabis operations under the proposed ordinance would increase the demand for water supply and service from public water supply distribution systems. Mitigation has been recommended that would reduce the extent of this impact. However, impacts related to the ability of some community service districts to provide adequate water service cannot be fully mitigated. Therefore, this impact would be **significant and unavoidable** (Impact 3.13-2).

  The project's contribution to cumulative impacts associated with the provision of sufficient water supplies and infrastructure needs would be **cumulatively considerable** and **significant and unavoidable**.

1.6 SUMMARY OF PROJECT ALTERNATIVES

State CEQA Guidelines Section 15126.6, as amended, mandates that all EIRs include a comparative evaluation of the proposed project with alternatives to the project that are capable of attaining most of the project's basic objectives, but would avoid or substantially lessen any of the significant effects of the project. CEQA requires an evaluation of a "range of reasonable" alternatives, including the "no project" alternative. Chapter 6, "Alternatives," of the DEIR provides an analysis of the comparative impacts anticipated from the following alternatives to the proposed project:

- **Alternative1: No Project, No Additional Permits Issued.** This alternative would consist of not adopting the proposed ordinance. The County would continue to implement the requirements of the CMMLUO and would not consider any new permit applications beyond what was submitted on or before December 31, 2016 pursuant to Section 55.4.17 (Sunset of Applications).

- **Alternative 2: No Project, New Permits Issued.** This alternative would be like Alternative 1. The County would continue to implement the requirements of the CMMLUO, but would amend the ordinance to allow for the submittal of new permit applications.

- **Alternative 3: Prohibition of New Outdoor and Mixed-Light Cultivation Operations in City Spheres of Influence and Community Plan Areas.** This alternative would consist of the proposed ordinance, but would prohibit new outdoor and mixed-light commercial cannabis cultivation operations within the spheres of influence of the incorporated cities and the community plan area boundaries.

- **Alternative 4: Prohibition of New Outdoor and Mixed-Light Cultivation Operations.** This alternative would cap the extent of new outdoor and mixed-light commercial cannabis cultivation allowed under the proposed ordinance to applications for new cultivation received on or before December 31, 2015 under the CMMLOU. Only new indoor commercial cannabis cultivation would be allowed under this alternative.

- **Alternative 5: Reduction of New Commercial Cannabis Operations.** This alternative would prohibit all new commercial cannabis outdoor and mixed-light cultivation that did not exist on or before December 31, 2015 except under the Retirement, Remediation, and Relocation (RRR) program, and would not allow any new permits for pre-existing cultivation in areas zoned Timber Production Zone (TPZ). New commercial cannabis indoor cultivation and non-cultivation operations would only be allowed within community plan boundaries.

1.7 CEQA PUBLIC REVIEW PROCESS

On September 1, 2017, the DEIR was released for a 45-day public review and comment period that ended on October 16, 2017. The DEIR was submitted to the State Clearinghouse; posted on the County's website (http://humboldtgov.org/2308/Cannabis-EIR); posted with the Humboldt County Clerk; and made available at the following locations:

- Humboldt County Planning and Building Department at 3015 H Street, Eureka, CA 95501; and
- Humboldt County Library at 1313 3rd Street, Eureka CA 95501

As a result of these notification efforts, written comments were received from agencies, organizations, and individuals on the content of the DEIR. Chapter 3, "Responses to Comments," identifies these commenting parties, their respective comments, and responses to these comments. None of the comments received, or the responses provided, constitute "significant new information" by CEQA standards (State CEQA Guidelines CCR Section 15088.5).

1.8 ORGANIZATION OF THIS FEIR

This FEIR is organized as follows:

Chapter 1, Introduction: This chapter describes the purpose of the FEIR, summarizes the project and the major conclusions of the EIR, provides an overview of the CEQA public review process, and describes the content of the FEIR.

Chapter 2, Responses to Comments: This chapter contains a list of all parties who submitted comments on the DEIR during the public review period, copies of the comment letters received, and responses to the comments. The chapter begins with a set of master responses that were prepared to comprehensively respond to multiple comments that raised similar issues. A reference to the master response is provided, where relevant, in responses to individual comments.

Chapter 3, Revisions to the DEIR: This chapter presents revisions to the DEIR text made in response to comments, or to amplify, clarify or make minor modifications or corrections. Changes in the text are signified by ~~strikeouts~~ where text is removed and by <u>underline</u> where text is added.

Chapter 4, Mitigation Monitoring and Reporting Program: This chapter presents the Mitigation Monitoring and Reporting Program (MMRP) for the proposed ordinance, in accordance with CEQA and the State CEQA Guidelines (PRC Section 21081.6 and State CEQA Guidelines Sections 15091[d] and 15097), which require public agencies "to adopt a reporting and 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."

Chapter 5, List of Preparers: This chapter identifies the lead agency contacts as well as the preparers of this FEIR.

Chapter 6, References: This chapter identifies the organizations and persons consulted during preparation of this FEIR and the documents used as sources for the analysis.

2 RESPONSES TO COMMENTS

This chapter contains comment letters received during the public review period for the Draft Environmental Impact Report (DEIR), which concluded on October 16, 2017. In conformance with Section 15088(a) of the State California Environmental Quality Act (CEQA) Guidelines, written responses were prepared addressing comments on environmental issues raised in comments on the Draft EIR.

2.1 LIST OF COMMENTERS ON THE DEIR

Table 2-1 presents the list of commenters, including the numerical designation for each comment letter received, the author of the comment letter, and the date of the comment letter.

Table 2-1 List of Commenters

Letter No.	Commenter	Date
STATE AGENCIES (S)		
S1	California Department of Fish and Wildlife	10/16/2017
S2	California Department of Transportation (Caltrans)	10/16/2017
S3	California Department of Parks and Recreation	10/13/2017
REGIONAL AGENCIES (R)		
R1	North Coast Regional Water Quality Control Board	10/16/2017
R2	North Coast Regional Water Quality Control Board	10/20/2017
LOCAL AGENCIES (L)		
L1	City of Arcata	9/11/2017
L2	City of Arcata	9/25/2017
L3	Humboldt County Department of Health and Human Services	10/16/2017
L4	North Coast Regional Department of Child Support Services	10/11/2017
L5	Humboldt County Department of Health and Human Services	10/16/2017
L6	City of Trinidad	9/26/2017
L7	City of Blue Lake	10/12/2017
L8	City of Fortuna	10/19/2017
ORGANIZATIONS (O)		
01	Humboldt-Mendocino Marijuana Advocacy Project	9/11/2017
02	Environmental Protection Information Center, Safe Alternatives for our Forest Environment, Redwood Region Audubon Society, Humboldt Baykeeper, and Northcoast Environmental Center	10/12/2017
03	Humboldt-Mendocino Marijuana Advocacy Project	10/16/2017
04	Friends of the Eel River	10/16/2017
05	Humboldt County Growers Alliance	9/21/2017
06	Lost Coast Humane Society	10/16/2017
07	Humboldt Baykeeper	10/16/2017
08	Humboldt Baykeeper, Klamath Riverkeeper, and EPIC	10/16/2017

Table 2-1 List of Commenters

Letter No.	Commenter	Date
O9	The Buckeye	10/16/2017
O10	Epic	10/16/17
INDIVIDUALS (I)		
I1	Peter and Sharron Childs	9/3/2017
I2	Majorie Heddinger	9/4/2017
I3	Tim Meade	9/5/2017
I4	Paul Farnham	9/6/2017
I5	Randall and Alverna Moore	9/8/2017
I6	Carol Nichols	9/9/2017
I7	Steve Barager	9/19/2017
I8	Teisha Mechetti (AgDynamix)	9/7/2017
I9	Nate Bones	9/13/2017
I10	Nathan Bones	9/13/2017
I11	Sue and Tom Leskiw	9/14/2017
I12	Terra Carver	9/20/2017
I13	Betty Crowder	9/20/2017
I14	Sami Osman	9/21/2017
I15	Thomas Mulder	9/22/2017
I16	Katherine Wolman	9/25/2017
I17	Ken Miller	9/29/2017
I18	Kelly Flores (Margro Advisors)	10/4/2017
I19	Joan Bennett	10/6/2017
I20	John LayBoyteaux	10/6/2017
I21	Katherine Wolman	10/6/2017
I22	Randy Klein	10/10/2017
I23	Anonymous	10/13/2017
I24	Linda Cassara	10/13/2017
I25	Katherine Wolman	10/13/2017
I26	Leslie McMurray	10/13/2017
I27	Ernie DeGraff	10/13/2017
I28	Gus Erickson	10/14/2017
I29	Marjorie Heddinger	10/14/2017
I30	George Clark	10/15/2017
I31	Susan Leskiw	10/15/2017
I32	Andrew Couturier	10/16/2017
I33	Arcadia Ratcliff	10/16/2017
I34	Barbara Shults	10/16/2017
I35	Bonnie Blackberry	10/16/2017

Table 2-1 List of Commenters

Letter No.	Commenter	Date
I36	Cathy Mathena	10/16/2017
I37	Charles Compton	10/16/2017
I38	Claire Perricelli	10/16/2017
I39	Amy Gustin	10/16/2017
I40	Craig Tucker	10/16/2017
I41	Curtis Berrien	10/16/2017
I42	Cynthia Hammond	10/16/2017
I43	Dan Kelly	10/16/2017
I44	Daniel Kowalski	10/16/2017
I45	David Herr	10/16/2017
I46	Eric Forsman	10/16/2017
I47	Frank Emerson	10/16/2017
I48	Hollie Hall	10/16/2017
I49	Jeff Mckay	10/16/2017
I50	Jerry Martien	10/16/2017
I51	Jim and Francene Rizza	10/16/2017
I52	Jim Ferguson	10/16/2017
I53	John Pielaszczyk	10/16/2017
I54	John Stokes	10/16/2017
I55	Kate Estlin	10/16/2017
I56	Kathryn Hoke and George Hurlburt	10/16/2017
I57	Kim Cabrera	10/16/2017
I58	Kyle Haines	10/16/2017
I59	Marisa St John	10/16/2017
I60	Monica Balwinski	10/16/2017
I61	Noel Krahforst	10/16/2017
I62	Pat Farmer	10/16/2017
I63	Robert Torre	10/16/2017
I64	Rudy Ramp	10/16/2017
I65	Sandra Tilles	10/16/2017
I66	Seth Zuckerman	10/16/2017
I67	Thomas Wheeler	10/16/2017
I68	Tim Talbert and Pat Farmer	10/16/2017
I69	Tory Starr	10/16/2017
I70	Uri Driscoll	10/16/2017
I71	Thomas Grover	10/17/2017
I72	Gary Falxa	10/17/2017
I73	Norm an Dyche	10/17/2017

Table 2-1 List of Commenters

Letter No.	Commenter	Date
I74	Paul Henninger	10/17/2017

2.2 MASTER RESPONSES

Several comments raised similar issues. Rather than responding to each individual comment separately, master responses have been developed to address the comments comprehensively. Master responses are provided for the following topics: consideration of illegal cannabis operations, cannabis operation assumptions, consideration of noise impacts, odor impacts from cannabis operations, and enforcement of the ordinance. A reference to the master response is provided, where relevant, in responses to the individual comment.

2.2.1 Master Response 1: Consideration of Illegal Cannabis Operations

SUMMARY OF COMMENTS REGARDING ILLEGAL CANNABIS OPERATIONS

Several comment letters assert that the DEIR does not adequately address the impacts of illegal (also referred to as unpermitted) cannabis cultivation activities in relation to the project. Comment letters also state that the DEIR declines to address illegal cannabis cultivation sites as an important and existing contribution to cumulative impacts. These comment letters identify that the impacts of current illegal cannabis cultivation are significant and well-documented and request that the EIR address impacts of illegal operations and their interaction with the proposed ordinance.

This response addresses environmental damage from illegal operations, and discusses the distinction between baseline conditions and cumulative impacts within the CEQA requirements. The intent of this response is not to understate the environmental damage associated with illegal operations; to the contrary, illegal cannabis operations, particularly cultivation, has caused and continues to cause substantial and widespread environmental harm. This is enumerated below. Importantly, however, the project is a regulatory scheme aimed at managing cannabis operations and the impacts of this scheme are the focus of the EIR.

OVERVIEW OF THE ENVIRONMENTAL IMPACTS OF HISTORIC AND CURRENT CANNABIS CULTIVATION AND THE INTENT OF THE PROPOSED ORDINANCE

It is acknowledged that historic and current cannabis cultivation activities in the County and state-wide have created significant environmental effects. The details of the effects are not always known. Because these operations are illegal, there is no database available to track the extent to which adverse effects have occurred. Further, because of the nature of some operations, with armed sentries and other measures intended to keep people away, it is not necessarily safe to inspect illegal operations. Nevertheless, based on discussions with County staff, a review of newspaper articles, and experience by the consultant on the Calaveras County Medical Cannabis Cultivation and Commerce Ordinance EIR (September 2017, SCH #2016042019) some of the known effects include:

- Cannabis cultivation operations within public and private lands have led to illegal water diversions; this has contributed to dewatering of some streams during a period of drought which likely has adversely effected aquatic habitat.

- Illegal operations have resulted in removal of sensitive vegetation, likely including rare and endangered plants. Further, vegetation removal as well as improper grading has exposed hillsides to erosion. In turn, this erosion has likely silted streams, further effecting aquatic habitat. Several water bodies in the County are already designated as “impaired” for sediment under Section 303d of the Clean Water Act

(see DEIR Table 3.8-3) that are being further impacted by cannabis cultivation. Cannabis cultivation has also resulted in discharged pesticides, fertilizers, fuels, trash, and human waste around the sites, that then discharges into surface waters.

- It is well documented that illegal cannabis operations have used illegal pesticides and rodenticides. These poisons have killed animals such as Pacific fishers, who are in turn consumed and poison animals up the food chain (including species protected under the state and federal endangered species acts as well as other regulations).

In addition to these environmental impacts, unpermitted cannabis cultivation activities have resulted in soil contamination from improper handling of pesticides, fertilizers, and other materials. These sites are also potential sources of fire hazards from improper electrical wiring. Some illegal grow sites also host unsanitary encampments during the harvesting/ "bud trimming" seasons, with inadequate waste elimination systems.

These illegal activities have resulted in serious concerns among regulators, environmentalists, and the general public. These concerns have resulted in the desire by many agencies, including Humboldt County, to develop and implement strong regulations that address, control, and minimize environmental impacts from cannabis operations. As identified in this master response below, these environmental impacts of historic and current cannabis cultivation have been disclosed in the DEIR

The County believes that regulating cannabis operations will result in permitting of legal operations—ones that comply with regulations—and the eventual eradication of illegal operators who choose to avoid or ignore the permitting process. The County has addressed enhanced enforcement as a separate project with amendments to its Code Enforcement program. (Ordinance No. 2576, June 27, 2017 and Ordinance No. 2585, November 7, 2017) designed to eliminate delays that hindered effective enforcement, and substantially increase administrative civil penalties. The Code Enforcement Unit is engaged in the initial implementation of the enhanced enforcement program (see Master Response 6). The overall purposes of the proposed ordinance are to establish legal commercial cannabis activities and expand upon the existing regulations set forth under the current Commercial Medical Marijuana Land Use Ordinance (CMMLUO) (Ordinance No. 2544, with corrective amendments by Ordinance No. 2559). Key environmental objectives of the proposed ordinance are to:

- establish requirements that identify the locations and circumstances where cannabis activities are appropriate without causing adverse environmental impacts, consistent with state agency regulations; and

- improve baseline environmental conditions in the County by requiring permitting of existing cultivation operations subject to performance criteria or by removing existing cannabis cultivation operations from environmentally sensitive locations and relocating them to more appropriate locations.

The discussion below identifies how the DEIR appropriately discloses the existing conditions associated with illegal cannabis operations.

CEQA REQUIREMENTS FOR THE DISCLOSURE OF BASELINE CONDITIONS

State CEQA Guidelines Section 15125(a) provides the following guidance for establishing the baseline in an EIR:

> An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The description of the

> environmental setting shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives

The notice of preparation (NOP) was released on April 7, 2017. While not required under CEQA, the NOP identified baseline conditions for cannabis cultivation in the County based on the permit application process under the CMMLUO and estimates of the current extent of cannabis cultivation (10,000 to 15,000 sites) in the County.

DEIR Chapter 3, "Environmental Setting, Impacts, Mitigation Measures," further defined the baseline conditions identified in the NOP. The DEIR identified in the County that the County received 2,936 applications for permitting of cannabis operations under the CMMLUO and that approximately 68 percent of these applicants claim to have historically cultivated cannabis and are seeking a permit for continued cannabis operations (see DEIR page 3-2). These permit applications make up 8 to 13 percent of the total estimated cultivation operations in the County (10,000 to 15,000 sites). The DEIR made the following acknowledgment that not all the current cannabis operations in the County currently have elected to participate in the proposed ordinance:

> Cultivation operations that do not comply with the proposed ordinance would be considered illegal upon its adoption. Enforcement activities would be taken by the County in coordination with other agencies that could result in bringing some cultivation operations into compliance with County and state standards and the closure and remediation of others. However, it is acknowledged that illegal cannabis operations would continue to occur in the County after adoption and implementation of the ordinance. While this Draft EIR acknowledges the adverse environmental effects of continued illegal cannabis operations as part of the environmental baseline condition, the Draft EIR does not propose mitigation measures to address illegal operations as they are not part of the project. (see DEIR page 3-2)

The environmental conditions of existing unpermitted cannabis cultivation operations are specifically discussed in the following areas of the DEIR:

- Visual character: DEIR pages 3.1-10 through 3.1-14
- Biological resources: DEIR page 3.4-59
- Hazardous materials and contamination: DEIR page 3.7-10
- Water quality and diversion of surface water flows: DEIR page 3.8-33
- Fire protection and law enforcement services: DEIR pages 3.11-9 and 3.11-10
- Historic and cumulative impacts on biological resources, hazards, and water quality: DEIR page 4-2

These existing environmental conditions of unpermitted cannabis cultivation operations were disclosed as part of the baseline condition in the DEIR in compliance with CEQA. CEQA does not intend preparation of environmental review or mitigation for these conditions. State CEQA Guidelines Section 15125(a) identifies that the baseline physical conditions are the basis by which a lead agency determines whether an impact of the project is significant. Published case law has identified that baseline conditions include unpermitted and/or harmful activities that have occurred prior to the project. In *Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 234 Cal.App.4th 214 (183 Cal.Rptr.3d 736], the Fourth Appellate District upheld the baseline conditions and ruled that the baseline condition must reflect the physical conditions at the time the environmental analysis begins even if the current conditions include unauthorized and even environmentally harmful conditions that never received environmental review. Other published court decisions that support this interpretation of CEQA include *Riverwatch v. County of San Diego* (1999) 76 Cal.App4th 1428 [91 Cal.Rptr. 2d 322] and *Fat v. County of Sacramento* (2002) 97 Cal.App.4th 1270 [119 Cal.Rptr.2d 402].

DEIR EVALUATION OF CUMULATIVE CONDITIONS IN RELATION TO ILLEGAL CANNABIS CULTIVATION

Section 15130(a) of the State CEQA Guidelines requires a discussion of the cumulative impacts of a project when the project's incremental effect is cumulatively considerable. Cumulatively considerable, as defined in

CEQA Guidelines Section 15065(a)(3), means that the "incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." The State CEQA Guidelines Section 15355 defines a cumulative impact as two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. Prior illegal activity is not a project for purposes of cumulative impact analysis under CEQA, but is a baseline condition against which the impacts of the project under consideration are assessed. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time. CEQA requires that EIRs consider feasible mitigation measures to offset the project's contribution to each identified significant cumulative impact.

DEIR pages 4-1 through 4-3 describes the base conditions upon which the proposed ordinance's cumulative impact analysis was based. DEIR Subsection 4.2.2, "Existing Cannabis Cultivation Operations in Humboldt County," specifically describes the historic and on-going extent of cannabis cultivation operations in the County and the associated environmental damage that has occurred; this was factored in the cumulative base conditions. Several comment letters misinterpret the following statement at the end of Subsection 4.2.2 to mean that the DEIR considers the contribution of illegal cannabis operations to cumulative impacts as speculative and not included in the cumulative base conditions in the EIR.

> While it is acknowledged that illegal cannabis operations would continue to occur in the County after adoption and implementation of the ordinance, details on the full extent of the environmental effects of existing cannabis operations are considered speculative and are not assessed in this evaluation of cumulative impacts.

This statement appears to have been taken out of context of the discussion in Subsection 4.2.2. The following is the entire discussion under Subsection 4.2.2 where this statement occurs. The statement in question is in bold for emphasis.

> A study of 2012 satellite imagery conducted by Butsic and Brenner (2016) revealed the presence of 4,428 outdoor cultivation sites within 60 of the 112 subwatersheds visible in Humboldt County. In 2015, during a presentation before the Humboldt County Board Supervisors, Mr. Butsic (2016) confirmed that the 60 watersheds selected and surveyed were chosen randomly and that it was, therefore, reasonable to extrapolate almost double that number could exist within Humboldt County in 2012. Anecdotal information received from observations by local regulatory and enforcement agencies suggests a pattern of rampant growth in the industry during the past decade, with some estimates of as many as 10,000 to 15,000 cultivation operations currently in existence. As identified in Table 2-2, the County has received cannabis applications in response to the 2016 CMMLUO that cover approximately 1,252 acres of existing and proposed new operations (8 to 13 percent of the total estimated cultivation operations in the County).
>
> Historic and on-going cannabis cultivation practices have resulted in damage to streams and wildlife. More recently, illegal cannabis cultivation operations within public and private lands have led to illegal water diversions, unpermitted removal of sensitive vegetation, and direct mortality to protected species from exposure to rodenticides and insecticides (Gabriel et al. 2012 and 2013). In addition, these practices (e.g., clearing trees, grading, and road construction) have been conducted in a manner that causes large amounts of sediment to flow into streams during rains. The cannabis cultivators have also discharged pesticides, fertilizers, fuels, trash, and human waste around the sites, that then discharges into waters of the state. Furthermore, diversion of flow during the dry season have caused complete elimination of stream flows in some areas of the County. Water quality related constituents of concern associated with cannabis cultivation discharges include nitrogen, pathogens (represented by coliform bacteria), phosphorus, salinity, and turbidity. Water quality can be affected by excessive use of fertilizer, soil amendments, or other sources.
>
> Cultivation operations that do not participate in the proposed ordinance would continue to be considered illegal upon adoption of the ordinance. Enforcement activities would be taken by the County in coordination with other agencies that could result in bringing some cultivation operations

into compliance with County and state standards and the closure and remediation of other operations. The removal of illegal cultivation sites is on-going, and consideration of general locations where this would occur and number of future illegal sites is unknown and cannot be known at this time. **While it is acknowledged that illegal cannabis operations would continue to occur in the County after adoption and implementation of the ordinance, details on the full extent of the environmental effects of existing cannabis operations are considered speculative and are not assessed in this evaluation of cumulative impacts.**

As identified above, this statement refers to the identification and extent of future illegal cannabis operations in the County after implementation of the proposed ordinance. Enforcement is anticipated to reduce the number of illegal cannabis operations that occur in the unincorporated areas of the County that do not include tribal, state, or federally owned lands (the reader is referred to Master Response 6 regarding enforcement activities by the County). This is expected to improve baseline and cumulative environmental impacts from illegal cannabis operations. However, it is not currently feasible to quantify the effectiveness of future enforcement efforts in reducing the extent of illegal cannabis operations. Thus, the DEIR acknowledges that it would speculative to identify the future extent of environmental effects of existing cannabis operations pursuant to State CEQA Guidelines Section 15145. Thus, the DEIR properly considers illegal cannabis operations in the County as part of the baseline for project and in the cumulative impacts as required under CEQA.

2.2.2 Master Response 2: Cannabis Operation Assumptions

OVERVIEW OF COMMENTS

Several comment letters expressed concerns on the development and operation assumptions used in the DEIR to determine impacts. Specifically, these comment letters suggest that the assumptions used in the DEIR result in understating the extent of environmental impacts of the proposed ordinance. The assumptions of concern include the following:

- Number and acreage of assumed new commercial cannabis operations,
- Number and timing of cannabis harvests, and
- Travel characteristics of cannabis cultivation employees.

BASIS OF ASSUMPTIONS USED IN THE DEIR

DEIR Chapter 3, "Project Description," identifies that the project under evaluation is the adoption of a new ordinance which would allow commercial cannabis cultivation and related operations in certain zoning districts in the unincorporated area of the County. The proposed draft ordinance does not entitle or approve any specific commercial cannabis operation or establish restrictions on the total number or acreage of new commercial cannabis operations.

To evaluate reasonably foreseeable environmental impacts from implementation of the ordinance, DEIR Chapter 3, "Project Description," includes Subsection 2.4.5, "Reasonably Foreseeable Compliance Responses." Subsection 2.4.5 describes anticipated compliance responses to the proposed ordinance developed by County staff based on review of cannabis applications received in response to the 2016 CMMLUO, field review and data associated with existing cannabis operations in the County, CalCannabis documentation (CalCannabis is the state regulatory permitting process for commercial cannabis operations that is under development by the California Department of Food and Agriculture.), and published information regarding cannabis operations. This approach to the evaluation of impacts is consistent with State CEQA Guidelines Section 15144 which addresses the issue of forecasting: "Drafting an EIR or preparing a Negative Declaration necessarily involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can." The County can forecast a reasonable response to the ordinance, it is noted that individual applications that

require approval of a Special Permit or Use Permit under the proposed ordinance would be subject to further environmental review under CEQA.

The following discussion responds to each of the identified assumptions of concern.

Number and Acreage of Assumed New Cannabis Operations

Some comment letters assert that the DEIR should evaluate the environmental impacts for all parcels that are eligible for permits under the proposed ordinance for new commercial cannabis operations rather than the current DEIR assumptions that 1,012 new cannabis cultivation sites and 108 new commercial cannabis non-cultivation sites may occur from implementation of the ordinance.

As noted above, the proposed ordinance would allow commercial cannabis cultivation and related operations in certain zoning districts in the unincorporated area of the County. The proposed ordinance does not entitle or approve any specific commercial cannabis operation or establish restriction on the total number or acreage of new commercial cannabis operations. DEIR page 2-29 identifies that the California Department of Food and Agriculture (CDFA) estimates that cannabis production in the state in 2016 was 13.5 million pounds. Of this total, CDFA estimates that the North Coast area (consisting of Del Norte, Humboldt, Mendocino, Lake, Sonoma, Napa, and Marin counties) cannabis production in 2016 was 4.15 million pounds. Estimates for state cannabis consumption in 2018 under the Medical Cannabis Regulation and Safety Act (MCRSA) and the Adult Use of Marijuana Act (AUMA) range from 1.4 million pounds (2016 Economic Impact Study of the Cannabis Sector in the Greater Sacramento area) to 2.5 million pounds (Standard Regulatory Impact Assessment), which is far below the North Coast area's and state's current cannabis production capability.

The County received limited interest in new commercial cannabis operations (see DEIR Table 2-2). Of the 2,936 cannabis applications submitted in response to the CMMLUO, only 941 applications for 432 new commercial cultivation sites were for proposed new commercial cannabis operations. Several applications consist of multiple cannabis operations (license types) that involve one site. The DEIR assumes that the County could receive an additional 941 applications for new commercial cannabis operations under the proposed ordinance (see DEIR page 2-29). Given that the North Coast area and the rest of the state currently produces more cannabis than projected demands, it would not be a reasonable for the DEIR to assume that all eligible parcels under the proposed ordinance would be converted to commercial cannabis operations. The DEIR uses reasonable assumptions to forecast compliance with the proposed ordinance consistent, with CEQA Guidelines Section 15144, that is supported by substantial evidence in the record. Thus, consideration of the theoretical maximum potential for commercial cannabis operations in the County would be counter to studies, evidence, and foreseeable demand. No comment letters provide any evidence that supports the argument that the County would experience substantial growth in new cannabis cultivation.

Number and Timing of Cannabis Harvests

Several comment letters disagreed with the assumptions used in the DEIR impact analyses associated with cannabis harvesting. Specifically, the comments assert that the DEIR did not address the traffic, air quality, and noise impacts associated with all harvests and underestimated the length of the harvest.

The DEIR assumptions regarding the number and length of cannabis harvests was based on review of cannabis applications received in response to the CMMLUO, data and interviews associated with existing cannabis operations in the County, and published information regarding cannabis operations. DEIR page 2-29 identifies that harvests are assumed to occur over a four-week period and identifies the number of harvests associated with each cultivation type:

- Outdoor cultivation: one to two harvests a year.
- Mixed-light cultivation: two harvests a year.
- Indoor cultivation: up to five harvests a year.

These harvest assumptions (number of harvests and length of time of harvest activities) were specifically based on site visits and interviews with existing cannabis cultivation operations in the County and are consistent with the CalCannabis Cultivation Licensing DEIR description of general operations for cannabis cultivation (CDFA 2017:3-18). These assumptions are used on the quantification of air quality, greenhouse gas, noise, and traffic impacts in the DEIR (see DEIR Sections 3.3, "Air Quality and Greenhouse Gas Emissions," 3.10, "Noise," and 3.12, "Transportation and Circulation"). Cannabis harvest activities are a focus of the DEIR impact analysis because they involve the highest level of activity on the cultivation sites during the year.

Several comment letters appear to misunderstand how the assumptions on the number of harvests and the length of the harvest period were used in the DEIR impact analysis. DEIR page 2-29 identifies that outdoor, mixed-light, and indoor cultivation are all assumed to have a fall harvest. The DEIR impact analyses for harvest impacts conservatively assume that all new commercial cannabis operations (outdoor, mixed-light, and indoor) permitted under the ordinance would have harvest activities at the same time county-wide for daily conditions (e.g., see DEIR pages 3.10-10 and 3.10-11 for noise impacts and pages 3.12-11, 3.12-12, and 3.12-14 through 3.12-17 for traffic impacts). Thus, the DEIR evaluated a worst-case scenario and did not underestimate the extent of environmental impacts that would occur during harvest activities.

Travel Characteristics of Cannabis Cultivation Employees

Some comment letters express concerns on the validity of the assumptions used in the DEIR regarding the travel characteristics of commercial cannabis cultivation employees.

DEIR page 2-30 identifies that the analysis assumes that employees (including seasonal and harvest employees) are housed on-site for cultivation at sites 15 miles or greater from existing communities and lodging located along Highway 101, SR 36, SR 299, and SR 96. This distance (15 miles) was chosen based on geographic information system (GIS) mapping and analysis showing that new commercial cannabis operations this far from an existing community would require excessive daily commute times (approximately 1 hour). Some existing cannabis cultivation operations already provide on-site housing for employees and new remote cannabis cultivation operations are anticipated to provide on-site housing. The DEIR traffic impact analysis further assumes the following:

- New commercial cannabis operations (cultivation sites and non-cultivation sites) would require up to 15 temporary employees during harvest periods. This estimate on temporary employees for harvest is based on field review of existing cannabis cultivation operators in the County, and information from the applications submitted in response to the CMMLUO.

- Each seasonal employee of newly permitted commercial cannabis operations within approximately 15 miles of existing communities and lodging located along Highway 101, SR 36, and SR 299 would generate 2 trips per day (one round trip) during the harvest period. This assumption was based on GIS and other mapping data for the County.

- New commercial cannabis cultivation sites would generate two daily trips per site associated with the delivery of materials. This estimate is based on field review of existing cannabis cultivation operators in the County.

- The traffic impact analysis conservatively assumes that harvests at all newly permitted commercial cannabis operations would occur simultaneously.

- The distribution of trips along the transportation network was determined based on the anticipated location of new cultivation sites within the County, which was determined on locational information from cannabis permit applications received by the County in response to the CMMLUO.

- Vehicle trip assignment was determined based on the assumptions that all trips would originate within Humboldt County, and employees would be traveling to and from the new commercial cannabis

operations from the nearest surrounding population centers where lodging is available (see DEIR page 3.12-12).

Using these assumptions, the DEIR identifies that new commercial cannabis operations could generate up to 31,897 daily trips county-wide during cannabis harvest. This traffic generation is equivalent to the daily traffic generation of approximately 3,190 single family residential dwelling units (3,190 dwelling units is 12 percent of the total single family residential dwelling units that exist in the unincorporated area of the County in 2017 [California Department of Finance 2017). No comment letters provide any evidence countering traffic assumptions identified above or that the DEIR underestimates the potential extent of traffic generation and impacts to highway level of service operations.

2.2.3 Master Response 3: Consideration of Noise Impacts

SUMMARY OF COMMENTS

Several comment letters raise questions regarding the assumptions used for the noise impacts analysis within the DEIR including general harvest activities (dogs and vehicles), mechanical equipment used during harvest, and duration and intensity of harvesting activities. This master response describes and clarifies the DEIR approach and methodology by which the noise impacts were analyzed.

NOISE CONCERNS REGARDING HARVEST AND GENERAL CULTIVATION OPERATIONS

Noise generated by barking dogs is not considered a noise source unique to cannabis cultivation. Traffic noise levels associated with commercial cannabis operations are addressed under Impact 3.10-3 of the DEIR and identified that operations would not increase traffic volumes to the extent that it would result in a noticeable increase in traffic noise (i.e., 3 dB or greater) (see DEIR page 3.10-11). Since release of the DEIR, the County adopted the General Plan Update that consists of a new Noise Element. The new Noise Element retains the same land use/noise compatibility standards from the previous Noise Element cited in the DEIR, but now includes short-term peak noise standards for daytime (6:00 a.m. to 10:00 p.m.) and nighttime conditions (10:00 p.m. to 6:00 a.m.) (Standard N-S8). The new Noise Element also includes Implementation Measure N-IM3 that requires the County to investigate noise complaints and determine if a violation has occurred, and Implementation Measure N-IM7x that requires the County to adopt a noise control ordinance (Humboldt County 2017). Permitted commercial cannabis operations would be subject to these new short-term noise standards and enforcement actions by the County.

The County has also updated the proposed ordinance's performance standards for noise at cultivation sites that now prohibit noise from cultivation and related activities from increasing the ambient noise level at any property line by more than 3 dB. As identified on DEIR page 3.10-2, the human ear can begin to detect sound level increases at 3dB above existing noise levels.

The mechanical equipment used during harvests could include equipment other than motorized trimmers such as fans and pumps. The types of fans commonly used for outdoor or mixed-light cannabis cultivation would generate noise levels below that of motorized trimmers. Additionally, fans are typically used for indoor cannabis cultivation operations; because they are indoors, noise would be attenuated by the building's walls. Pumps commonly used to support cannabis cultivation would be similar to typical residential well pump systems. Thus, use of such pumps would result in intermittent and low noise levels, and cultivation site facilities using agricultural wells, or similar infrastructure would observe all prescribed setbacks and limitations pertaining to the use of land located within or affecting Streamside Management Areas (SMAs) or other wet areas, as identified and described under Section 314-61.1 of the County Code. Thus, as stated in the DEIR, motorized trimmers would be the predominant source of noise from harvest activities which is accounted for in the modeling detailed below.

As stated in the DEIR, the noise analysis is general in nature and does not evaluate noise impacts of site-specific cannabis construction and operations. Instead, the analysis focuses on the worst-case noise-related impact that could occur from construction and operation of new commercial cannabis operations and modifications to existing cannabis operations that would meet the requirements of the proposed ordinance.

The modeling of the worst-case scenario assumes use of the loudest power equipment during harvest (motorized trimmers), continuous operation of the equipment during the daytime hours (7:00 a.m. to 6:00 p.m.), and receptors located as close to harvest activities as permitted by the ordinance (600 feet from school bus stops, schools, churches or other place of religious worship, public parks, or tribal cultural resources, 300 feet from residences, and 30 feet from all other uses). The County's General Plan land use/noise compatibility standards, to which project noise modeling is compared, is expressed in L_{dn}. L_{dn} is a daily metric that describes the energy average of A-weighted sound levels occurring over a 24-hour period. Thus, for the purposes of the noise modeling and comparison to the County's General Plan land use/noise compatibility standards, the number of days that harvest would span is not relevant. The number of assumed harvest periods is addressed in Master Response 2, above.

A mechanized trimmer generates a reference noise level of 81 dB L_{eq} at a distance of 3 feet. This noise level is similar to the noise level generated by landscape maintenance equipment typically used at residential land uses. At a distance of 30 feet, which is how far inside the property line the proposed ordinance would require the grow site to be located, the noise level produced by trimming activity would be approximately 55 dB L_{eq}. Assuming that trimming activity would occur between the hours 7:00 a.m. and 6:00 p.m., operational exterior L_{dn} noise levels would be approximately 52 dB. Thus, trimming activity would result in exterior L_{dn} noise levels within the "clearly acceptable" range of the land use/noise compatibility standards of the Humboldt County General Plan for all land uses except for Auditoriums, Concert Halls, Music Shells for which the trimming activity noise levels would fall in the "normally acceptable" range (see DEIR page 3.10-10).

The proposed ordinance would also require that each cultivation site be set back at least 300 feet from residences on neighboring properties, and 600 feet from school bus stops, schools, churches or other place of religious worship, public parks, or tribal cultural resources. At these distances, the exterior L_{dn} noise levels generated by the trimmer would attenuate, through distance alone, to approximately 26 dB at 300 feet and 18 dB at 600 feet; noise levels well below the Humboldt County General Plan land use/noise compatibility standards for every land use. Additional noise reduction would also be provided by any intervening topography, dense stands of trees, or manmade structures located between the cultivation sites and off-site receptors. As noted above, the County has adopted a new Noise Element that retains the previous element's land use/noise compatibility standards and now includes short-term peak noise standards (see DEIR page 3.10-10).

NOISE IMPACTS FROM GENERATORS

As noted above, the County has updated the proposed ordinance's performance standards for noise at cultivation sites that now prohibit noise from cultivation and related activities (including generators) from increasing the ambient noise level at any property line by more than 3 dB. Under the proposed ordinance cultivation sites using generators would be required to submit documentation demonstrating compliance with the noise standards, including: a site plan detailing the location of the generator, property lines, and nearby forested areas, existing ambient noise levels at the property line using current noise measurements (excluding generators) during typical periods of use, details on the design of any structure(s) or equipment used to attenuate noise, as well as details on the location and characteristics of any landscaping, natural features, or other measures that serve to attenuate generator noise levels at nearby property lines or habitat. Therefore, the use of generators was not included in the noise modeling analysis.

As stated in the DEIR, assuming the worst-case scenario detailed above adjacent land uses would not be exposed to noise levels that exceed noise standards in the County's General Plan land use/noise compatibility standards. Thus, the methodology used to analyze the noise impacts is reasonable and appropriate, and the DEIR's analysis is considered valid and based on substantial evidence.

2.2.4 Master Response 4: Odor Impacts from Cannabis Operations

Several comment letters agree with the DEIR regarding Impact 3.3-4's conclusions that odor impacts from outside commercial cannabis operations would be significant and unavoidable even with adoption of Mitigation Measure 3.3-4 (prohibit burning of cannabis and other vegetated material). Comment letters also identify concerns that the proposed ordinance does not specifically require odor controls for indoor cultivation and processing facilities as identified in the DEIR.

The DEIR does acknowledge that the outside commercial cannabis cultivation operations are a source of odors that would likely be detectable by off-site sensitive receptors. While implementation of Mitigation Measure 3.3-4 helps avoid odor issues from potential burning of cannabis waste materials, it would not fully mitigate this odor impact (see DEIR page 3.3-22).

The DEIR also determines that indoor cultivation and processing facilities are not anticipated to result in a significant odor impact. As identified below, Section 55.4.4 (Definitions) of the proposed ordinance specifically requires that all enclosed cannabis facilities prevent odor from occurring outside of the structure:

> "Enclosed" means Commercial Cannabis Cultivation Activities conducted within an enclosed structure employing mechanical ventilation controls in concert with carbon filtration or other equivalent or superior method(s) minimizing the odor of cannabis outside of the structure.

While the proposed ordinance does not specify the exact method of odor control, it does establish a performance standard that all indoor processing facilities are required to demonstrate compliance with. This method of addressing and mitigating the odor impact is consistent with State CEQA Guidelines Section 15126.4(a)(1)(B) that in part states: "…However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way."

Thus, no significant commercial cannabis indoor operation odor impacts are expected.

2.2.5 Master Response 5: Water Resource Impacts from Cannabis Operations

SUMMARY OF COMMENTS

Several comment letters identify concerns regarding impacts on the County's water resources and watersheds from implementation of the proposed ordinance. Comments assert that the DEIR did not adequately disclose the extent of existing and project impacts regarding water quality, surface water flows, and groundwater. Some comments suggest that the County should evaluate impacts on a watershed basis and identify limits on the extent of future cannabis cultivation.

Each of these issues are responded to by topic below.

WATER QUALITY IMPACTS

DEIR Section 3.8, "Hydrology and Water Quality," identifies current impaired water body features and the pollutant of concern (see DEIR Table 3.8-2) as well as groundwater quality conditions for the County's four principal groundwater basins and its ten minor basins (see DEIR pages 3.8-26 through 3.8-30). The DEIR also identifies the existing water resource and water quality impacts from cannabis cultivation activities. The reader is also referred to Master Response 1 in regard to the DEIR characterization of baseline environmental conditions related to existing illegal cannabis operations.

> Predominantly unregulated for years, thousands of cannabis cultivators have developed cultivation sites in remote areas of California near streams. In many cases the routine cannabis cultivation

> practices result in damage to streams and wildlife. These practices (e.g., clearing trees, grading, and road construction) have been conducted in a manner that causes large amounts of sediment to flow into streams during rains. The cannabis cultivators have also discharged pesticides, fertilizers, fuels, trash, and human waste around the sites, that then discharges into waters of the state. In the North Coast region, the state has invested millions of dollars to restore streams damaged by decades of timber harvesting. Cannabis cultivation is now reversing the progress of these restoration efforts (SWRCB 2017b).
>
> In addition to these water quality discharge related impacts, cannabis cultivators also impair water quality by diverting water from streams in the dry season, when flows are low. Diversion of flow during the dry season have caused complete elimination of stream flows. The effects of these diversions have been exacerbated in recent years by periods of drought (SWRCB 2017b). Water quality related constituents of concern associated with cannabis cultivation discharges include nitrogen, pathogens (represented by coliform bacteria), phosphorus, salinity, and turbidity. Water quality can be affected by excessive use of fertilizer, soil amendments, or other sources. The constituents have the potential to discharge to groundwater by infiltration and to other waters of the state by either surface runoff or by groundwater seepage (SWRCB 2017b) (DEIR page 3.8-33).

DEIR Impact 3.8-1 and 3.8-2 address water quality impacts associated with construction and operation of commercial cannabis operations. These impacts identify that construction activities and operation of commercial cannabis operations would be required to incorporate water quality controls and best management practices (BMPs) through compliance with the State Water Resources Control Board (SWRCB or State Water Board) statewide National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity, Section 331.14 of the County Code regarding grading, excavation, erosion, and sedimentation control, and the North Coast Regional Water Quality Control Board (RWQCB) Order No. 2015-0023: The Cannabis Cultivation Waste Discharge Regulatory Program. These requirements are designed to protect beneficial uses of County water resources.

Since release of the DEIR, the State Water Board has finalized and adopted the *Cannabis Cultivation Policy – Guidelines for Cannabis Cultivation* (Policy). This Policy establishes new requirements for cannabis cultivation activities (including commercial cannabis cultivation in the County) to protect water quality, instream flows, and supercedes the regulations under the RWQCB Order No. 2015-0023. The requirements under this Policy will be incorporated into, and implemented through, the state's permitting process for commercial cannabis under the following regulatory programs:

- CDFA's CalCannabis Cultivation licensing program;
- State Water Board's Cannabis General Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (Cannabis General Order) or any Waste Discharge Requirements addressing cannabis cultivation activities adopted by a RWQCB;
- State Water Board's General Water Quality Certification for Cannabis Cultivation Activities;
- State Water Board's Cannabis Small Irrigation Use Registration; and
- State Water Board's Water Rights Permitting and Licensing Program (State Water Board 2017a).

The Policy uses a structure that consists of two conditional exemptions under the Cannabis General Order for indoor commercial cultivation activities and outdoor commercial cultivation activities that disturb less than 2,000 square feet. For outdoor commercial cannabis cultivation area greater than 2,000 square feet, the Policy establishes Tier 1 (2,000 square feet to less than one acre) and Tier 2 (equal to or greater than one acre) that subject to requirements based on a risk determination based on site conditions. All outdoor commercial cannabis operations (conditionally exempt, Tier 1, and Tier 2) must comply with applicable water quality requirements set forth in Attachment A of the Policy. Indoor commercial cannabis operations are

required to obtain separate waste discharge approvals for any on-site discharge of wastewater (such as to a septic tank and leach field) (State Water Board 2017b).

Water quality requirements are specified under Attachment A of the Policy and address the following:

- Clean up, restoration, and mitigation of existing cultivation impacts;
- Water quality control features that include Nitrogen Management Plan, runoff/erosion control and treatment, fertilizer application limitations, and use of pesticides in a manner that will enter waterways;
- Standard setbacks from riparian areas and headwater streams and springs;
- Roadway and drainage design;
- Soil disposal and storage; and
- Winterization of sites.

These requirements were developed in consultation with California Department of Fish and Wildlife to ensure that the individual and cumulative effects of water diversions and discharges associated with cannabis cultivation do not affect instream flows necessary for fish spawning, migration, and rearing for endangered anadromous salmonids, and flows to needed to maintain natural flow variability (State Water Board 2017c). The Policy was scientifically peer reviewed by four experts. The peer review determined that water quality, instream flow, and diversion requirements of the Policy were based on sound scientific knowledge, methods, and data (State Water Board 2017d).

The Policy also identifies various methods of enforcement of its requirements. These include the following:

- Modification of water right permits by the State Water Board should it determine that a permitted diversion results in an adverse impact as provided under Water Code Section 100 and 275;
- Expansion of the Watershed Enforcement Team to conduct enforcement actions on cannabis cultivation activities that are not in compliance with the Policy requirements;
- Informal and formal enforcement actions involving Notices of Violation, Notices to Comply, orders for investigations and monitoring, monetary penalties, Cleanup and Abatement Orders, Time Schedule Orders, Cease and Desist Orders, revocation of water right permits and licenses, and modification or rescissions of water discharge requirements.

Thus, compliance with the local, regional, state water quality requirements would adequately mitigate commercial cannabis facility impacts to surface water and groundwater quality. None of the comment letters provide any evidence or technical studies that counter the conclusions of the DEIR or the State Water Board Policy.

The following text changes are made to the DEIR regarding water quality and the new State Water Board Policy:

DEIR page 3.8-9 through 3.8-10, the following text changes are made to the discussion titled "State Water Resources Control Board Principles and Guidelines for Cannabis Cultivation." These changes do not result in any new significant impacts, and in fact provide greater certainty over the control of water quality effects. Recirculation of the DEIR is not warranted.

State Water Resources Control Board Principles and Guidelines for Cannabis Cultivation

On October 17, 2017, t~~T~~he State Water Resources Control Board (State Water Board) adopted the *Cannabis Cultivation Policy – Guidelines for Cannabis Cultivation* (Policy). This Policy establishes new

requirements for cannabis cultivation activities (including commercial cannabis cultivation in the County) to protect water quality, instream flows, and supercedes the regulations under the North Coast Regional Water Quality Control Board Order No. 2015-0023. The requirements under this Policy will be incorporated into, and implemented through, the state's permitting process for commercial cannabis under the following regulatory programs:

- CDFA's CalCannabis Cultivation licensing program;
- State Water Board's Cannabis General Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (Cannabis General Order) or any Waste Discharge Requirements addressing cannabis cultivation activities adopted by a RWQCB;
- State Water Board's General Water Quality Certification for Cannabis Cultivation Activities;
- State Water Board's Cannabis Small Irrigation Use Registration; and
- State Water Board's Water Rights Permitting and Licensing Program.

~~is developing a policy for water quality control (policy) to establish interim principles and guidelines for cannabis cultivation. The principles and guidelines shall include measures to protect springs, wetlands, and aquatic habitats from negative impacts of cannabis cultivation. Principles and guidelines may include instream flow objectives, limits on diversions, and requirements for screening of diversions and elimination of barriers to fish passage. The principles and guidelines may include requirements that apply to groundwater extractions.~~

Attachment A of the Policy includes requirements for cannabis cultivation. It establishes that two conditional exemptions under the Cannabis General Order for indoor commercial cultivation activities and outdoor commercial cultivation activities that disturb less than 2,000 square feet. For outdoor commercial cannabis cultivation area greater than 2,000 square feet, the Policy establishes Tier 1 (2,000 square feet to less than one acre) and Tier 2 (equal to or greater than one acre). All outdoor commercial cannabis operations (conditionally exempt, Tier 1, and Tier 2) must comply with applicable water quality requirements set forth in Attachment A of the Policy. Indoor commercial cannabis operations are required to obtain separate waste discharge approvals for any on-site discharge of wastewater (such as to a septic tank and leach field).

The Policy also establishes requirements for water diversion, storage, and use for both surface water and groundwater resources. These requirements include design requirements for fish screens, diversion structures, off-stream storage reservoirs, and storage bladders.

Diversion provisions of the Policy are based on three types of requirements to ensure sufficient instream flows:

- Dry season forbearance period and limitations on the wet season diversions;
- Narrative instream flow requirements; and
- Numeric instream flow requirements during the wet season.

~~Principles and guidelines in the draft policy include minimum instream flows, forbearance periods, off stream storage requirements, riparian buffers, maximum diversion rates, irrigation conservation measures, and other best management practices. Minimum instream flows and the forbearance periods help maintain natural flow variability and minimize the effects of cannabis cultivation on fisheries and wildlife by protecting water quantity during critical life stages. The riparian buffers, best management practices, and other operational guidelines help maintain healthy riparian corridors and minimize the water quality impacts resulting from cannabis cultivation.~~

Instream flow requirements during the wet season were established by the State Water Board in consultation with California Department of Fish and Wildlife for the protection of aquatic species life history needs, including endangered anadromous salmonids. Numeric instream flow requirements (minimum instream flows required to protect aquatic species) are established for each region in the state in Attachment A of the Policy. Aquatic base flows have also been established to address instream flow impacts from groundwater diversions. The aquatic base flow is the set of chemical, physical, and biological conditions that represent limiting conditions for aquatic life in stream environments. Table 3.8-1 provides representative gage stream flow requirements for watersheds in Humboldt County.

Surface water and groundwater diversions for cannabis cultivation operations will be limited in the following manner:

- Surface water diversions will be prohibited from April 1 to October 31 each year (forbearance period).
- Surface water diversions may occur from November 1 to March 31 each year subject to the following requirements:
  - Surface water diversions will not occur until the real-time daily average flow is greater than the minimum monthly instream flow requirement at a compliance gage for seven consecutive days or after December 15 when flows are greater than the numeric flow requirement.
  - Surface water diversions must bypass a minimum of 50 percent of the streamflow past the point of diversion as estimated based on the cultivator's visual observation.
- The State Water Board will monitor instream flows during the dry season and evaluate whether the number or location of groundwater diversions to determine whether imposition of a groundwater forbearance period or other measures. The State Water Board will notify cannabis cultivators the possibility of a groundwater forbearance period or other measures may be imposed to address the low flow condition.

~~The State Water Board policy provides compliance gage instream flow requirements by region. These requirements would require that cannabis cultivators check an online mapping tool to determine if water is available to divert from the parcel's assigned gage (i.e., the real-time daily average flow is greater than the Numeric Flow Requirement at the assigned compliance gage). The gage Numeric Instream Flow Requirements provide a threshold for flow rate in cubic feet per second (cfs) for surface water flows and groundwater low flow thresholds (see Appendix E). Table 3.8-1 provides representative gage instream flow requirements for watersheds in Humboldt County included in the Draft Cannabis Cultivation Policy. These numbers are representative of flows from one location within the major watersheds of Humboldt County and are provided as an example. There are two types of flow thresholds, described below.~~

~~**Numeric Instream Flow Requirements:** The Numeric Instream Flow Requirements (minimum instream flow requirements) ensure that individual and cumulative effects of water diversion and discharge associated with cannabis cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability.~~

~~**Groundwater Low Flow Thresholds:** The low flow threshold represents the minimum flow that should be in streams during all water type years to support aquatic ecosystems, including juvenile salmonid migration and rearing and water quality.~~

Table 3.8-1 Draft Gage Numeric Instream Flow Requirements

USGS Gage Number	Surface Water						Aquatic Base Flow~~Groundwater Low Flow Threshold~~ (cfs)
	Watershed	November (cfs)	December (cfs)	January (cfs)	February (cfs)	March (cfs)	
11469000	Mattole	406	942	1,118	960	769	27
11476500	South Fork Eel	749	1,708	2,125	1,857	1,424	54
11477000	Lower Eel	3,293	7,218	9,280	8,443	6,013	145
11481000	Mad Redwood	641	1,406	1,555	1,453	1,245	57
11530000	Trinity	2,349	3,440	4,712	5,165	4,772	423
11530500	Lower Klamath	9,785	10,162	14,400	13,657	16,450	4,789

Source: SWRCB 2017a

~~The draft policy was released for public comment in June 2017, and the final policy is anticipated to be brought to the State Water Board for adoption in October 2017. Upon approval, the North Coast RWQCB Order R1 2015 0023, described below, would sunset and cannabis operations would be subject to the State Water Board's policy.~~

DEIR page 3.8-11 and 3.8-12, the discussion of the North Coast Regional Water Quality Control Board Cannabis Waste Discharge Regulatory Program is deleted:

~~North Coast Regional Water Quality Control Board Cannabis Cultivation Waste Discharge Regulatory Program~~

~~The North Coast RWQCB's Order R1 2015 0023: The Cannabis Cultivation Waste Discharge Regulatory Program (Order R1 2015 0023 or Order) addresses water quality impacts from cannabis cultivation and associated activities or other operations with similar environmental effects on private property in the North Coast Region. The Water Boards are the principal state agencies with primary responsibility for the coordination and control of water quality. Nonpoint source pollution, also known as polluted runoff, is the leading cause of water quality impairments in the North Coast. The majority of the streams in the North Coast are impacted by excess sediment, nutrients, and elevated temperatures. The problems are often associated with poorly planned forest clearing, earth moving activities, and other land use management practices, resulting in polluted stormwater runoff to streams. Dry season surface water diversions intensify these water quality impacts. The regulatory program has several components: A Waiver of Waste Discharge Requirements, Third Party Programs, Inspections, Enforcement, and Education and Outreach.~~

~~The Order includes enforceable requirements which cultivators need to become familiar with to ensure their operations do not impact water resources. Below is a summary of primary elements of the Order:~~

~~1. A tiered enrollment structure relative to the potential threat to water quality. Tier 1 is a low threat tier based on compliance with defined standard conditions and site characteristics. Tier 2 is a management tier, which requires the development and implementation of a water resource protection plan. Tier 3 is a cleanup tier, which requires the development and implementation of a cleanup and restoration plan.~~

~~2. Standard conditions to protect water quality, in conjunction with a list of Best Management Practice (BMP), provide a framework for cultivators to assess their sites for appropriate tiers and determine what management measures are necessary to protect water quality. All BMPs in the~~

~~order are considered enforceable conditions under the Order as applicable to a given site. The draft Order includes standard conditions regarding:~~

~~a. Site maintenance, erosion control and drainage features~~
~~b. Stream crossing maintenance and improvement~~
~~c. Stream and wetland buffers~~
~~d. Spoils management~~
~~e. Water storage and use~~
~~f. Irrigation runoff~~
~~g. Fertilizers and soil amendments~~
~~h. Pesticides~~
~~i. Petroleum products and other chemicals~~
~~j. Cultivation related wastes~~
~~k. Refuse and human waste, and~~
~~l. Remediation, cleanup, and restoration activities.~~

~~3. Associated procedural forms including a notice of intent of enrollment, a monitoring and reporting form, and a checklist for remediation and restoration work in streams or wetlands.~~

~~4. General Prohibitions including discharges or threatened discharges to surface waters.~~

~~5. A framework for non-governmental third-party programs to assist cultivators with enrollment, compliance activities, and monitoring and reporting.~~

~~6. A framework for development and implementation of water resource protection and cleanup and restoration plans.~~

DEIR page 3.8-35, the following text changes are made to Impact 3.8-1:

Impact 3.8-1: Construction water quality impacts.

New and modifications to existing commercial cannabis operations in the County that may occur under the proposed ordinance would require ground-disturbing activities that could result in erosion and sedimentation, leading to degradation of water quality. Construction related to commercial cannabis operations would be subject to compliance with State Water Board ~~North Coast Regional Water Quality Control Board~~ and County regulations that require water quality controls for construction to prevent impacts to water quality. Thus, potential water quality impacts may occur during construction and would be considered **less than significant**.

DEIR page 3.8-36, the following text changes are made to the fourth full paragraph:

The proposed ordinance would require demonstration of compliance with the State Water Board *Cannabis Policy – Principles and Guidelines for Cannabis Cultivation (Policy)* ~~North Coast RWQCB Order No. 2015-0023 or any subsequent water quality standards established (e.g., State Water Board interim principles and guidelines)~~. This Policy establishes new requirements for cannabis cultivation activities to protect water quality and instream flows. As noted above, the Policy ~~Order No. 2015-0023~~ requires measures to protect water quality that includes water quality controls such as runoff and erosion control, standard setbacks from riparian areas and headwater streams and springs, roadway and drainage design requirements, and winterization requirements ~~and includes standard conditions for site maintenance, erosion control, stream and wetland buffers, spoils management, remediation, and restoration activities~~. The proposed ordinance also includes water quality protection requirements for roadways servicing commercial cannabis operations that identifies use of BMPs to address point and non-point sources of sediment and other pollutants (see Chapter 2, "Project Description," for a detailed description of these performance standards).

DEIR page 3.8-37 and 3.8-38, the following text changes are made to the third and fourth paragraphs and Mitigation Measure 3.8-2 under Impact 3.8-2:

> The proposed ordinance contains requirements associated with the design of ponds that reduces the risk of leaks or systems failures. The proposed ordinance also includes performance standards that require proper storage and use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide, and provisions for annual on-site inspections to ensure those standards are being met. The proposed ordinance also requires demonstration of compliance with the State Water Board Policy ~~North Coast RWQCB Order No. 2015-0023 or any subsequent water quality standards established (e.g., State Water Board interim principles and guidelines)~~ for existing and new commercial cannabis operations. As noted above, the Policy ~~Order No. 2015-0023~~ requires measures to protect water quality that include clean-up and restoration of existing cannabis cultivation sites, water quality controls for construction and operation, standard setbacks from riparian area and headwater streams and springs, roadway and drainage design requirements, soil disposal and storage, and winterization of sites ~~and includes standard conditions for site maintenance, erosion control, stream and wetland buffers, spoils management, and the proper use and storage of regulated fertilizers, pesticides, and other chemicals to avoid impacts to water quality~~. The reader is referred to Section 3.7, "Hazards and Hazardous Materials," for a further discussion of pesticide and other chemical usage impacts. However, the State Water Board Policy conditionally exempts cultivation sites less than 2,000 square feet in size from the Cannabis General Order (though they are still required to comply with the water quality standards in Attachment A of the Policy). ~~this applies only to cultivation sites of 2,000 square feet or greater, thus some sites may not be required to follow practices to prevent, minimize, control, and reduce the discharges to waterways.~~
>
> Compliance with laws and regulations controlling on-site pollutants would ensure that the threat of pollution from improperly constructed sites would not result in water quality degradation. However, as noted above, any cannabis cultivation activities under 2,000 square feet in disturbance area would be conditionally exempt under the Cannabis General Order and may not be checked for compliance with the Policy. ~~not be required to comply with the North Coast RWQCB Order 2015-0023 and its specific requirements pertinent to the control and minimization of erosion, sedimentation, and chemical transport.~~ As a result, impacts would be **significant**.
>
> ## Mitigation Measure 3.8-2: Minimum Size of Commercial Cultivation Activities
>
> The County shall amend the proposed ordinance to demonstrate ~~require~~ compliance with the requirements of the State Water Board *Cannabis Cultivation Policy – Guidelines for Cannabis Cultivation* ~~North Coast RWQCB Order 2015-0023 or any subsequent water quality standards to apply to~~ for all new commercial cannabis cultivation operations and not limited by a minimum cultivation area size.
>
> ### Significance after Mitigation
>
> Mitigation Measure 3.3-1 would require all new commercial cannabis activities in the County to comply with the State Water Board Policy requirements ~~conditions of North Coast RWQCB Order 2015-0023 or any subsequent water quality standards~~. Coupled with the County's 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. Implementation of the proposed ordinance for existing cannabis operations that intend to comply with the performance standards of the ordinance would result in water quality benefits over existing conditions. Consequently, with implementation of Mitigation Measure 3.8-2 in combination with the performance standards of the proposed ordinance, impacts to surface and groundwater quality would be **less than significant**.

DEIR page 4-10 and 4-11, the following text changes are made to reflect the State Water Board Policy:

…cannabis operations that may occur under the proposed ordinance 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 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. Compliance with County Code Section 331-14 (detailed rules and regulations regarding grading, excavation, erosion, and sedimentation control) and State Water Board Policy ~~North Coast RWQCB Order 2015-0023~~ (requirements for discharges of waste from cannabis cultivation) would generally minimize the potential for erosion, sedimentation, and chemical transportation. Implementation of Mitigation Measure 3.8-2 would ensure that compliance with the State Water Board Policy's water quality requirements is verified for ~~extend the requirements of North Coast RWQCB Order 2015-0023 to~~ all cannabis operations, thereby offsetting impacts from construction and operation of commercial cannabis operations to water quality. Thus, after implementation of Mitigation Measure 3.8-2, the project's contribution to cumulative impacts to surface water quality **would not be cumulatively considerable**.

The project could result in an increase in demand for local groundwater resources that could contribute to cumulative groundwater supply and impacts in areas of the County with limited groundwater resources (e.g., fractured bedrock conditions). The proposed ordinance contains testing requirements for new wells on parcels 10 acres or smaller located within 400 feet of property lines to determine if drawdown would occur on any adjacent wells. These requirements further identify that use of a well for cannabis related irrigation may be prohibited, limited or subject to provisional approval and monitoring. These requirements would address groundwater impacts of the initial installation of a new well, but may not necessarily identify later operational impacts that could result in unanticipated reductions in local groundwater levels that could adversely impact adjacent wells. Mitigation Measure 3.8-3 will require the reporting of annual monitoring of groundwater conditions to the County as part of the annual inspections of commercial cannabis operations. This monitoring will identify if on-site well operations are resulting in groundwater drawdown impacts and what adaptive measures that will be implemented to recover groundwater levels and protect adjacent wells. Because implementation of this mitigation measure would be required as part of annual commercial cannabis operations permit renewals, it would provide on-going protection of local groundwater resources and would offset contribution to cumulative impacts to local groundwater conditions. Thus, after implementation of Mitigation Measure 3.8-3, the project's contribution to cumulative impacts to groundwater **would not be cumulatively considerable**.

Implementation of proposed ordinance could alter drainage patterns that may contribute to cumulatively significant drainage and flooding impacts within the County watersheds. As shown in Exhibit 3.8-9, the 100-year floodplain is currently located near existing populated areas of the County that could be worsen from cumulative development activities in the watersheds. Implementation of Mitigation Measure 3.8-4 would offset the project contributions to cumulative drainage and flood impacts by requiring site drainage facilities to retain pre-development flow conditions. Thus, after implementation of Mitigation Measure 3.8-4, the proposed ordinance's contribution to cumulative impacts to drainage and flooding **would not be cumulatively considerable**.

Surface water diversion for future cannabis irrigation under the proposed ordinance could substantially reduce or eliminate surface water flows on individual tributaries that are already affected by existing illegal cannabis cultivation operations. Low flows are associated with increased temperature. In addition, low flows also aggravate the effects of water pollution (see Impact 3.8-5 for more information regarding the effects of low flow conditions on water quality). As noted in Section 3.8, "Hydrology and Water Quality," several watersheds in the County are currently impaired by historic land use activities (e.g., timber production). Dilution is the primary mechanism by which the concentrations of contaminants (e.g., copper, lead) discharged from industrial facilities and other point and some non-point sources are reduced. However, during a low flow event, there is less water available to dilute effluent loadings, resulting in higher in-stream concentration of pollutants. This could occur along waterways listed as impaired under Section 303(d) of the federal Clean Water Act, thereby resulting in a considerable

contribution to an existing cumulative impact. Mitigation Measure 3.8-5 would require cannabis-related surface water diversions to meet instream flow and aquatic base flow requirements ~~future flow rate standards~~ set forth in the State Water Board Policy for the protection of aquatic species life history needs, including endangered anadromous salmonids ~~by the State Water Resources Control Board during a limited period of time through the year, which correlates to the greater level of water availability within watersheds in Humboldt County~~. This mitigation measure would offset project impacts to surface water resources because it would restrict diversions to ensure that Numeric Flow Requirements and requirements for groundwater diversions associated with the aquatic base flow during the dry season are met and beneficial uses are protected that are based on information from the State Water Board. Thus, after implementation of Mitigation Measure 3.8-5, the proposed ordinance's contribution to cumulative impacts to surface water **would not be cumulatively considerable**.

SURFACE WATER FLOW IMPACTS

DEIR pages 3.8-21 through 3.8-25 provides quantification of historic surface water flow rates for the watersheds in the County based on available United States Geological Survey (USGS) gage data. Flow data for the Lower Eel, Lower Klamath, Mad-Redwood, Mattole, South Fork Eel, and Trinity watersheds include recent flow conditions that would include the impact of water diversions for existing cannabis cultivation in these watersheds. While this information identifies that the County's watersheds pass large surface water flows during the peak portions of the wet season, the DEIR specifically acknowledges that surface water diversions from existing cannabis cultivation has caused elimination of stream flows during the dry season that have resulted in impacts to protected wildlife and plant species (see DEIR page 3.4-59 and 3.8-33).

DEIR Table 3.8-5 estimates cannabis irrigation water demands by watershed for existing cultivation sites (sites that have submitted applications for permitting under the CMMLUO), proposed new commercial cannabis cultivation sites that submitted applications for permitting under the CMMLUO, and assumed new commercial cannabis under the proposed ordinance. DEIR Exhibits 3.8-10 through 3.8-15 identify the contribution of these cannabis irrigation demands to watershed flows during the year. The DEIR analysis acknowledges that cannabis irrigation could result in a significant decrease in watershed flows during low flow conditions (see DEIR pages 3.8-44 and 3.8-45).

Mitigation Measure 3.8-5 would require the proposed ordinance to implement the surface water and groundwater diversion requirements of the draft State Water Board Policy that were designed to maintain instream flows that would protect beneficial uses (aquatic resources). As noted above, the State Water Board has finalized and adopted the *Cannabis Cultivation Policy – Guidelines for Cannabis Cultivation*. The requirements of this Policy will be incorporated into the state's permitting process for commercial cannabis, which includes the State Water Board's Cannabis Small Irrigation Use Registration and the Water Rights Permitting and Licensing Program. The diversion requirements would ensure that the individual and cumulative effects of water diversions and discharges associated with cannabis cultivation do not affect instream flows necessary for fish spawning, migration, and rearing for endangered anadromous salmonids, and flows to needed to maintain natural flow variability (State Water Board 2017c). The Policy was scientifically peer reviewed by four experts. The peer review determined that water quality, instream flow, and diversion requirements of the Policy were based on sound scientific knowledge, methods, and data (State Water Board 2017d).

Thus, implementation Mitigation Measure 3.8-5 (as modified below to reflect the adopted Policy) would ensure that instream flows and aquatic resources are protected from implementation of the proposed ordinance. The proposed ordinance would prohibit new commercial cannabis cultivation in the forested areas of the upper watersheds and limit it to non-forested areas generally in the lower portions of the watersheds where the USGS gages used in the implementation of the State Water Board Policy exist.

DEIR page 3.8-46 and 3.8-47, the following text changes are made associated with Mitigation Measure 3.8-5:

Mitigation 3.8-5: Implement water diversion restrictions and monitoring and reporting requirements.

The text of the proposed ordinance shall be modified to align with the State Water Resources Control Board Cannabis Cultivation Policy ~~when it is approved~~, which ~~may~~ includes ~~the~~ following measures ~~that are in the draft policy as of July 1, 2017~~:

- The period of forbearance shall extend from April 1 through October 31 of each year, and be subject to the following additional restrictions:
  - From November 1 through December 14 of each year, the surface water diversion period shall not begin until after seven consecutive days in which the surface waterbody's real-time Numeric Flow Requirement are met (see Appendix E).
  - From December 15 through March 31 of each surface water diversion period, surface water diversion may occur on any day in which the surface waterbody's real-time daily average flow is greater than the Numeric Flow Requirement (see Appendix E).
  - The State Water Board will monitor instream flows during the dry season and evaluate whether the number or location of groundwater diversions to determine whether imposition of a groundwater forbearance period or other measures. The State Water Board will notify cannabis cultivators the possibility of a groundwater forbearance period or other measures may be imposed to address the low flow condition. ~~Groundwater users will be required to demonstrate that the groundwater source is not hydrologically connected to an adjacent surface water feature and is not subject to the forbearance requirements through the establishment of a flow gage in the stream or river and groundwater pumping tests to monitor and verify no connection to the satisfaction of the County and/or State Water Resources Control Board. The monitoring and testing protocol shall be reviewed and approved by the County and/or State Water Resources Control Board prior installation of the well and flow gage.~~
  - Cannabis cultivators shall bypass a minimum of 50 percent of the surface water flow past their point of diversion, as estimated based on visually observing surface water flow at least daily.
  - Water diversion rates may be further restricted in a manner to provide minimum instream flow requirements needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability by the State Water Resources Control Board and/or California Department of Fish and Wildlife as part of state surface water diversion approvals in circumstances where multiple diversions existing along a single waterway.
  - The cannabis cultivator shall not divert more than a maximum instantaneous diversion rate of 10 gallons per minute, unless authorized under an existing appropriative water right.
- Cannabis cultivators shall plug, block, cap, disconnect, or remove diversion intake structures associated with cannabis cultivation activities during the source water forbearance period, unless the diversion intake is used for other beneficial uses.
- Diverted water storage systems for cannabis cultivation shall be separated from storage systems used for other beneficial uses within a cultivation site.
- Cannabis cultivation shall inspect for leaks in mainlines, laterals, in-irrigation connections, sprinkler headers, and/or the ends of drop tape and feeder lines on a monthly basis. Any leaks discovered shall be immediately repaired upon detection. Worn, outdated, or inefficient irrigation system components and equipment shall be regulatory replaced to ensure a properly function, leak-free

irrigation system at all times. Records of the date of inspections, repairs, and replacements shall be maintained.

- Cannabis cultivators shall retain irrigation, inspection, and repair records at the cannabis cultivation site and shall make all records available for review by the Water Boards, CDFW, and the County upon request for a period of 10 years.

Significance after Mitigation

~~When State Water Board Policy is adopted,~~ Implementation of Mitigation Measure 3.8-5 and State Water Board Policy will require cannabis-related surface water diversions to meet flow rate standards during a limited period of time through the year, which correlates to the greater level of water availability within watersheds in Humboldt County that protect aquatic species life history needs, including endangered anadromous salmonids. Monitoring of flow and inspection and repair of leaks and old equipment will ensure that cannabis cultivation activities are consistent with permitted diversion rates established by legal water rights. Because implementation of this mitigation measure would ensure that Numeric Flow Requirements and aquatic base flow requirements are met throughout Humboldt County, this impact would be **less than significant**. ~~Even if the State Water Board's policy on water diversion is not yet approved prior to adoption of this ordinance, this mitigation is reasonably protective of surface water resources because it would restrict diversions to ensure that Numeric Flow Requirements are met and beneficial uses are protected that are based on information from the State Water Board.~~

WATERSHED EVALUATION OF PROPOSED ORDINANCE IMPACTS

Several comment letters recommend that the County evaluate impacts of the proposed ordinance on a watershed basis that factors in existing unpermitted cannabis cultivation and identifies future cannabis cultivation limits tied to an aquatic carrying capacity.

A watershed analysis to establish cannabis cultivation caps for each watershed would be difficult for the County to conduct as it would require details on existing water users in each watershed and the extent that riparian water rights may be exercised. The watersheds include public lands and tribal lands that the County does not have jurisdiction. This analysis would also require details on water right appropriations approved and any pending before the State Water Board. Setting a cap on new commercial cannabis cultivation would need to factor the ability of cultivation sites to utilize groundwater resources that have no connection to the watershed. The County lacks the technical experience to collect this extent of data and determine what is the appropriate aquatic carrying capacity. Regional and state agencies that would have the appropriate technical information and experience to conduct a watershed analysis include State Water Board, North Coast Regional Water Quality Control Board, and California Department of Fish and Wildlife (CDFW). The County would be willing to participate in joint watershed evaluation studies with these agencies.

DEIR pages 3.8-14 through 3.8-47 provides details regarding water quality (see DEIR Table 3.8-3 for water quality information) and surface water flow conditions (see DEIR Exhibits 3.8-2 through 3.8-7 for medium and minimum surface water flow conditions) for the County watersheds. The DEIR also estimates cannabis irrigation water demands by watershed for existing and proposed new commercial cannabis cultivation sites (see DEIR Table 3.8-5). DEIR Exhibits 3.8-10 through 3.8-15 identify the contribution of these cannabis irrigation demands to watershed flows during the year. The DEIR analysis acknowledges that cannabis irrigation could result in a significant decrease in watershed flows during low flow conditions (see DEIR pages 3.8-44 and 3.8-45). Implementation of Mitigation Measure 3.8-5 in compliance with State Water Board Policy would require that all cannabis cultivation surface water and groundwater diversions comply with the numeric flows and aquatic base flows that have been established by watershed under the Policy in consultation with CDFW. The State Water Board Policy's numeric flows and aquatic base flows and associated diversion requirements function as an aquatic carrying capacity suggested by the comment letters. The proposed ordinance would prohibit new commercial cannabis cultivation in the forested areas of

the upper watersheds and limit it to non-forested areas generally in the lower portions of the watersheds where the USGS gages used in the implementation of the State Water Board Policy exist.

As noted above, the State Water Board Policy's flow standards and diversion requirements were developed to protect fish spawning, migration, and rearing for endangered anadromous salmonids, and flows to needed to maintain natural flow variability within each watershed. Thus, the need to prepare a watershed to a determine the aquatic carrying capacity is not necessary to adequately address the water resources impacts of the proposed ordinance.

It should be noted that at the time of the preparation of this Final EIR the County was considering modifications to the proposed ordinance that would establish a cap to limit the extent of permitted commercial cannabis operations in the County.

EVALUATION OF GROUNDWATER SUPPLY IMPACTS

The major sources of groundwater in the County include four principal groundwater basins and ten minor basins that are described on DEIR pages 3.8-25 through 3.8-30 and shown in DEIR Exhibit 3.8-8. While there is published information on the groundwater supply and water quality for several of the groundwater basins in the County, there is no county-wide data on groundwater resources that occur in fractured bedrock conditions outside of these basins. The DEIR does acknowledge that it is possible that new commercial cannabis operations that use groundwater could result in drawdown to adjacent off-site wells. One of the most important factors is distance; larger parcels generally have larger areas to draw from, thereby reducing the potential to adversely affect adjacent properties. The proximity of wells to other wells, and structure and volume of the groundwater basin (among many factors), can influence if a well would affect other wells. The effect of wells in fractured bedrock on groundwater elevations is dependent on the connectivity of fracture and joint sets in the bedrock. No mapping of subsurface features, including fracture locations, orientations, or depths has been completed on a county-wide scale; nor would this be feasible given that these are subsurface structures and are unique and variable from location to location. Thus, groundwater management in these types of conditions is best conducted through managing the distances between wells and through well testing.

The proposed ordinance contains testing requirements for wells on parcels 10 acres or smaller located within 400 feet of property lines to determine if drawdown could occur on any adjacent wells. It is presumed that parcels larger than this contain sufficient buffer to prevent effects to wells on adjacent properties. Ten acres is also the smallest parcel size under the proposed ordinance that up to 1 acre (43,560 square feet) of cannabis cultivation may be allowed with a Special Permit in resource protection and residential zoning districts that would generate the greatest water demand in relation to parcel size (347,173 gallons per year, approximately the 3.17 times the equivalent demand of a single family residential dwelling unit that uses 300 gallons per day). As identified on DEIR page 3.8-33 and 3.8-34, mixed-light and outdoor operations use an average of 7.97 gallons of water per canopy square foot per year. Without a Special Permit, cannabis cultivation is limited to 5,000 square feet for parcels 5 to 10 acres in size, 10,000 square feet for parcels 10 acres or larger. Parcels 320 acres or larger would be allowed up to 43,560 square feet of cannabis cultivation per 100 acres with a Use Permit. Commercial and industrial zoned areas where commercial cannabis cultivation would be allowed on parcels at least 2 acres in size and would allow up to 1 acre of cultivation with a Zoning Clearance. Thus, the proposed ordinance requirements address the greatest potential for groundwater impacts.

The testing requirements further identify that use of a well for cannabis-related irrigation may be prohibited, limited or subject to provisional approval and monitoring, depending on the results of the testing. The well tests (in the ordinance) are designed to prevent drawdown on adjacent properties; however, it is not possible to assure that, over the long-term and in variable hydrologic conditions where wells are located closer than 400 feet from adjacent properties, that some isolated wells could be affected by adjacent cannabis operations. Implementation of Mitigation Measure 3.8.3 would modify the requirements of the proposed ordinance by requiring the reporting of annual monitoring of groundwater conditions to the County as part of

the annual inspections required under the ordinance. This monitoring will identify if on-site well operations are resulting in groundwater drawdown impacts along with adaptive measures that will be implemented to recover groundwater levels and protect adjacent wells.

Because implementation of this mitigation measure would be required as part of annual commercial cannabis operations permit renewals, it would provide on-going protection of local groundwater resources. The State Water Board will also monitor instream flows during the dry season and evaluate whether the number or location of groundwater diversions to determine whether imposition of a groundwater forbearance period or other measures. The State Water Board will notify cannabis cultivators the possibility of a groundwater forbearance period or other measures may be imposed to address low flow conditions.

2.2.6 Master Response 6: Enforcement of Ordinance

Several comment letters expressed doubt about the County's code enforcement process and the ability to address illegal cannabis cultivation occurring within the County. Some comments suggest that the County should create a new code enforcement department.

It is important to note that code enforcement is not a part of the proposed ordinance, but the County has made substantial changes in the organization supporting code enforcement and the process involved in resolving code violations, particularly related to cannabis. Historically there has been a single code enforcement inspector working out of the County Counsel's office. In 2015 a Code Compliance Officer and part time legal office assistant were added. With this limited team, complaints were submitted to the department having responsibility over the particular area of violation. The complaints were investigated to determine if they had merit, and an attempt was made by the department to resolve violations. If the violation could not be resolved, the case was referred to the Code Enforcement Unit which would then investigate the complaint and initiate proceedings to resolve the violation. This often resulted in the filing of a Notice of Nuisance which could result in a fine of up to $250.00 per day. Due to the process, it often took three to six months to get to this point.

The County has taken two significant actions to improve the code enforcement process and address illegal cannabis activities. First, on June 27, 2017 the Board of Supervisors adopted ordinance 2576; this ordinance streamlined the code enforcement process and created penalties up to $10,000.00 per day per violation. Second the Code Enforcement Unit was reassigned from the office of County Counsel to the Planning and Building Department. The reassignment of the Code Enforcement Unit included direction from the Board of Supervisors to pursue the most egregious cannabis related violations in a proactive manner and included allocation for three additional code enforcement inspectors, and subsequently an administrative assistant and legal office assistant have been added to the staff.

The procedural improvements to code enforcement provide that a Notice to Abate is sent to the property owner immediately upon a determination that a violation exists. The ordinance includes the provision that the Notice to Abate includes a 10-day period for the property owner to respond. If the property owner does not respond, then the County may pursue other actions. The ordinance also allows that the County simultaneously send a Notice of Violation which can start to impose a fine of up to $10,000.00 per day per violation. For cannabis related violations the ordinance calls for imposition of the maximum fine ($10,000.00). At the time property owners respond to these notices, they are given the opportunity to enter into a Compliance Agreement which species the remedial actions to be taken and the time-frame in which they will be completed in exchange for a reduced fine (typically $10,000 for each violation, e.g. cultivation, grading and building.) If the property owner chooses not to enter into the compliance agreement, the option is to present their case to a Hearing Officer, which is not an employee of the County or an elected official of the County. At the hearing the county and property owner will present evidence to the hearing officer who will decide whether a violation exists, the correct remediation for the violation and can adjust fines as appropriate. There has been one cannabis case presented to the hearing officer who has yet to render a

decision. By contrast there are currently 45 compliance agreements in process. The update to the ordinance also provides for re-imbursement of staff time associated with the bringing sites into compliance.

Code enforcement related to cannabis is initiated in several different ways. In consultation with the Sherriff's office, the California Department of Fish and Wildlife or other agencies where a multi-agency visit of the site is conducted under a search warrant. In these inspections, the Code Enforcement inspector documents all violations of County Planning and Building Code. In these situations, the County will issue a Notice to Abate all of the unpermitted activity (cannabis cultivation, grading, structures, and development within a Streamside Management Area) along with a Notice of Violation imposing fines of $10,000.00 per day for each violation. Second, Code Enforcement responds to complaints from the public. This typically involves an inspection of the site to confirm the basis of the complaint. Upon confirmation that a violation exists, a Notice to Abate and Notice of Violation will be issued. Third, Code Enforcement uses aerial images to identify cannabis cultivation sites that are not in the permit process. In these situations, initiation of the enforcement action begins by using aerial images to identify one or more sites that have been heavily graded usually associated with tree removal, installation of greenhouses (or other structures without building permit, and evidence of cannabis cultivation without being in the permit process.) A radial search out from that point is made to determine if there are other properties in the area that have the same or similar characteristics. The investigation is concluded when there are no abutting properties that are in violation. The evidence is put into a file, and Notices to Abate and Notices of Violation are then sent to each of the property owners. This process has been repeated six times to 90 property owners. Approximately half of the property owners are pursuing Compliance Agreements and have removed illegal structures related to cannabis and are in a position to take additional remedial work after the wet season. This process has also resulted in several property owners who have not been sent a Notice to Abate or Notice of Violation voluntarily coming into the county and asking to enter into a compliance agreement to remediate their property with being subject to fines and penalties. This is opportunity is being granted to these property owners.

The Code Enforcement effort is generating funds which allow the effort to be self-sustaining. The combination of re-imbursement for staff time and fines and penalties is capable of generating over $1,000,000. This amount of money has not yet been realized, but as it is, the County will be assessing what can be done to make the effort more efficient and more effective. Since the primary enforcement of cannabis is based upon aerial imagery, it will be a year-round enterprise and it is expected that at current staffing levels 500 sites per year can be cited. The number of violations cited can be increased with expanded staffing.

It is important to note that code enforcement activities are conducted on private property and are not conducted on state, federal or tribal trust land.

2.3 COMMENTS AND RESPONSES

The comments received on the Draft EIR and the responses to those comments are provided below. The comment letters are reproduced in their entirety and are followed by the response(s). Where a commenter has provided multiple comments, each comment is indicated by a line bracket and an identifying number in the margin of the comment letter.

2.3.1 State Agencies

State of California - Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
601 Locust Street
Redding, CA 96001
http://www.wildlife.ca.gov

EDMUND G. BROWN, Jr., Governor
CHARLTON H. BONHAM, Director

Letter S1

October 16, 2017

Steven Lazar
Humboldt County Planning and Building Department
3015 H Street
Eureka, CA 95501

Subject: Amendments to Humboldt County Code Regulating Commercial Cannabis Activities, Humboldt County

Dear Mr. Lazar:

The California Department of Fish and Wildlife (Department) has reviewed the Draft Environmental Impact Report (DEIR) for Amendments to Humboldt County Code Regulating Commercial Cannabis Activities, and the Commercial Cannabis Land Use Ordinance (Ordinance)[1]. The Department provided comments on the Notice of Preparation (NOP) of the DEIR in May 2017, and previously provided comments on the Medical Marijuana Land Use Ordinance – Phase IV in October 2015. Several of the Department's comments have not been adequately addressed in the DEIR.

The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and their habitats. As a Responsible and Trustee Agency pursuant to the California Environmental Quality Act (CEQA; Pub. Resources Code § 21000 et seq.), the Department administers the Lake or Streambed Alteration (LSA) Program, California Endangered Species Act (CESA), and other provisions of the Fish and Game Code that conserve the State's fish and wildlife public trust resources. The Department provides the following comments and recommendations on the proposed Project in our role as a CEQA Trustee Agency.

The Department strongly supports efforts to regulate cannabis cultivation and to address the numerous and substantial environmental impacts. The Department believes that greater regulatory oversight and enforcement by local Lead Agencies can help minimize the environmental impacts of cannabis cultivation.

The Department's primary concerns regarding the DEIR and proposed Ordinance include: S1-1

[1] Ordinance Amending Provisions of Title III of the Humboldt County Code Relating to the Commercial Cultivation, Processing, Manufacturing, Distribution, Testing and Sale of Cannabis for Medicinal or Adult Use; obtained as "2017 Commercial Cannabis Ordinance – Inland Areas – PC Workshop Draft" from http://www.humboldtgov.org/2308/Cannabis-EIR on September 26, 2017.

Conserving California's Wildlife Since 1870

1. The DEIR does not provide a complete analysis of cumulative impacts.
2. The DEIR does not recognize foothill yellow-legged frog (*Rana boylii*) as a candidate species under CESA, analyze potential impacts, or provide specific avoidance, minimization or mitigation measures to address potential impacts.
3. The DEIR does not analyze potential impacts to northern spotted owl (*Strix occidentalis caurina*), including to known activity centers, or provide specific avoidance, minimization or mitigation measures to address potential impacts.
4. Avoidance measures in the DEIR do not adequately address indirect impacts to biological resources, such as habitat loss and fragmentation.
5. Proposed criteria for roads do not address the environmental impacts associated with existing unpermitted and poorly constructed roads.
6. The Ordinance and DEIR do not propose limits on the number or density of cultivation sites in the County or more importantly, in a given watershed, and the DEIR does not analyze the potential for significant impacts from cannabis cultivation water demand on streams.
7. The DEIR and Ordinance do not provide clear, specific penalties and remedies for non-compliance, adequate information regarding compliance review and enforcement efforts, or detail regarding adequate enforcement staffing.
8. The DEIR does not adequately address noise and light impacts to wildlife species.
9. The DEIR does not clearly define the criteria for individual cannabis cultivation project review under CEQA.
10. The DEIR and Ordinance should provide additional requirements to ensure adequate restoration of abandoned or remediated cultivation sites, and that associated cultivation area is not transferred to watersheds that are already significantly impaired by an overabundance of existing cannabis cultivation.

S1-1 cont

In the Department's May 2017 letter, we provided extensive comments and recommendations relating to environmental impacts from cannabis cultivation on biological and water resources, and the consequences of inadequate enforcement. As we have stated previously, although the Department is supportive of efforts to regulate cannabis cultivation, issuance of permits will not ensure compliance without consistent monitoring, enforcement, and substantial penalties for violations. The County should ensure that adequate funding and personnel are available, and meaningful enforcement is implemented concurrently for permitted cultivation operations, as well as those not in compliance with County Code or State law.

S1-2

The Department recognizes in the big picture that the focus of the DEIR is the environmental effects the County expects with the proposed Ordinance. As a lead agency under CEQA, the County must analyze and disclose all of the potentially significant environmental impacts that may result with the proposed Ordinance. The County as lead agency must also exercise its plenary authority to address significant effects consistent with CEQA's substantive mandate. The County has the authority to ensure no significant impacts to fish and wildlife occur with the proposed Ordinance. It should do just that moving forward. S1-3

Finally, as the County considers the comments below the Department emphasizes an important point. The Department provides the 29 recommendations detailed below out of concern under CEQA in three respects. The Department is concerned the environmental baseline in the DEIR, including in the cumulative context, does not accurately reflect the existing condition of cannabis cultivation in the County and its adverse impacts on fish and wildlife. The Department is also concerned certain potentially significant impacts to fish and wildlife are not addressed in the DEIR. Further, to the extent the DEIR considers impacts to fish and wildlife the Department does not agree the mitigation identified by the County to date will reduce all such effects to below a level of significance. In short in the Department's opinion, unless the County implements the 29 recommendations prior to final action under CEQA the County's proposed significance conclusions regarding fish and wildlife impacts are not supported by substantial evidence. S1-4

Cumulative Impacts

As we stated in our May 2017 letter, the Department is concerned about cumulative impacts, not only from permitted and unpermitted cannabis cultivation, but also rural residential development and other types of development that have similar impacts. We recommended that the County establish maximum limits of allowable cultivation sites and/or square feet of cannabis canopy as a proportion of a given watershed to minimize cumulative impacts.

The Guidelines for the Implementation of the California Environmental Quality Act (Cal. Code Regs., tit. 14, § 15000 et seq.; hereafter CEQA Guidelines) defines cumulative impacts in section 15355 as *"two or more individual effects which, when considered together, are considerable…"* and may *include "the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects."* Discussion of cumulative impacts is required by CEQA Guidelines section 15130, which also includes *"past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside "the control of the agency…."*

The County improperly declines to address illegal cannabis cultivation sites as an important and existing contribution to cumulative impacts. The DEIR states: S1-5

> *"While it is acknowledged that illegal cannabis operations would continue to occur in the County after adoption and implementation of the ordinance, details on the full extent of the environmental effects of existing cannabis operations are considered speculative and are not assessed in this evaluation of cumulative impacts."* (page 4-2)

S1-5 cont

The environmental impacts of unpermitted cannabis cultivation are significant and well documented, and clearly contribute to cumulative environmental impacts in the County.

Stronger enforcement efforts should be implemented as it relates to unpermitted cultivation sites and their related environmental impacts. As the Department has stated in previous correspondence, a lack of enforcement and permissive approach to cannabis cultivation has led to a proliferation of unpermitted cultivation sites and their related environmental impacts. As one example, the Department recently conducted a spatial analysis[2] of the China Creek watershed, tributary to Redwood Creek and the South Fork Eel River. The Department's GIS analysis of that watershed found a 61 percent increase in the square-footage of cultivation within that watershed between 2012 and 2016. Less than 50 percent of the parcels cultivating cannabis in this watershed have applied for County permits (Department unpublished data).

S1-6

Documented environmental impacts of cannabis cultivation include habitat fragmentation, habitat loss through land clearing and conversion, reduction in instream flow, and delivery of sediment, nutrients, petroleum products, and pesticides to streams (Carah et al. 2015). Unpermitted land use development includes road building, grading, pond construction, stream crossing construction, and hydrologic modification including rerouting of streams and interception of groundwater through poorly constructed road systems.

Additional impacts documented by Department staff include degraded water quality; degraded riparian and wetland habitat due to development near streams and wetlands; wildlife entanglement and mortality due to on site hazards (e.g. plastic mesh); wildlife entrapment; fish passage barriers due to unpermitted water diversions; altered natural photoperiods from light pollution; noise impacts due to extensive generator use, and introduction of nonnative species (fish and plants) resulting in predation of native species and degrading habitat quality.

As detailed below, cannabis cultivation has contributed to substantial cumulative impacts on species listed or candidate under CESA including Coho Salmon (*Oncorhynchus kisutch*), northern spotted owl (*Strix occidentalis caurina*), and foothill yellow-legged frog (*Rana boylii*)), and the habitats they rely on.

S1-7

[2] The Department's GIS analysis showed an increase from 233,330 square feet of cultivation in 2012 to 375,805 square feet of cultivation in 2016 within China Creek, a 6.745 square mile watershed.

The DEIR and Ordinance must address the impacts of unpermitted cannabis cultivation in its analysis of cumulative impacts. (**Recommendation 1**) S1-7 cont

Limit on Number or Density of Cultivation Sites

The DEIR (page 2-29) states that for the *"purposes of evaluating the potential environmental impacts of new cannabis operations from implementation of the proposed ordinance, this EIR assumes that an additional 941 applications over an area of 283.35 acres of new commercial cannabis operations could be approved and established over the next three years…. consisting of 1,012 new commercial cannabis cultivation sites…"*

The County has not proposed a limit on the number of cannabis cultivation projects it would permit. Without a cap on the number or acreage of cultivation sites, a defined time horizon, or any other defined limit, the County's CEQA review must consider the potential that all parcels that meet the County's zoning criteria could be developed for cannabis cultivation. The DEIR does not provide an analysis of the maximum acreage that could be converted to cannabis cultivation if all parcels in all allowable zoning districts elected to cultivate up to the maximum permissible area. S1-8

As our May 2017 letter stated, the Department is concerned about the number and density of cultivation sites within Humboldt County watersheds, and how these sites relate to the potential carrying capacity of each watershed. Prior to permitting additional cultivation, the County should prepare an analysis describing a) existing water use, b) potential for sediment and other pollutant discharge, and c) percentage of habitat fragmentation within a given watershed. In addition, the analysis should provide detail on the amount of cannabis cultivation the County proposes to permit within each watershed (e.g., HUC 12 or smaller watershed area), and what impacts the allowed cultivation would have on each of these elements.

The environmental impact analysis in the DEIR is currently based upon an assumed number of permit applications, and does not provide a complete analysis disclosing the full potential impacts of the proposed Ordinance. Prior to issuing permits for new cultivation, the County should define a cap based on an analysis of the impacts to each watershed as described above. (**Recommendation 2**) S1-9

Biological Resources

Foothill Yellow-Legged Frog

The entirety of Humboldt County is within the range of foothill yellow-legged frog (BIOS[3]). Historical collection records exist from numerous locations in the County (Department 2017), and the DEIR acknowledges, *"Suitable habitat is likely present* S1-10

[3] Biogeographic Information and Observation System

within most flowing waterways within Humboldt County" (page 3.4-34). Changes in natural flow regimes due to water diversion, incompatible land uses near stream habitats, and habitat degradation and modification are major threats to this species' long-term survival (Department 2017).

The DEIR solely identifies the foothill yellow-legged frog as a Species of Special Concern. On June 27, 2017, the California Fish and Game Commission published its Notice of Findings[4] declaring the foothill yellow-legged frog a candidate species for listing under CESA as defined in Fish and Game Code section 2068. CESA prohibits the "take"[5] of any species of wildlife designated as endangered, threatened, or a candidate for listing. An activity that may cause "take" to a listed species would require an Incidental Take Permit from the Department pursuant to section 2081 subdivision (b). Any take authorized pursuant to an Incidental Take Permit would require minimization and full mitigation measures (Fish & G. Code, § 2081, subd. (b)(2)), and would require that the applicant ensure adequate funding to implement all mitigation measures and compliance monitoring.

S1-10 cont

The DEIR should identify foothill yellow-legged frog as a CESA candidate species, and the County should propose appropriate avoidance, minimization, and/or mitigation measures. (**Recommendation 3**)

Northern Spotted Owl

The northern spotted owl (*Strix occidentalis caurina*) is listed as threatened under both the federal Endangered Species Act and CESA. In its documentation for state listing of the northern spotted owl, the California Fish and Game Commission (Commission) determined that the continued existence of northern spotted owl in the state of California is in serious danger or threatened by present or threatened modification or destruction of its habitat, and human-related activities, among other threats (Commission 2017). Marijuana cultivation is specifically identified as a threat, with density of cultivation sites in proximity to owl activity centers, and the amount and extent of impacts to owl habitat influencing the level of impact (Commission 2017).

S1-11

Despite the existence and widespread use of the 2012 USFWS[6] "Protocol for Surveying Proposed Management Activities that may Impact Northern Spotted Owls," the DEIR does not address this species individually or attempt to avoid impacts to occupied or otherwise suitable habitat. The Ordinance specifies increased noise restrictions within one mile of *"mapped critical habitat for Marbled Murrelet or Spotted Owls where*

[4] http://www.fgc.ca.gov/CESA/Foothill_Yellow-Legged_Frog/fylffindingscandidacy.pdf
[5] Fish and Game Code section 86 defines *"take" to include "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill."* Section 2080 makes it unlawful *to "import into this state, export out of this state, or take, possess, purchase, or sell within this state, any species, or any part or product thereof, that the commission determines to be an endangered species or a threatened species, or attempt any of those acts, except as otherwise provided in this chapter…"*
[6] United States Fish and Wildlife Service

timberland is present" (55.4.12.6 (b)). However, this standard only considers federally designated critical habitat, which includes only public land for northern spotted owl[7], does not encompass all suitable nesting habitat, does not consider all of the known and documented northern spotted owl activity centers in Humboldt County, and will not ensure avoidance of impacts or the potential for unlawful "take."

Department staff recently undertook a spatial analysis[8] examining the proximity of cultivation parcels to known and historic northern spotted owl activity centers, giving consideration to the potential for disturbance due to visual and noise impacts. For the purposes of this investigation, a 40-meter buffer was used for line-of-sight visual disturbance, and two home range sizes (0.7-mile and 1.3-mile radius centered on the activity center) were used for northern spotted owl home range. Based on the Department's analysis, 53 cannabis projects (sites) have activities within 40 meters of a northern spotted owl activity center, 525 cannabis projects occur within 0.7 mile, and 1184 occur within 1.3 miles (Department unpublished data). Cannabis cultivation within these buffers will create unavoidable impacts to northern spotted owl habitat. Overall, nearly 38 percent of known northern spotted owl activity centers in Humboldt County may be affected by cannabis operations that have applied for County permits. The same analysis finds that 46 percent of all cannabis permit applications are within 1.3 miles of a northern spotted owl activity center. This analysis is based on the most recent GIS layer provided by the County to the Department in June 2017. It is likely that new applications submitted since that time would increase this impact.

S1-11 cont

For any cultivation site with the potential to impact northern spotted owl based upon suitable habitat on site or proximity to a known activity center, presence should be assumed, and avoidance measures should be implemented in consultation with the Department and USFWS. (**Recommendation 4**)

S1-12

Mitigation Measures for Biological Resources

The DEIR states (page 3.4-61) that "*Project implementation may include ground disturbance, vegetation removal, and overall conversion of wildlife habitat, which could result in the disturbance or loss of individuals and reduced breeding productivity of these species…. The loss of special-status wildlife species and their habitat would be a potentially significant impact*." Although this statement recognizes that the conversion and loss of special status wildlife habitat would be a potentially significant impact, most proposed mitigation measures in the DEIR rely only on avoidance of direct impacts to individuals, and do not address fragmentation and degradation of habitat.

S1-13

[7] https://www.fws.gov/wafwo/species/Fact%20sheets/QA%20for%20NSO%20Critical%20Habitat%20Revision%202008.pdf

[8] Internal Department document: *"Northern Spotted Owl Occurrences as Related to Cannabis Cultivation Sites in Humboldt County,"* September 2017, based upon Humboldt County cannabis permit application GIS layers and CDFW BIOS data.

For example, Mitigation measure 3.4-1a (page 3.4-61) includes preconstruction surveys for special-status amphibian species only "*forty-eight hours prior to proposed new development activities*." If certain amphibian species are found, the DEIR states, "*the proposed development area shall be relocated to be no closer than 200 feet from the occurrence*." Similarly, Mitigation measure 3.4-1b (page 3.4-62) requires a pre-project survey *"Within 24 hours before beginning proposed new development activities" and if individuals are found, "the proposed development area shall be relocated to be no closer than 200 feet from the occurrence(s)…"*

Relocating a project 200 feet from its proposed (and permitted) location has the potential to create different impacts, and in some cases may represent a completely different project than was permitted. The Department recommends that a qualified biologist conduct surveys for suitable habitat during the appropriate season and during the project planning and scoping process, well in advance of proposed project construction dates, in order to allow for consultation with appropriate resource agencies and review of the proposed relocation site if necessary. Impacts to suitable amphibian and reptile habitat, not merely direct impacts to individual animals, should also be considered when conducting pre-project surveys and determining whether project relocation should occur. We recommend that pre-construction surveys be required, but project relocation should not be applied automatically. Depending on the species potentially impacted, consultation with the Department or other avoidance measures (such as relocation of individuals and installation of exclusionary fencing during construction) may be appropriate.

S1-13 cont

Impacts to nesting raptors are correctly identified as including the potential for nest failure or mortality of chicks and eggs, as well as *"human presence associated with construction of cultivation sites, roads, and cultivation activities"* that could *"result in increased noise and visual disturbance to nesting raptors"* (page 3.4-62). However, Mitigation measures 3.4-1c (page 3.4-63) only addresses preconstruction surveys and avoidance of direct impacts to nests. Many raptor species require specialized habitat features for nesting (e.g., snags, platforms, large trees), and removal of these habitat features outside of the breeding season would reduce suitable nesting habitat. In addition, simply avoiding tree removal during the breeding season would not address the potential for degrading habitat through placing a cultivation site in close proximity to known, suitable raptor nesting habitat.

S1-14

A qualified biologist should identify suitable habitat for special status wildlife species well in advance of construction activities, and these areas should be avoided during project design. Pre-construction surveys should also be required. (**Recommendation 5**)

Mitigation measure 3.4-3a (page 3.4-71) addresses special-status plants, including requirements for surveys, and proposed mitigation measures. The DEIR should specify the required plant survey protocol, and should require that a full report of survey results be submitted, even in cases when special-status plants are not observed. (**Recommendation 6**)

S1-15

This measure further outlines the potential for removal of special status plant species for cannabis cultivation if the population *"cannot be avoided."* This measure requires the applicant to retain a qualified botanist to consult with the Department *"to determine the appropriate mitigation measures for direct and indirect impacts through a Mitigation and Monitoring Plan to the satisfaction of the Planning Director in Consultation with the Department , and/or USFWS…"* The County should be advised that depending upon the species and its habitat, adequate mitigation might not be possible. The Department may recommend relocation of the project, or denial of the permit, if impacts to special status plant species are proposed to facilitate commercial cannabis cultivation.

S1-15 cont

The Department supports the intent of Mitigation measure 3.4-3b (page 3.4-71) requiring removal of invasive plant species. The DEIR should provide more detail regarding monitoring and enforcement of this mitigation measure. (**Recommendation 7**)

S1-16

Hydrology and Water Quality

Remnant Coho Salmon populations are present in watersheds where cannabis cultivation occurs. Impacts from cannabis cultivation as detailed above have the potential to cause "take" of and impacts to this listed species. Cumulative impacts from surface water diversion are a particular concern, as well as unscreened or improperly screened diversion intakes.

The Department concurs with many protective measures the County has proposed, including a requirement for enrollment under the North Coast Water Quality Control Board (NCRWQCB) Order No. 2015-0023 (Ordinance Section 55.4.12.2.2); restriction of water use under specific circumstances (Ordinance Section 55.4.5.10); prohibiting the use of trucked water except in emergencies (Ordinance Section 55.4.12.2.5); and inclusion of a water diversion forbearance period from April 1 through October 31 of each year (DEIR page 3.8-46). Additional protective measures may be included in any Lake or Streambed Alteration Agreement issued by the Department for projects permitted by the County.

S1-17

The Department recommended in our May 2017 letter that in order to help minimize the numerous environmental impacts, the County should assess the aquatic carrying capacity of watersheds to support cannabis cultivation, and propose a limit on density or number of cultivation sites. The DEIR contains some analysis of the estimated water use by permitted cannabis cultivators (Section 3.8). However, this estimate does not take into account the cumulative impact of the existing legal and illegal diversions, and is based on 1,012 new cultivation sites (page 3.8-34), which is not a defined cap but is an estimate. As stated above, without a defined cap on the number of cultivation sites, analysis of environmental impacts should assume that all parcels meeting zoning criteria could be used for cannabis cultivation.

The County should conduct a water availability analysis based on the potential number of cultivation sites that could be allowed in each watershed, and define a cap based on the determined watershed carrying capacity. (**Recommendation 8**) S1-18

Noise

As the Department has stated previously, noise, particularly chronic noise pollution, creates negative impacts on wildlife. On a watershed scale, the chronic noise pollution from numerous cannabis cultivation site generators has the potential to result in substantial habitat loss or degradation to a number of wildlife species. Generator-produced noise pollution can be especially harmful to night-foraging animals such as owls and bats, which hunt for prey primarily though hearing. Northern spotted owl, for instance, is vulnerable to nighttime generator noise impacts (USFWS 2006).

Section 3.10 of the DEIR considers noise impacts almost exclusively from the perspective of neighboring properties, and does not address the potential for noise impacts on wildlife. The DEIR states *"…noise reduction would be provided by any intervening topography, dense stands of trees…"* Dense stands of trees may provide habitat for wildlife, and would be impacted by excessive generator noise. S1-19

The DEIR currently describes setbacks from property lines and development on adjacent property. The Department recommends that the County develop noise restriction and minimization guidelines that will be protective of wildlife habitat areas on the cultivation parcel, as well as on adjacent land. (**Recommendation 9**)

Timberlands and Oak Woodlands

The Department concurs with the prohibition on new cannabis cultivation sites on lands zoned as Timberland Production Zone (TPZ) (DEIR page 3.2-13), and also recommends prohibiting new cannabis cultivation on lands zoned as Forestry Recreation (FR). According to a spatial analysis conducted by the Department, FR lands make up approximately 1.73% of the total acreage in Humboldt County. Of that land, the Department's analysis shows that over 27% of FR parcels have cannabis permit applications. Forestry Recreation lands frequently contain oak woodlands. The DEIR (page 3.4-4) cites the Oak Woodlands Conservation Act (Pub. Resources Code, § 21083.4), which requires counties to determine whether a project within its jurisdiction may result in a conversion of oak woodlands, and if so, must require mitigation. The DEIR does not propose specific mitigation measures to address potentially significant impacts to oak woodlands from cannabis cultivation. The County either should propose adequate and effective mitigation measures to address potential impacts to oak woodlands due to adoption of its Ordinance, or should avoid additional impacts to oak woodlands by prohibiting new cultivation in this vegetation community. S1-20

In addition to TPZ and FR, other zoning districts may also contain forest or oak woodland habitats. The Department recommends that new cultivation should be prohibited in the FR zoning district, as well as in all forest and oak woodland habitat, regardless of zoning. (**Recommendation 10**)

S1-20 cont

Enforcement

As summarized in DEIR Table 1-1 (page 1-4) and highlighted as the DEIR's first bullet point under *"Areas of Controversy"* (page ES-2), enforcement of the Ordinance as well as the County's ability to conduct enforcement relating to unpermitted grows are a significant concern.

As the Department has stated in previous correspondence, without meaningful enforcement and penalties for non-compliance, the number of unpermitted and noncompliant cultivation sites with their associated environmental impacts will continue to increase. We continue to recommend that the Ordinance should include specific penalties or remedies for permit non-compliance and post-permit environmental remediation, and provide adequate staffing to conduct enforcement efforts and compliance review. Based upon estimates of the number of active and projected cultivation sites in the County, and the number of site inspections that Department staff can conduct in any given year under our own permitting authority, we estimate that Humboldt County may require a minimum of 30 personnel to adequately administer its proposed Ordinance.

The Ordinance should include specific penalties or remedies for permit non-compliance and post-permit environmental remediation, and provide adequate staffing to conduct enforcement efforts and compliance review. (**Recommendation 11**)

S1-21

The General Provisions define pre-existing cultivation sites as *"a parcel where cultivation occurred at any time between January 1, 2006 and December 31, 2015"* (page 2-15). Over a ten-year period, it is possible that the site may have begun to recover, for example through recruitment of native vegetation. Current site conditions should be considered when determining the level of review required for "pre-existing" sites (**Recommendation 12**).

S1-22

The Department believes that previous trespass cultivation sites should not qualify as a "pre-existing" site for the purposes of permitting, and should instead be remediated (**Recommendation 13**). Trespass cultivation sites usually do not occur in existing graded clearings, are often located under the native tree canopy, and are typically not easily accessible. For these reasons, proposing to permit an existing *"trespass grow"* site would likely lead to additional tree removal, grading and other site development, including road construction. Finally, trespass cultivation sites often contain toxic materials such as discarded pesticides and fertilizers, and accumulated garbage. Instead of being permitted for continued cultivation, these sites should be remediated, including removal and appropriate disposal of waste and toxic materials.

S1-23

Comments on Commercial Cannabis Land Use Ordinance

The Department provides the following comments specific to the Ordinance.

55.4.5.3 - Penalties and Enforcement

This section states, in part, "*Whenever permit applicants seeking permits for new commercial activities initiate operations ahead of permit issuance or Pre-Existing Cultivation Site operators seeking permits expand cultivation operations ahead of permit issuance the Director shall have discretion to… Issue stop work orders and financial penalties… and require restoration… or … Disqualify the pending applications… and initiate enforcement proceedings…*"

As the Department stated in our May 2017 letter and reiterated above, we recommend that the Ordinance include specific, defined penalties and/or remedies for permit non-compliance. As currently written, the Ordinance gives sole discretion to a single individual, the Planning Director, without describing the criteria or process to be used in making that decision. The Department believes that in order to enforce the Ordinance in an unbiased and effective manner, the County should create an autonomous Code Enforcement Unit with its own Director position. This independent County department would operate with sole discretion over enforcement actions. In addition, the County should define and codify an unambiguous process and procedures for violations of the proposed Ordinance. **(Recommendation 14)**

S1-24

55.4.5.7 - Annual Inspection

The Ordinance states, "*If the inspector or other County official determines that the site does not comply with the condition of approval, the inspector shall serve the… permit holder with a written statement identifying the items not in compliance… and the time period within which the non-compliance must be corrected…*" The section further describes the means to be used to contact the permit holder, and the permit-holder's ability to appeal and/or request re-inspection.

However, this section does not provide a timeline for County follow up on noncompliance if the permit-holder does not appeal or request re-inspection. Additionally, the Ordinance does not specify whether the County will provide the written statement to applicable agencies if a non-compliance condition is related to regulations outside of the County's jurisdiction. The Ordinance should specify that the County inspector will notify other regulatory agencies of site non-compliance, so that agency may determine whether immediate action is necessary or if the County timeline is appropriate. **(Recommendation 15)**

S1-25

55.4.5.10 - Restriction of Water Use Under Special Circumstance

The Department supports the County's intention to restrict water use for commercial cannabis cultivation "*in the event that environmental conditions, such as sustained drought or low flows in the watershed where the Commercial Cannabis Activity is located, will not support water withdrawals without substantially adversely affecting existing fish and wildlife resources*." The County should provide detailed criteria describing how it will determine when the environmental conditions exist to restrict water use. (**Recommendation 16**)

S1-26

55.4.6.5.6 – Energy Source for Ancillary Propagation Facility or Mixed-Light Cultivation

This section states that the use of generators and mixed-light cultivation is prohibited "*in TPZ zones and U zones (with a Land Use Designation of Timberland)*." Our May 2017 letter described the potentially significant environmental impacts to forest species due to noise and light pollution. The Department recommends that generators and mixed-light cultivation be prohibited in all forested habitats, regardless of zoning district. (**Recommendation 17**)

S1-27

55.4.6.5.7 – Provisional permitting

This section outlines the potential for provisional permitting of a cultivation site pursuant to a written, approved "*compliance agreement, signed by the applicant and the relevant enforcement agency or agencies*." The County should identify the minimum qualifications for individuals who would "*identify, document, and itemize all current violations related to commercial cannabis activities*" and prepare the compliance agreement. (**Recommendation 18**)

The Ordinance currently states,

> "*Applicants shall provide plans for curing such violations to the Planning & Building Department within one (1) year of issuance of the provisional clearance or permit. All violations and areas of non-compliance shall be cured or abated at the earliest feasible date, but in no event no [sic] more than two (2) years of date of issuance of a provisional clearance or permit, unless otherwise stipulated under the terms of the individual agreement.*"

Please be advised that the Department may require remediation of violations under its jurisdiction to occur on a more expedited timeline.

S1-28

55.4.6.5.9 – Retirement, Remediation and Relocation of Pre-Existing Cultivation Sites

Subsection (e) requires the operator of a Retirement, Remediation and Relocation (RRR) site to prepare a plan for the

> *"full environmental remediation of the RRR Site, including removal of all cultivation related materials, equipment and improvements, regrading to preexisting contours, reseeding with native vegetation, reforestation, habitat restoration, and monitoring, as determined to be appropriate by the Planning Department."*

S1-29

Due to the specialized nature of environmental restoration and remediation work, the Department recommends that Retirement, Remediation, and Relocation plans should be prepared by a qualified professional, and referred to appropriate resource agencies for review and concurrence. (**Recommendation 19**)

55.4.6.6 – Site Restoration upon Termination or Abandonment of Commercial Cannabis Cultivation Sites

The Department is concerned that abandoned cultivation sites will remain on the landscape without restoration or remediation. Whereas RRR sites would require the operator to post a bond, no financial assurance requirement appears in this section. The County should provide detail regarding its potential remedies in the event that a permitted site is abandoned without restoration. (**Recommendation 20**)

S1-30

This section also states that for cultivation sites in forested areas where a conversion permit was not obtained, *"the property owner shall cause a restoration plan to be prepared by a Registered Professional Forester, or other qualified professional…"* Similar to the recommendation above regarding RRR sites, restoration plans for terminated or abandoned cultivation sites should be referred to appropriate resource agencies for review and concurrence. (**Recommendation 21**)

S1-31

55.4.11 – Application Requirements for Clearances or Permits

In our May 2017 letter, the Department recommended that the County should define and disclose the criteria it would use to determine whether a cultivation project requires site-specific CEQA review. In this section, the Ordinance states that the "*County may request additional information prior to application intake, or during application processing, where deemed necessary to perform environmental review pursuant to the California Environmental Quality Act (CEQA).*"

S1-32

It is not clear from this section, other sections of the Ordinance, or the DEIR which projects will require CEQA review, and/or which projects will be subject to avoidance

and mitigation measures as outlined in the DEIR. The County should explicitly state its criteria for site-specific environmental review of cannabis cultivation projects. (**Recommendation 22**)

S1-32 cont

55.4.12.1.8 – Performance Standard – Road Systems

The Category 4 road standard[9] does not address the numerous environmental and biological impacts of inappropriately sited, poorly constructed, or poorly maintained roads, as detailed in our May 2017 letter. The County proposes to require new cultivation sites to be located within two miles of a Category 4 road to provide access for emergency vehicles. Roads not meeting this criterion would be required to be upgraded. If road standards cannot be met, a licensed engineer or similarly qualified professional would be required to conduct a road evaluation to determine if the access road is able to accommodate the additional traffic proposed by each project.

The Department recommends that access to project sites on unsurfaced roads require an assessment of all stream crossings in addition to the Category 4 road width analysis. The assessment should evaluate stream crossings following the protocol prescribed in Cafferata et al. (2017). This document is more specific and protective of aquatic resources than the "Five Counties Salmonid Conservation Roads Maintenance Manual" referenced and adopted by the County for general best management practices related to road maintenance. Stream crossings determined to be failing, substantially undersized (not sized to meet the 100-year flow event), or delivering sediment to streams should be prioritized for remediation. Results from this analysis should be submitted to the California Department of Fish and Wildlife and the State Water Resources Control Board for review and concurrence during the CEQA referral process, and prior to individual project approval. Remediation and/or mitigation measures to avoid or minimize impacts related to the use of roads not currently meeting these standards should be proposed as part of the project referral. (**Recommendation 23**)

S1-33

55.4.12.2 – Performance Standards for Commercial Cannabis Cultivation Activities

The Department agrees with the County's requirement that all commercial cannabis activities must maintain enrollment with the North Coast Water Quality Control Board (NCRWQCB) Order No. 2015-0023 or any State Water Quality Control Board Order (§ 55.4.12.2.2). The County should clarify what it intends by including other "*significantly equivalent rule addressing water quality protections and waste discharge that may be subsequently adopted by the County of Humboldt or other responsible agencies,*" and whether it is the County's intention to replace the State regulation, or simply to provide more protective regulations if necessary. (**Recommendation 24**)

S1-34

[9] Category 4 road standard is described in Humboldt County Code section 3112-3 as *"two ten (10) foot traffic lanes, not including shoulders, capable of providing for two-way traffic flow to support emergency vehicle and civilian egress."*

Under this heading, section 55.4.12.2.3 requires an applicant to comply with the terms of any applicable LSA Agreement, and further states "*Where no agreement has been secured for prior work within areas of DFW jurisdiction, notification pursuant to 1602 of the Fish and Game Code shall not commence until the processing of the County permit has been completed*."

This advice conflicts with the requirements of Fish and Game Code section 1602. The Department requires all entities to comply with section 1602 by submitting Notification[10] to the Department prior to starting any jurisdictional project work. Although Notification is required, the Department may not execute (finalize) the Lake or Streambed Alteration Agreement until it has complied with CEQA as the Lead or as responsible agency. The County does not have legal authority to require an applicant to not comply with state law. The Department recommends the County remove the conflicting provision in the Ordinance that states a cannabis cultivation applicant not apply for an LSA permit until it secures a County permit. (**Recommendation 25**) S1-35

55.4.12.4 – Performance Standard for Light Pollution Control

Subsection (b) requires that security lighting "*shall be shielded and angled in such a way as to prevent light from spilling outside of the boundaries of the Parcel(s) or Premises or directly focusing on any surrounding areas*," however the Ordinance applies this standard only to parcels "*abutting a residential Zoning District or proposed within Resource Protection or Rural Residential areas*." The Department recommends that the performance standard for light pollution control should apply to all zoning districts, and concurs with the standard in subsection (a) which prohibits any light from escaping from mixed light cultivation and nursery structures between sunset and sunrise. (**Recommendation 26**) S1-36

Subsection (d) describes the process for addressing "*any light pollution complaint*." The penalty for "*failure to correct the violation and provide documentation… shall be grounds for permit cancellation or administrative penalties…*" Enforcement of this mitigation measure is the only means of avoiding impact from lighting, and if not strongly enforced, impacts may be potentially significant.

55.4.12.6 – Performance Standard for Noise from Generator Use at Pre-Existing Sites S1-37

Subsection (a): the Department concurs with the prohibition on generator use "*in TPZ zones and U zones (with a General Plan Land Use Designation of 'Timberland')*" and recommends that generators be prohibited in all forested areas, regardless of zoning district. As we stated in our May 2017 letter, noise pollution disrupts wildlife populations and degrades habitat for a number of species.

[10] Fish and Game Code section 1602 states, in part, that an entity "may not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake" without written notification to the Department.

Subsection (b) describes noise restrictions for sites "*located within one (1) mile of mapped critical habitat for Marbled Murrelet or Spotted Owls*." Simply avoiding noise impacts to critical habitat for listed species will not avoid "take." See **Recommendation 4** above regarding northern spotted owl. S1-37 cont

Additional Comments

Thresholds of Significance

CEQA section 15064.7 defines a threshold of significance as *"an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant."* Throughout the DEIR, many thresholds of significance are so general and undefined (e.g., "*have a substantial adverse effect*" on a special status species or "*substantially reduce the habitat of a fish or wildlife species*...," page 3.4-60) that it is unclear how the County determined whether there would be a significant impact. If impacts will not be completely avoided, thresholds of significance should be specifically defined in the DEIR so the potential significance of the impact may be determined. (**Recommendation 27**) S1-38

Qualified Biologist

For several proposed mitigation measures the DEIR requires surveys by a qualified biologist (e.g. Mitigation measures 3.4-1a, 3.4-1c, and 3.4-1e), but the document does not provide detail regarding the required criteria or qualifications for these individuals. The DEIR should provide information on the minimum qualifications of potential third party inspectors, including required education, experience, and/or necessary technical skills. The County proposes to rely on qualified biologists as the primary mechanism to avoid environmental impacts and comply with mitigation measures, and for this reason, adequate qualifications should be defined and disclosed. The Ordinance should also provide a mechanism allowing the County to disqualify qualified biologists if necessary, for unsatisfactory performance, in consultation with the Department. (**Recommendation 28**) S1-39

Fish and Game Code

Several Fish and Game Code sections apply to activities that the County would permit under its Ordinance. In addition to Fish and Game Code section 1602, other applicable sections include but are not limited to section 2050 *et seq*. CESA, section 5650 (prohibits water pollution), section 5652 (prohibits refuse disposal in or near streams), and section 5937 (requires sufficient water bypass and fish passage, relating to dams). County staff and/or applicants should consult with the Department to ensure compliance with all Fish and Game Code sections, not just section 1602. (**Recommendation 29**) S1-40

Summary

The proposed/amended regulations described in the Commercial Cannabis Land Use Ordinance (Ordinance), in conjunction with the Department's recommended modifications summarized below, and a strong County enforcement effort will help Humboldt County conserve sensitive fish and wildlife habitat and reduce associated environmental impacts to level less than significant. However, the continued proliferation of illegal cannabis cultivation and the lack of targeted enforcement efforts of these activities may lead to continued downward pressure on populations of State and federally listed fish and wildlife species, and subsequently, the need for additional regulations and land use restrictions on permitted sites.

Summary of Recommendations

The Department provides the following recommendations for the County to address in the Ordinance and DEIR:

1. The DEIR and Ordinance must address the impacts of unpermitted cannabis cultivation in its analysis of cumulative impacts.

2. Prior to permitting additional cultivation, the County should prepare an analysis describing a) existing water use, b) potential for sediment and other pollutant discharge, and c) percentage of habitat fragmentation within a given HUC 12 or smaller watershed. In addition, the analysis should provide detail on the amount of cannabis cultivation the County proposes to permit within each watershed, and what impacts the allowed cultivation would have on each of these elements.

3. The DEIR should identify foothill yellow-legged frog as a CESA candidate species, and the County should propose appropriate avoidance, minimization, and/or mitigation measures.

4. For any cultivation site with the potential to impact northern spotted owl based upon suitable habitat on site or proximity to a known activity center, presence should be assumed, and avoidance measures should be implemented in consultation with the Department and USFWS.

5. A qualified biologist should identify suitable habitat for special status wildlife species well in advance of construction activities, and these areas should be avoided during project design. Pre-construction surveys should also be required.

6. Mitigation measure 3.4-3a (page 3.4-71) addresses special-status plants, including requirements for surveys, and proposed mitigation measures. The DEIR should specify the required plant survey protocol, and should require that a full report of survey results be submitted, even in cases when special-status plants are not observed.

S1-41

7. The Department supports the intent of Mitigation measure 3.4-3b (page 3.4-71) requiring removal of invasive plant species. The DEIR should provide more detail regarding monitoring and enforcement of this mitigation measure.

8. The County should conduct a water availability analysis based on the potential number of cultivation sites that could be allowed in each watershed, and define a cap based on the determined watershed carrying capacity.

9. The Department recommends that the County develop noise restriction and minimization guidelines that will be protective of wildlife habitat areas on the cultivation parcel, as well as on adjacent land.

10. The Department recommends that new cultivation areas should be prohibited in all forest and oak woodland habitat, regardless of zoning.

11. The Ordinance should include specific penalties or remedies for permit non-compliance and post-permit environmental remediation, and provide adequate staffing to conduct enforcement efforts and compliance review.

12. Current site conditions should be considered when determining the level of review required for *"pre-existing"* sites.

13. Trespass cultivation sites should not qualify as a *"pre-existing*" site for the purposes of permitting, and should instead be remediated.

14. The County should create an autonomous Code Enforcement Unit with its own Director position. This independent County department would operate with sole discretion over enforcement actions. In addition, the County should define and codify an unambiguous process and procedures for violations of the proposed Ordinance.

15. The Ordinance should specify that the County inspector will notify other regulatory agencies of site non-compliance, so that agency may determine whether immediate action is necessary or if the County timeline is appropriate.

16. The County should provide detailed criteria describing how it will determine when the environmental conditions exist to restrict water use.

17. The Department recommends that generators and mixed-light cultivation be prohibited in all forested habitats, regardless of zoning district.

18. The County should identify the minimum qualifications for individuals who would *"identify, document, and itemize all current violations related to commercial cannabis activities"* and prepare the compliance agreement.

S1-41 cont

19. Retirement, Remediation, and Relocation plans should be prepared by a qualified professional, and referred to appropriate resource agencies for review and concurrence.

20. The County should provide detail regarding its potential remedies in the event that a permitted site is abandoned without restoration.

21. Restoration plans for terminated or abandoned cultivation sites should be referred to appropriate resource agencies for review and concurrence.

22. The County should explicitly state its criteria for site-specific environmental review of cannabis cultivation projects.

23. Access to project sites on unsurfaced roads should require an assessment of all stream crossings, in addition to the Category 4 analysis. This analysis should be submitted to the Department and the State Water Resources Control Board, along with proposed remediation and/or mitigation measures, for review and concurrence prior to individual project approval.

24. The County should clarify what it intends by including other *"significantly equivalent rule addressing water quality protections and waste discharge that may be subsequently adopted by the County of Humboldt or other responsible agencies,"* and whether it is the County's intention to replace the State regulation, or simply to provide more protective regulations if necessary.

25. The Department recommends the County remove the conflicting provision in the Ordinance that states a cannabis cultivation applicant not apply for an LSA permit until it secures a County permit.

26. The performance standard for light pollution control should apply to all zoning districts, and the Department concurs with the standard in subsection (a) which prohibits any light from escaping from mixed light cultivation and nursery structures between sunset and sunrise.

27. If impacts will not be completely avoided, thresholds of significance should be specifically defined in the DEIR so the potential significance of the impact may be determined.

28. The DEIR should provide information on the minimum qualifications of potential third party inspectors, including required education, experience, and/or necessary technical skills. The County proposes to rely on qualified biologists as the primary mechanism to avoid environmental impacts and comply with mitigation measures, and for this reason, adequate qualifications should be defined and disclosed. The Ordinance should also provide a mechanism allowing

S1-41 cont

the County to disqualify qualified biologists if necessary, for unsatisfactory performance, in consultation with the Department.

29. County staff and/or applicants should consult with the Department to ensure compliance with all Fish and Game Code sections, not just section 1602.

S1-41 cont

We appreciate the opportunity to comment on the DEIR/Ordinance and look forward to working with Humboldt County to effectively regulate commercial cannabis cultivation while addressing its documented environmental impacts. If you have any questions please contact Senior Environmental Scientist (Specialist) Angela Liebenberg at (707) 964-4830 or by e-mail at Angela.Liebenberg@wildlife.ca.gov or Senior Environmental Scientist Supervisor Scott Bauer at (707) 441-2011 or by e-mail at Scott.Bauer@wildlife.ca.gov.

Sincerely,



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Letter S1	California Department of Fish and Wildlife, Northern Region Neil Manji, Regional Manager 10/16/2017

S1-1 This comment provides a summary of concerns regarding the analysis in the DEIR and the proposed ordinance. These items are addressed below in response to more specific comments on each issue.

S1-2 This comment references CDFW's notice of preparation (NOP) comments regarding biological resources, water resources, and consequences of inadequate enforcement. DEIR Table 1-1 provides a summary of CDFW NOP comments and where they are addressed in the DEIR. The reader is referred to Master Response 6 regarding improvements to enforcement efforts by the County to ensure compliance with the proposed ordinance and reduction of illegal cannabis cultivation operations.

S1-3 The comment identifies that the DEIR's focus is to address the environmental effects of the proposed ordinance and should ensure no significant impacts to fish and wildlife occur. The comment is correct that the purpose of the DEIR is to disclose the significant environmental effects of the proposed ordinance, identify ways to feasibly mitigate or avoid the significant effects, and identify a range of feasible alternatives that could lessen or avoid significant environmental impacts. DEIR Section 3.4, "Biological Resources," evaluates potential significant environmental impacts to biological resources and identifies mitigation measures to mitigate identified impacts. No significant and unavoidable impacts to biological resources are identified in the DEIR.

S1-4 The comment provides a summary of concerns regarding the environmental baseline used in the DEIR for the evaluation of existing and cumulative conditions and that certain potentially significant impacts to fish and wildlife are not adequately addressed. The comment identifies that CDFW has provided 29 recommendations that would need to be implemented to reduce biological resource impacts below a level of significance.

Each of the comments identified by CDFW are responded to below and several cases involve refinements to the mitigation measures identified in the DEIR.

S1-5 The comment asserts that the DEIR improperly declines to address illegal cannabis cultivation sites as an important existing contribution to cumulative impacts and cites a statement from the DEIR to support this assertion. The comment also asserts that the cumulative impact analysis should consider rural residential development and other types of development that have similar impacts.

Section 15130(a) of the State CEQA Guidelines requires a discussion of the cumulative impacts of a project when the project's incremental effect is cumulatively considerable. Cumulatively considerable, as defined in CEQA Guidelines Section 15065(a)(3), means that the "incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." The State CEQA Guidelines Section 15355 defines a cumulative impact as two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. Prior illegal activity is not a project for purposes of cumulative impact analysis under CEQA, but is a baseline condition against which the impacts of the project under consideration are assessed. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time. CEQA requires that EIRs consider feasible mitigation measures to offset the project's contribution to each identified significant cumulative impact.

DEIR pages 4-1 through 4-3 describes the base conditions upon which the proposed ordinance's cumulative impact analysis was based. This includes identification of the anticipated change in the County's population from 2000 to 2040 and identification of historic and on-going land use conditions (e.g., development of the unincorporated area, and cities, historic and on-going agricultural activities, water diversions, and historic timber production). DEIR Subsection 4.2.2, "Existing Cannabis Cultivation Operations in Humboldt County," specifically describes the historic and on-going extent of cannabis cultivation operations in the County and the associated environmental damage that has occurred. This was factored in the cumulative base conditions.

As identified in Master Response 1, the statement referenced by the comment has been taken out of context of the discussion in the DEIR. DEIR Subsection 4.2.2 refers to the identification and extent of future illegal cannabis operations in the County after implementation of the proposed ordinance. Enforcement is anticipated to reduce the number of illegal cannabis operations that occur in the unincorporated areas of the County that do not include tribal, state, or federally owned lands (the reader is referred to Master Response 6 regarding enforcement activities by the County). However, it is not currently feasible to quantify the effectiveness of future enforcement efforts in reducing the extent of illegal cannabis operations. Thus, the DEIR acknowledges that it would speculative to identify the future extent of environmental effects of existing cannabis operations pursuant to State CEQA Guidelines Section 15145. Thus, the DEIR properly considers illegal cannabis operations in the County as part of the baseline for project and cumulative impacts as required under CEQA.

Nevertheless, the County expects that, through a combination of enforcement activities and compliance with the existing and proposed regulations in the ordinance, that cumulative impacts of permitted and unpermitted cannabis operations will be substantially reduced below current impacts. As outlined in Master Response 6, the County has embarked on an aggressive enforcement program aimed at eradicating illegal grows or, alternatively, bringing them into compliance with the ordinance. In either instance, the end result would be reduction of associated environmental impacts that should, on balance, result in overall improved environmental conditions in the County.

S1-6 The comment asserts that stronger enforcement efforts should be implemented for unpermitted cultivation sites and references unpublished data on increases in unpermitted cannabis activities.

As identified in Master Response 1, the DEIR does acknowledge unpermitted (illegal) cannabis cultivation activities in the County and estimates that the County could contain up to 15,000 cannabis operations. The County has addressed enhanced enforcement as a separate project with amendments to its Code Enforcement program. (Ordinance No. 2576, June 27, 2017 and Ordinance No. 2585, November 7, 2017) designed to eliminate delays that hindered effective enforcement, and substantially increase administrative civil penalties. The Code Enforcement Unit is engaged in the initial implementation of the enhanced enforcement program. The reader is referred to Master Response 6 for further information on County enforcement efforts.

S1-7 This comment cites the documented environmental impacts associated with cannabis cultivation and recommends that the DEIR and proposed ordinance address the impacts of unpermitted cannabis cultivation. As identified in Master Response 1, these impacts have been identified in several sections of the DEIR as part of the baseline conditions. While these existing environmental conditions of unpermitted cannabis cultivation operations were disclosed as part of the baseline condition in the DEIR, CEQA is not intended to conduct environmental review and mitigate these conditions. State CEQA Guidelines Section 15125(a) identifies that the baseline physical conditions are the basis by which a lead

agency determines whether an impact of the project is significant. Published case law has identified that baseline conditions include unpermitted and/or harmful activities that have occurred prior to the project. In *Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 234 Cal.App.4th 214 (183 Cal.Rptr.3d 736], the Fourth Appellate District upheld the baseline conditions and ruled that the baseline condition must reflect the physical conditions at the time the environmental analysis begins even if the current conditions include unauthorized and even environmental harmful conditions that never received environmental review. As identified under Response to Comment S1-5, the DEIR properly considers illegal cannabis operations in the County as part of the baseline for project and cumulative impacts as required under CEQA.

The reader is also referred to Master Response 6 regarding enforcement activities by the County regarding illegal cannabis operations.

S1-8 The comment cites text from the DEIR regarding assumptions on the extent of new commercial cannabis operations under the proposed ordinance and asserts that the DEIR should address the maximum acreage of cannabis cultivation that the proposed ordinance would allow as there are no limits on the total number of cannabis cultivation projects. The comment recommends that the County prepare an analysis of the potential carrying capacity of each watershed to accommodate cultivation sites.

The assumptions regarding new commercial cannabis operations identified in the DEIR were specifically used in the quantification of air quality, greenhouse gases, water demand, and traffic impacts (see DEIR Sections 3.3, "Air Quality and Greenhouse Gases," 3.8, "Hydrology and Water Quality," 3.10, "Noise," and 3.12, "Transportation and Circulation"). The biological resources impact analysis regarding special-status species and habitat loss in DEIR Section 3.4, "Biological Resources," evaluated all land areas in the County that could allow a commercial cannabis operation to be permitted and was not limited to the assumed number of new commercial cannabis operations. As identified in Master Response 2, the proposed ordinance does not entitle or approve any new commercial cannabis operations. To evaluate reasonably foreseeable environmental impacts from implementation of the ordinance, DEIR Chapter 3, "Project Description," includes Subsection 2.4.5, "Reasonably Foreseeable Compliance Responses." Subsection 2.4.5 describes anticipated compliance responses to the proposed ordinance that are based on assumptions developed by County staff based on review of cannabis applications received in response to the 2016 CMMLUO, field review and data associated with existing cannabis operations in the County, CalCannabis documentation, and published information regarding cannabis operations. This approach to the evaluation of impacts is consistent with State CEQA Guidelines Section 15144 which addresses the issue of forecasting: "Drafting an EIR or preparing a Negative Declaration necessarily involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can."

The County received limited interest in new commercial cannabis operations (see DEIR Table 2-2). Of the 2,936 cannabis applications submitted in response to the CMMLUO, only 941 applications for 432 new commercial cultivation sites were for proposed new commercial cannabis operations. The DEIR assumes that the County could receive an additional 941 applications for new commercial cannabis operations under the proposed ordinance (see DEIR page 2-29). This assumption was based on review the County's application information and is further supported by CDFA estimates of state-wide cannabis production capacity and estimated demands. CDFA estimates that cannabis production in the state in 2016 was 13.5 million pounds. Of this total, CDFA estimates that the North Coast area (consisting of Del Norte, Humboldt, Mendocino, Lake, Sonoma, Napa, and Marin counties) cannabis production in 2016 was 4.15 million pounds. Estimates for state cannabis consumption in 2018 under the Medical Cannabis Regulation and Safety Act (MCRSA) and the Adult Use of Marijuana Act

(AUMA) range from 1.4 million pounds (2016 Economic Impact Study of the Cannabis Sector in the Greater Sacramento area) to 2.5 million pounds (Standard Regulatory Impact Assessment), which is far below the North Coast area's and state's current cannabis production capability. Thus, the DEIR uses reasonable assumptions to forecast compliance to the proposed ordinance consistent, with CEQA Guidelines Section 15144, that is supported by substantial evidence in the record. Consideration of the theoretical maximum potential for commercial cannabis operations in the County would be counter to studies, evidence, and foreseeable demand. The comment letter provides no evidence that supports the argument that the County would experience substantial growth in new cannabis cultivation.

As further described under Master Response 5, a watershed analysis to establish cannabis cultivation caps for each watershed would be difficult for the County to conduct as it would require details on existing water users in each watershed and the extent that riparian water rights may be exercised. The County lacks the technical experience and financial resources to collect this extent of data and determine what is the appropriate aquatic carrying capacity. Regional and state agencies that would have the appropriate technical information and experience to conduct a watershed analysis include State Water Board, North Coast Regional Water Quality Control Board, and CDFW. The County would be willing to participate in joint watershed evaluation studies with these agencies. The DEIR does provide a watershed level impact analysis associated with the proposed ordinance that includes details on current water quality and surface water flow conditions (see DEIR pages 3.8-14 through 3.8-47). Water quality impacts would be mitigated through compliance with the State Water Board Policy as well as implementation of Mitigation Measure 3.8-2.

The DEIR analysis acknowledges that cannabis irrigation could result in a significant decrease in watershed flows during low flow conditions (see DEIR pages 3.8-44 and 3.8-45). Implementation of Mitigation Measure 3.8-5 in compliance with State Water Board Policy would require that all cannabis cultivation surface water and groundwater diversions comply with the numeric flows and aquatic base flows that have been established by watershed under the Policy in consultation with CDFW. As described in Master Response 5, the State Water Board Policy establishes new requirements for cannabis cultivation activities (including commercial cannabis cultivation in the County) to protect water quality, water diversion standards and restrictions, instream flows, and supercedes the regulations under the RWQCB Order No. 2015-0023. The State Water Board Policy's numeric flows and aquatic base flows and associated diversion requirements function as an aquatic carrying capacity suggested by the comment. The proposed ordinance would prohibit new commercial cannabis cultivation in the forested areas of the upper watersheds and limit it to areas generally in the lower portions of the watersheds where the USGS gages used in the implementation of the State Water Board Policy exist. The State Water Board Policy's flow standards and diversion requirements were developed to protect fish spawning, migration, and rearing for endangered anadromous salmonids, and flows to needed to maintain natural flow variability within each watershed. Thus, the need to prepare a watershed analysis to determine the aquatic carrying capacity is not necessary to adequately address the water resources impacts of the proposed ordinance at a watershed level of detail. Habitat and wildlife impacts from proposed ordinance would be mitigated through implementation of the mitigation measures identified in DEIR Section 3.3, "Biological Resources," as well as compliance with the requirements in Attachment A of the State Water Board Policy that include requirements to protect riparian and oak woodland habitats.

It should be noted that at the time of the preparation of this FEIR the County was considering modifications to the proposed ordinance that would establish a cap to limit the extent of permitted commercial cannabis operations in the County. However, as this is not currently part of the ordinance, this FEIR cannot provide further commentary.

S1-9 The comment recommends that the County define a cap of cannabis cultivation for watersheds based on an analysis each watershed as described in Comment S1-8. This comment is responded to in Response to Comment S1-8.

S1-10 This comment includes an update regarding the status of foothill yellow-legged frog under the California Endangered Species Act (CESA). On June 27, 2017, the status of foothill yellow-legged frog changed from a state species of special concern to a candidate for listing as an endangered species under the CESA. At the time of completion of the final draft of the DEIR, this status change had not been finalized. Mitigation for this species is included in the DEIR and has been refined as identified in Response to Comment S1-11.

On DEIR page 3.4-34, the third row of the third column in table 3.4-2 is corrected to read:

SC ~~SSC~~

On DEIR page 3.4-61, under the heading "Special-Status Amphibians," the text is corrected to read:

Foothill yellow-legged frog is a candidate for listing under the CESA. ~~Foothill yellow-legged frog;~~ N~~n~~orthern red-legged frog, Pacific tailed frog, red-bellied newt, and southern torrent salamander are all CDFW species of special concern.

S1-11 This comment summarizes the threats to northern spotted owl in California, including habitat destruction and human-related activities. The comment highlights the fact that the DEIR failed to incorporate application of the USFWS "Protocol for Surveying Proposed Management Activities that may Impact Northern Spotted Owls," (USFWS 2012) did not address the species individually, and did not attempt to avoid impacts to occupied or otherwise suitable habitat.

The DEIR addresses northern spotted owl under Impact 3.4-1 and Mitigation Measure 3.4-1c (see DEIR pages 3.4-62 and 3.4-63). In response to CDFW input, additional impact discussion and mitigation has been added to address northern spotted owl. An exhibit (3.4-9) utilizing CDFW northern spotted owl occurrence data was created to provide a visual representation of northern spotted owl distribution throughout the County as part of the new Mitigation Measure 3.4-1e. As shown in Exhibit 3.4-9, the majority of owl occurrences are within areas where new cultivation is prohibited, including public land and land not zoned for cultivation.

On pages 3.4-64 to 3.4-65, the following text was added:

Northern spotted owl

Northern spotted owl is listed as threatened under ESA and CESA. Northern spotted owl is known to occur throughout Humboldt County coniferous forests (CNDDB 2017, eBird 2017). Critical habitat for this species is present within the County (Exhibit 3.4-5). Large portions of this critical habitat area are in land areas (public lands and areas designated for timber uses) where new commercial cannabis operations would be prohibited under the proposed ordinance.

Exhibit 3.4-9 presents the distribution of known occurrences of spotted owls throughout Humboldt County and shows that the majority of occurrences are within areas where new cultivation is prohibited, including public land and land not zoned for cultivation. However, there are some known occurrences located within land zoned for cultivation (Exhibit 3.4-9).

Project implementation associated with potential impacts to habitat and vegetation removal could disturb nesting northern spotted owls if they are present, potentially resulting in nest abandonment, nest failure, or mortality of chicks or eggs. Additionally, human presence associated with construction of cultivation sites, roads, and cultivation activities could result in increased noise and visual disturbance to nesting raptors. CDFW conducted a spatial analysis of existing cannabis cultivation sites and County cannabis permit application data to determine proximity of known and historic northern spotted owl occurrences that could be impacted by noise and visibility of the cultivation. Based on the CDFW's analysis, 53 cannabis projects (sites) have activities within 40 meters of a northern spotted owl activity center, 525 cannabis projects occur within 0.7 mile, and 1184 occur within 1.3 miles (CDFW 2017). The potential loss of northern spotted owls and their nests would be a **potentially significant** impact.

In addition to direct impacts to the species, new cannabis-related development under the proposed ordinance result in the loss or fragmentation of northern spotted owl habitat. This would also be a **potentially significant** impact.

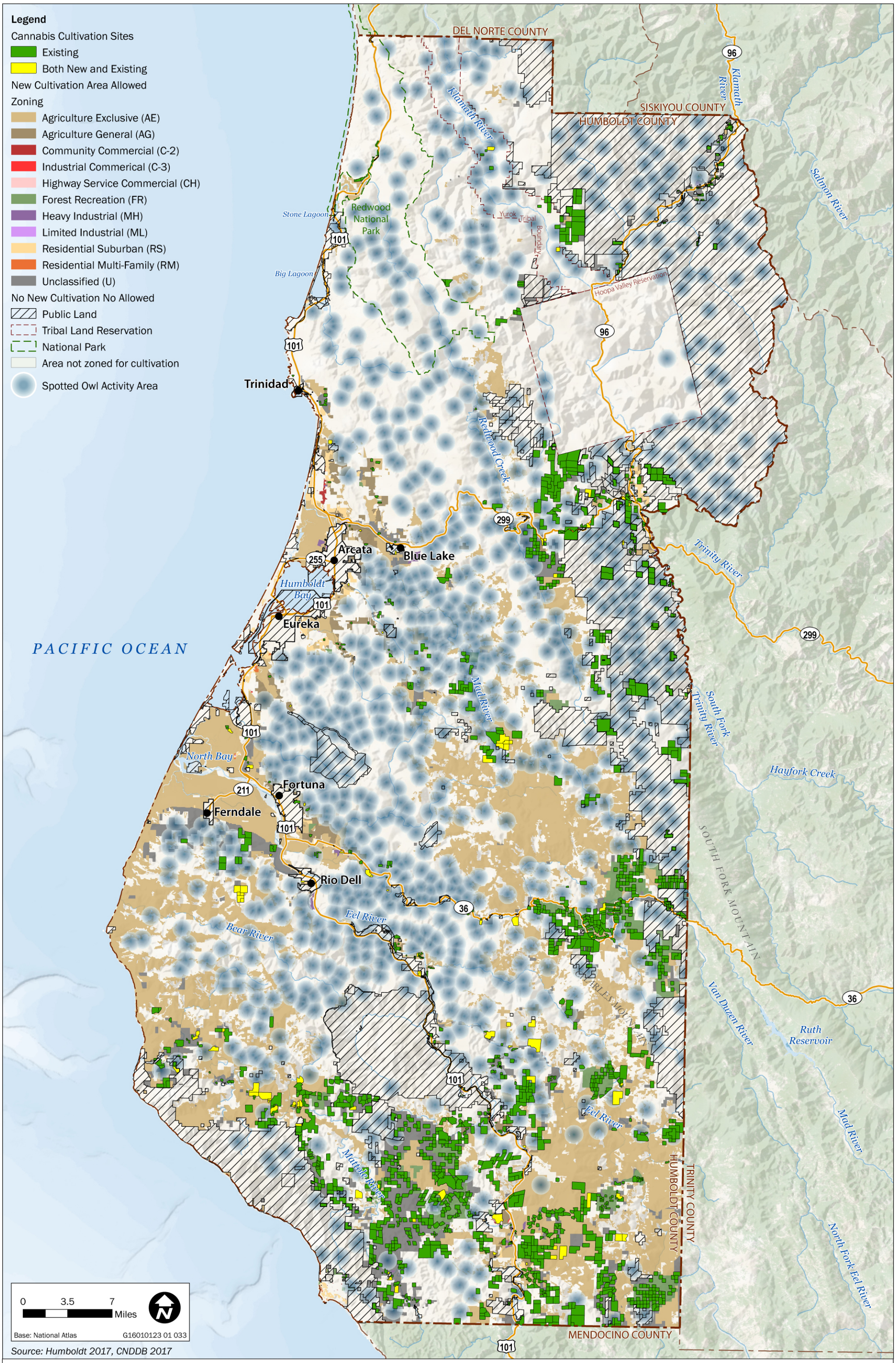
Mitigation 3.4-1e: Northern spotted owl preconstruction habitat suitability surveys and determination of presence or absence.

The following shall be included as performance standards in the proposed ordinance for the protection of northern spotted owl from new development related to cannabis activities.

- To avoid the potential for loss of northern spotted owl and their nests, or loss or fragmentation of occupied or suitable habitat for northern spotted owl, removal of old growth habitat shall be prohibited, as outlined in Mitigation Measure 3.4-3, Sensitive natural communities, riparian habitat, old growth habitat, and wetland vegetation.

- If the area of proposed new development activities is within suitable habitat for northern spotted owl (e.g., coniferous forest), and is within 1.3 miles (average species home range) of a known occurrence of northern spotted owl, as determined by a qualified biologist, the following measures shall be followed.

  - Prior to removal of any trees, or ground-disturbing activities adjacent or within suitable nesting, roosting, or foraging habitat (e.g. forest clearings) for spotted owl, a qualified biologist, familiar with the life history of the northern spotted owl, shall conduct preconstruction surveys for nests within a 1.3-mile buffer around the site as described in *Protocol for Surveying Proposed Management Activities that May Impact Northern Spotted Owls* (USFWS 2012). Surveys shall take place between March 1 and August 31. Three complete surveys spaced at least 7 days apart must be completed by June 30. Six complete surveys over the course of 2 years must be completed to determine presence or absence of northern spotted owl.



Source: Humboldt 2017, CNDDB 2017

Exhibit 3.4-9

Cultivation Areas and Northern Spotted Owl Observation and Activity Areas

ASCENT ENVIRONMENTAL

- If northern spotted owls are determined to be absent 1.3 miles from the site, then further mitigation is not required.

- If northern spotted owls are determined to be present within 1.3 miles of the site, then it is presumed that habitat removal could cause harm to northern spotted owl populations in the area, and could result in direct take of northern spotted owls. If northern spotted owls are determined to be present within 1.3 miles of the site, proposed cultivation activities will not be permitted consistent with the General Requirement and Prohibition 4 of the Attachment A of the State Water Board Policy.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1e would reduce significant impacts to a **less-than-significant** level because direct take of northern spotted owls and disturbance or fragmentation of northern spotted owl habitat would be avoided through preconstruction surveys and, if found, prohibition of proposed cultivation activities consistent with the State Water Board Policy.

On DEIR pages 3.4-65 through 3.4-68, the mitigation measures are re-numbered as follows:

Mitigation 3.4-1f~~d~~: Special-status nesting bird surveys and establishment of protective buffers.

The following shall be included as performance standards in the proposed ordinance for the protection of bank swallow, little willow flycatcher, tricolored blackbird, and western yellow-billed cuckoo from new development related to cannabis activities. This will apply to any commercial cannabis activity that would result in the disturbance or loss of riparian, riverine, mudflat, or grassland habitats.

- To minimize the potential for disturbance or loss of bank swallow, little willow flycatcher, tricolored blackbird, western snowy plover, western yellow-billed cuckoo, or other bird nests, vegetation removal activities shall only occur during the nonbreeding season (September 1-January 31). Alteration of or disturbance to suitable river bank habitat (i.e., for bank swallow nests) and mudflat habitat (i.e., for western snowy plover) is prohibited because of limited habitat availability for this species.

- Prior to removal of any vegetation or any ground disturbance between February 1 and August 31, a qualified biologist shall conduct preconstruction surveys for nests on any structure or vegetation slated for removal, as well as for potential tricolored blackbird nesting habitat. The surveys shall be conducted no more than 14 days before construction commences. If no active nests or bank swallow colonies are found during focused surveys, no further action under this measure will be required. If active nests are located during the preconstruction surveys, the biologist shall notify the Planning Director and CDFW. If deemed necessary by the Planning Director in consultation with CDFW, modifications to the project design to avoid removal of occupied habitat while still achieving project objectives may be required. If the Planning Director determines in consultation with CDFW that avoidance is not feasible or conflicts with project objectives, construction shall be prohibited within a minimum of 100 feet of the nest to avoid disturbance until the nest or colony is no longer active.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1f~~d~~ would reduce significant impacts to a **less-than-significant** level because bank swallow, little willow flycatcher, tricolored

blackbird, western snowy plover, western yellow-billed cuckoo, and other bird nests would be avoided and protected from new development related to cannabis activities.

Mitigation 3.4-1ge: Marbled murrelet preconstruction habitat suitability surveys and establishment of protective buffers.

The following shall be included as performance standards in the proposed ordinance for the protection of marbled murrelet from new development related to cannabis activities.

- To avoid the potential for loss of or disturbance to marbled murrelet nests and habitat, removal of old growth habitat shall be prohibited, as outlined in Mitigation Measure 3.4-3, Sensitive natural communities, riparian habitat, old growth habitat, and wetland vegetation.

- Prior to removal of any trees, or ground-disturbing activities adjacent or within suitable habitat for marbled murrelet between April 15 and August 5, a qualified biologist, familiar with the life history of the marbled murrelet, shall conduct preconstruction surveys for nests within a 0.25-mile buffer around the site as described in *Methods for Surveying Marbled Murrelets in Forests: A Revised Protocol for Land Management and Research* (Evans Mack et. al 2003).

- If marbled murrelets are determined to be absent from the site, then no further mitigation is required.

- If marbled murrelets are determined to be present within the site, a 0.25-mile buffer will be established around occupied nest sites. No project activity may occur within the 0.25-mile buffer areas until the end of marbled murrelet breeding season (August 6).

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1ge would reduce significant impacts to a **less-than-significant** level because disturbance of marbled murrelet would be avoided through preconstruction surveys and, if found, establishment of a protective buffer.

Mitigation 3.4-1hf: Generator noise reduction.

The ordinance requires generators not to increase existing ambient noise levels at the property line of the site beyond 3 dB. In addition, the noise standards shall include the following standards to protect wildlife (USFWS 2006).

- Project-generated sound must not exceed ambient nesting conditions by 20-25 decibels.

- Project-generated sound, when added to existing ambient conditions, must not exceed 90 decibels.

- Time of day adjustment: Marbled murrelet and northern spotted owl are most active during dawn and dusk. Within approximately 2 hours of sunrise and sunset, ambient sound levels are lower than during the middle of the day (by approximately 5-10 decibels). This will be accounted for when determining impacts of project-generated sound.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1hf would reduce significant impacts to a **less-than-significant** level because project-generated sound would not exceed levels known to result in disturbance to avian forest species, such as marbled murrelet and northern spotted owl. Disturbance to these species would be avoided.

Mitigation Measure 3.4-1ig: American badger preconstruction survey and establishment of protective buffers.

The following shall be included as performance standards in the proposed ordinance for the protection of the American badger from new development related to cannabis activities.

- Prior to the commencement of construction activities, a qualified wildlife biologist shall conduct surveys of the suitable grassland or agricultural habitats slated for conversion within the site to identify any American badger burrows/dens. These surveys shall be conducted not more than 30 days prior to the start of construction. If occupied burrows are not found, further mitigation shall not be required. If occupied burrows are found, impacts to active badger dens shall be avoided by establishing exclusion zones around all active badger dens, within which construction related activities shall be prohibited until denning activities are complete or the den is abandoned. A qualified biologist shall monitor each den once per week to track the status of the den and to determine when a den area has been cleared for construction.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1ig would reduce impacts on American badger to a **less-than-significant** level because preconstruction surveys would be conducted and active badger dens would be protected from construction activities.

Mitigation Measure 3.4-1jh: Fisher and Humboldt marten preconstruction survey and preservation of active den sites.

The following shall be included as performance standards in the proposed ordinance for the protection of the fisher and Humboldt marten from new development related to cannabis activities.

- To minimize the potential for loss of or disturbance to fisher and Humboldt marten habitat and dens, removal of old growth habitat shall be prohibited, as outlined in Mitigation Measure 3.4-3, Sensitive natural communities, riparian habitat, old growth habitat, and wetland vegetation.

- Prior to commencement of from new development related to cannabis activities occurring within the fisher and Humboldt marten denning season (March 1 to July 31), including tree removal (non-old growth), a qualified wildlife biologist will conduct preconstruction surveys of all suitable habitat within the site, and will identify sightings of individual fishers or martens, as well as potential dens.

- If individuals or potential or occupied dens are not found, further mitigation will not be required.

- If fisher or Humboldt marten are identified or if potential dens of these species are located, an appropriate method shall be used by a qualified wildlife biologist to confirm whether a fisher or marten is occupying the den. This may involve use of remote field cameras, track plates, or hair snares. Other devices such as fiber optic

scope may be utilized to determine occupancy. If no fisher or marten occupies the potential den, the entrance will be temporarily blocked so that no other animals occupy the area during the construction period but only after it has been fully inspected. The blockage will be removed once construction activities have been completed.

- If a den is found to be occupied by a fisher or marten, a no-disturbance buffer will be placed around the occupied den location. The no-disturbance buffer will include the den tree (or other structure) plus a suitable buffer as determined by the biologist in coordination with USFWS and CDFW. Construction activities in the no-disturbance buffer will be avoided until the nest is unoccupied as determined by a qualified wildlife biologist in coordination with USFWS and CDFW.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1j~~h~~ would reduce impacts on fisher and Humboldt marten to a **less-than-significant** level because preconstruction surveys would be conducted and active dens would be protected from construction activities.

Mitigation Measure 3.4-1k~~i~~: Preconstruction bat survey and exclusion.

The following shall be included as performance standards in the proposed ordinance for the protection of the pallid bat and Townsend's big-eared bat from new development related to cannabis activities.

- Before commencing any new development related to cannabis activities, a qualified biologist shall conduct surveys for roosting bats. If evidence of bat use is observed, the species and number of bats using the roost shall be determined. Bat detectors may be used to supplement survey efforts. If no evidence of bat roosts is found, then no further study will be required.

- If pallid bats or Townsend's big-eared bats are found in the surveys, a mitigation program addressing mitigation for the specific occurrence shall be submitted to the Planning Director and CDFW by a qualified biologist subject to the review and approval of the Planning Director in consultation with CDFW. Implementation of the mitigation plan shall be a condition of project approval. At a minimum, the mitigation plan shall establish a 400-foot buffer area around the nest during hibernation or while females in maternity colonies are nursing young.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1k~~i~~ would reduce impacts on special-status bats to a **less-than-significant** level because preconstruction surveys would be conducted and active bat roosts would be protected from new development related to cannabis activities.

Mitigation Measure 3.4-1l~~j~~: Preconstruction vole survey and relocation.

The following shall be included as performance standards in the proposed ordinance for the protection of the Sonoma tree vole and white-footed vole from new development related to cannabis activities.

- To minimize the potential for loss of or disturbance to vole habitat and nests, removal of old growth habitat shall be prohibited, as outlined in Mitigation Measure 3.4-3 Sensitive natural communities, riparian habitat, old growth habitat, and wetland vegetation.

- Before commencing any tree or other vegetation removal activities, or ground-disturbance, a qualified biologist shall conduct surveys for vole nests (e.g., nest searching within trees on the site, and confirming that nests belong to voles rather than squirrels or birds). If no evidence of vole nests is found, then no further study shall be required. A report summarizing the results of the surveys shall be prepared and submitted to the Planning Director and shall be subject to his review and approval in consultation with CDFW.

- If occupied trees or nests are identified within 100 feet of the site, the biologist shall determine whether project development activities will adversely affect the voles, based on factors such as noise level of development activities, or line of sight between the tree and the disturbance source. If it is determined that development activities would not affect the voles, then development can proceed without protective measures.

- If the biologist determines that development activities would likely disturb voles, the proposed area of disturbance shall be relocated a minimum of 200 feet from the nest.

Significance after Mitigation
Implementation of Mitigation Measure 3.4-1~~j~~l would reduce impacts on special-status voles to a **less-than-significant** level because preconstruction surveys would be conducted and active vole nests would be protected from new development related to cannabis activities.

On DEIR page 4-7, the following text change is made to the first paragraph:

> Implementation of the proposed ordinance would result in impacts related to the disturbance or loss of special-status wildlife species and habitat (see Section 3.4, "Biological Resources"). This would contribute to significant cumulative impacts, because they would include ground disturbance, vegetation removal, and overall conversion of wildlife habitat in Humboldt County where adverse effects on special status wildlife species and habitat are significant. Mitigation Measures 3.4-1a through 3.4-1~~j~~l and 3.8-5 would address impacts because actions including preconstruction surveys, establishment of protective buffers, limits on surface water diversion, and avoidance of individual animals would reduce the potential impacts of injury, mortality or other disturbance on individual animals and habitat. These mitigation measures would offset the project's contribution to cumulative special-status wildlife species and habitat impacts. Thus, after implementation of these mitigation measures, the project's contribution to significant cumulative impacts to sensitive natural communities **would not be cumulatively considerable**.

Additionally, the comment addresses a section in the proposed ordinance regarding noise restrictions within one mile of "mapped critical habitat for Marbled Murrelet or Spotted Owls…" The term critical habitat was used erroneously, and will be corrected to read "Where located within suitable habitat for either Marbled Murrelet or Spotted Owl…"

S1-12 The comment recommends additional measures to protect northern spotted owl. This comment is responded to in Response to Comment S1-11.

S1-13 This comment includes several points regarding mitigation for special-status amphibians and their habitat. The comment states that a mitigation measures requiring relocation of a proposed development area 200 feet from an occurrence of a special-status amphibian or western pond turtle could result in different, unexpected impacts. The comment also

includes a recommendation for pre-project surveys "well in advance" of proposed project construction to allow for consultation with CDFW when necessary.

The County acknowledges that an initial habitat assessment of every proposed new development area would be useful, and would result in more efficient consultation with CDFW or USFWS if necessary, and would alert the land owner to potential future mitigation needs. This approach is also consistent with General Requirement and Prohibition 10 of the Attachment A of the State Water Board Policy. The County will include an additional mitigation measure (now Mitigation 3.4-1a) requiring a biological reconnaissance survey prior to application approval. This survey will serve as an initial habitat assessment to determine whether suitable habitat for special-status species identified as having potential to occur in the County is present within the proposed development area, what potential mitigation measures will be required per the proposed ordinances performance standards, and whether consultation with CDFW or USFWS is necessary.

On DEIR page 3.4-61, the following text was added:

Mitigation 3.4-1a: Pre-approval biological reconnaissance surveys.

The following shall be included as performance standards in the proposed ordinance for the protection of special-status wildlife species and habitat from new development related to cannabis activities.

- Prior to approval of any application for commercial cannabis operations, a biological reconnaissance survey shall be conducted within the proposed development area by a qualified biologist. The qualified biologist shall assess the habitat suitability of the proposed development area for all 35 special-status wildlife species identified as having potential to occur in the County consistent with General Requirement and Prohibition 10 of the Attachment A of the State Water Board Policy.

- The biologist shall provide a letter report to the project applicant and the County with evidence to support a conclusion as to whether special-status species and sensitive habitats are present or are likely to occur within the proposed development area. If special-status species or sensitive habitats are present, the appropriate mitigation measures from this EIR shall be identified. The County shall require implementation of the mitigation measures as part of the application approval.

On page 3.4-61, the text within "Mitigation 3.4-1a: Special-status amphibian preconstruction surveys" (now Mitigation 3.4-1b) is modified to read:

Mitigation 3.4-1b~~a~~: Special-status amphibian preconstruction surveys ~~and relocation~~.

The following shall be included as performance standards in the proposed ordinance for the protection of special-status amphibian species from new development related to cannabis activities.

~~Forty eight hours prior to proposed new development activities within 200 feet of any SMA or Other Wet Area, a preconstruction survey for special status amphibians shall be conducted by a qualified biologist. The biologist shall be familiar with the life cycle of foothill yellow legged frog, northern red legged frog, Pacific tailed frog, red bellied newt, and southern torrent salamander, and will conduct appropriate surveys for the applicable life stages (i.e., eggs, larvae, adults).~~

~~Preconstruction surveys for special status amphibian species shall be conducted throughout the proposed construction area and a 400 foot buffer around the proposed development area. Surveys shall consist of "walk and turn" surveys of areas beneath surface objects (e.g., rocks, leaf litter, moss mats, coarse woody debris) for newts and salamanders, and visual searches for frogs.~~

~~If red-bellied newt or southern torrent salamander or special status frogs are detected during the preconstruction survey, the proposed development area shall be relocated to be no closer than 200 feet from the occurrence(s) measured as a horizontal line perpendicular to, and moving away from, the SMA.~~

- If special-status amphibians are detected during the initial biological reconnaissance survey (see Mitigation 3.4-1a), preconstruction surveys, or are determined to be likely to occur, consultation with CDFW shall be initiated to determine whether additional measures, such as project design modifications, relocation of the site, relocation of individual animals, or installation of exclusionary fencing, will be necessary and appropriate.

- Regardless of detection during the initial biological reconnaissance survey, if suitable habitat for special-status amphibians is present within the proposed development area, a qualified biologist familiar with the life cycle of foothill yellow-legged frog, northern red-legged frog, Pacific tailed-frog, red-bellied newt, and southern torrent salamander shall conduct preconstruction surveys of proposed new development activities 48 hours prior to such development activities. Preconstruction surveys for special-status amphibian species shall be conducted throughout the proposed construction area and a 400-foot buffer around the proposed development area. Surveys shall consist of "walk and turn" surveys of areas beneath surface objects (e.g., rocks, leaf litter, moss mats, coarse woody debris) for newts and salamanders, and visual searches for frogs. Preconstruction surveys shall be conducted within the appropriate season to maximize potential for observation for each species, and appropriate surveys will be conducted for the applicable life stages (i.e., eggs, larvae, adults).

- If special-status amphibians are not detected during the preconstruction survey, then further mitigation is not required.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1a and 3.4-1b would reduce potential impacts on special-status amphibians to a **less-than-significant** level by requiring preconstruction surveys and the protection of special-status frogs, newts, and salamanders from construction-related injury, mortality, or other disturbance when new cannabis facilities are developed near aquatic habitat consistent with General Requirement and Prohibition 10 of the Attachment A of the State Water Board Policy.

On page 3.4-62, the text within "Mitigation 3.4-1b: Western pond turtle preconstruction surveys" (now Mitigation 3.4-1c) is modified to read:

Mitigation 3.4-1c~~b~~: Western pond turtle preconstruction surveys and relocation.

The following shall be included as a performance standard in the proposed ordinance for the protection of western pond turtle from new development related to cannabis activities.

~~Within 24 hours before beginning proposed new development activities within 200 feet of SMA or Other Wet Area, a qualified biologist shall survey areas of anticipated disturbance for the presence of western pond turtle. If pond turtles are found during the survey the proposed development area shall be relocated to be no closer than 200 feet from the occurrence(s) measured as a horizontal line perpendicular to, and moving away from, the SMA.~~

- If pond turtles are detected during the initial biological reconnaissance survey (see Mitigation 3.4-1a), preconstruction surveys, or are determined to be likely to occur, consultation with CDFW shall be initiated to determine whether mitigation measures, such as project design modifications, relocation of the site, relocation of individual animals, or installation of exclusionary fencing, will be necessary and appropriate.

- Regardless of detection during the initial biological reconnaissance survey, if suitable aquatic habitat for western pond turtle is present within the proposed development area, a qualified biologist familiar with the life history of western pond turtle shall conduct preconstruction surveys of proposed new development activities within 200 feet of any SMA or Other Wet Area 24 hours prior to new development activities.

- If pond turtles are not detected during the preconstruction survey, then further mitigation is not required.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1c~~b~~ would reduce potential impacts on western pond turtle to a **less-than-significant** level by requiring preconstruction surveys and the protection of western pond turtles from cannabis development-related injury, mortality, or other disturbance.

S1-14 This comment states that Mitigation measure 3.4-1c (now 3.4-1d) regarding nesting raptors only addresses preconstruction surveys and avoidance of direct impacts to nests, and does not address disturbance because of human presence associated with construction activities. The County feels that the implementation of a 500-foot buffer around any active raptor nest found during preconstruction surveys would provide sufficient protection from visual and auditory disturbance resulting from construction activities. This buffer size is based on recommendations and guidance by CDFW.

The comment also states that removal of trees outside of the breeding season would result in a reduction of suitable nesting habitat for raptors. As shown in DEIR Table 3.4-1, Exhibit 3.4-1 and 3.4-4, there is substantial nesting habitat in the County. Implementation of the proposed ordinance would not substantially diminish nesting habitat as new commercial cannabis operations would be prohibited in TPZ zoned areas and areas designated Timberland under the General Plan. The following text was added on DEIR page 3.4-62 to clarify that bald eagle and golden eagle nests cannot be removed regardless of occupancy status under the federal Bald and Golden Eagle Protection Act. Revisions to Mitigation 3.4-1c are also provided below.

On DEIR page 3.4-62, the following text change is made to the first paragraph under "Nesting Raptors:"

> The County contains suitable nesting habitat and many known nesting occurrences for several raptor species, including American peregrine falcon, bald eagle, golden eagle, northern goshawk, northern spotted owl, and white-tailed kite. Peregrine falcon, bald eagle, golden eagle, and white-tailed kite are fully protected under

California Fish and Game Code. Bald eagle is also listed as endangered under CESA. Bald and golden eagles are also protected under the Bald and Golden Eagle Protection Act. Northern spotted owl is listed as threatened under ESA and CESA, and is also a CDFW species of special concern. Northern goshawk is a CDFW species of special concern. Suitable nesting habitat for these species includes trees, snags, cliffs, and human-made structures (e.g., utility poles). Critical habitat for northern spotted owl is present within the County (Exhibit 3.4-5). Large portions of this habitat area are in land areas (public lands and areas designated for timber uses) where new commercial cannabis operations would be prohibited under the proposed ordinance.

On page 3.4-63, the text within "Mitigation 3.4-1c" (now Mitigation 3.4-1d) is modified to read:

Mitigation 3.4-1d~~c~~: Nesting raptor preconstruction survey and establishment of protective buffers.

The following shall be included as performance standards in the proposed ordinance for the protection of nesting raptors from new development related to cannabis activities.

- To minimize the potential for loss of nesting raptors, tree removal activities shall only occur during the nonbreeding season (September 1-January 31.
- Prior to removal of any trees, or ground-disturbing activities between February 1 and August 31, a qualified biologist shall conduct preconstruction surveys for nesting raptors, and shall identify active nests within 500 feet of the proposed development area. The surveys shall be conducted between February 1 and August 31.
- Impacts to nesting raptors, including direct impacts and indirect impacts (e.g., noise, presence of construction crews) shall be avoided by establishing appropriate buffers around active nest sites identified during preconstruction raptor surveys. The buffer areas shall be protected with construction fencing, and no activity shall occur within the buffer areas until a qualified biologist has determined, in coordination with CDFW, that the young have fledged, the nest is no longer active, or reducing the buffer would not likely result in nest abandonment. CDFW guidelines recommend implementation of a 500-foot buffer for raptors, but the size of the buffer may be adjusted if a qualified biologist and the applicant, in consultation with CDFW, determine that such an adjustment would not be likely to adversely affect the nest. Monitoring of the nest by a qualified biologist during and after construction activities will be required if the activity has potential to adversely affect the nest.
- Removal of bald and golden eagle nests are prohibited regardless of the occupancy status under the federal Bald and Golden Eagle Protection Act. If bald or golden eagle nests are found during pre-construction surveys, then the nest tree shall not be removed.
- Trees shall not be removed during the breeding season for nesting raptors unless a survey by a qualified biologist verifies that there is not an active nest in the tree.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1c would reduce significant impacts on nesting raptors a **less-than-significant** level because active raptor nests would be avoided and protected from construction activities.

For other raptor species covered in the DEIR, there currently is no mechanism to prohibit removal of inactive nests on privately-owned property. The County feels that other protective measures; such as Mitigation 3.4-4: Sensitive natural communities, riparian habitat, and wetland vegetation; offer protections to nesting raptor habitat. Additionally, built-in prohibition of cultivation activities within public land (e.g., state and national parks, Six Rivers National Forest) and within TPZ-zoned and Timberland designated areas under the proposed ordinance further protects nesting raptor habitat in the County (see Exhibit 3.4-9).

S1-15 This comment suggests that Mitigation Measure 3.4-3a, regarding special-status plants, should specify the plant survey protocol and should require that a full report be submitted following surveys. Mitigation Measure 3.4-3a bullet 2 requires documentation and submittal of survey findings. The following text changes are made to the mitigation measure based on this suggestion and to ensure consistency with General Requirement and Prohibition 10 of the Attachment A of the State Water Board Policy.

On DEIR page 3.4-71, the following text changes are made to Mitigation 3.4-3a:

Mitigation 3.4-3a: Special-status plants.

The following shall be included as performance standards in the proposed ordinance for the protection of special-status plant species from new development related to cannabis activities.

- Prior to commencement of new development related to cannabis activities and during the blooming period for the special-status plant species with potential to occur in the site, a qualified botanist will conduct protocol-level surveys for special-status plants in all proposed disturbance areas <u>following survey methods from CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW 2009).</u>

- If special-status plants are not found, the botanist will document the findings in a letter report to USFWS, CDFW, and the applicant and no further mitigation will be required.

- If special-status plant species are found<u>, a qualified biologist shall consult with CDFW to designate a no-disturbance buffer that will be reflected in the application to the County consistent with General Requirement and Prohibition 10 of the Attachment A of the State Water Board Policy. If the special-status plant species</u> ~~that~~ cannot be avoided, the <u>application will be denied.</u> ~~applicant, as part of its application to the County, shall retain a qualified botanist to consult with CDFW and/or USFWS (as appropriate, depending on species status) to determine the appropriate mitigation measures for direct and indirect impacts through a Mitigation and Monitoring Plan. The applicant shall be responsible for implementing the approved Mitigation and Monitoring Plan to the satisfaction of the Planning Director in consultation with, CDFW, and/or USFWS to achieve a 2:1 replacement ratio of habitat and individuals. Mitigation measures may include preserving and enhancing existing populations, creation of off-site populations on project mitigation sites through seed collection or transplantation, and/or restoring or creating suitable habitat in sufficient quantities to achieve a 2:1 replacement ratio of habitat and individuals.~~

- ~~If relocation efforts are part of the Mitigation and Monitoring Plan, the plan shall include details on the methods to be used, including collection, storage, propagation, receptor site preparation, installation, long-term protection, and management, monitoring and reporting requirements, success criteria, and~~

~~remedial action responsibilities should the initial effort fail to meet long term monitoring requirements.~~

- ~~Success criteria for preserved and compensatory populations shall include:~~
  - ~~The extent of occupied area and plant density (number of plants per unit area) in compensatory populations will be equal to or greater than the affected occupied habitat.~~
  - ~~Compensatory and preserved populations will be self-producing. Populations will be considered self-producing when:~~
    - ~~plants reestablish annually for a minimum of five years with no human intervention such as supplemental seeding; and~~
    - ~~reestablished and preserved habitats contain an occupied area and flower density comparable to existing occupied habitat areas in similar habitat types in the project vicinity.~~
  - ~~If off site mitigation includes dedication of conservation easements, purchase of mitigation credits, or other off-site conservation measures, the details of these measures shall be included in the mitigation plan, including information on responsible parties for long term management, conservation easement holders, long term management requirements, success criteria such as those listed above and other details, as appropriate to target the preservation of long term viable populations~~.

This comment also states that the County should be advised that mitigation might not be possible for all plant species, and that failure to avoid these species may result in recommendation of denial of the permit. This comment is noted and modifications to the mitigation measure have been made to eliminate mitigation options beyond avoidance.

S1-16 The comment concurs with Mitigation Measure 3.4-3b and requests more detail regarding monitoring and enforcement of this mitigation measure. The following text changes are made to the mitigation measure.

DEIR pages 3.4-71 and 3.4-72, the following text changes are made to Mitigation Measure 3.4-3b:

Mitigation 3.4-3b: Invasive plant species.

The following shall be included as performance standards in the proposed ordinance to avoid the introduction or spread of plants classified as invasive plant species by the California Invasive Plant Council.

- The application will include identification of invasive plant species that occur on the site and where they are located. The application will identify specific measures to be employed for the removal invasive species and on-site management practices. As part of the County's annual inspection areas where invasive plant species were removed will be checked to verify removal. Corrective actions may be required as part of the annual permit renewal if invasive species remain or have returned.
- All invasive plant species shall be removed from the site using measures appropriate to the species. For example, species that cannot easily re-root, re-sprout, or disperse seeds may be left on site in a debris pile. Species that re-sprout

readily (e.g., English ivy) or disperse seeds (e.g., Pampas grass) should be hauled off-site and disposed of appropriately at a landfill site.

- Heavy equipment and other machinery shall be inspected for the presence of invasive species prior to on-site use, and shall be cleaned prior to entering the site, to reduce the risk of introducing invasive plant species.

S1-17 The comment expresses concern regarding water quality and water diversion impacts on Coho salmon populations. While the comment does acknowledge the water use and diversion restriction requirements and watershed analysis provided in the DEIR, CDFW asserts that the DEIR did not consider the cumulative impact of illegal and legal water diversions and the maximum impact potential of new cannabis cultivation under the proposed ordinance.

The reader is referred to Master Responses 1, 2, and 5, and Response to Comments S1-5 and S1-8 regarding baseline, cumulative impacts, future new cannabis assumptions, and watershed analysis comments and concerns.

S1-18 The comment recommends a water availability analysis based on the potential number of cultivation sites that could be allowed in each watershed and identify a cap on the determined watershed carrying capacity. The reader is referred to Master Response 5 and Response to Comment S1-8 that addresses this request.

S1-19 The comment states that chronic noise pollution creates negative impacts on wildlife and specifically notes that adverse impacts of generator-produced noise. The comment asserts that the DEIR analysis in Section 3.10 only addresses neighboring properties and does not address noise impacts on wildlife.

The comment appears to be referring to DEIR Impact 3.10-2 that specifically addresses noise impacts to noise-sensitive uses (residential) from seasonal noise associated with harvesting activities. DEIR pages 3.10-10 identifies that motorized trimmers can generate a noise level of 55 dB Leq at 30 feet distance. This noise level is similar to the noise level generated by residential landscape equipment and would be similar to the typical ambient noise levels of rural and agricultural areas. Motorized trimmers would be used at the cultivation site only. Thus, this harvesting noise source would be similar to existing ambient noise conditions and is not anticipated to result in new adverse impacts to wildlife.

Noise impacts on biological resources are addressed on DEIR pages 3.4-65 and 3.4-66. This noise analysis is focused on generator noise impacts that could be a significant on-going noise impact to wildlife. The proposed ordinance includes performance standards that require no increase in existing ambient noise levels at the property line of the site beyond 3 dB. In addition, Mitigation Measure 3.4-1f (now 3.4-1h) requires that generators meet noise standards that would not disturb avian forest species based on the USFWS 2006 *Transmittal of Guidance: Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*. This mitigation measure would apply to on-site noise levels.

S1-20 This comment suggests that impacts to oak woodlands within the County will require mitigation or should be avoided altogether by prohibiting new cultivation in this vegetation community. The comment also recommends new commercial cannabis cultivation be prohibited on Forestry Recreation areas.

As identified in the comment, the County would require compliance with the Oak Woodland Conservation Act for any individual commercial cannabis project. While not defined by CDFW

as a special-status plant community, the following text changes are made to the discussion under Impact 3.4-4 and Mitigation Measure 3.4-4.

On DEIR page 3.4-72, the following text is added after the third paragraph under Impact 3.4-4:

> Approximately 22,175 acres of coastal oak woodland habitat occurs within the County. Oak woodlands are considered under the state Oak Woodlands Conservation Act, which requires the County to determine whether proposed development would result in conversion of oak woodlands that would have a significant adverse effect on the environment. General Plan Policy BR-P8 requires the County to conserve oak woodlands through review and approval of discretionary projects. However, the General Plan establishes no specific standards for tree protection or mitigation of tree removal. Development of cannabis-related uses under the proposed ordinance could result in removal of oak woodlands if present in a proposed development area. This impact would be **significant**.

On page 3.4-73, Mitigation 3.4-4: Sensitive natural communities, riparian habitat, and wetland vegetation was modified to read:

> ### Mitigation 3.4-4: Sensitive natural communities, riparian habitat, and wetland vegetation.
>
> The following shall be included as performance standards in the proposed ordinance for the protection of sensitive natural communities and riparian habitat.
>
> - For projects that could disturb sensitive natural communities or riparian habitat, the application shall include a report prepared by a qualified biologist that surveys the site for these sensitive resources, including riparian habitat associated with aquatic features; old growth Sitka spruce, Douglas fir, and redwood forests; coastal oak woodlands; special-status fish stream habitats; marsh habitats; and northern foredune grassland near Humboldt Bay and the Mattole River; and coastal terrace prairie within Table Bluff Ecological Reserve.
>
> - The report shall include requirements that before development activities commence, all sensitive areas identified above shall be flagged or fenced with brightly visible construction flagging and/or fencing under the direction of the qualified biologist to require that grading, excavation, other ground-disturbing activities, and vegetation removal will not occur within these areas. Foot traffic by construction personnel shall also be limited in these areas to prevent the introduction of invasive or weedy species. Periodic inspections during construction shall be conducted by the monitoring biologist to maintain the integrity of exclusion fencing/flagging throughout the period of construction involving ground disturbance.
>
> - If the report documents that site development would affect the bed, bank, channel, or associated riparian habitat subject to CDFW jurisdiction under Fish and Game Code Section 1602, a Streambed Alteration Notification shall be submitted to CDFW, pursuant to Section 1600 et seq. of the California Fish and Game Code. If proposed activities are determined to be subject to CDFW jurisdiction, the project proponent shall abide by the conditions of any executed agreement prior to the issuance of a grading permit by Humboldt County.
>
> - Subject to the review and approval of the Planning Director in consultation with CDFW applicants shall compensate for permanent loss of riparian habitat at a

minimum of a 2:1 ratio through contributions to a CDFW approved wetland mitigation bank or through the development and implementation of a Compensatory Stream and Riparian Mitigation and Monitoring Plan for creating or restoring in-kind habitat in the surrounding area (such as the proposed ordinance site reconfiguration criteria for existing cultivation sites). If mitigation credits are not available, stream and riparian habitat compensation shall include establishment of riparian vegetation on currently unvegetated bank portions of streams affected by the project and enhancement of existing riparian habitat through removal of nonnative species, where appropriate, and planting additional native riparian plants to increase cover, continuity, and width of the existing riparian corridor along streams in the site and surrounding areas. Construction activities and compensatory mitigation shall be conducted in accordance with the terms of a streambed alteration agreement as required under Section 1602 of the Fish and Game Code as well as the Regional Water Quality Control Board North Coast Region Order R1-2015-0023.

The Compensatory Stream and Riparian Mitigation and Monitoring Plan shall include the following:

- identification of compensatory mitigation sites and criteria for selecting these mitigation sites;
- in kind reference habitats for comparison with compensatory riparian habitats (using performance and success criteria) to document success;
- monitoring protocol, including schedule and annual report requirements (Compensatory habitat will be monitored for a minimum of 5 years from completion of mitigation, or human intervention [including recontouring and grading], or until the success criteria identified in the approved mitigation plan have been met, whichever is longer.);
- ecological performance standards, based on the best available science and including specifications for native riparian plant densities, species composition, amount of dead woody vegetation gaps and bare ground, and survivorship; at a minimum, compensatory mitigation planting sites must achieve 80 percent survival of planted riparian trees and shrubs by the end of the five-year maintenance and monitoring period or dead and dying trees will be replaced and monitoring continued until 80 percent survivorship is achieved;
- corrective measures if performance standards are not met;
- responsible parties for monitoring and preparing reports; and
- responsible parties for receiving and reviewing reports and for verifying success or prescribing implementation or corrective actions.

The comment's suggestion of banning new commercial cannabis cultivation is noted and will be forwarded to the Planning Commission and Board of Supervisors as part of project consideration. Built-in prohibition of cultivation activities within public land (e.g., state and national parks, Six Rivers National Forest) and within TPZ-zoned and Timberland designated areas under the proposed ordinance a large areas forest habitat in the County.

S1-21 The comment identifies current concerns with the County's ability to conduct code enforcement and recommends improvements to the County's code enforcement process.

The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

S1-22 The comment recommends that General Provisions definition in the proposed ordinance of pre-existing sites consider current site conditions when determining the level of review required.

The County is considering this requested change as part of revisions to the proposed ordinance. The proposed ordinance contains language to limit the acceptance of applications for pre-existing sites in the following manner: "One hundred percent of the cultivation area may be permitted for applications for Pre-Existing Cultivation Sites submitted through December 31, 2018 and fifty percent of the cultivation area may be permitted for applications submitted between January 1, 2019 through December 31, 2019. No new applications for Pre-Existing Cultivation Sites shall be accepted after December 31, 2019."

S1-23 The comment recommends that previous trespass cultivation sites not qualify as pre-existing sites under the proposed ordinance. The County is considering this requested change as part of revisions to the proposed ordinance. However, even if this consideration is not included, trespass sites would be required to conform with the proposed ordinance, including environmental protection measures.

S1-24 The comment recommends changes to the proposed ordinance Section 55.4.5.3 (Penalties and Enforcement). The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

S1-25 The comment recommends changes to the proposed ordinance Section 55.4.5.7 (Annual Inspection). The proposed ordinance now reflects this requested change that provides timelines for follow-up. Section 55.4.5.9 of the proposed ordinance requires notification to state licensing agencies when a permit has been revoked or terminated following the expiration of any appeal period, or if an appeal has been filed, following the final determination of the appeal. Commercial cannabis operations that fail to comply with the proposed ordinance and its performance standards would be subject to County code enforcement actions. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

S1-26 The comment recommends changes to the proposed ordinance Section 55.4.5.10 (Restriction of Water Use Under Special Circumstance).

As discussed in Master Response 5, Implementation of Mitigation Measure 3.8-5 in compliance with State Water Board Policy would require that all cannabis cultivation surface water and groundwater diversions comply with the numeric flows and aquatic base flows that have been established by watershed under the Policy in consultation with CDFW. The State Water Board will also monitor instream flows during the dry season and evaluate whether the number or location of groundwater diversions to determine whether imposition of a groundwater forbearance period or other measures. The State Water Board will notify cannabis cultivators the possibility of a groundwater forbearance period or other measures may be imposed to address the low flow condition. The proposed ordinance would prohibit new commercial cannabis cultivation in the forested areas of the upper watersheds and limit it to areas generally in the lower portions of the watersheds where the USGS gages used in the implementation of the State Water Board Policy exist. The State Water Board Policy's flow standards and diversion requirements were developed to protect fish spawning, migration, and rearing for endangered anadromous salmonids, and flows to needed to maintain natural flow variability within each watershed.

S1-27 The comment recommends changes to the proposed ordinance Section 55.4.6.5.6 (Energy Source for Ancillary Propagation Facility or Mixed Light Cultivation).

The proposed ordinance requires that artificial lighting used for mixed-light cultivation or nurseries in a greenhouse be prohibited from allowing any light from escaping the structure between sunset and sunrise (see DEIR page 3.1-18). The reader is referred to Response to Comment S1-19 regarding noise concerns.

The County is considering this requested change as part of revisions to the proposed ordinance.

S1-28 The comment recommends changes to the proposed ordinance Section 55.4.6.5.7 (Provisional Permitting).

The County is considering this requested change as part of revisions to the proposed ordinance. Qualified biologists may be used to document current violations. They are defined in the definitions section of Attachment A of the State Water Board Policy as:

> Qualified Biologist – an individual who possesses, at a minimum, a bachelor's or advanced degree, from an accredited university, with a major in biology, zoology, wildlife biology, natural resources science, or a closely related scientific discipline, at least two years of field experience in the biology and natural history of local plant, fish, and wildlife resources present at the cannabis cultivation site, and knowledge of state and federal laws regarding the protection of sensitive and endangered species.

This definition will be used in the state permitting process of all commercial cannabis operations in the County. Comments that CDFW may require remediation of violations on an expedited timeline are noted.

S1-29 The comment recommends changes to the proposed ordinance Section 55.4.6.5.9 (Retirement, Remediation, and Relocation of Pre-Existing Cultivation Sites).

The County is considering this requested change as part of revisions to the proposed ordinance. The reader is referred to Response to Comment S1-28 regarding qualified biologists that would likely be used in the development of RRR plans.

S1-30 The comment recommends changes to the proposed ordinance Section 55.4.6.6 (Site Restoration) regarding abandoned cultivation sites and ensuring restoration.

The County is considering this requested change as part of revisions to the proposed ordinance. Abandoned sites that are not in compliance with the RRR provisions of the proposed ordinance would be subject to County code enforcement actions that involve fines and potentially liens on properties to bring compliance through restoration. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

S1-31 The comment recommends changes to the proposed ordinance Section 55.4.6.6 (Site Restoration) regarding referral of restoration plans to appropriate resource agencies for review and concurrence.

The County's standard operating procedures reflect this suggestion of providing restoration plans to resource agencies for review. The reader is referred to Response to Comment S1-28 regarding qualified biologists that would likely be used in the development of restoration plans for forested areas.

S1-32 The comment recommends changes to the proposed ordinance Section 55.4.11 (Application Requirements for Clearances or Permits).

Individual applications that require approval of a Special Permit or Use Permit under the proposed ordinance would be subject to further site-specific environmental review under CEQA pursuant to the consideration of subsequent activities under State CEQA Guidelines Section 15168(c). The County may determine that the environmental impacts of an individual application are adequately addressed in the proposed ordinance EIR and no further environmental review is required or that additional environmental review is required. The criteria that would require the preparation of a site-specific environmental review document is whether the individual application would cause a significant environmental impact that was not examined in the EIR or would substantially increase the severity of a previously identified significant impact pursuant to State CEQA Guidelines Section 15162 and 15168(c).

S1-33 The comment recommends changes to the proposed ordinance Section 55.4.12.1.8 (Performance Standard – Road Systems).

The proposed ordinance does in fact provide strategies to address the water quality impacts of the existing rural road network. Compliance with the Road Systems Performance Standard set forth in Section 55.4.12.1.8 is a basic eligibility criteria that applies to all commercial cannabis activities governed by the proposed ordinance. The Road Systems Performance Standard has three components: Dead End Road Length, Functional Capacity, and Protections for Water Quality and Biological Resources. The standard for the third component is specified in subsection (c) 1) as the latest edition of the document titled, *A Water Quality and Stream Habitat Protection Manual for County Road Maintenance in Northwestern California Watersheds*, which was adopted by the Humboldt County Board of Supervisors on July 6, 2010, and is also known as the Five Counties Salmonid Conservation Roads Maintenance Manual. The third component also requires the establishment of road maintenance associations and cost sharing. Privately owned segments of road systems must be evaluated for compliance with all three components. If not met, a plan must be prepared to achieve compliance. DEIR Mitigation Measure 3.8-4 requires that commercial cannabis applications include details on drainage facilities and stormwater management that would include roadway improvements. This mitigation measure requires that pre-project drainage conditions be maintained. The County is considering this requested change as part of revisions to the proposed ordinance.

S1-34 The comment recommends changes to the proposed ordinance Section 55.4.12.2 (Performance Standards for Commercial Cannabis Cultivation Activities).

The reader is referred to Master Response 5 for a description of the recently adopted State Water Board Policy and its water quality protection requirements that superceded the North Coast Regional Water Quality Control Board's Order.

The County's intent is not to replace the State regulation, rather it is to provide more protective regulations where necessary.

S1-35 The comment recommends changes to the proposed ordinance Section 55.4.12.2.3 (Performance Standards for Commercial Cannabis Cultivation Activities) regarding Section 1602 of the Fish and Game Code.

The proposed ordinance now reflects this requested change to ensure consistency with the Fish and Game Code. This modification to the proposed ordinance would not result in a significant biological resource impacts that were not already disclosed in the DEIR.

S1-36 The comment recommends changes to the proposed ordinance Section 55.4.12.4 (Performance Standard for Light Pollution Control).

The light pollution performance standard appropriately applies to all zones where cannabis activities are allowed except commercial and industrial zones. The County is considering this requested change as part of revisions to the proposed ordinance. As identified in DEIR Section 3.1, "Aesthetics," and 3.4, "Biological Resources," no significant nighttime lighting impacts are expected with implementation of the proposed ordinance. Annual inspections will confirm compliance with this standard. The reader is referred to Master Response 6 for a further discussion of code enforcement activities of the County.

S1-37 The comment identifies that compliance with Section 55.412.4(d) must be enforced to avoid lighting impacts and recommends changes to the proposed ordinance Section 55.4.12.6 (Performance Standard for Noise from Generator Use at Pre-Existing Sites).

The County would conduct inspections during permit renewals to confirm compliance with lighting standards and would respond to any noncompliance issues. The reader is referred to Master Response 6 for a detailed discussion of County code enforcement and Response to Comment S1-19 regarding noise concerns.

S1-38 The comment assert that the thresholds of significant are general and undefined and recommends the thresholds should be specifically defined.

As identified in the "Environmental Impacts and Mitigation Measures" sub-section of DEIR sections 3.1 through 3.14, the thresholds of significance are based on questions in Appendix G of the State CEQA Guidelines. These sub-sections also identify the methods and assumptions that were used in the impact analysis to determine whether the proposed ordinance would result in a significant impact. In some circumstances the DEIR uses quantification to determine if a threshold would be exceeded and a significant impact would occur (e.g., air quality impacts use North Coast Unified Air Quality Management District recommended mass emission thresholds and noise is based on compliance with County Noise Element standards). Biological resource thresholds of significance are not quantified and require technical evaluation by a biologist using published data and habitat mapping to determine significance. The rationale for determining an impact is significant is identified under each DEIR impact discussion and is supported by substantial evidence. No changes to the DEIR thresholds of significance are recommended.

S1-39 This comment suggests that the DEIR provides a definition for "qualified biologist." Qualified biologist is defined in the definitions section of Attachment A of the State Water Board Policy as:

> **Qualified Biologist** – an individual who possesses, at a minimum, a bachelor's or advanced degree, from an accredited university, with a major in biology, zoology, wildlife biology, natural resources science, or a closely related scientific discipline, at least two years of field experience in the biology and natural history of local plant, fish, and wildlife resources present at the cannabis cultivation site, and knowledge of state and federal laws regarding the protection of sensitive and endangered species.

This definition will be used in the state permitting process of all commercial cannabis operations in the County. Thus, there is no need for the DEIR or the proposed ordinance to provide a separate definition.

S1-40 The comment identifies that the County and applicants should consult with CDFW to ensure compliance with all Fish and Game Code sections, not just section 1602. The County would distribute applications requiring discretionary review to CDFW for comment. In addition, several of the mitigation measures identified in the DEIR require consultation with CDFW.

S1-41 This comment summarizes comments provided in the letter as well as recommendations. These comments and recommendations are responded to above.

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION
DISTRICT 1, P. O. BOX 3700
EUREKA, CA 95502-3700
PHONE (707) 441-4693
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Letter S2

Making Conservation a California Way of Life.

October 16, 2017

Humboldt County Code Amendments
Regulating Commercial Cannabis
SCH# 2017042022

Steve Lazar
Planning & Building Department
County of Humboldt
3015 H Street
Eureka, CA 95501

Dear Mr. Lazar,

Thank you for giving Caltrans the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the Proposed Amendments to the Humboldt County Code Regulating Commercial Cannabis Activities. The project would involve the repeal of the County's existing Commercial Medical Marijuana Land Use Ordinance and the Medical Cannabis Testing and Research Laboratories Ordinance and would be replaced with the proposed ordinance. We offer the following comments: S2-1

3.6 Geology and Soils

We disagree with the DEIR's finding for Impact 3.6-2, which considers "potential to result in off-site landslide, lateral spreading, subsidence, liquefaction, or collapse due to unstable soil conditions or risk of like due to siting on expansive soil" to be "less than significant". We recommend changing the significance before mitigation to "potentially significant". Mitigation to reduce the severity of the impact to less than significant may include the issuance of a grading permit or possibly the preparation of and adherence to the recommendations of a professionally prepared soils engineering and engineering geology report, as appropriate. S2-2

We are concerned with previously unpermitted land disturbance activities on steep slopes and the need for rehabilitation and other corrective action to prevent any disturbance to geologically unstable hill sides and to protect water quality. S2-3 We request that the County application and/or referral for County cannabis cultivation permits include site-specific information about percent slope of any areas proposed for cultivation. S2-4

3.12 Transportation and Circulation

We disagree with the DEIR's findings both for Impact 3.12-1: Construction-related increase in traffic and for Impact 3.12-2: Long-term increase in traffic. We do not dispute that traffic volumes on State routes will not have a significant impact on traffic volumes. We have concerns about the increase trips for private access points onto State routes. Many of the existing private driveways connecting to State routes were permitted by Caltrans for less intensive land uses. Some private road connections were restricted to 20-foot wide openings in access-controlled right of way, which are not intended to serve two-way traffic. S2-5 In many cases, cannabis cultivation will S2-6

"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability"

increase the intensity of the land use activities on-site and increase the number of turning movements on high-speed roadways. Where left-turn pockets are not present and where highway shoulders are less than eight feet wide, a single-family driveway or a "field approach" will increase the potential for collisions when two way traffic cannot be accommodated. We request that the DEIR revise the determination for Transportation and Circulation Impacts 3.12-1 & 3.12-2 to Potentially Significant and with appropriate mitigation can be considered Less Than Significant. Mitigation can include widening the throat of the driveway to a minimum of 20 feet.

S2-6 cont

Please contact me with questions or for further assistance at (707) 441-4693 or by email at: <jesse.robertson@dot.ca.gov>.

Sincerely,

Jesse Robertson
Transportation Planning
Caltrans District 1

cc: State Clearinghouse

"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability"

Letter S2	California Department of Transportation (Caltrans) Jessie Robertson 10/16/2017

S2-1 This comment is an introduction to the letter and summarizes the project. This comment is noted.

S2-2 The comment disagrees the DEIR impact conclusions regarding geologic and soil stability and recommends mitigation that would include a grading permit or compliance with the recommendations of an engineering geology report.

Geologic and soil stability issues are addressed in DEIR impacts 3.6-2 and 3.6-3 (see DEIR pages 3.6-18 through 3.6-20). As identified in these impact discussions, construction and operation of commercial cannabis operations (existing and new) would be required to comply with the California Building Code (CBC). The CBC provides soil classification guidelines for unstable and expansive soils, and special design considerations depending on specific criteria. In addition, construction of new buildings would be subject to the Humboldt County Geologic Hazards Ordinance, which requires engineering studies to evaluate and make recommendations related to slope stability and potential for liquefaction associated with individual development projects, as appropriate.

The proposed ordinance includes performance standards for new and existing cannabis cultivation sites that would eliminate and reduce such impacts. Each permitted operation would be required to develop a cultivation and operations plan that meets or exceeds standards for water storage, conservation, and use and drainage, runoff, and erosion control among other requirements. New and existing roads would be required to be constructed or improved to incorporate water quality and erosion control protection measures. Such measures include features to prevent discharge of sediment and other pollutants that constitute a potential threat to water quality, implementation of best management practices (BMPs) for erosion control, drainage features, and stream crossing maintenance. To obtain a permit, existing cannabis cultivation operations must not only meet the cultivation and operations plan requirements described above, but would also be required to remediate existing adverse environmental effects, including soil erosion. Development associated with new and existing cannabis cultivation projects must also comply with the County's Grading, Excavation, Erosion, and Sedimentation Control Ordinance. The County's Grading Ordinance requires preparation and implementation of a site-specific erosion and sediment control plan; implementation of BMPs to prevent or reduce erosion, sedimentation, and pollution of water during ground-disturbing activities; and grading activities must conform to grading standards, including for cut slope, fill material, setbacks, terracing, and drainage.

Thus, suggested mitigation measures in the comment are already required of the ordinance and existing regulations.

S2-3 The comment expresses concerns regarding previously unpermitted land disturbance activities on steep and the need for rehabilitation and corrective action. As identified in Response to Comment S2-2, the proposed ordinance requires existing and new cannabis cultivation site to address stability, drainage, and erosion control. These requirements would also apply to existing roadways. The State Water Board Policy also includes BMP controls and standards associated with slope conditions.

S2-4 The comment recommends that applications for cannabis cultivation include site-specific information regarding slope conditions. The proposed ordinance application requirements would require applicants to provide details on site conditions that includes slope conditions.

The proposed ordinance would prohibit new commercial cannabis cultivation on slopes greater than 15 percent.

S2-5 The comment disagrees with the DEIR Impact 3.12-1 and 3.12-2 impact conclusions in regards for the potential operation issues with access points onto highways. The potential traffic generated by commercial cannabis operations (construction and operation) is anticipated to be dispersed throughout the County and is not expected to generate a level of service impact on any access point or highway. However, it is acknowledged that access points to County highways could potentially present operational safety issues. The following edits are made to the impact discussion for Impact 3.12-2.

DEIR page 3.12-14, the following text change is made to Impact 3.12-2:

Impact 3.12-2: Long-term increase in traffic.

New commercial cannabis operations in the County that may occur under the proposed ordinance would result in the addition of vehicle trips to existing traffic levels on the state highway system within Humboldt County. This increase would be greatest during the fall harvest, but would not result in the LOS degrading below LOS C along any of the State highway segments analyzed. Therefore, LOS would not exceed existing LOS standards. However, roadway access points to state highway could result in operational safety issues. This impact is considered ~~less than~~ **significant**.

DEIR page 3.12-17, the following text changes are made to the impact discussion and mitigation for Impact 3.12-2:

In addition, where access to a site is provided by roads not meeting the Category 4 standard, the commercial cannabis operation would be subject to a Special Permit and preparation of a report prepared by a licensed engineer evaluating whether the design, condition, and performance of all necessary road segments are currently capable of supporting increases in traffic volume created by the site, in addition to the existing traffic using the road(s). The report would detail all substandard conditions and prescribe measures that would be taken to achieve compliance with the relevant road standards and objectives, or the same practical effect. A cost estimate and schedule would be required to be provided. The report would be required to also include a recommendation, or formula for cost sharing among all parcels served by the road system. Thus, the proposed ordinance would not contribute to increased congestion, and therefore would not conflict with an applicable plan, policy, or ordinance establishing measures of effectiveness for the performance of the circulation system. ~~This impact is considered less than significant.~~

However, commercial cannabis operation traffic could result in significant operation safety issues at existing and new roadway access points to a state highway (e.g., inadequate roadway access point width and sight distance). This impact is considered **significant**.

Mitigation Measure 3.12-2: Proper design of highway access points

The proposed ordinance's roadway design standards shall be modified to include the following requirement:

- An evaluation of the existing or proposed new roadway access point to a state highway shall be provided. The evaluation will identify the required improvements to ensure proper function of the access based on anticipated traffic volumes.

Improvements may include widening of the throat of the driveway to a minimum of 20 feet, provision of adequate sight distances, and other improvements determined necessary to comply with County and Caltrans standards. This improvement shall be in place prior to construction of the commercial cannabis operation. A copy of the approved Caltrans encroachment permit (if required) will be provided to the County.

Significance after Mitigation

Implementation of Mitigation Measure 3.12-2 would ensure roadway access points to state highways are designed to meet operational safety needs. Thus, this impact would be reduced to a **less-than-significant** level.

~~Mitigation Measures~~

~~No mitigation is required.~~

S2-6 The comment recommends that DEIR Impacts 3.12-1 and 3.12-2 be identified as potentially significant and mitigation be provided to address the state highway access impact. Response to Comment S2-5 responds to this comment and identifies mitigation to ensure properly designed access points prior to construction of commercial cannabis operations.

State of California • Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PO Box 2006
Eureka, CA 95502-2006

Edmund G. Brown Jr., *Governor*
Lisa Ann L. M[illegible] *or*

Letter S3

October 13, 2017

Steve Lazar
Humboldt County
Planning and Building Department
3015 H Street
Eureka, CA 95501

Subject: Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities, Draft EIR **SCH # 2017042022**

Dear Mr. Lazar,

Thank you for the opportunity to review the subject Draft EIR and provide comments regarding the proposed amendments to Humboldt County Code regulating commercial cannabis activities, simply referred to herein as the Project.

California State Park's North Coast Redwoods District (NCRD) is responsible for the management of 76,700 acres of land within the boundaries of Humboldt County that include 15 of the District's 23 park units. Among them are Prairie Creek Redwoods State Park, a designated World Heritage Site and International Biosphere Preserve, and Humboldt Redwoods State Park, home to the largest contiguous old growth coast redwood forest in the world. When reviewing projects that may affect state park resources we base our review on the Department's Mission Statement, which states:

> *"The mission of the California Department of Parks and Recreation is to provide for the health, inspiration, and education of the people of California by helping to preserve the state's extraordinary biological diversity, protecting its most valued natural and cultural resources, and creating opportunities for high-quality outdoor recreation."*

S3-1

As mentioned in our Notice of Preparation response, the main concern for NCRD regarding the Project will be the proximity of permitted cannabis activities to park boundaries. The setbacks for the Project as described on page 2-21 is 600 feet from public parks. However, it further clarifies:

> *"the setback requirement applicable to public parks, other than lands managed for open space and/or wildlife habitat, would only be applied to designated and developed recreational facilities such as picnic areas and campgrounds, trails, river, and fishing access points, and like facilities under public ownership."*

S3-2

NCRD would like clarification that all unit designations within the State Park system and located in Humboldt County are considered lands managed for open space and/or wildlife habitat, which would require the 600-foot setback for entire park units, not just

the developed recreational facilities within them. Likewise, there is a parcel near Grizzly Creek Redwoods State Park (GCRSP), scheduled to be transferred to NCRD pending finalization of access easements. Although not shown on Exhibit 2-2, the acquisition will expand the boundaries of GCRSP for its wildlife and habitat values and should be included in the applicable category for the 600-foot setback. S3-2 cont S3-3

NCRD suggested a process for retrospective review of the environmental conditions prior to issuing a permit for existing cultivation sites. The Project Description states that there will be a Retirement, Remediation, and Relocation provision (page 2-16) to encourage such for sites that are occurring in inappropriate, marginal, or environmentally sensitive areas. Additionally, site reconfiguration criteria for existing sites (page 2-27) will need to improve the environmental resources of the site, and bring it into compliance with the requirements of the regulations. NCRD respectfully requests consultation with the County on rehabilitation and/or restoration plans when retirement, remediation, relocation, or reconfiguration of existing sites occur within 600 feet of a State Park boundary. S3-4

Lastly, the Project Description states on page 2-26 that ponds and reservoirs used for water storage shall be designed by a licensed civil engineer. This section should specify a California licensed civil engineer. It should also require a California licensed professional geologist be involved if there is question about the presence of a landslide at the pond site (or other development that involves the use of water [e.g. pipes] or habitable structures), as identification of unstable features may not be within the expertise of the civil engineer. S3-5

We appreciate the opportunity to provide comments and get clarification to components of the Draft EIR. NCRD is dedicated to working with Humboldt County and other Responsible agencies through the environmental review process to ensure the protection of our extraordinary public resources. Please contact the District Environmental Coordinator, Shannon Dempsey, at 707-445-5344, if you have any questions. S3-6

Sincerely,

Victor Bjelajac
District Superintendent
North Coast Redwoods District

ec: Steve Lazar
Humboldt County
slazar@co.humboldt.ca.us

State Clearinghouse
Governor's Office of Planning and Research
state.clearinghouse@opr.ca.gov

Shannon Dempsey, District Environmental Coordinator
North Coast Redwoods District
Shannon.dempsey@parks.ca.gov

Letter S3	California Department of Parks and Recreation (CDPR) Victor Bjelajac, District Superintendent North Coast Redwoods District 10/16/2017

S3-1 The comment includes introductory language as well as information and the mission statement of California Department of Parks and Recreation. These comments are noted.

S3-2 The comment requests clarifications on setbacks from state park lands. The setback requirement would apply all land areas within the state park system.

S3-3 The comment includes information regarding the future Grizzly Creek Redwoods State Park expansion. The expanded Grizzly Creek Redwoods State Park area would be subject to the 600-foot setback requirement of the proposed ordinance.

S3-4 The comment requests that the County consult with CDPR for restoration projects within 600 feet of state park boundary. The County's standard operating referral and noticing procedures are responsive to this request.

S3-5 The comment requests that the proposed ordinance specify that licensed engineers should be California licensed engineers. The County is considering this requested change as part of revisions to the proposed ordinance.

S3-6 The comment provides conclusory remarks. The comment is noted.

2.3.2 Regional Agencies

Letter R1

From: White, Adona@Waterboards
To: Russell, Robert; Ford, John; Lazar, Steve; Werner, Steve
Subject: RE: Request for comment extension on cannabis ordinance amendment
Date: Monday, October 16, 2017 7:48:58 AM

Good day. Our office is scheduled to reopen today. However, considering the follow-up on the significant and ongoing fires in Sonoma County, the chances of getting our comment letter reviewed by management, processed by admin staff, and sent out today to meet your deadline does not look good.
We very much would like to provide you with input and have that input be timely for consideration in your ordinance amendment process.
Could we please get an extension? Your response is appreciated. Thank you. *Adona

R1-1

Adona White, PE, Water Resource Control Engineer
Adona.white@waterboards.ca.gov
707-576-2672 (office)
707-479-2342 (cell)
North Coast Regional Water Quality Control Board
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403
www.waterboards.ca.gov/northcoast

From: White, Adona@Waterboards
Sent: Friday, October 13, 2017 1:44 PM
To: 'Russell, Robert' <RRussell@co.humboldt.ca.us>; Ford, John@Humboldt County <jford@co.humboldt.ca.us>; Lazar, Steve (SLazar@co.humboldt.ca.us) <SLazar@co.humboldt.ca.us>; 'Werner, Steve' (SWerner@co.humboldt.ca.us) <SWerner@co.humboldt.ca.us>
Cc: Grady, Kason@Waterboards <Kason.Grady@waterboards.ca.gov>; Utley, Shannon M@Waterboards <ShannonM.Utley@waterboards.ca.gov>; Henrioulle, Diana@Waterboards <Diana.Henrioulle@waterboards.ca.gov>; Curtis, Joshua R.@Waterboards <Joshua.Curtis@Waterboards.ca.gov>
Subject: Request for comment extension on cannabis ordinance amendment

Greetings, We hope to provide comment from staff at the Regional Water Quality Control Board on the draft ordinance update. Unfortunately, efforts for timely comment are hindered by the Regional Water Board office having been closed all week and staff on administrative time off due to the fires in the area (see below). Could we please get an extension on the comment deadline, perhaps an additional week? We are expecting the office to reopen on Monday (fingers crossed). Your understanding and response is appreciated. Cheers, *Adona

Adona White, PE, Water Resource Control Engineer
Adona.white@waterboards.ca.gov
707-576-2672 (office)
707-479-2342 (cell)

North Coast Regional Water Quality Control Board
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403
www.waterboards.ca.gov/northcoast

From: Russell, John@Waterboards
Sent: Friday, October 13, 2017 7:57 AM
Subject: Office Closures: North Coast Regional Water Quality Control Board and Santa Rosa Drinking Water Offices

This note is being sent to all Water Board staff as a bcc.

The North Coast Regional Water Quality Control Board office will remain closed today, Friday October 13, 2017. The Santa Rosa Drinking Water Office will also be closed today. Both are closed due to the wildfires in the area. An update has been posted on the CalEPA Emergency Return-to-Work Number. Further updates will be posted as management of those offices determine whether or not the offices need to remain closed.

Letter R1	North Coast Regional Water Quality Control Board Adona White, PE, Water Resource Control Engineer 10/16/2017

R1-1 This comment requests a time extension to submit comments on the DEIR. The County provided the North Coast Regional Water Quality Control Board a one-week extension.

CALIFORNIA Water Boards

EDMUND G. B… GOVERNOR

MATTHEW RO… SECRETARY FOR ENVIRONMENTAL PROTECTION

Letter R2

North Coast Regional Water Quality Control Board

October 20, 2017

Steven Lazar
Humboldt County Planning and Building Department
3015 H Street
Eureka, CA 95501
slazar@co.humboldt.ca.us

SUBJECT: Comments on Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Dear Mr. Lazar,

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for Amendments to Humboldt County Code Regulating Commercial Cannabis Activities and the Commercial Cannabis Land Use Ordinance (Ordinance) project (the Project). The North Coast Regional Water Quality Control Board (Regional Water Board) is a responsible agency for this project, with jurisdiction over the quality of ground and surface waters (including wetlands) and the protection of beneficial uses of those waters.

The Regional Water Board provided comment on the Notice of Preparation (NOP) on May 10, 2017 and suggested the following considerations as part of the Project: recent changes to the water quality regulatory programs; existing cumulative impacts associated with sediment and temperature impairments; addressing existing and new impacts on shared use roads; the need for a strong enforcement component; cumulative impacts to hydrology and groundwater; and the need for watershed coordination as a tool for achieving healthy watersheds.

R2-1

Water Boards Cannabis Cultivation Water Quality Regulatory Programs

As we commented in the NOP, the water quality regulatory programs continue to evolve, with the State Water Resources Control Board (State Water Board) recently adopting a general waste discharge requirement and small irrigation appropriation for cannabis cultivation state-wide. The current regulatory requirements of the Regional Water Board

R2-2

DAVID M. NOREN, CHAIR | MATTHIAS ST. JOHN, EXECUTIVE OFFICER
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RECYCLED PAPER

under Order R1-2015-0023[1] will be superseded by the State Water Board state-wide water quality and water right regulations for cannabis cultivation.

On October 17, 2017, the State Water Board held a Public Hearing and adopted a Resolution and the *Cannabis Cultivation Policy: Principals and Guidelines for Cannabis Cultivation* and consideration of proposed *General Water Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities.* The recent regulations are available as items 6 and 7, respectively at: https://www.waterboards.ca.gov/board_info/agendas/2017/oct/101717_agenda.pdf

R2-2 cont

The Project would benefit from being informed by and brought into consistency with the State Water Board's new cannabis water quality and water rights regulations.

Cumulative Impacts

The DEIR does not meet the CEQA requirement to include a discussion of cumulative impacts from past, present and probable future projects producing related or cumulative impacts, including those beyond the Project.

The DEIR describes that the full impacts of existing unpermitted cultivation are speculative and are not assessed in the cumulative impacts associated with the Project. In addition to the existing unpermitted cultivation, there is ongoing proliferation of illegal cannabis cultivation. To adequately address the cumulative impacts of the Project, the DEIR and Ordinance must identify current and future impacts associated with the ongoing proliferation of illegal cannabis cultivation and associated activities, how those impacts will interact with the incremental impacts of the Project, and propose adequate mitigation measures for the resulting cumulative impacts.

R2-3

The environmental impacts of unpermitted cannabis cultivation are significant and well documented, are ongoing, and clearly contribute to cumulative environmental impacts in the County. Unpermitted land use development for cannabis cultivation and associated activities is ongoing. Common water resource concerns or violations identified on unpermitted cannabis cultivation sites include: sediment contamination of streams and wetlands associated with road building, grading, and stream crossing construction; diversion and storage of water in a manner that threatens water quality and beneficial uses; contamination from fertilizers, petroleum products and other chemicals; inadequate storage and disposal of human waste and refuse; destruction of riparian vegetation causing damage to aquatic habitat; and hydrologic modification including rerouting of streams and interception of groundwater. These unpermitted development activities have and continue to contribute to additional impacts documented by the Regional Water Board.

R2-4

[1] *General Waiver of Waste Discharge Requirements and General Water Quality Certification and Monitoring and Reporting Program for Discharges of Waste Resulting from Cannabis Cultivation and Associated Activities or Operations with Similar Environmental Effects in the North Coast Region*

To adequately address the cumulative impacts of the project, the DEIR and Ordinance must identify current and future impacts associated with the ongoing proliferation of illegal cannabis cultivation and associated activities. R2-5

Shared Use Roads

Shared use roads are among the most significant sources of chronic sediment discharges to surface waters across populated rural landscapes, as described in the NOP comments, and as documented in the north coast Basin Plan[2]. It is important to ensure adequate maintenance and retrofitting of these roads to control and prevent both chronic and episodic sediment delivery to streams, especially at crossings and unstable features. R2-6

The Ordinance addresses roads by requiring that new cultivation sites are located within two miles of a Category 4 road (two ten-foot traffic lanes, not including shoulders, capable of providing for two-way traffic flow to support emergency vehicle and civilian egress) or other measures to ensure the access road can handle the additional traffic associated with the new site. While this standard may be helpful for impacts on neighbors of new cultivation sites associated with traffic flow, it does not necessarily address the significant sources of sediment discharges to surface waters associated with the existing road network. Further, the requirement is likely to lead to widening of roads to meet the standard which may include extensive earth work, riparian and instream disturbance and associated impacts. R2-7

The Ordinance does not propose strategies to address the existing road network and impacts associated with poorly located, designed, and maintained roads. Mitigations should include the requirement for a road association and sediment control plan for the roads, including off-property private and county road networks. R2-8 Road associations, whether they are legal organizations or based on informal agreements, are critical to ensure that adequate and equitable resources are invested in shared road systems. R2-9

The Ordinance needs to define a clear strategy to address sediment discharges from private, shared-use roads and the county road network on a timeframe and at locations that are in-sync with cannabis permitting. Such a strategy needs to follow the sequential process of avoid/minimize for new sources, and inventory/prioritize/treat/monitor for existing sources. R2-10

Enforcement

The Ordinance should include specific penalties and/or remedies for non-compliance and post-permit environmental remediation, and provide adequate staffing to conduct enforcement efforts and compliance review. The consequences for non-compliance should R2-11

[2] Water Quality Control Plan for the North Coast Region, available at: https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/basin_plan_documents/

be clearly described in the Ordinance or related policy and should be reasonably be scaled to the impacts associated with the non-compliance.

Compliance assistance is necessary, especially in a new regulatory program, and is appropriate for permitting staff as those are the professionals versed in the standards and strategies to achieve those standards. There is a point, however, at which this cooperative approach should make way for a more forceful approach. Without a strong enforcement program to back up the compliance assistance, the entire regulatory framework would be in jeopardy. This is especially true given the large number of illegal sites currently on the landscape.

We encourage County enforcement staff to actively coordinate with partner agencies to promote safety, consistency, and effectiveness to ensure that site conditions are addressed in a comprehensive and adequate strategy. It is important that applicable agencies have notification of non-compliance related to regulations beyond the County jurisdiction to ensure that the issue is adequately investigated by the respective experts and remedied accordingly. Resulting compliance agreements should reflect the timelines required by the agencies with jurisdiction. When environmental remediation is required, the agencies with jurisdiction should be consulted for review and concurrence. It is imperative that not only those sites that are part of the Ordinance program are remediated, but also those sites that are identified outside of the Ordinance program.

R2-11 cont

Since the inception of the cannabis programs of the Water Boards and the California Department of Fish and Wildlife, both programs have evolved to have separate, dedicated staffing for permitting and for enforcement. The County may wish to consider an independent code enforcement unit that includes enforcement on unpermitted operations.

R2-12

Cumulative Impacts to Hydrology and Groundwater

Due to cumulative impacts to surface water flows associated with summertime diversions and other stream impacts, requirements are in-place, or soon to be, for developing off-stream storage and forbearance strategies. While these moves support a more sustainable surface water usage strategy, the requirements have resulted in significant increases in the installation of both permitted and unpermitted wells.

R2-13

The Regional Water Board has received significant complaints from neighbors concerned with groundwater draw-down associated with increased groundwater extraction for large-scale cannabis cultivation. The Ordinance proposes that new wells located on smaller parcels (less than 10 acres) or close to property boundaries (within 400) feet are monitored for drawdown. However, it does not appear to require larger parcels to monitor or mitigate usage. Larger parcels are more likely to include larger scale cultivation and associated irrigation water use. Thus we recommend that the requirements for well use be scaled to the potential impacts.

R2-14

Watershed Coordination

In addition to regulatory tools, non-regulatory watershed coordination can contribute to improved watershed stewardship. We recommend that Humboldt County build capacity for watershed groups and road associations to monitor and report watershed conditions and coordinate on a watershed scale, and provide technical assistance and organizational models to assist citizens to coordinate effectively on shared resource protection issues, including but not limited to road maintenance, water diversions, and habitat protection and enhancement. This will also promote opportunities for grant funding to assist in water resource protection. Additionally, the County, in coordination with partner agencies and watershed groups, should identify watershed monitoring and metrics to inform thresholds for cumulative impacts and watershed carrying capacities. A combination of stewardship and environmental mitigation projects can contribute to such an effort. The Regional Water Board would be available to actively partner on watershed stewardship and coordination projects.

R2-15

Regional Water Board contacts

Regional Water Board staff would be pleased to work with Humboldt County in the development of the Project. Through a combination of effective regulation and strong partnerships, we can achieve healthy watersheds in Humboldt County and the north coast. We appreciate the opportunity to provide these comments and look forward to ongoing coordination. Staff continues to be available to work on these issues. Questions or comments can be addressed to Adona White at 707-576-2672 and Adona.White@waterboards.ca.gov or Kason Grady at 707-576-2682 and Kason.Grady@waterboards.ca.gov.

R2-16

Sincerely,

Digitally signed by Joshua Curtis
Date: 2017.10.20 14:35:59 -07'00'

Water Boards

Josh Curtis
Compliance Assurance, Stewardship, and Planning Division Chief
North Coast Regional Water Quality Control Board

Letter R2	North Coast Regional Water Quality Control Board Josh Curtis, Compliance Assurance, Stewardship, and Planning Division Chief 10/20/2017

R2-1 This comment introduces the letter and identifies that comments on the NOP were provided for project consideration. DEIR Table 1-1 provides a summary of North Coast Regional Water Quality Control Board NOP comments and where they were addressed in the DEIR.

R2-2 The comment identifies that the State Water Board adopted its *Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation* and the associated Cannabis General Order. The reader is referred to Master Response 5 that describes the State Water Board Policy and identifies changes to the DEIR to reflect these new regulations.

R2-3 The comment asserts that the DEIR fails to meet CEQA requirements by not addressing cumulative impacts of past, present, and probable future projects and specifically notes existing unpermitted cultivation. The DEIR does disclose the environmental effects of existing unpermitted cultivation existing and cumulative conditions; the reader is referred to Master Response 1 and Response to Comment S1-5 regarding the consideration of unpermitted cultivation in the DEIR under baseline and cumulative conditions.

R2-4 The comment states that environmental impacts of unpermitted cannabis cultivation are significant and well documented. The DEIR does disclose the environmental effects of unpermitted cannabis operations in several sections of the DEIR. The reader is referred to Master Response 1 a detailed discussion of the DEIR's disclosure and evaluation of existing unpermitted cultivation.

R2-5 The comment asserts that the DEIR and the proposed ordinance must identify current and future impacts of illegal cannabis operations. The reader is referred to Master Response 1 for a detailed discussion of the DEIR's consideration of unpermitted cultivation in the DEIR under baseline and cumulative conditions.

R2-6 The comment states that roadways are the most significant source of chronic sediment discharges to surface waters. Comment noted. This is acknowledged in the DEIR in the discussion of impaired waterways in the County on DEIR pages 3.8-17 through 3.8-21.

R2-7 The comment asserts that the proposed ordinance roadway requirements do not address sediment discharges associated with existing roadways or improvements to roadways. The proposed ordinance roadway standards for new roadways and improvements to existing roadways include compliance with the *Water Quality and Stream Habitat Protection Manual for County Road Maintenance in Northwestern California Watersheds* that would require implementation of BMPs to control sediment and protect water quality (see DEIR page 2-23). In addition, commercial cannabis operations would also be required to comply with the sediment control requirements set forth in the State Water Board Policy and the Cannabis General Order. The reader also referred to Master Response 5 and Response to Comment R2-8.

R2-8 The comment recommends mitigation for the provision of a roadway association and sediment control plan for roadway impacts to water quality. The proposed ordinance does in fact provide strategies to address the water quality impacts of the existing rural road network. Compliance with the Road Systems Performance Standard set forth in Section 55.4.12.1.8 is a basic eligibility criteria that applies to all commercial cannabis activities governed by the proposed ordinance. The Road Systems Performance Standard has three components: Dead End Road Length, Functional Capacity, and Protections for Water Quality and Biological Resources. The standard for the third component is specified in subsection (c)

1) as the latest edition of the document titled, *A Water Quality and Stream Habitat Protection Manual for County Road Maintenance in Northwestern California Watersheds*, which was adopted by the Humboldt County Board of Supervisors on July 6, 2010, and is also known as the Five Counties Salmonid Conservation Roads Maintenance Manual. The third component also requires the establishment of road maintenance associations and cost sharing. Privately owned segments of road systems must be evaluated for compliance with all three components. If not met, a plan must be prepared to achieve compliance.

R2-9 The comment states that roadway associations are critical for shared road systems. Under Section 55.4.12.1.8 (d) of the proposed ordinance where three or more applications are filed for commercial cannabis activities served by the same shared private road system, the owner of each property must join or establish a Road Maintenance Association. The owners of properties with commercial cannabis activities permits granted under the existing CMMLUO as a condition of permit renewal. Owners of existing small cultivation sites must also participate in any Road Maintenance Association for road systems serving that parcel (Section 55.4.6.5.1 e).

R2-10 The comment states that the proposed ordinance to define a clear strategy to address sediment discharges from roadways on a timeframe and at locations that are in sync with cannabis permitting. Section 55.4.12.1.8 of the proposed ordinance outlines the strategy to address sediment discharges from private, shared-use roads by commercial cannabis permit applicants. Road evaluations that are the responsibility of the applicants will inventory existing sources, monitored by the Public Works Department. Remediation plans will be required where necessary. The County is responsible for addressing sediment discharges from county roads.

R2-11 This comment suggests the ordinance include specific penalties and/or remedies for non-compliance. Violations of the proposed ordinance are public nuisances, pursuant to Section 55.4.5.3, subject to remedies provided elsewhere under existing provisions of the Humboldt County Code, that include injunction, abatement, and any other administrative, civil, or criminal sanctions. As described in Master Response 6, Humboldt County Code was amended by Ordinance No. 2576 on June 27, 2017 to streamline and enhance the administrative civil penalties to be administered by the County Code Enforcement Unit (CEU), intended to more effectively address unpermitted cannabis activities. See Humboldt County Code Title III, Division 5, Chapters 1 and 2, Sections 351-1, et seq. and 352-1, et seq. Civil fines of up to $10,000 per day are authorized under the ordinance. The CEU staffing has been increased and the unit transferred to the Planning and Building Department. The Board of Supervisors directed that code enforcement related to commercial marijuana cultivation matters be implemented pro-actively, without requiring a public complaint to initiate proceedings. The CEU has begun issuing Notices of Violation and Proposed Administrative Civil Penalties for properties where there is evidence that unauthorized cannabis cultivation is taking place. The CEU regularly coordinates with the Humboldt County Sheriff's Office and the WET Enforcement Team that includes representatives from the CDFW and the Regional Water Quality Control Board.

R2-12 The comment suggests that the County establish an independent enforcement unit to address unpermitted operations. The reader is referred to Response to Comment R2-11 above regarding enhanced code enforcement efforts by the County.

R2-13 The comment asserts that surface water diversion limitations have resulted in a significant increase in the installation of permitted and unpermitted wells. The water resources impact analysis provided on DEIR pages 3.8-38 through 3.8-47 conservatively assumes that both surface water and groundwater would be used by permitted commercial cannabis operations under the proposed ordinance.

R2-14 The comment identifies that the North Coast Regional Water Quality Control Board has received complaints from neighbors of cannabis operations that are concerned about groundwater drawdown. The comment acknowledges the groundwater requirements in the proposed ordinance, but requests that larger parcels also be monitored.

As identified in Master Response 5, the proposed ordinance contains testing requirements for new wells on parcels 10 acres or smaller located within 400 feet of property lines to determine if drawdown could occur on any adjacent wells. It is presumed that parcels larger than this contain sufficient buffer to prevent effects to wells on adjacent properties. Ten acres is also the smallest parcel size under the proposed ordinance that up to one acre (43,560 square feet) of cannabis cultivation may be allowed with a Special Permit in resource protection and residential zoning districts that would generate the greatest water demand in relation to parcel size (347,173 gallons per year, approximately the 3.17 times the equivalent demand of a single family residential dwelling unit that uses 300 gallons per day). Without a Special Permit, cannabis cultivation is limited to 5,000 square feet for parcels 5 to 10 acres in size, 10,000 square feet for parcels 10 acres or larger. Parcels 320 acres or larger would be allowed up to 43,560 square feet of cannabis cultivation per 100 acres with a Use Permit. Commercial and industrial zoned areas where commercial cannabis cultivation would be allowed on parcels at least 2 acres in size and would allow up to 1 acre of cultivation with a Zoning Clearance. Thus, the proposed ordinance requirements address the greatest potential for groundwater impacts.

Implementation of Mitigation Measure 3.8.3 would modify the requirements of the proposed ordinance by requiring the reporting of annual monitoring of groundwater conditions to the County as part of the annual inspections required under the ordinance. This monitoring will identify if on-site well operations are resulting in groundwater drawdown impacts along with adaptive measures that will be implemented to recover groundwater levels and protect adjacent wells. Because implementation of this mitigation measure would be required as part of annual commercial cannabis operations permit renewals, it would provide on-going protection of local groundwater resources. The State Water Board will also monitor instream flows during the dry season and evaluate whether the number or location of groundwater diversions to determine whether imposition of a groundwater forbearance period or other measures. The State Water Board will notify cannabis cultivators the possibility of a groundwater forbearance period or other measures may be imposed to address low flow conditions. The proposed ordinance also includes a provision that allows the County to curtail cannabis cultivation in the event that water shortages are documented to exist.

R2-15 The comment recommends that the County evaluate and monitor water resources on a watershed scale. The comment suggests that thresholds for cumulative impacts and watershed carrying capacities.

As further described under Master Response 5, a watershed analysis to establish cannabis cultivation caps for each watershed would be difficult for the County to conduct as it would require details on existing water users in each watershed and the extent that riparian water rights may be exercised. The County lacks the technical experience to collect this extent of data and determine what is the appropriate aquatic carrying capacity. Regional and state agencies that would have the appropriate technical information and experience to conduct a watershed analysis include State Water Board, North Coast Regional Water Quality Control Board, and CDFW. The County would be willing to participate in joint watershed evaluation studies with the North Coast Regional Water Quality Control Board and other interested agencies. The DEIR does provide a watershed level impact analysis associated with the proposed ordinance that includes details on current water quality and surface water flow conditions (see DEIR pages 3.8-14 through 3.8-47). Water quality impacts would be

mitigated through compliance with the State Water Board Policy as well as implementation of Mitigation Measure 3.8-2.

The DEIR analysis acknowledges that cannabis irrigation could result in a significant decrease in watershed flows during low flow conditions (see DEIR pages 3.8-44 and 3.8-45). Implementation of Mitigation Measure 3.8-5 in compliance with State Water Board Policy would require that all cannabis cultivation surface water and groundwater diversions comply with the numeric flows and aquatic base flows that have been established by watershed under the Policy in consultation with CDFW. The State Water Board Policy's numeric flows and aquatic base flows and associated diversion requirements function as an aquatic carrying capacity suggested by the comment. The State Water Board Policy's flow standards and diversion requirements were developed to protect fish spawning, migration, and rearing for endangered anadromous salmonids, and flows to needed to maintain natural flow variability within each watershed. Thus, the need to prepare a watershed to a determine the aquatic carrying capacity is not necessary to adequately address the water resources impacts of the proposed ordinance at a watershed level of detail.

It should be noted that at the time of the preparation of this Final EIR the County was considering modifications to the proposed ordinance that would establish a cap to limit the extent of permitted commercial cannabis operations in the County.

R2-16 This comment identifies interest by the North Coast Regional Water Quality Control Board to coordinate with the County on the project. This comment is noted.

2.3.3 Local Agencies

Letter
L1

From: Mark Andre [mailto:mandre@cityofarcata.org]

Sent: Monday, September 11, 2017 3:57 PM

To: Lazar, Steve

Subject: cannabis buffer map ..1000 feet Arcata city limits ; sphere and TPZ fyi

Mark S. Andre

Environmental Services Director

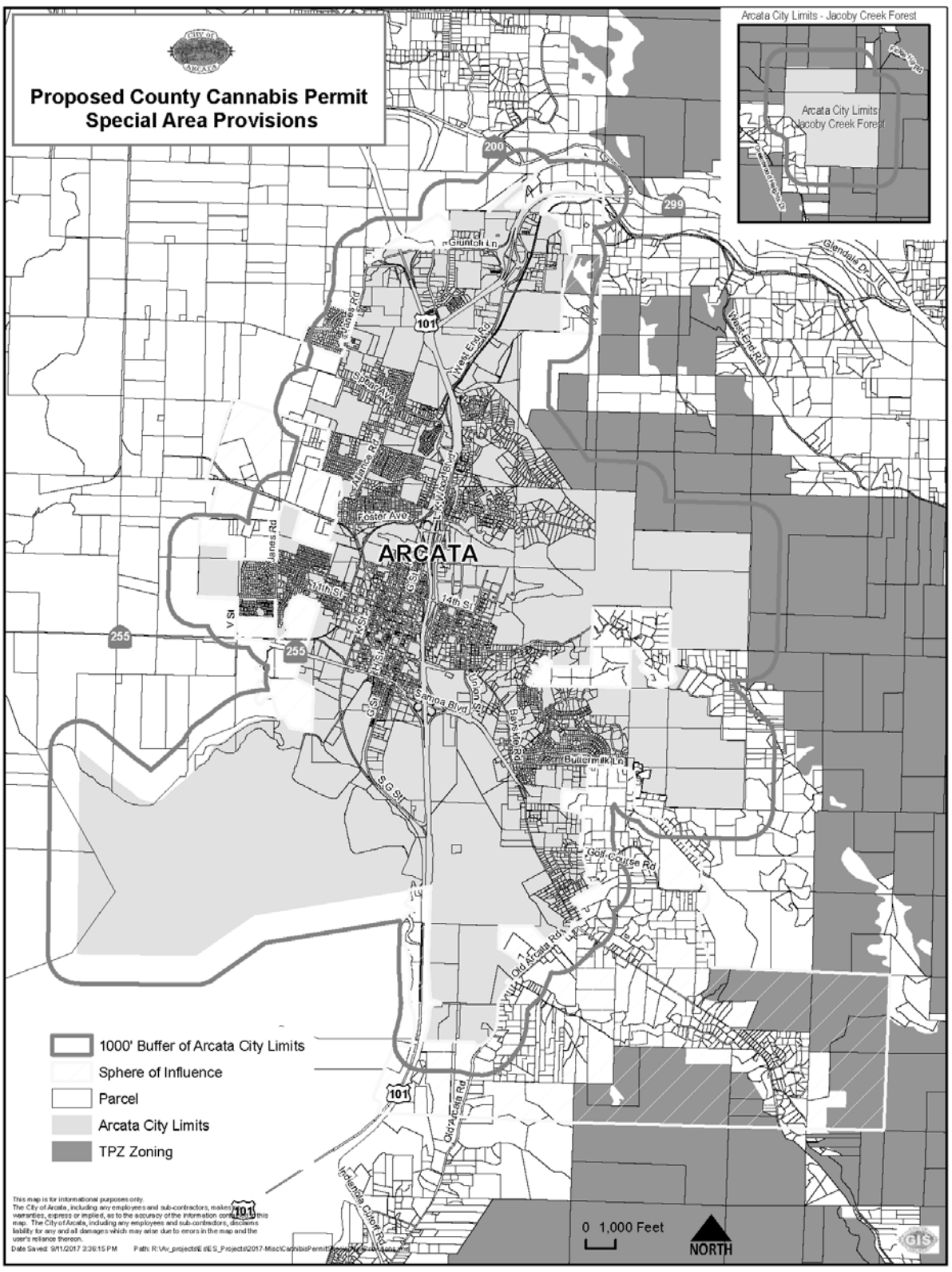
City of Arcata

736 F Street

Arcata, CA. 95521

707 822-8184 (office)

707 845-5804 (cell)


Proposed County Cannabis Permit
Special Area Provisions
Arcata City Limits - Jacoby Creek Forest
Arcata City Limits
Jacoby Creek Forest
ARCATA
1000' Buffer of Arcata City Limits
Sphere of Influence
Parcel
Arcata City Limits
TPZ Zoning
0 1,000 Feet
NORTH
101
200
299
255

L1-1

Letter L1	City of Arcata Mark Andre 9/11/2017

L1-1 This comment provides a map showing a potential 1,000-foot cannabis buffer around the City of Arcata corporate boundary. The information provided in the map is noted and is being considered as part of the refinement of the proposed ordinance.

Letter L2

From: Mark Andre
To: Lazar, Steve
Cc: David Loya
Subject: City of Arcata Comments on Commercial Cannabis Ordinance
Date: Monday, September 25, 2017 5:06:41 PM

Hello Steve,
The City of Arcata will be sending a comment letter to the BOS in October. Just giving you a heads up and also checking on the schedule for this. L2-1

Mark S. Andre
Environmental Services Director
City of Arcata
736 F Street
Arcata, CA. 95521
707 822-8184 (office)
707 845-5804 (cell)

Letter L2	City of Arcata Mark Andre 9/25/2017

L2-1 The comment identifies that a comment letter from the City would be sent to the Board of Supervisors. This comment is noted. No comment letters regarding the adequacy of the DEIR were received.

Humboldt County Department of Health & Human Services

Letter L3

Environment
Melissa Martel
100 H Street, Eureka, CA 95501
phone: (707) 445-6215 | fax: (707) 441-5699

October 16, 2017

Attn: Michael Richardson
Supervising Long Range Planner
Humboldt County Planning and Building
3015 H Street
Eureka, CA 95501

Subject: Corrections and Comments for Revised Draft Environmental Impact Report (EIR) for Humboldt County General Plan Update

Dear Mr. Richardson,

The Department of Health and Human Services, Division of Environmental Health (EH) would like to thank you for the opportunity to review the General Plan Update Draft EIR. Ascent Environmental, Inc. provided a quality product with this Draft EIR. EH's Land Use, Solid Waste and Hazardous Materials Programs have reviewed the sections of the EIR related to their programs and have made suggested corrections and comments which will be provided as Microsoft Word documents in order to ease the editing process. The Land Use Program comments fall under chapter 3 of the Draft EIR and the Hazardous Materials Program's fall under chapter 3.7. L3-1

If you have any questions regarding any of the suggested edits or comments for the EH Solid Waste Program, please direct them to Harriet Hill at: hhill@co.humboldt.ca.us, and for the Hazardous Materials Program contact Larry Lancaster at llancaster@co.humboldt.ca.us.

Thank you,

Melissa Martel
Director, Environmental Health

A Division of Public Health
phone: (707) 445-6200
fax: (707) 445-6097

DHHS Administration
phone: (707) 441-5400
fax: (707) 441-5412

Division of Environmental Health, Land Use and Solid Waste Programs:

Comments on DEIR Section 3.13.3 Environmental Impact and Mitigation Measure by the Humboldt County Division of Environmental Health (DEH)):

On P. 3-13-18, the DEIR states "In response to comments on the NOP, the Humboldt County Division of Environmental Health noted that the Redway Transfer Station has experienced a substantial increase in received materials over the past five years.... Implementation of the proposed ordinance may increase the number of cultivation sites that would dispose of solid waste at Redway Transfer Station, and other transfer stations in the County."

On p. 3-13-17 the DEIR states under "Impact 3.13-3 "...periods of cultivation, such as harvest" may result in waste acceptance rates being exceeded, which is deemed a potentially significant impact. Mitigation Measure (MM) 3.13-1a states: "Prepare a treatment program for all "new indoor cultivation and non-cultivation activities."

On page 3-13-18, the mitigation measure is analyzed in the "Significance after Mitigation." It states that the "Implementation of Mitigation Measure 3.13-1a will require individual applicants to determine and plan for handling and disposal methods for all materials...used during commercial cannabis operations. Waste disposal plans will be submitted to the Humboldt County Division of Environmental Health and other appropriate public agencies or private enterprises, including transfer stations, for approval before issuance of permits (emphasis added). Because implementation of this mitigation measure would ensure that capacity for waste is available and that materials are disposed of properly, impacts would be reduced to a less-than-significant level." L3-2

DEH finds that the DEIR does not describe a suitable mitigation for the proposed project's potential impacts on the county's existing solid waste handling infrastructure. Our comments follow:

1. The proposal in MM 3.13-1a that applicants provide waste disposal plans "to the Humboldt County Division of Environmental Health and other appropriate public agencies or private enterprises, including transfer stations, for approval before issuance of permits" is infeasible because:
   - MM 3.13-1a would place requirements on Commercial Cannabis operations that are not required of any other business or individual in Humboldt County.
   - MM 3.13-1a would be impossible to implement. This directive is not expressly stated in the Commercial Cannabis Land Use Ordinance so would neither be enacted nor enforceable. L3-3
   - It is impossible for DEH and other (unspecified) "appropriate public agencies or private enterprises including transfer stations" to determine, via review of hundreds or thousands of waste disposal plans "that capacity for waste is available and that materials are disposed of properly". "Private enterprises including transfer stations" have no responsibility or authority to receive, review or comment on such proposals. DEH has authority to review a solid waste handling proposal with respect only to

whether it is in conflict with state or local regulations; DEH has no responsibility or authority to recommend approval or denial to a project based on whether capacity is available.

2. MM 3.13-1a states that applicants must provide a plan for handling and disposal for all materials; therefore, to call this a "treatment program" is incorrect and misleading.
3. MM 3.13-1a only applies to "new indoor cultivation and non-cultivation activities." Outdoor cultivation and non-cultivation activities produce solid waste as well. The document should explain why these activities are excluded.

L3-3 cont

Conclusions:

The solid waste handling infrastructure in southern Humboldt is sorely lacking. The Redway Transfer Station (RTS) is in poor condition and undersized; heavy traffic sometimes requires patrons to wait in their vehicles in line, the tip floor is undersized and presents safety challenges. As stated in the DEIR, the waste tonnages received at RTS have recently increased dramatically. Since late 2014, the RTS has exceeded its permitted tonnage limit 16 times, with the 2017 violation occurring after the facility's permitted tonnage limit had just been increased to three times its previous level. Humboldt County Public Works (HCPW) owns the RTS facility which is built on state-owned land and has recently contracted with Recology Eel River for its operation. HCPW reports it will discuss building plans with the new operator in October 2017; however project completion will likely take several years.

DEH believes that the currently inadequate solid waste capacity at the Redway Transfer Station will be greatly impacted by the activities described in Commercial Cannabis Land Use Ordinance. Other transfer stations are likely to be impacted as well. Such an impact can only be practicably mitigated by reconstructing such facilities to increase their capacity; this environmental impact cannot be made "less than significant" until this occurs.

We recommend that:

1. Mitigation Measure (MM) 3.13-1a be deleted as it is entirely infeasible and ineffective.

2. Inadequate solid waste handling capacity be identified as a "Significant Unavoidable Impact" in Section 5.1 under the discussion of "Utilities and Service Systems."

L3-4

3. A likely increase in illegal solid waste disposal (already rampant along the county's rural road turnouts) should be considered as a secondary significant unavoidable impact since some parties will choose to avoid the overtaxed transfer stations and illegally dump their operation's waste.

L3-5

Division of Environmental Health, Hazardous Materials Program:

Changes and comments on DEIR Section 3.7 are as follows: ~~strikethrough~~ is old text, highlighted is suggested text.

Hazards and Haz Mat 3.7.3, ¶2 (p285):
Under Chapter 6.95, Article 2, operators of stationary sources of hazardous materials are required (if they are deemed an accident risk) to prepare risk management plans, detailing strategies to reduce the risk of accidental hazardous material release, and submit them to the California ~~Emergency Management~~ California Environmental Protection Agency and/or the Administering agency, as per Chapter 6.95, Article 2, Section 25535.1(b and c) *Cannabis cultivators that store hazardous materials (e.g., pesticides, fuel) exceeding the threshold quantity would be required to prepare an HMBP (California Department of Food and Agriculture 2017.*

L3-6

3.7.8, ¶3 (pg. 290):
Depending on their specific cultivation practices and processes, commercial cannabis cultivators could be considered hazardous waste generators that would be subject to the requirements of the Hazardous Waste Generator Program. This should state cannabis operations could be required to enroll in any of the above-described CUPA programs (not just HW).

L3-7

3.7.8 (pg. 290), Title: "County ~~Health Hazardous Materials Program Local Oversight Project~~ Local Oversight Project

L3-8

3.7.14, ¶5 (pg. 296):
The County ~~Environmental Management Agency~~ Division of Environmental Health *conducts inspections of every cultivation site for hazardous materials storage, as well as any hazardous waste disposal. This is done through delegation by CalEPA to the County as the CUPA. The County is responsible through the CUPA program for inspection of all facilities that store hazardous materials or handle hazardous wastes. Regulation of commercial cannabis cultivation and commerce sites provides for fees to support the CUPA program.*

L3-9

Letter L3	Humboldt County Department of Health and Human Services Melissa Martel 10/16/2017

L3-1 The comment introduces comments submitted on the General Plan Update Draft EIR. While this comment refers to a different project DEIR, the comments provided do address this DEIR.

L3-2 The comment asserts that the DEIR does not adequately address impacts on the County's existing solid waste handling infrastructure. Concerns regarding Mitigation Measure 3.13-1a are responded in Response to Comment L3-3 below.

L3-3 The comment asserts that Mitigation Measure 3.13-1a is infeasible as the County does not place these requirements on any other business; the proposed ordinance does not expressly address solid waste; the County does not have the authority to receive waste disposal plans; the term "treatment program" is incorrect and misleading; and the mitigation measure should apply to outdoor cannabis cultivation.

CEQA allows the County to implement mitigation measures that can establish new requirements on certain land uses within the County's jurisdiction that currently does not exist in County Code to address significant environmental impacts. Adoption of Mitigation Measure 3.13-1a may involve modification to the proposed ordinance or may be included as a component of the application content requirements. As identified on DEIR page 3.13-18, there are potential waste disposal impacts associated with hazardous materials from indoor cannabis cultivation and processing facilities that could impact County solid waste disposal operations. Permitted outdoor cannabis cultivation that would be permitted under the proposed ordinance would not be a likely source of hazardous material waste as it involves minimal use of hazardous materials associated with growing cannabis.

Implementation of Mitigation Measure 3.13-1a will require individual applicants to determine and plan for handling and disposal methods for all materials (e.g., plant materials, solvents, empty containers) used during commercial cannabis operations. Waste disposal plans would be submitted to the Humboldt County Division of Environmental Health and other appropriate public agencies or private enterprises, including transfer stations, for approval before issuance of permits. Waste disposal plans may take the form of Hazardous Materials Business Plans that are required under the California Health and Safety Code (see DEIR page 3.7-2 and 3.7-3).

Mitigation Measure 3.13-1a's use of the term "treatment program" is intended to address both solid waste and wastewater handling. As identified on DEIR pages 3.13-15 and 3.13-16, wastewater discharges can cause environmental issues and damage to wastewater treatment facilities if the wastewater does not receive pretreatment (DEIR Impact 3.13-1).

The County considers Mitigation Measure feasible, within the County's authority to implement, and would mitigate potential solid waste impacts to less than significant. It should be noted that Attachment A of the State Water Board Policy also includes requirements for the handling solid waste, hazardous waste, and wastewater.

L3-4 The comment identifies that the Redway Transfer Station is currently in poor condition and is undersized resulting in the exceedance of its permitted tonnage limit. The comment asserts that the proposed ordinance will greatly impact the Redway Transfer Station and also suggests that other County transfer stations may be impacted. The comment also states that the only mitigation is the reconstruction of such facilities.

The DEIR does identify that the Redway Transfer Station has experienced a substantial increase in received materials over the past five years (see DEIR page 3.13-18). As identified above, DEIR Impact 3.13-3 is associated with the potential of hazardous materials being improperly disposed at transfer stations and other facilities.

The current operational and capacity issues at the Redway Transfer Station are part of the existing baseline conditions and are not the result of the implementation of the proposed ordinance. There is no evidence in the record or provided in the comment letter that implementation of the proposed ordinance would necessitate the expansion of the Redway Transfer Station or any other transfer station in the County that could cause significant impacts on the environment.

Thus, no significant and unavoidable impacts from implementation of the proposed ordinance on solid waste facilities would occur,

L3-5 The comment asserts that the project would result in significant and unavoidable impacts associated with the increase in illegal solid waste disposal.

The comment provides no evidence to support that implementation of the proposed ordinance would result in an increase in illegal solid waste disposal. Thus, this impact is considered speculative and is not appropriate for consideration in the DEIR. Annual inspections for commercial cannabis operation permit renewal would ensure that illegal solid waste disposal would not occur on-site.

L3-6 The comment provides suggested edits to the DEIR. These changes are incorporated into the DEIR as shown below.

On DEIR page 3.7-3, the following text change is made to the second paragraph:

> Under Chapter 6.95, Article 2, operators of stationary sources of hazardous materials are required (if they are deemed an accident risk) to prepare risk management plans, detailing strategies to reduce the risk of accidental hazardous material release, and submit them to the California Environmental Protection Agency and/or the Administrative agency, as per Chapter 6.95, Article 2, Section 25535.1 (b and c). ~~Emergency Management Agency.~~ Cannabis cultivators that store hazardous materials (e.g., pesticides, fuel) exceeding the threshold quantity would be required to prepare an HMBP (California Department of Food and Agriculture 2017).

L3-7 The comment provides suggested edits to the DEIR. These changes are incorporated into the DEIR as shown below.

On DEIR page 3.7-8, the following text change is made to the third paragraph:

> Depending on their specific cultivation practices and processes, commercial cannabis cultivators could be considered hazardous waste generators that would be subject to the requirements of the Hazardous Waste Generator Program or other above CUPA programs.

L3-8 The comment provides suggested edits to the DEIR. These changes are incorporated into the DEIR as shown below.

On DEIR page 3.7-8, the following text change is made to the title: “County Health Hazardous Materials Program Local Oversight Program:”

County ~~Health Hazardous Materials Program~~ Local Oversight Program

L3-9 The comment provides suggested edits to the DEIR. These changes are incorporated into the DEIR as shown below.

On DEIR page 3.7-14, the following text change is made to the fifth paragraph:

> The County ~~Environmental Management Agency~~ Division of Environmental Health conducts inspections of every cultivation site for hazardous materials storage, as well as any hazardous waste disposal. This is done through delegation by CalEPA to the County as the CUPA. The County is responsible through the CUPA program for inspection of all facilities that store hazardous materials or handle hazardous wastes. Regulation of commercial cannabis cultivation and commerce sites provides for fees to support the CUPA program.

Letter L4

From: Dugan, Lisa
Sent: Wednesday, October 11, 2017 11:45 AM
To: Ford, John
Subject: FW: Cannabis - Yolo

Hi John,
This is the rider to the marijuana ordinance in Yolo County. Is there any opportunity you are aware of to add a rider similar to this in Humboldt?
Thanks,
Lisa

M. Lisa Dugan
Director, North Coast Regional Department of Child Support Services
Eureka Branch - 2420 6th St., Eureka, Ca. 95501
Weaverville Branch - P.O. Box 489, 850 B Main St, Weaverville, Ca. 96093
(707) 441-3262
(707) 954-4753 (cell)
mldugan@co.humboldt.ca.us



"In a world that's changing so quickly, the biggest risk is not taking any risk". Peter Thiel

From: Natalie Dillon [mailto:Natalie.Dillon@yolocounty.org]
Sent: Wednesday, October 11, 2017 10:12 AM
To: Stacy Gray; Aaron Goodwin; Adele Hendrickson (Hendrickson.Adele@centralsierra.cse.ca.gov); Baljit Atwal ; Barbi Brokhoff; Bruce Mordorhorst; Carrie Topliffe; Danielle Wermund; davidakilgore@outlook.com; Dawn Mayer; Diana Bermingham; Don Semon; Gail Woodworth; Gary Sams; Ignacio J. Guerrero ; jamie murray; Janet Nottley; Jeff Grissom; Jennifer Traumann; Jill Francis; Jody Holtzworth (holtzworthj@co.monterey.ca.us); John Contreras; Julie Paik; Karen Roye; Kari Gilbert (kgilbert@co.fresno.ca.us); Kelley Cote; Kim Cagno; Lisa Bispham; Dugan, Lisa; Liza Barraza; Lori Cruz (lcruz@sjgov.org); marcusmit1@att.net; marie.girulat@css.sbcounty.gov; Melinda Self; Michelle Blackford; Nola Penna (npenna@co.del-norte.ca.us); Pamela Posehn; Phyllis Nance; Roger Dixon; Rose Schwab; Ross Hutchings; Sarah Honeycutt; Sean Farrell; wardale-trejo.sharon@mariposa.cse.ca.gov; swardale-trejo@co.merced.ca.us; Steven Eldred (seldred@css.ocgov.com); Steven Golightly; Susanne Rizo; Terri Morelock; Terrie; Tex Ritter; Tina Taylor; Tonya Moore; Troy Held (Troy.Held@pldcss.ca.gov); v.west@csa20ca.org; Liane L. Platt; prado.julie@centralsierra.cse.ca.gov
Subject: Cannabis - Yolo

During Statewide Directors Meeting, I was asked if I could share the Yolo draft marijuana ordinance language relative to Child Support with Membership. I sent a separate copy to Robert. Please find the draft attached. It should be final within the next few weeks.

L4-1

DRAFT CHILD SUPPORT RIDER TO MARIJUANA ORDINANCE

All permit holders/owners of the business must be current with their monthly child support obligations. If the permit holder/owner of the business has an account with past due child support arrears, he/she must have that balance at zero or have verification from the Department of Child Support Services that they have been in and remain in compliance with a court ordered payment plan in order to remain in good standing for a permit. (CA Family Code section 17400 et. al.)

You must provide the Yolo County Department of Agriculture a quarterly list of all employees, employed at any time during the quarter. Reports are due by the 15th of the month following the end of the quarter. (March, June, September, and December). The list will include names, addresses and social security numbers for all your employees and contractors.

If your business uses a payroll withholding process, you must comply with the Income Withholding Order issued by the Yolo County Department of Child Support Services for any employee you employ. In addition, if the Income Withholding Order is for an owner or part-owner of the business, the business must also comply with the Income Withholding Order and provide necessary tax information if self-employed for purposes of determining accurate child support orders. Child support obligations can be met by the employer remitting payment to the State Disbursement Unit (SDU) at P.O. Box 989067, West Sacramento, CA 95798-9067 in response to an Income Withholding Order, checks mailed to the SDU, online credit card payments, cash payments made at the local child support agency, or through other cash payment options such as Money Gram or Pay Near Me. Additional information about payment options can be found at https://www.childsup.ca.gov/payments/statedisbursementunit(sdu).aspx

L4-1 cont

Please let me know if you have any questions,

Natalie Dillon
Director,
Yolo County Child Support Services
530-661-2856
www.yolocountychildsupport.org



We want to hear from you!
Please take a moment to let us know how we are doing. To complete our Customer Satisfaction Survey, please click here. *Para la versión en español de nuestra encuesta, por favor haga clic aquí.*

Letter L4	North Coast Regional Department of Child Support Services Lisa Dugan, Director 10/11/2017

L4-1 The comment enquires about adding language to the proposed ordinance requiring permit holders to be current with monthly child support obligations, and attached proposed draft language from Yolo County, which includes a requirement that permit holders submit quarterly lists of all employees to the cannabis permitting agency for that county, mandating collection of social security numbers or individual taxpayer identification numbers for all permit holders and employees of permit holders.

The proposal is redundant of child support enforcement provisions applicable to state cannabis licensing authorities under California Family Code Section 17520, without the corresponding notice and due process protections in that statute. Such a provision would impose additional burdensome record keeping and enforcement duties on already overwhelmed staff of the Planning and Building Department unrelated to its primary mission of land use regulation and protection of the environment. County Departments are also required to protect social security numbers from public disclosure under the Public Records Act, Government Code Section 6254.29. The Board of Supervisors has discretion to balance the benefits of enhanced child support collection tools against the administrative burden on County permitting agencies that would divert resources from achieving their primary mission.

This provision has no effect on the environmental impacts of the proposed ordinance.

Humboldt County Department of Health & Human Services

Letter L5

Environment
Melissa Martel
100 H Street, Eureka, CA 95501
phone: (707) 445-6215 | fax: (707) 441-5699

October 16, 2017

Attn: Steve Lazar
Senior Planner
Humboldt County Planning and Building
3015 H Street
Eureka, CA 95501

Subject: Questions and Comments for Draft Commercial Cannabis Ordinance

Dear Mr. Lazar,

The Department of Health and Human Services, Division of Environmental Health (EH) would like to thank you for the opportunity to review the Draft Commercial Cannabis Land Use Ordinance. We have reviewed the ordinance have several questions and comments for consideration below: L5-1

DEH - Comments on DRAFT Commercial Cannabis Land Use Ordinance (CCLUO)

55.4.12.9 Describes a testing regime required of parcels less than 10 acres where the well is located less than 400 feet of a property line.

1. What is the definition of well for the purposes of this section?
2. If a well is found to be hydrogeologically connected to surface waters, does this section apply?
3. What guidance/reference is used to recommend this testing design?
4. What are the required credentials to complete/perform the test?
5. What agency will review and ratify the test? Will there be a fee to review the test?
6. Is there a seasonal component to the test?
7. A complete test may require access to wells under the control/ownership of adjacent properties. Cooperation may be a challenge. Can an uncooperative neighbor prevent the completion of the test? Could test results prevent approval of project etc.?

L5-2

A Division of Public Health
phone: (707) 445-6200
fax: (707) 445-6097

DHHS Administration
phone: (707) 441-5400
fax: (707) 441-5412

Humboldt County Department of Health & Human Services

8. This testing threshold appears inconsistently applied to the Cannabis industry alone. Are there other sectors subject to the same challenge?
9. Traditionally, water rights have been under the jurisdiction of CA State Water Board-Division of Water Rights which has no permitting structure for the use of groundwater. Restricting use presents a major change in water rights in regard to ground water.

L5-2 cont

If you have any questions regarding any of the questions or comments, please feel free to contact Mario Kalson at (707) 268-2209 or mkalson@co.humboldt.ca.us.

Thank you,

Melissa Martel
Director, Environmental Health

Letter L5	Humboldt County Department of Health and Human Services Melissa Martel 10/16/2017

L5-1 The comment is an introduction to the letter regarding comments on the proposed ordinance. This comment is noted.

L5-2 The comment raises questions regarding the well monitoring requirements under the proposed ordinance. These comments are noted and will be considered as part of refinement of the proposed ordinance.

As identified in Master Response 5, the proposed ordinance contains the testing requirements for all groundwater wells on parcels 10 acres or smaller located within 400 feet of property lines to determine if drawdown could occur on any adjacent wells. It is presumed that parcels larger than this contain sufficient buffer to prevent effects to wells on adjacent properties. The proposed ordinance also requires all cannabis operations are required to maintain records on irrigation activities during the year that are subject to County review.

Ten acres is the smallest parcel size under the proposed ordinance that up one acre (43,560 square feet) of cannabis cultivation may be allowed with a Special Permit in resource protection and residential zoning districts that would generate the greatest water demand in relation to parcel size (347,173 gallons per year, approximately the 3.17 times the equivalent demand of a single family residential dwelling unit that uses 300 gallons per day). Without a Special Permit, cannabis cultivation is limited to 5,000 square feet for parcels 5 to 10 acres in size, 10,000 square feet for parcels 10 acres or larger. Parcels 320 acres or larger would be allowed up to 43,560 square feet of cannabis cultivation per 100 acres with a Use Permit. Commercial and industrial zoned areas where commercial cannabis cultivation would be allowed on parcels at least 2 acres in size and would allow up to 1 acre of cultivation with a Zoning Clearance. Thus, the proposed ordinance requirements address the greatest potential for groundwater impacts.

Implementation of Mitigation Measure 3.8.3 would modify the requirements of the proposed ordinance by requiring the reporting of annual monitoring of groundwater conditions to the County as part of the annual inspections required under the ordinance. This monitoring will identify if on-site well operations are resulting in groundwater drawdown impacts along with adaptive measures that will be implemented to recover groundwater levels and protect adjacent wells. Because implementation of this mitigation measure would be required as part of annual commercial cannabis operations permit renewals, it would provide on-going protection of local groundwater resources. The State Water Board will also monitor instream flows during the dry season and evaluate whether the number or location of groundwater diversions to determine whether imposition of a groundwater forbearance period or other measures. The State Water Board will notify cannabis cultivators the possibility of a groundwater forbearance period or other measures may be imposed to address low flow conditions. The proposed ordinance also includes a provision that allows the County to curtail cannabis cultivation in the event that water shortages are documented to exist.

CEQA allows the County to implement mitigation measures that can establish new requirements on certain land uses within the County's jurisdiction that currently does not exist in County Code to address significant environmental impacts.

Letter
L6

City of Trinidad

September 26, 2017

Dear County Planning Commissioners and Board of Supervisors,

Trinidad is a tiny city that serves as the community center of a larger unincorporated area stretching from Little River to Patrick's Point, the 'Greater Trinidad Planning Area'. This Planning Area includes the Luffenholtz Creek watershed, which is the sole water source for the City, the Trinidad Rancheria, and many adjacent County residents. This Planning Area also includes multiple critical coastal watersheds that flow into the Trinidad Bay, an Area of Special Biological Significance (ASBS), a state designation that prohibits any discharge that may affect water quality in Trinidad Bay. L6-1

The City of Trinidad has significant concerns about the negative impacts to City residents, our neighbors, fellow community members, and critical watersheds in the greater Trinidad Planning Area (Figure 1) that may result from the revised Commercial Cannabis Ordinance being considered by the County. These negative impacts can reasonably be expected to include an increased risk of property crimes and violent crime, increased fire risk, nuisance odors, increased traffic and road wear, and threats to critical watersheds including water pollution and reduced flow. L6-2

The City of Trinidad is in the process of prohibiting commercial cannabis activities within City limits in order to minimize these impacts in the City. The City is currently updating our General Plan and Local Coastal Program, and will be updating our Sphere of Influence as part of this process. The City of Trinidad requests that the County prohibit commercial cannabis activity in the Greater Trinidad Planning Area.

Much of the Greater Trinidad Planning Area falls within the 'Rural Residential Neighborhood Areas', already mapped and defined in the Ordinance as requiring additional protections through a Special Permit Process. The area is defined by steep slopes and small coastal streams, with rural residences close to the coast and timberland in the upper watersheds. Law enforcement resources are spread thin in this rural area, the county roads are in poor shape, and there is almost no agricultural land in the area. Commercial cannabis activities are not well suited to this coastal planning area. L6-3

The fact that almost the entire Greater Trinidad Planning Area requires a Special Permit process according to the current draft Ordinance highlights the reality that this area is not suitable for commercial cannabis activity. Simply closing these areas to commercial cannabis production would be a more effective, prudent, and efficient approach to protect public safety, critical watersheds, and the welfare of our community.

(707) 677-0223 • 409 Trinity Street • P.O. Box 390 • Trinidad, CA 95570 • Fax (707) 677-3759

The City of Trinidad urges you to protect critical waterbodies and the rural communities in the Greater Trinidad Planning Area by prohibiting commercial cannabis activities between the Little River and Patrick's Point. L6-3 cont

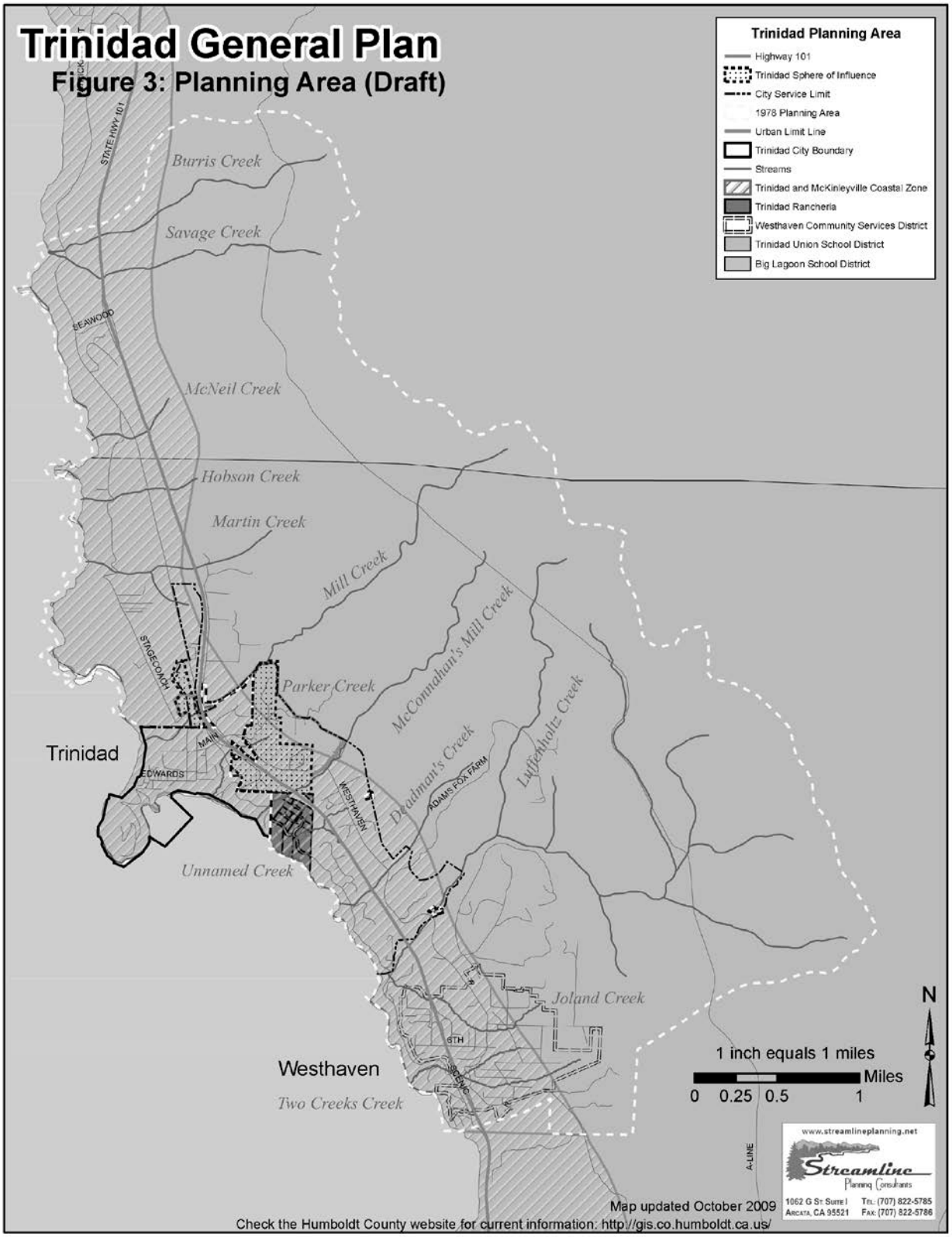
Sincerely,

Dwight Miller

Dwight Miller
Mayor

Approved unanimously by the Trinidad City Council on 9/26/20107

cc: Trinidad City Council
Trinidad Rancheria Tribal Council
Yurok Tribe
Trinidad-Westhaven Watershed Council
Humboldt County Board of Supervisors
Humboldt County Planning Dept – Cannabis Services Dept.
Westhaven Community Services District
Big Lagoon Community Services District
Big Lagoon Park Corporation


Trinidad General Plan
Figure 3: Planning Area (Draft)
Trinidad Planning Area
Highway 101
Trinidad Sphere of Influence
City Service Limit
1978 Planning Area
Urban Limit Line
Trinidad City Boundary
Streams
Trinidad and McKinleyville Coastal Zone
Trinidad Rancheria
Westhaven Community Services District
Trinidad Union School District
Big Lagoon School District
STATE HWY 101
Burris Creek
Savage Creek
SEAWOOD
McNeil Creek
Hobson Creek
Martin Creek
Mill Creek
McConnahan's Mill Creek
Luffenholtz Creek
STAGECOACH
Parker Creek
Trinidad
MAIN
EDWARDS
WESTHAVEN
Deadman's Creek
ADAMS FOX FARM
Unnamed Creek
Joland Creek
6TH
Westhaven
Two Creeks Creek
A-LINE
N
1 inch equals 1 miles
Miles
0 0.25 0.5 1
www.streamlineplanning.net
Streamline
Planning Consultants
1062 G St Suite I
Arcata, CA 95521
Tel: (707) 822-5785
Fax: (707) 822-5786
Map updated October 2009
Check the Humboldt County website for current information: http://gis.co.humboldt.ca.us/

Letter L6	City of Trinidad Dwight Miller, Mayor 9/26/2017

L6-1 The comment identifies concerns regarding the negative impacts to the City and watersheds in the area associated with the proposed ordinance. This comment is noted. The reader is referred to Master Response 5 that provides a detailed discussion of the DEIR's evaluation of water resource impacts and the requirements of the recently adopted State Water Board Policy.

L6-2 The comment states negative impacts from cannabis include increased crime, fire risk, odors, traffic and road wear, and watershed impacts.

Law enforcement and fire protection impacts from implementation of the proposed ordinance are addressed under DEIR Impact 3.7-7 (see DEIR pages 3.7-19 and 3.7-20), Impact 3.11-1 (see DEIR pages 3.11-9 and 3.11-10), and Impact 3.11-2 (see DEIR pages 3.11-10 and 3.11-11). The DEIR does acknowledge that outdoor and mixed-light commercial cannabis cultivation would result in significant and unavoidable odor impacts (see DEIR pages 3.3-21 and 3.3-22). Traffic and roadway impacts are addressed on DEIR pages 3.12-13 through 3.12-17. The reader is referred to Master Response 5 that provides a detailed discussion of the DEIR's evaluation of water resource impacts and the requirements of the recently adopted State Water Board Policy.

L6-3 The comment requests that the County prohibit commercial cannabis in the Greater Trinidad Planning Area given the anticipated impacts.

The County acknowledges the City of Trinidad's request to prohibit commercial cannabis activities in the entire Trinidad Plan Area that surrounds the City. There are numerous requirements in the proposed ordinance that may be adequate to respond to the City's concerns without an explicit area-wide prohibition.

In addition to the Special Area Notice and Special Permit Requirements in Section 55.4.5.1.5 applicable within the City of Trinidad's Sphere of Influence, Trinidad Community Plan Area, and Rural Residential Neighborhood Areas, the Eligibility and Siting Criteria in Sections 55.4.6.1—55.4.6.3, and 55.4.6.4 of the proposed ordinance significantly constrain, if not altogether prohibit, the potential for development of permitted commercial cannabis activities in much of the Trinidad area.

The vast majority of the area of the Trinidad Area Plan is zoned RA, where the minimum parcel size for any new cultivation is five acres. There are 414 parcels in the RA-zone surrounding Trinidad, of which 77 are five acres or larger (18.6 percent), that together comprise about 55.5 percent of the total RA-zoned land area. Water for irrigation must be sourced from non-diversionary sources (non-hydrologically connected wells, rainwater capture, or public or private water suppliers with available supply) which may not be feasible in the Trinidad area. Slopes must be 15 percent or less. Most significantly, conversion of timberland is prohibited. The definition of timberland is not limited to parcels zoned TPZ and would appear to apply to much of the RA-zoned land area within the Trinidad Area Plan. New cultivation on land zoned TC or TPZ is prohibited. The minimum setback from existing residences is 300 feet. Where parcels larger than five acres exist in the RA zone, this setback requirement may preclude or severely restrict the area available for cannabis cultivation where the parcel is adjacent to smaller, residentially developed parcels.

More detailed planning constraints analysis would be required to fully evaluate the effect of these limitations. Additional control methods are available for landowners in the unincorporated area, should they or the Board of Supervisors wish to initiate special overlay zoning pursuant to Humboldt County Code Section 313-32.1to prohibit or more significantly restrict commercial cannabis activities in the Trinidad area, through the process specified in Section 312-50.4.

The reader is referred to Response to Comment L6-2 above regarding the DEIR treatment of impacts identified in the comment.

Letter L7

CITY OF BLUE LAKE

Post Office Box 458 • 111 Greenwood Road • Blue Lake, CA 95525
Phone 707.668.5655 Fax 707.668.5916

RECEIVED
OCT 18 2017
Humboldt County
Planning Division

October 12, 2017

Humboldt County Planning Commission
825 Fifth Street
Eureka, CA 95501

Dear County Planning Commissioners and Board of Supervisors:

The City of Blue Lake is writing this letter in response to the County of Humboldt's draft Commercial Cannabis Ordinance; we are writing this letter to voice the concerns of the City Council, City staff and our residents as it relates to impacts presented by cannabis production in our surrounding areas.

Although the City of Blue Lake's land base is relatively small, the City is surrounded by thousands of acres of agricultural, residential and timberlands all under the jurisdiction of Humboldt County. Lying at the base of the Mad River Watershed, the City of Blue Lake is extremely sensitive to the environmental climate of our area and is concerned about the County's ability to protect and preserve this area from cannabis impacts.

The City of Blue Lake has passed an ordinance banning commercial cannabis activities within the City's jurisdictional limits and will be permitting personal cultivation under a regulated system. Sharing jurisdictional boundaries with the County of Humboldt presents several problems when land use policies are in conflict and the needs and concerns of the City have little voice at the permitting table.

L7-1

In reviewing the County's zoning maps this conflict becomes evident and the level of concern rises. Much of the open land surrounding Blue Lake is zoned Agriculture or Timberland; the fact that these lands can be permitted for cannabis cultivation purposes without the City's review or input places a burden on the City that we are incapable of managing. With limited resources for law enforcement and heavily impacted access routes, the City will bear the burden of any type of commercial operation and will derive zero resources to deal with these impacts.

L7-2

At a minimum, the City requests that the Planning Commission, and ultimately the Board of Supervisors, adopt a process whereby the City of Blue Lake becomes an active and engaged participant on any cannabis related application that falls within the City's Sphere of Influence (SOI). The City's concerns and recommendations should bear the same weight as any of the resource agencies and should be considered for ANY cannabis related application within the SOI.

Cannabis cultivation permits for projects that lie within the City's SOI should require a discretionary approval (e.g. Special Permit or Conditional Use Permit) that require public noticing and review under the California Environmental Quality Act (CEQA). Due to the potential for land use conflicts, all projects within the City's SOI should require hearing before the Humboldt County Planning Commission to allow the greatest opportunity for public review and comment. L7-3

The City and County should work in a coordinated manner to create consistent land use policies and zoning designations that are harmonious and beneficial to everyone. Placing financial and resource burdens on small jurisdictions without due consideration is an affront to our government status and creates a climate of hostility and distrust amongst our respective governments, staff and the communities that we serve.

Thank you for your consideration; we look forward to working with the County as this ordinance moves forward. Please feel free to contact City Manager, Amanda Mager, with additional questions or concerns.

Sincerely,

Adelene Jones

Adelene Jones-Mayor
City of Blue Lake

Letter L7	City of Blue Lake Adelene Jones, Mayor 10/12/2017

L7-1 The comment identifies concerns regarding the proposed ordinance and its impact on the City. This comment is noted and will be forwarded to the Planning Commission and Board of Supervisors.

L7-2 The comment states concern regarding law enforcement and on the City. Law enforcement impacts from implementation of the proposed ordinance are addressed under DEIR Impact 3.11-2 (see DEIR pages 3.11-10 and 3.11-11). Traffic and roadway impacts are addressed on DEIR pages 3.12-13 through 3.12-17.

L7-3 The comment recommends that cannabis cultivation within the City's sphere of influence require discretionary review and environmental review under CEQA. The proposed ordinance now reflects this requested change that requires discretionary review (approval of a Special Permit) that would be subject to project-specific CEQA review.

City of Fortuna

P.O. Box 545 • Fortuna, CA 9554(
www.friendlyfortuna.com

Letter L8

October 19, 2017

Humboldt County Planning Commission
825 Fifth Street
Eureka, CA 95501

Dear Members of the Planning Commission:

Thank for the opportunity to respond to the County draft environmental impact report on the proposed commercial cannabis ordinance. The City is deeply concerned about the negative effects of cannabis cultivation on its citizens and we've previously requested establishment of a buffer encompassing the City's entire complete Sphere of Influence. L8-1

Odor from marijuana cultivation is one of the most significant issues that impacts Fortuna's residents who live along the County boundary. Marijuana odor is strong, persistent, and overbearing, and already emanates from the County's several permitted cultivation sites as well as from illegal cultivation sites in the vicinity. Residents have reported health and quality of life issues. L8-2

The draft environmental impact report identifies odor as a significant impact to the City's residents and acknowledges that implementation of the proposed ordinance would result in a significant impact that cannot be mitigated. Impact 3.3-4 of the draft environmental impact report acknowledges that "cultivation and processing of cannabis generates odors associated with the plant itself, which during maturation can produce substantial odors. Setbacks are provided as part of the proposed ordinance; however, they do not preclude the generation of odorous emissions in such quantities as to cause detriment, nuisance, or annoyance to a substantial number of people. This would be a significant impact". L8-3

It is unacceptable that County would propose adopting a statement of overriding considerations and recommend adoption of standards that would continue to impact City residents. L8-4 While it is recognized that the draft EIR recommends a special permit for any commercial cannabis activity that would be located within the sphere of influence or within 1,000 feet of the city limit boundary of any city, the special permit process would not be a guarantee against the creation of objectionable odors, which only an outright ban would accomplish. L8-5 Therefore, the City recommends that the County adopt Alternative #3, prohibiting outdoor and mixed-light cultivation, and that the County further protect the City's citizens through a complete ban on cultivation and related activities within the Sphere. L8-6

If you have any questions or wish to discuss this further, please do not hesitate to call.

Sincerely,

Mark Wheetley
City Manager

City Hall
(707) 725-7600
Fax (707) 725-7610
621 11th Street

Police Department
(707) 725-7550
Fax (707) 725-7574
621 11th Street

Parks and Recreation
(707) 725-7620
Fax (707) 725-7576
5 Park Street

Public Works
(707) 725-7650
Fax (707) 725-7651
180 Dinsmore Drive

Letter L8	City of Fortuna Mark Wheetley, City Manager 10/19/2017

L8-1 The comment identifies concerns regarding the proposed ordinance and requests a buffer be established for the City of Fortuna. This comment is noted and will be considered in the refinement of the proposed ordinance.

L8-2 The comment states that odor from cannabis cultivation is the most significant issue for the City. This comment is noted. The DEIR does acknowledge that outdoor and mixed-light commercial cannabis cultivation would result in significant and unavoidable odor impacts (see DEIR pages 3.3-21 and 3.3-22).

L8-3 The comment cites information provided in the DEIR regarding odor impacts. This comment is noted.

L8-4 The comment states that it considers the adoption of a statement of overriding considerations for approval of the proposed ordinance unacceptable. This comment is noted. The County will be required to adopt a statement of overriding considerations for any significant and unavoidable environmental impacts identified by the EIR as part of adoption of the proposed ordinance to comply with the requirements of CEQA.

The City's objection is noted and will be considered in the County's deliberations on the ordinance.

L8-5 The comment states that the DEIR recommends a Special Permit for any cannabis activity located with a sphere of influence or 1,000 feet of a city limit, but this requirement does not guarantee objectionable odors would be avoided.

The Special Permit process is part of the proposed ordinance and not a recommendation of the DEIR. While is true that the Special Permit process does not guarantee against the creation of objectionable odors, the County Hearing officer is explicitly granted discretion to deny permit applications if there is substantial evidence that the impacts of the proposed activity would have a significant adverse effect on the public health, safety, or welfare. (Section 55.4.5.1.5 (d).)

There is evidence that it is possible to enclose natural light ("outdoor") or mixed-light cultivation operations in structures equipped with odor control filtration systems that can reduce odor impacts of cannabis cultivation. Modifications of the proposed ordinance are under consideration to require use of such systems for proposed new cultivation operations in proximity to residentially-developed areas. Consideration is also being given to retroactively apply odor control system requirements to cultivation operations that have already been permitted after appropriate notice and amortization period.

Additional control methods are available for landowners in the unincorporated area within the City of Fortuna SOI, should they or the Board of Supervisors wish to initiate special overlay zoning ("Q" zone) pursuant to Humboldt County Code Section 313-32.1 to prohibit or more significantly restrict commercial cannabis activities in the Fortuna area, through the process specified in Section 312-50.4.

L8-6 The comment states City support for DEIR Alternative 3. This comment is noted and will be provided to the Planning Commission and Board of Supervisors.

2.3.4 Organizations

Letter 01

From: Robert Sutherland

Sent: Monday, September 11, 2017 11:32:59 AM

To: Ford, John; Bass, Virginia; Bohn, Rex; Sundberg, Ryan; Fennell, Estelle; Wilson, Mike

Cc: Hayes, Kathy

Subject: Hummap on mj ordinance

11 September 2017

Dear Planning Commissioners and Supervisors:

These are the initial comments of the Humboldt-Mendocino Marijuana Advocacy Project (HUMMAP) on the proposed commercial marijuana ordinance. We are pleased to see some thoughtful new changes in the proposal. These suggest that you as decision makers are concerned to develop a healthy marijuana industry in our county, and with that we are pleased. But what we are hearing from our members and others is that the regulations thus far have been so ineffective as to be widely viewed as a disaster, and we think it is very telling that in the recent ordinance deliberations by both the Trinity and the Mendocino Supervisors it was strongly stated that a goal was to avoid being like Humboldt. You are grasping neither the magnitude nor the seriousness of the destruction that is occurring. Please adopt the improvements we here suggest.

1) The Artisanal Program (55.4.13). This innovative program pays due honor to the people, the history, and the motives underlying this industry by assuring its fitting future. The persons who helped to develop this program include the one who in the 1970s imported to the US the seeds that provided key genetics to the marijuana now grown in North America and Europe, and two others who were the first to stabilize the CBD clones now so strongly sought for dramatic health benefits, especially for pediatric seizures. The ideals driving these spectacular accomplishments never revolved around money, but were primarily founded on a deep belief in the special significance of marijuana.

Artisans, then, are focused primarily on the quality of the product, using the knowledge that quality finally lies well beyond industrial manipulations. Accordingly, we must object strongly that the change proposed to this program misunderstands what it is about. The proposed change to which we object is the inclusion of the use of artificial lights in artisanal cultivation, where the prior ordinance (55.4.15) specified natural light only. We strongly request this new feature be dropped, and sun-grown only be

01-1

retained! The use of lights merely facilitates the commercialization of an otherwise ethics-based product. It has no place in this wholesome history.

O1-1 cont.

2) Timberland (55.4.6.5; 55.4.6.5.6; 55.4.12.6; etc.). In several places the proposed ordinance refers to timberland, but the usages appear to be confused, misleading, and inaccurate. The ordinance variously cites the included definition "Timberland", "TPZ zones", and "General Plan Land Use Designation of Timberland"; and Public Resources Code 4526 is also mentioned. Most timberland as defined by PRC 4526 is not in TPZ and U, as the ordinance repeatedly suggests. These zones are not the only timberlands requiring the protections of the ordinance. It remains a common myth that TPZ is all, or nearly all, forest lands.

If you consult your institutional memory, you may recall receiving a letter on this topic, dated November 2, 2015, from Unit Chief Hugh Scanlon of the Department of Forestry and Fire Protection. I quote from that letter: "It should be noted that the Department's authority is not limited to timberland production zone (TPZ) land, but any land that is considered timberland. Timberland is defined as "non-federal land which is available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products, including Christmas trees (PRC § 4526)."" These all are lands for which the Department must issue the three-acre exemptions, and thus all such lands should be addressed in the various relevant ordinance provisions. For example, CalFire found numerous violations of the exemption requirement within the Forest Recreation (FR) zone, yet that important zone is not addressed regarding generator restrictions, among other matters.

O1-2

Chief Hugh Scanlon continued: "The Humboldt-Del Norte Unit evaluated illegal timberland conversion in Humboldt County, which has increased dramatically due to cannabis cultivation. The Department concluded that approximately 88% of timberland conversions have been completed without CAL FIRE compliance.[...] These illegal operations were found on timberland, regardless of zoning."

When the TPZ law passed, many residents opted not to include their timberlands. This means among other things that there is a patchwork of these zoning categories, which may result in neighbor impacts. Some of these parcels also contain unrecorded wildlife such as Spotted Owls, as evidenced by the Humboldt Breeding Bird Atlas, and that wildlife remains seriously vulnerable to impacts such as generator noise and expansion of pre-existing cultivation sites. Differences in zoning do not equate to differences in significant adverse habitat impacts. We request all forest lands be treated in a uniform protective manner.

O1-3

3) Building Code Compliance for existing residences (55.4.6.5.1c). An issue strongly discussed in the fora leading up to the passage of the current ordinance was whether to require inspections and compliance upgrades for non-commercial structures on an applicant's parcel, and it was clearly concluded by decision makers that only the structures and facilities used in the commercial operation needed inspection and compliance. Planning and Building is again attempting to provoke unnecessary social controversy by imposing the inspections requirement.

O1-4

We restate again that it is important to keep in view here the history. The homes now once again targeted by Planning and Building were built decades ago and have been quite satisfactorily occupied all the while. The reason they were not permitted when built is because the Planning Department at that time attempted social genocide against the back-to-the-land people by refusing or obstructing to issue permits. Contrary again to popular myth, not all of these homesteaders became wealthy from

marijuana. In fact, most came here specifically to avoid materialistic lifestyles. Therefore, many of them cannot today afford the hugely expensive upgrades that likely would be required, septic systems being a premier example. By rights, the County should pay for these as damages. These homes when not actively a part of any commercial operation should continue to stand aside from relevance to this process. This should not be another kick at homesteaders. They have a right to continue living here. We request the limited compliance policy of the current ordinance be retained. 01-5 01-6

4) Roads (55.4.12.1.8d). This provision requires virtually all commercial growers on private roads to join or establish road associations. It is highly controversial not least because it is yet another attempt by county government to impose social engineering on rural residents. 01-7

By law, or so we are informed, road associations must comply with standard constitutional guarantees of rights. For example, they must be governed democratically by direct vote by, or representation of, all affected parties, and, given the length and interconnections of remote rural road systems, this organization alone presumes a large bureaucratic effort. That is but the small matter. You should understand that our rural communities have long ceased to be uniform populations (if they ever were), and they contain strongly diverse attitudes. The proposal before you favors those bent upon resource extraction over those whose long-established interest is to reside in a rural setting. This road proposal is a key part of the effort to industrialize the entire county by piecemeal changes. It seems the most basic concepts of zoning are being pushed aside. 01-8

In this instance the inevitable domination of road associations by industrial interests plausibly will result in flat taxes that spread their high impact costs to low impact residents — this already has been repeatedly attempted. This is bound to generate serious conflicts. It amounts to a de facto conspiracy to engage in takings, as some residents may be forced from their homes by inability or unwillingness to subsidize the heavy users. Therefore you have an affirmative responsibility to foresee these matters. Traffic has increased on private roads by a probable factor of more than twelve, including far more heavy trucks, which are the big damagers, and essentially all that increase is related to industrial marijuana use. 01-9 01-10

Road association costs established pursuant to this proposal should be borne by commercial users only as their cost of business in a secondary zone, and should be graded by impact such as square footage of cultivation and measures of traffic. Alternatively, the County should deal with these issues based on each individual application, soliciting the input of road co-users, and the County certainly should establish effective enforcement mechanisms. Also, Director Ford mentioned on a radio program that rural road usage could be subject to an entirely separate use application permit, and it seems likely this may be the best suggestion of all. 01-11

5) Hearing (55.4.5.1.5d). When a Hearing is held, the Hearing Officer should have the discretion to deny the application based on significant adverse effects on the natural environment, in addition to the other listed causes. 01-12

6) Permit Approvals. We join with others in shouting the horror that is happening so widely and intensely now throughout our wildlands. Inappropriately sited and irresponsibly conducted grows are nothing but exploitation of the community, the environment, and the future. They also strongly damage the credibility and good will of the industry. County officials repeatedly have told of their awareness of the ineffectiveness of enforcement. You cannot continue ignoring this ugly reality, and we request you 01-13

cease contributing to it. We request that no new applications be accepted, including indoor, outdoor, or mixed, until all the pending ones are responsibly completed and approved, and that expansions of grows likewise be entirely restrained. Until we are working with a regulated and accountable industry, we shouldn't be thinking of expanding it.

O1-13 cont.

Thank you for considering our suggestions. We recognize the weight that is on your shoulders, and admire every instance of doing the right thing. Hopefully this time around the Board will give the Commission at least as much consideration as the Commission has shown to us.

Robert Sutherland

Humboldt-Mendocino Marijuana Advocacy Project (HUMMAP)

Letter 01	Humboldt-Mendocino Marijuana Advocacy Project Robert Sutherland 9/11/2017

O1-1 This comment provides introductory statements to the letter and provides comments on the Artisanal Program under Section 55.4.13 of the proposed ordinance. In this comment, the author objects to artificial lights being included in the provisions for the artisanal program in Section 55.4.13 of the ordinance. DEIR Impact 3.1-3 addresses nighttime lighting impacts and identifies that performance standards of the proposed ordinance would avoid significant impacts (see DEIR pages 3.1-17 and 3.1-18). This comment has been forwarded to the Planning Commission, and will be considered by the Planning Commission and Board of Supervisors as part of their review.

O1-2 The comment states that the proposed ordinance's references to timberland are confusing. The ordinance defines timberland consistent with the state (section 4526 of the Public Resources Code).

O1-3 The comment states that illegal timberland conversion has been occurring because of cannabis cultivation and states that generator restrictions do not apply to the Forest Recreation Zone. The comment expresses concern regarding spotted owl.

It is accurate that the use of generators is not prohibited in the Forest Recreation Zone. Generator use in this zone is still subject to the performance standards for noise (see Section 55.4.12.6 of the proposed ordinance).

The DEIR addresses northern spotted owl under Impact 3.4-1 and Mitigation Measure 3.4-1c (see DEIR pages 3.4-62 and 3.4-63). As identified in the Response to Comment S1-11, additional impact discussion and mitigation has been added to address northern spotted owl. An exhibit (3.4-9) utilizing CDFW northern spotted owl occurrence data was created to provide a visual representation of northern spotted owl distribution throughout the County as part of the new Mitigation Measure 3.4-1e. As shown in Exhibit 3.4-9, the majority of owl occurrences are within areas where cultivation is prohibited, including public land and land not zoned for cultivation.

O1-4 The comment provides input on the Building Code compliance section of the proposed ordinance (Section 55.4.6.5.1c). Alternative language was provided to the Planning Commission that unlinks cannabis permitting from unpermitted homes on the property unless they are needed for the cannabis permit.

O1-5 The comment asserts that commercial cannabis operators cannot afford building upgrades including septic systems. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

O1-6 The comment recommends that existing homes not part of commercial operations should not be regulated as part of the proposed ordinance. The reader is referred to Response to Comment O1-4.

O1-7 This comment states concerns regarding the road standards of the proposed ordinance (Section 55.4.12.1.8d). The Planning Commission has been and will continue to discuss this section of the ordinance, including alternative measures to mitigate road impacts from cannabis permitting that do not require participation in RMAs. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

01-8 The comment further comments on the roadway standards of the proposed ordinance (Section 55.4.12.1.8d). This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

01-9 The comment expresses concern regarding the costs of participation in roadway associations. The reader is referred to Response to Comment 01-7.

01-10 This comment asserts that traffic has increased on private roads by a probable factor of twelve that has resulted in damage of the roadways. The comment letter provides no evidence to support the assertion of the magnitude of the increase in traffic. As described on DEIR page 3.12-16 and 3.12-17, existing and new commercial cannabis operations would be required to obtain access to a roadway system meeting the County's Category 4 road standard. The County has determined that the Category 4 road standard is adequate to accommodate commercial cannabis operation traffic volumes and vehicle types (e.g., passenger vehicles, small trucks, large service trucks). Commercial cannabis operations would be required to demonstrate consistency with these standards during the application process, and may require the construction of new roadways or improvement of existing roadways. In addition, where access to a site is provided by roads not meeting the Category 4 standard, the commercial cannabis operation would be subject to a Special Permit and preparation of a report prepared by a licensed engineer evaluating whether the design, condition, and performance of all necessary road segments are currently capable of supporting increases in traffic volume created by the site, in addition to the existing traffic using the road(s). The report would detail all substandard conditions and prescribe measures that would be taken to achieve compliance with the relevant road standards and objectives, or the same practical effect.

01-11 The comment asserts that roadway association costs should be the responsibility of commercial users only and based on the size of the commercial operation. The draft ordinance requires cannabis applicants to participate in RMAs equal to other participants. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

01-12 The comment provides input on the hearing process in the proposed ordinance (Section 55.4.5.1.5d). This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

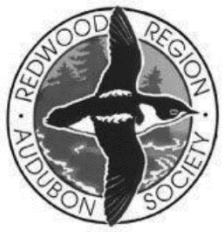
01-13 The comment states its concerns regarding the extent of cannabis cultivation and its impact to wildlands. The comment recommends that no new applications for any new commercial cannabis cultivation be accepted until pending applications are considered.

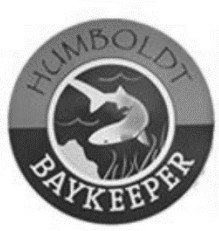
Humboldt County Code was amended by Ordinance No. 2576 on June 27, 2017, to streamline and enhance the administrative civil penalties to be administered by the County Code Enforcement Unit (CEU), intended to more effectively address unpermitted cannabis activities. The reader also Master Response 6 regarding enforcement. The DEIR evaluates the significant environmental impacts associated with the implementation of the proposed ordinance. Impacts to the natural habitat are addressed in DEIR Section 3.4, "Biological Resources."

Letter 02











Sent via electronic mail on date shown below

October 12, 2017

Board of Supervisors
Planning Commission
825 5th Street, Room 111
Eureka, CA 95501

Dear Board of Supervisors and Planning Commission,

On behalf of the undersigned organizations and individuals, please accept these comments on the proposed Commercial Cannabis Land Use Ordinance (CCLUO). If followed, CCLUO, together with the mitigation measures identified within the draft environmental impact report, would significantly minimize environmental and social impacts from individual cannabis farms. That said, our organizations have significant concerns about the potential cumulative impact of permitting additional "new" cultivation sites while the county struggles with enforcement against the vast number of operations that are not in compliance with the land use ordinance. Therefore, we urge you to adopt a modified version of Alternative 5 that would prohibit all new operations and limit the expansion of operations into our forestlands. 02-1 02-2

Humboldt County continues to experience unacceptable impacts, both social and environmental, from the cannabis industry despite the county's attempts to regulate the medical marijuana industry through the MMLUO. The likely culprit is 02-3

inadequate enforcement of the MMLUO, particularly against cannabis grow operations that did not file an application with the county. According to the Draft Environmental Impact Report (DEIR), only 8-13 percent of existing farms—some 2,300 operations—filed an application under the MMLUO for cultivation. That proportion shrinks further when one factors in the number of incomplete applications (~400) and withdrawn applications (~100).[1]

O2-3 cont

We are encouraged by the Board's recent move to decrease the time between a notice of code violation and an abatement order, from 75 to ten days, as well as the Board's approval of a drastically steeper fine schedule, with a total maximum fine increasing from $10,000 to $90,000. We are also pleased with the additional county staff who have been hired to both process and enforce the MMLUO. Despite this work, we are still too far from our goal and are making too slow progress.

O2-4

In short, until we deal with the existing environmental damage and the vast number of operations not in compliance, we should not increase the potential environmental risk by permitting any new grows. Therefore, we urge the Board of Supervisors to adopt a modified version of Alternative 5 that would prohibit the licensing of all new commercial outdoor, mixed light, *and* indoor cultivation that did not exist on or before December 31, 2015 or did not seek a permit under the MMLUO, except under the Retirement, Remediation, and Relocation (RRR) program.

As evaluated in the DEIR, Alternative 5 is the most protective of the evaluated alternatives examined.

O2-5

Should you have any questions or wish to speak further, please contact us at tom@wildcalifornia.org.

Sincerely,

Tom Wheeler
Executive Director
Environmental Protection Information Center

Larry Glass
Executive Director
The Northcoast Environmental Center
Safe Alternatives for our Forest Environment

[1] As of September 22, 2017.

Hal Genger
President
Redwood Region Audubon Society

Jen Kalt
Director
Humboldt Baykeeper

Carol Ralph
President
North Coast Chapter, California Native Plant Society

Letter 02	**Environmental Protection Information Center, et al.** Tom Wheeler, Larry Glass, Hal Genger, Jen Kalt, and Carol Ralph 10/12/2017

02-1 This comment includes introductory language about the organization, and acknowledges the concerns involving the cumulative impacts of new cultivation sites compared to existing, un-permitted sites. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

02-2 This comment includes support of a modified version of Alternative 5, provided in Section 6, "Alternatives," of the DEIR, by prohibiting new operations. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project. It should be noted that at the time of the preparation of this Final EIR the County was considering modifications to the proposed ordinance that would establish a cap to limit the extent of permitted commercial cannabis operations in the County.

02-3 The comment states that the County is experiencing unacceptable social and environmental impacts and that the likely culprit is inadequate enforcement. The DEIR evaluates the significant environmental impacts associated with the implementation of the proposed ordinance. The reader is referred to Master Response 6 regarding enhancement in County enforcement efforts that are anticipated to improve existing conditions.

02-4 The comment provides recommendations on code enforcement efforts and acknowledges improvements in the code enforcement process. The reader is referred to Master Response 6 regarding enhancement in County enforcement efforts that are anticipated to improve existing conditions.

02-5 This comment includes further support of modifications to Alternative 5. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project. It should be noted that at the time of the preparation of this Final EIR the County was considering modifications to the proposed ordinance that would establish a cap to limit the extent of permitted commercial cannabis operations in the County.

Letter
O3

Dear Director Ford and others,

These are the comments of the Humboldt-Mendocino Marijuana Advocacy Project (Hummap) on the Environmental Impact Report (EIR) for the "Amendments to Humboldt County Code Regulating Commercial Cannabis Activities" (State Clearinghouse # 2017042022).

We would like to think this work product is far superior to the previous very inadequate Negative Declaration, but it is difficult to get that enthusiasm. For our example, we begin by noting that the Humboldt County Sheriff's Department has stated in more than one forum that the most frequent complaint the Department receives concerning marijuana cultivation in the county is the noise from generators used in the cultivation and processing operations. Our members agree this noise is an egregious problem. This sound pollutes all the wildlands of the county with noise all day and all night, every night of the year. But here is how the EIR characterizes the noise in the county (EIR page 368): 03-1

3.10.3 Environmental Setting
PREDOMINANT NOISE SOURCES
The predominant sources of noise in Humboldt County include highway and roadway traffic; aircraft in the vicinity of airports; railroad traffic along the Northwestern Pacific right-of-way; noise from industrial activities such as lumber mills; and power plants in Blue Lake, Fairhaven, and Scotia (Humboldt County 2017). Noise levels along County roads that provide access to the more sparsely populated areas are generally low because these roads do not carry high volumes of traffic.

Note there is not anything about the generator noise that pervades the county and has long been and continues to be the subject of widespread complaints. 03-2

But there is mention of the noise from the Northwestern Pacific Railroad. Interestingly, the last train in Humboldt County on that railroad ran on August 25, 1984, and the railroad has for decades remained completely inoperable in Humboldt County. These EIR flaws inferably arose through the ignorance of out-of-area consultants who prepared the it, but why was it then presented this way by the County? **These flaws demonstrate no one in Humboldt County government bothered to read the EIR.** We can assume this because no one who lives or works here is so ignorant about the long-gone railroad, and probably only deep city dwellers could be unaware of the annoying generators. The EIR falsely presents this key issue. 03-3

The EIR does deal with generator issues. But it is apparent that Planners have been able to slip through standards on generator noise that palliate some sections of the industry at the large expense of the environment. Note the EIR's failure (page 368) to mention wildlife:

EXISTING NOISE-SENSITIVE LAND USES

Noise-sensitive land uses generally include those uses where noise exposure could result in health-related risks to individuals, as well as places where quiet is an essential element of their intended purpose. Residential dwellings are of primary concern because of the potential for increased and prolonged exposure of individuals to both interior and exterior noise levels, and because this is where people sleep. Parks, schools, historic sites, cemeteries, and recreation areas are also generally considered sensitive to increases in exterior noise levels. Places of worship, and other similar places where low interior noise levels are of great importance, are also considered noise-sensitive. Within Humboldt County, all of the aforementioned types of noise-sensitive land uses are present.

03-4

And yet the County previously was well informed about sound impacts to wildlife. For example, we previously called the Planners' attention to this July 26, 2006 US Fish and Wildlife Service paper: "Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California". Also, please note the statements of a researcher, Professor Jesse Barber of Colorado State University: "Many animal species evolved hearing sensitive enough to take advantage of the quietest conditions; their hearing is increasingly compromised by noise." He further commented that "Noise pollution is so ubiquitous that it may be a factor in some large-scale declines in biodiversity." 83% of land on the continental US is within just over 1km of a road. At that distance, the sound of an average car is 20dB, and average trucks and motorcycles project 40dB of noise.

03-5

Industrialization has brought other sounds as well. Grows in my forest neighborhood for example broadcast loud music all day and sometimes even all night to entertain their workers — this impact is not addressed at all in the EIR. Their fans and water pumps also are loud and disturbing, as well as their chainsaws for the continuing unlawful expansions, and their many large water and fuel truck deliveries are noisy also, not to mention the commute traffic of the workers. No grow I know provides on-site worker housing, contrary to the assumptions in the EIR. The traffic past my house due to commercial grows has increased by a factor of over twelve, far more than the absurdly low doubling that the EIR alleges. The EIR never confronts that the provisions already in or proposed for law are at best only tokenly enforced, which is partly why there is the Green Rush that is destroying our wildlands. EIR at 4.3.10 states that noise impacts will not be cumulatively considerable, but a nighttime visit to the ridge tops will clearly demonstrate they already are, thanks to profound regulatory failure such as is enabled by this EIR. This EIR supports the continuing rape of our county. This is not in the best interests of a responsible industry.

03-6

03-7

03-8

The vast majority of Humboldt County is forested. But the ordinance amendments underlying the EIR propose to protect only those forestlands zoned TPZ (Timberland Production Zone) from generator noise pollution. The many other forest zones contain important noise sensitive populations, including threatened wildlife. In fact, since TPZ

03-9

lands are legally obligated to be logged they may be less important as habitat for T&E species. But studies show owls, bats, frogs, and many insects, among others, are adversely impacted by noise pollution.

O3-9 cont

There is no compelling need to allow this generator usage. When the industry first developed in the county, no such generators were used at all. The subsequent rise of commercialization brought generator usage to sites never appropriate to industrialization. The Humboldt County General Plan RDEIR at 3.2.1 states, "The primary value of these remote locations to illicit growers is concealment and difficulty of enforcement." It further states "The result is noise and increased fire hazards in sensitive forest habitat area, as well as air quality and carbon emissions...." The attempt to legitimize industrialization at such sites is a violation of the basic concepts of zoning. These more highly industrialized projects should be obliged to relocate. There should not be any commercial generator use in forestlands — and, we haven't even repeated here our frequently raised caveats to the County about the enormous fire dangers this policy is facilitating, again inadequately noted in the EIR. In any case, the EIR provides sub-rosa support for destructive policies by failing to discuss the impacts of the generator policy and other important wildlife-impacting policies to forestlands other than TPZ. Note the comments to the County by Unit Chief Hugh Scanlon of Cal-Fire: "A review of 23 recent CAL FIRE cases within the Humboldt-Del Norte Unit found that illegal timberland conversion for cannabis cultivation occurred on the following property zoning: 35% Timberland Production (TPZ), 30% Forestry Recreation (FR), 22% Unclassified (U), 9% Agriculture Exclusive (AE), and 4% Agriculture General (AG)." In fact, forestland occurs in many types of zoning classification, and threatened wildlife occurs syntopically. That wildlife obligates the protections of law irrespective of zoning hubris, but the EIR fails to support clearly that such is the case.

O3-10

O3-11

O3-12

With this signal example then of a malfeasant discussion of noise impacts we object that the EIR is constructed as a make-shift and intentionally misleading discussion of an industry that in blatant fact is radically and adversely changing the character and most especially the environment of Humboldt County. The EIR is painted as veneer through massive and invasive industrialization predicated on abuse of the worldwide reputation of our local industry. It is a disservice to our county and industry and a violation of the California Environmental Quality Act and other authorities. Our members, who produce the quality marijuana product only possible through responsible stewardship, object, and we request the EIR be withdrawn.

O3-13

O3-14

Sincerely,

Robert Sutherland
For Humboldt-Mendocino Marijuana Advocacy Project
16 October 2017

Letter 03	Humboldt-Mendocino Marijuana Advocacy Project Robert Sutherland 10/16/2017

03-1 This comment provides introductory comments regarding the DEIR and expresses concern regarding generator and other cultivation processing noise and how it is addressed in the DEIR. The comments identified in this letter are responded to below. The reader is also referred to Master Response 3 regarding noise concerns associated with noise impacts.

03-2 The comment asserts that the DEIR does not address current noise issues associated with generators. Noise associated with existing generator varies in the County depending on the extent of generator use, distance from noise-sensitive receptors, and topography, vegetation and structures that attenuate (reduce) noise. The DEIR addresses generator noise on DEIR page 3.10-10 as well as on DEIR pages 3.4-65 and 3.4-66 (generator noise impacts on wildlife). Under the proposed ordinance cultivation sites using generators would be required to submit documentation demonstrating compliance with the noise standards (no increase in existing ambient noise levels at the property line of the site beyond 3dB), including: a site plan detailing the location of the generator, property lines, and nearby forested areas, existing ambient noise levels at the property line using current noise measurements (excluding generators) during typical periods of use, details on the design of any structure(s) or equipment used to attenuate noise, as well as details on the location and characteristics of any landscaping, natural features, or other measures that serve to attenuate generator noise levels at nearby property lines or habitat.

03-3 The comment states that the DEIR refers to railroad noise associated with the Northwestern Pacific Railroad and identifies that this railroad is not in operation.

The comment is correct that the railroad is not currently in operation. The DEIR was intended to acknowledge future noise anticipated with the planned re-opening of the railroad line to freight rail service by the North Coast Railroad Authority. The following text correction is made to the DEIR.

On DEIR page 3.10-6, the following text change is made to the first paragraph:

> The predominant sources of noise in Humboldt County include highway and roadway traffic; aircraft in the vicinity of airports; ~~railroad traffic along the Northwestern Pacific right-of-way;~~ noise from industrial activities such as lumber mills; and power plants in Blue Lake, Fairhaven, and Scotia (Humboldt County 2017). Noise levels along County roads that provide access to the more sparsely populated areas are generally low because these roads do not carry high volumes of traffic.

03-4 The comment asserts that the DEIR does not address generator noise to protect the environment and cites the DEIR's description of existing noise-sensitive land uses from DEIR page 3.10-6. The reader is referred to Response to Comment 03-2 and Master Response 3 regarding generator noise.

03-5 The comment states that noise impacts wildlife. The reader is referred to Response to Comment 03-2 regarding generator noise impacts on wildlife. The DEIR includes Mitigation Measure 3.4-1f (now 3.4-1h) that requires additional noise standards that are based on the USFWS 2006 *Transmittal of Guidance: Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*.

03-6 The comment states that commercial cannabis operations have also resulted in other noise sources. The reader is referred to Master Response 3 that addresses noise sources from commercial cannabis cultivation operations. Since release of the DEIR, the County adopted the General Plan Update that consists of a new Noise Element. The new Noise Element retains the same land use/noise compatibility standards from the previous Noise Element cited in the DEIR, but now includes short-term peak noise standards for daytime (6:00 a.m. to 10:00 p.m.) and nighttime conditions (10:00 p.m. to 6:00 a.m.) (Standard N-S8). The new Noise Element also includes Implementation Measure N-IM3 that requires the County to investigate noise complaints and determine of a violation has occurred, and Implementation Measure N-IM7x that requires the County to adopt a noise control ordinance (Humboldt County 2017). Permitted commercial cannabis operations would be subject to these new short-term noise standards and enforcement actions by the County.

The County has also updated the proposed ordinance's performance standards for noise at cultivation sites that now prohibit noise from cultivation and related activities from increasing the ambient noise level at any property line by more than 3 dB. As identified on DEIR page 3.10-2, the human ear can begin to detect sound level increases at 3dB.

03-7 The comment asserts that groves do not provide on-site worker housing that is assumed in the DEIR. The basis of housing and other assumptions used in the DEIR are identified in Master Response 2. The EIR consultant observed on-site housing on existing commercial cannabis cultivation sites in the County during field visits with County staff. No evidence countering the employee housing assumptions used in the DEIR was provided with the comment letter.

03-8 This comment asserts that traffic has increased on private roads by a probable factor of twelve that has resulted in substantial increases in traffic noise. The comment letter provides no evidence to support the assertion of the magnitude of the increase in traffic. As described on DEIR page 3.10-11, commercial cannabis operations would be dispersed throughout the county and no single commercial cannabis operation would result in a doubling of traffic volumes on local roadways that could trigger significant increase in ambient noise conditions that would exceed County noise standards. New commercial cannabis non-cultivation operations are anticipated to be clustered in the more densely developed areas where existing traffic volumes are relatively high and traffic from new operations would not substantially alter traffic volumes that would result in noticeable increases in noise (3dB or greater). Commercial cannabis operations clustered in the less developed areas of the county and simultaneously engaged in harvest operations could result in a doubling of the volume of traffic along the less-traveled roads that provide access to these remote areas. However, the more remote commercial cannabis operations in the county would typically provide on-site housing for seasonal employees working during the harvest period. It is expected that operational traffic associated with new commercial cannabis operations located in the less developed areas of the county would only result in limited daily trips (three round trips per day) associated with worker trips and the delivery of materials and is not likely to result in the doubling of traffic volumes that would noticeably increase noise along these less-traveled roads. While daily traffic noise from new commercial cannabis operations may be detected, the volumes would not exceed the County's Noise Element land use/noise compatibility standards. It should be also noted that permitted commercial cannabis operations would be subject to County short-term noise standards (including nighttime noise) and enforcement actions by the County should noise standards be violated. Since release of the DEIR, the County has modified the proposed ordinance to prohibit all activities at cultivation sites from increasing existing noise conditions by 3dB, which is the level that the human ear can detect a change in noise levels.

03-9 The comment states that wildlife can be impacted by noise pollution and specifically references generators. The reader is referred to Response to Comment 03-2 and 03-5 regarding generator noise impacts on wildlife. DEIR pages 3.10-10 identifies that motorized trimmers can generate a noise level of 55 dB Leq at 30 feet distance. This noise level is similar to the noise level generated by residential landscape equipment and would be similar to the typical ambient noise levels of rural and agricultural areas. Motorized trimmers would be used at the cultivation site only. Thus, this harvesting noise source would be similar to existing ambient noise conditions and is not anticipated to result in adverse impacts to wildlife.

03-10 The comment states that there is no compelling need to allow generator usage. This comment is noted. The environmental impacts of generator use are addressed in DEIR Sections 3.3, "Air Quality and Greenhouse Gas Emissions," 3.4, "Biological Resources," 3.10, "Noise," and 3.14, "Energy."

03-11 The comment states that commercial cannabis operations and generator use should not occur in forestlands and asserts that fire hazards were not addressed adequately in the DEIR.

The proposed ordinance would prohibit the use of generators for existing cultivation sites in TPZ and areas designated as Timberland under the General Plan. New commercial cannabis operations would be prohibited in TPZ and areas designated as Timberland under the General Plan. Fire hazard impacts are addressed in the DEIR on pages 3.7-19 through 3.7-20 and pages 3.11-9 and 3.11-10. The DEIR identifies that commercial cannabis activities permitted by the proposed ordinance are also subject to the California Fire Code, which includes safety measures to minimize the threat of wildfire. Title 14 of the California Code of Regulations (CCR) sets forth the minimum development standards for emergency access, fuel modification, setback, signage, and water supply, which help prevent damage to structures or people by reducing wildfire hazards. In addition, Humboldt County applies standards to proposed development within the State Responsibility Areas (SRA) to reduce the risk of fire. These standards are a locally adopted alternative version of the state's SRA Fire Safe Regulations (Humboldt County Code Title III, Div 11) as authorized by Section 4290 of the Public Resources Code, and have been approved by CAL FIRE as meeting or exceeding state regulations. New development in the SRA is subject to Fire Safe regulations, and the appropriate clearance of vegetation around such development is inspected by CAL FIRE and potentially by Humboldt County with other improvements at the time of construction. Licensed facilities under the proposed ordinance would be required to have certification that they comply with building, electrical, and fire codes, which would require installation of fire suppression systems, where appropriate. The comment letter provides no technical analysis or information that counters the conclusions of the DEIR.

03-12 The comment asserts that the DEIR fails to address measures to protect wildlife associated with forestland habitats. The comment letter provides no technical analysis that identifies deficiencies in the analysis provided in DEIR Section 3.4. DEIR Section 3.4, "Biological Resources," provides a detailed analysis of current wildlife associated with forest habitats in the County and discloses the potential environmental impacts to special-status wildlife species from implementation of the proposed ordinance. The reader is also referred to responses to Letter S1 (California Department of Fish and Wildlife).

03-13 The comment asserts that the DEIR provides an intentionally misleading analysis of noise impacts. The DEIR provides an objective and technical analysis of the noise impacts from the implementation of the proposed ordinance based on technical analysis and modeling. All noise issues identified by the comment letter have been responded to above.

03-14 The comment asserts that the DEIR is inadequate and violates CEQA. The DEIR has been prepared consistent with the requirements of CEQA and the State CEQA Guidelines. All issues identified by the comment have been responded to above. None of the issues identified by

the comment constitute "significant new information" that would require recirculation of the DEIR under State CEQA Guidelines Section 15088.5. The County considers the DEIR adequate for disclosure of the significant environmental effects of the proposed ordinance.

The comment also expresses concerns regarding the "invasive industrialization" and its effect on the reputation of a local industry. While this may be a legitimate concern, and this comment is part of the record that will be considered in deliberations over the ordinance, the EIR's purpose is evaluation of the ordinance as proposed. It is not intended to "support" any particular approach to cannabis cultivation and production, but rather to evaluate and mitigate, as feasible, foreseeable activities that would result.

Letter
O4

FRIENDS OF THE EEL RIVER

Working for the recovery of our Wild & Scenic River, its fisheries and communities.

Monday, October 16, 2017

Humboldt County Planning & Building Department
Attn: Steve Lazar, Senior Planner
3015 H Street
Eureka, CA 95501-4484

via email to slazar@co.humboldt.ca.us

Re: Comments – Draft Environmental Impact Report for *Amendments to Humboldt County Code Regulating Commercial Cannabis Activities*

Dear Mr. Lazar,

The following comments are offered on behalf of the board, staff, and supporters of Friends of the Eel River. FOER advocates for the protection and restoration of our Wild and Scenic Eel River, with a focus on the fisheries that are the keystone of ecosystem health in our watershed. FOER has been working for years to identify effective solutions to the environmental impacts resulting from the ongoing explosion in commercial marijuana cultivation, until now nominally for medicinal purposes, in the Eel River watershed.

Nobody has ever been in the pivotal position Humboldt County finds itself in today. Collectively, we have realized enormous private, and not inconsiderable public, wealth and revenues from an industry that was incredibly lucrative precisely because it was illegal. Because it was illegal, it couldn't be regulated, or taxed, or effectively monitored. Now, it must be.

04-1

Humboldt County's commercial cannabis industry is already too large. It has far too many impacts, because the County has been unable or unwilling to regulate land use to prevent significant impacts to public trust values like our fisheries, wildlife, and the waters and habitat they require to survive. In fact, of all California's 58 counties, Humboldt has the biggest problems, the largest impacts, suggesting the County's policy choices have been key drivers of the evolution of its cannabis industry.

The proposed Ordinance and DEIR do not break from the County's history of abdicating responsibility for the consequences of its land use decisions. It's a tragic failure of leadership that is likely to cost Humboldt County dearly. Worst, it squanders this moment of possibility, when we could begin to build the better history of effective governance and responsible land use our descendants will wish for.

04-2

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GENERAL COMMENTS

The basic questions about Humboldt's commercial cannabis industry are land use issues. It is the County's responsibility, delegated by the state, to regulate land use to protect public trust values, held by the state in trust for the benefit of its citizens.

The County gives the impression that it would prefer to shrug off its responsibilities to protect public trust resources, including watercourses, fish, and wildlife, onto the state and federal agencies with primary trust responsibility for those resources. But where those public trust resources are affected by the land-use decisions the County makes (including decisions to systematically forgo enforcement of its Ordinances and state law), the County cannot disavow that responsibility without abdicating its authority to regulate. The power and the duty to regulate local land use cannot be separated.

In November 2015 comments to the Humboldt County Planning Commission, we wrote:

> *The county must provide clear means to distinguish the minority of such operations which may be permitted under an effective system of regulation from the majority which should never have been established.* ***Given the county's long history of feckless land-use regulation, it is particularly important that the county establish straightforward enforcement mechanisms, including the use of common-law nuisance, that can and will be used to shut down thousands of large, damaging operations which cannot be, should not be, or simply are not properly permitted.***
>
> (emphasis added)
>
> *Optimally, the county would systematically use the contemplated Ordinance to shut down and force remediation of the vast majority of the class of large operations that generate disproportionate harms. Such enforcement would itself constitute perhaps the most effective potential mitigation of the environmental impacts generated by the commercial marijuana industry.*
>
> *But there can be no question that significant environmental harms could – and should – have been prevented if only the county had seen fit to enforce its existing regulations as the Green Rush swept over the Humboldt hills.*

To date, the County has not only failed to establish such means to distinguish viable operations from those that must be shut down, and such mechanisms by which that enormous task can be accomplished. It has continued to tolerate, and even to create incentives which invite, the establishment of additional new, large, commercial marijuana growing operations across the county, leading inevitably to new and increased environmental impacts.

04-2 cont

In our comments to the Board in December of 2015, we wrote that:

> *That those operations decline to obtain permits does not allow the County to ignore their impacts in order to determine that operations it does permit will incur no significant watershed impacts. We note here that the County's practice of ignoring violations of its grading Ordinance may have some relationship to the significant*

04-3

2

sediment inputs that are causing continuing harms to the Eel River and its fisheries.

The environmental and social consequences of a legal pot industry operating at a given scale in Humboldt cannot be meaningfully evaluated in isolation from the key questions about the (still booming, bigger this year than ever) illegal industry, which operates on the same landscape, takes water from the same sources, and puts the same dirt in the same fish habitat as the legal industry – except all at a much larger scale. 04-3 cont

We have repeatedly requested that the County establish a reasonable cap on the overall number of operations that will be permitted. We have asked that the County provide an analysis of watershed impacts and carrying capacity before issuing permits in key fisheries watersheds. The County refuses to do so. 04-4

Thresholds matter. If the impacts of the illegal industry can be, and are, sharply reduced – as a whole, or at least at a watershed scale, not merely on the level of this or that specific operation – then there may be 'room' for the impacts of an enlarged legal industry. But if the illegal industry remains unrestrained, its impacts remain unbearably large, and the addition of even limited impacts, however legal they may be on a per-operation basis, must be considered at least potentially intolerable for watersheds already over thresholds. The failure to set any time limits on the issuance of permits under the proposed Ordinance only makes it more difficult to assess or to limit the industry's impacts. 04-5

Throughout the course of the County's moves to regulate marijuana cultivation, there has been a consistent chorus that we must "lower barriers to participation" by existing black market growers, even to the extent of offering incentives by dramatically increasing the level of cultivation allowed on most sites. We have heard from members of the Planning Commission, growers, and grower's representatives, among other things, that we must lower the fees and taxes proposed for commercial cultivation operations. That we should go easy on the environmental cleanup and remediation required on damaged sites. That we should spend public monies raised by finally starting to tax the industry not on enforcement of the new regulations, or even to fix the County's public roads system, but on subsidies to growers to fix their roads. 04-6

All this happy talk about carrots has tended to displace the necessary, if unpleasant, discussion of sticks. For the purposes of the DEIR's analysis, incentives alone cannot be relied upon to produce any meaningful reductions in watershed impacts.

The County, its leaders, and its planning staff are under considerable pressure to come up with a plan here that will make a lot of people happy. The problem is that many of these people are operating under a series of misapprehensions, which, in combination, may rise to the level of delusions. For its part, Humboldt County has enjoyed tremendous economic benefits from the black market pot industry. Now it wants to secure similar benefits from a legal California industry. But it does not wish to have to clean up the mess the black market industry has created. 04-7

In the aggregate, however, it's clear that most of the industry wants to stay black market. That's not supposed to be an option. But the evidence strongly suggests that Humboldt 04-8

3

County has zero intention of ever undertaking enforcement measures of the scope and intensity necessary to insure that the vast majority of existing operations either genuinely comply with the proposed permitting requirements or shut down and clean up.

The same problem of enforcement undermines the DEIR's promises of mitigation. The DEIR depends to a great extent on unenforceable promises that various mitigation measures will be fully employed and effective as advertised to support the document's claim that the proposed Ordinance will not lead to significant unmitigated environmental impacts. These representations are starkly at odds with generations of experience in Humboldt County, which instruct us that land-use and building codes go unenforced far more often than not. There is no hint in the Ordinance or the DEIR that the County is prepared to significantly increase the resources and staff dedicated to even basic code enforcement.

04-8 cont

Piling unenforceable and unenforced regulatory schemes atop one another may create the appearance of a comprehensive framework, but there's a way in which the accumulating and overlapping inadequacies of the Regional Board and County's approaches to protecting water quality and fisheries appears to be leaving a lot of Humboldt County's weed industry – most of it, by all appearances – outside of permitting's burdens but largely free of even the threat of enforcement. DFW will continue to focus on the very worst environmental offenders with their very limited resources. But they'll be doing a great deal if they bring down more than a few dozen operations in a year.

04-9

The DEIR presents little analysis of the implications of the implementation of the County's Medical Marijuana Land Use Ordinance (MMLUO). Both the application data and the actually issued permits offer important lessons for the proposed Ordinance. Although the County's expressed intent was to bring existing operations into environmental and legal compliance, relatively few even applied for permits. Of the applications approved to date, the vast majority are reported to be new operations. Both facts may reflect the difficulty of bringing existing operations into legal and technical compliance with the requirements the Ordinance and DEIR rely upon.

04-10

There are of course, a range of reasons that existing operators of commercial cannabis cultivation sites don't choose to pursue permitting. The cost of compliance with environmental remediation requirements is a factor in any setting. But it is impossible to ignore, though difficult to address, the fact that over the course of these generations of pot growing, the County has incubated a set of behaviors, an attitude, a culture, that is fairly contemptuous of rules and regulations. And this slice of our communities has now been conditioned to view environmental protections as just another smokescreen for illegitimate government action. After all, weed's legal now, right? Incentives are not going to crack this nut. Nor is the same level of effort that the industry has evolved under.

04-11

The question for the County as it proposes to issue an unlimited number of additional permits is then, how many additional staff are being added to ensure that existing permits are being adequately supervised? How many more will be needed to address the new

04-12

4

permittees? And how many will be needed to address the remaining number of already existing operations, and new illegal operations sure to come?

As the county has now learned, it's an entirely different thing to process, let alone monitor and inspect, 1000 permit application than 10 or even 100. If the truly intractable portion of the black market weed industry were only 100 operations, that would be one thing. A lot of work, but a few summers might hope to see them all gone and cleaned up. A thousand, though, is quite another matter. But again, the number in question here today appears to be much closer to 10,000 than 1000 at this point.

The County has no credible plan to address that many operations in any meaningful way. If the three, soon to be five, Code Enforcement staff were each to inspect and / or serve a nuisance violation on one operation a day on average – and that was all that was required to make it permitted and perfectly compliant, or to magically do away with that operation and all its impacts – the team would clear 780 operations in a solid year's work. More realistically, assuming a code enforcement officer could clear one operation a week on average, the county would need something like 200-300 staff to visit 10,000 operations in a year. That's setting entirely aside the question of law enforcement escorts.

04-12 cont

This is a crisis at least in some measure of the County's own making. It has allowed the construction, generally without permits, of more than ten thousand existing cultivation sites. At least a significant minority have graded in excess of fifty cubic yards of material without permit. Many have built new roads. Nearly all have at minimum increased the use on road systems never designed to modern standards. And yet somehow these impacts become "speculative" when perpetrated by the unpermitted.

04-13

The County appears to be incapable of regulating the commercial cannabis industry, even if it had the will to do so. Because the County lacks the personnel, the resources, the institutional capacity, the enforcement procedures, and the will necessary to regulate the industry, many, if not most, of the benefits promised by the various mitigation measures proferred by the DEIR must be heavily discounted as uncertain and unenforceable.

04-14

Because the DEIR does not even attempt to clearly state either a numeric limit on new permits, effective geographic limits (e.g. no new permits in key watersheds), or even an estimate of the number of existing operations that appear eligible for permitting under the proposed Ordinance, the reader is left to speculate as to how the County intends to insure compliance with this set of land use regulation, when it has always declined much lesser challenges in the past.

The County has the information, or the access to the information, that it needs to conduct adequate analyses of the existing industry and its proposed permitted industry. It has the resources necessary to count greenhouses. That the County has failed to do so is not because evidence is lacking, but because it does not wish to face its implications.

The County Assessor's office seems to have a decent handle on the number, location, function, and value of structures on parcels countywide. Friends of the Eel River was able

04-15

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to develop a detailed, accurate picture of the industry using Google Earth imagery and a laptop over the course of a few months in 2013. The Regional Board has managed to mail notices to the owners of parcels with grow operations across the region. It is not credible for the county to suggest that it could not have conducted an analysis of the existing industry's very visible footprint over the last two years.

04-15 cont

Increasing legal grow sizes under the County's MMLUO allowed unpermitted growers to continue to increase the size of their operations – and thus their potential revenue – without calling additional attention to their operations. The County should not have allowed larger operations to become established, and it should take steps at this point to reduce the average size of cultivation operations. If the County wants to have a commercial marijuana industry that is widely beneficial, it should reduce the size of the operations that are being permitted.

To lawfully entrain more and greater impacts in watersheds where existing cumulative impacts mean that take is already occurring – under both CESA and ESA – the county must now (a) effectively characterize the mechanisms of harm in those watersheds; (b) analyze the relative contribution of key sources, including especially roads, stream crossings, and water diversions; (c) develop and implement mitigation and enforcement programs that effectively and reliably reduce impacts (d) to the extent of at least enough carrying capacity in that area to account for the new impacts and a margin of safety to prevent future take.

04-16

We finally have the chance to bring this industry into the light, yet the county insists on continuing to turn a blind eye to its very real impacts. Refusing to look doesn't make the problem go away. It does, however, make it impossible to address the problem effectively.

Comments on proposed Ordinance

55.4.2 PURPOSE AND INTENT

The purpose of this Section is to establish land use regulations concerning the commercial cultivation processing, manufacturing, distribution, testing, and sale of cannabis for medicinal or adult use within the County of Humboldt ***in order to limit and control such activity****.*

These regulations are intended to ensure the public health, safety and welfare of residents of the County of Humboldt, visitors to the County, persons engaged in regulated commercial cannabis activities including their employees, neighboring property owners, and end users of medicinal or adult use cannabis; ***to protect the environment from harm resulting from cannabis activities, including but not limited to streams, fish, and wildlife****, residential neighborhoods, schools, community institutions and Tribal Cultural Resources; to ensure the security of state-regulated medicinal or adult use cannabis; and to safeguard against the diversion of state-regulated medicinal or adult use cannabis for purposes not authorized by law. To this end, these regulations identify where in the County the various types of commercial cannabis activities can occur, and specify what type of permit is required, the application process and the approval criteria that will apply.*

04-17

Will the proposed Ordinance accomplish these noble purposes? Only to a very limited extent, unfortunately.

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55.4.5.3 Penalties and Enforcement

The Ordinance appropriately asserts the nuisance power. It falls short of proposing a programmatic application of the power that might be used to address the many thousands of operations which apparently will be subject to County abatement. The Ordinance does not specify that persons associated with operations subject to enforcement or abatement, as well as the parcels where those operations took place, are ineligible for future permitting, even temporarily. Such a measure would provide additional disincentives that should make enforcement efforts more effective.

> *Whenever permit applicants seeking permits for new commercial activities initiate operations ahead of permit issuance or Pre-Existing Cultivation Site operators seeking permits expand cultivation operations ahead of permit issuance the Director shall have discretion to:*
>
> *55.4.5.3.1 Issue stop work orders and financial penalties to applicants found to have engaged in the above activities, and require restoration of the site to prior condition; or,*
>
> *55.4.5.3.2 Disqualify the pending applications, with no refund of fees submitted, and initiate enforcement proceedings.*
>
> *55.4.5.3.3 Resolve the violations and proceed with processing of the application.*

At a minimum this section should state clear standards under which each option is appropriate. Better, the County should lay out narrative standards to ensure that the Planning Department does not allow a high-impact site to be improperly developed simply because the applicants were sympathetic or hired a very persistent consultant. In general, the assumption should be that 1 and 2 are going to apply unless some very good reason is presented. 04-18

However, the section leaves enforcement decisions to the discretion of the Planning Department via the Planning Director. The Planning Director reports to the Board of Supervisors. This raises an issue that pervades questions of enforcement and compliance at the heart of the proposed Ordinance and the DEIR. Members of the Humboldt County Board of Supervisors are deeply involved with the commercial cannabis industry in its various manifestations, including accepting campaign contributions from commercial growers.

Against the background of the Planning Department's pattern of failure to enforce most land use regulations in most rural parts of the county over the last forty years, the framework proposed in this section does not appear to provide adequate security against improper influence or bad judgment. Similarly, to ensure the effectiveness of the rules in every other part of the proposed Ordinance, it is essential that penalties actually be imposed where appropriate and necessary to accomplish the purposes of the Ordinance. To avoid improper influence, it would be better for the County to assign authority over penalties and enforcement to an independent Code Enforcement team.

Outdoor grows and mixed-light operations are not the same in terms of their impacts. Failing to distinguish between the lower impact outdoor grows and much higher 04-19

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impact mixed light operations means that all outdoor operations must now be presumed to be mixed lights. This is a mistake. Mixed light operations can't be justified when sunlight is ample to provide far more marijuana than the market demands. If permitted, mixed light operations should be limited to locations where their compliance with light restrictions can readily be monitored and they can be on grid power.

04-19 cont

Annual Inspections are not adequate to detect and prevent violations and significant environmental impacts. Annual, announced inspections are not adequate given the issues and history presented by this industry. Enforcement is not only a question of what penalties will be imposed under what circumstances, but more critically of discovering and documenting the violations in question.

Given the glaring mismatch between the scale and scope of the industry's impacts and the very limited resources the County directs to land use regulation, it is unlikely the County will discover most actual problems on its own. It's doubtful County staff will be able to even perform a cursory inspection on permitted operations every year with current levels of staffing. That the County is announcing its intent to hobble its limited enforcement staff is additional evidence that it cannot and will not ensure proposed mitigations are implemented.

04-20

55.4.5.10 Restrictions on water use under special circumstances

This is feel-good regulation that is unlikely to ever be implemented, and will do little or nothing to protect our watersheds.

With this section, the County has retreated from the straightforward statement that the County has the right to reduce the extent of any commercial cannabis activity at any time in the future for any valid regulatory reason, to a position that appears to require a finding of sustained drought or low flows in the watershed where the activity is located, i.e. "in the event that environmental conditions, such as a sustained drought or low flows in the watershed where the Commercial Cannabis Activity is located, will not support water withdrawals without substantially adversely affecting existing fish and wildlife resources."

This requirement should be superfluous. The County should not permit or allow any marijuana operations which do not forbear entirely from dry-season diversion.

04-21

This requirement is also likely to prove impossible to enforce in practice. By the time we know that we are facing a drought in any given year, outdoor cultivation operations are already well-established. The idea that the county will go around telling everyone to cut down half their plants is simply ludicrous. So, too, is the suggestion that growers will accede to prospective reductions issued on the basis of a previous year's drought. Surely next year there will be plenty of rain!

The county should instead assert its clear authority to reduce the level of permits for any reason consistent with the purposes of this Ordinance, at any time. Permits are not entitlements.

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55.4.6 COMMERCIAL CANNABIS CULTIVATION, PROPAGATION, AND PROCESSING – OPEN AIR ACTIVITIES

Outdoor and Mixed-light Cultivation Activities, On-Site Processing, and Nurseries shall be principally permitted with a Zoning Clearance Certificate when meeting the following Eligibility and Siting Criteria and all applicable Performance Standards, except when otherwise specified.

55.4.6.1 Eligibility Criteria - Resource Production and Residential Areas

55.4.6.1.1 Zoning AE, AG, FR, and U when accompanied by a Resource Production General Plan land use designation (not including Timberland) or Residential land use designation requiring parcel sizes of more than 5 acres.

04-22

While the County's move to bar establishment of additional large-scale operations on Timber Production Zone lands makes sense, it would make a lot more sense if Forest Recreation lands were also included in this prohibition. FR zoned areas are the epicenters of a disproportionate degree of continuing environmental harms driven by cannabis cultivation. By prohibiting additional grows in FR lands, the County would take an important step toward beginning to protect watersheds that have already been overwhelmed by unpermitted cultivation and associated unplanned and unregulated development.

55.4.6.1.2 Minimum Parcel Size and allowed Cultivation Area

One of the crucial mistakes the County has made to date is allowing grow operations to get too large. By allowing large quasi-legal medical grows, and now by permitting excessively large commercial operations, the County has given cover to a black-market industry that has also grown very large at the individual scale. The County should compare the average size of its permitted and unpermitted grows with those in Mendocino County, where much lower sizes have been allowed, for an illustration of the effect of this policy across the landscape.

The proposed regulations continue this pattern of allowing individual operations to be so large that there are incentives to continue developing new sites, to the detriment of existing smaller-scale growers. If the County were choosing to focus the its pot production on a few large sites to minimize the associated environmental impacts, this policy might at least make some sense from a watershed and fisheries perspective. But this is a policy of allowing more large grows to be permitted across the landscape, perpetuating exactly the practices that have created the watershed crises we now face.

04-23

The county should reduce the sizes of the operations it will allow as follows: (changes marked in **bold plain text.)**

a) Five (5) acre minimum parcel size, on parcels between 5 and 10 acres in size: 1) up to **3,000** *sq. ft. of Cultivation Area with* **Special Permit***; 2) up to* **5,000** *sq. ft of Cultivation Area with Special Permit.*

b) On parcels 10 acres or larger in size: 1) up to **5,000** *sq. ft. of Cultivation Area with* **Special Permit***; 2) up to* **10,000** *sq. ft of Cultivation Area with Special Permit.*

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c) On parcels 320 acres or larger in size, up to **10,000** *sq. ft of Cultivation Area per 100 acres with a Use Permit*

It is not clear what standards the County intends to employ to decide whether to grant Special Permits. No Special Permits should be granted in watersheds that have not fully demonstrated the capacity to absorb additional cumulative impacts without harm.

Two (2) acre minimum parcel size a) Open Air Cultivation Activities of up to **10,000** *sq. ft. of Cultivation Area may be permitted with a Zoning Clearance Certificate b) Additional Open Air Cultivation Activities in excess of* **10,000 sq. ft.** *may be allowed with a Use Permit.*
Cultivation sites proposed on developed commercial or industrial properties must comply with the Performance Standards for Adaptive Reuse.

04-23 cont

We must further note that, given the deficiencies of the DEIR's analysis and mitigation of cumulative impacts, it is entirely inappropriate to issue Zoning Clearance Certificates for operations situated in watersheds with listed or special status fish species which are already suffering significant cumulative effects from unregulated pot-driven land development. Until the county has prepared an adequate CEQA analysis, including mitigations sufficient to protect the public trust values of our watersheds, additional permits should only be issued with comprehensive site-specific CEQA analysis of that proposed operation, including all appurtenant roads and existing operations which may contribute to cumulative effects within that watershed.

04-24

55.4.6.5 Accommodations for Pre-Existing Cultivation Sites

Pre-Existing Cultivation Sites on FR zoned parcels should be restricted to their existing footprint, as in TPZ and U zones. In general, such operations should be encouraged to relocate to lower-impact sites appropriate for agricultural uses. The DEIR provides no meaningful analysis of the potential impacts attendant on the maximum buildout scenario that this section would allow for existing operations. We are particularly concerned that given the substantial cumulative effects of existing sites, this provision may provide incentives to continue commercial cannabis cultivation in watersheds or off roads systems which cannot continue to support such intensity of use without causing significant watershed effects.

04-25

55.4.6.5.6 Energy Source for Ancillary Propagation Facility or Mixed-Light Cultivation

The county should not allow any use of generators in association with commercial cannabis production. The air and noise pollution are not necessary to produce high-quality weed. There are abundant suitable sites for operations that require lots of power. The DEIR fails to analyze the potential impacts of ubiquitous generator noise and artificial lights on wildlife, including listed species of birds and bats. It should be noted that the relatively remote sites least likely to produce the complaints on which the County evidently means to rely to drive enforcement are those relatively more likely to have wildlife impacts. The DEIR fails to illuminate these questions.

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Forbearance Period & Storage Requirements

> *55.4.12.7.2 The County ~~may~~* **shall** *require that operators of Cannabis Cultivation Site(s) forbear from diversions of Surface Water for Irrigation during periods of low or reduced stream flows. Unless otherwise specified, the default forbearance period shall occur between May 15th thru October 31st of each year.*

The use of the word "may" in this section is dangerous and impermissible. County must absolutely and clearly **require** all operators to forbear from surface diversions during dry seasons. Where the County allows itself the ability to step back from requiring full protection for surface waters, we must assume – and the DEIR must assume – that the County will not effectively require forbearance in dry seasons. If the county's standards and enforcement are uncertain, we, and the DEIR, must assume that compliance will similarly be less than comprehensive.

> *In determining the appropriate Forbearance Period, the County shall review the past record of water use at the Parcel(s) or Premises, the volume and availability of water resources and other water use and users in the local watershed, as well as relevant gaging information. Under certain circumstances, limited diversion during the forbearance period(s) may be authorized.*

04-27

It is more than a little ironic that the County is here imposing more stringent analytic requirements on itself to limit stream diversions known to be a critical cause of watershed and fisheries harms than it is in its own analysis of the current impacts of existing operations on fisheries and watersheds. Again, it would be more appropriate to simply and clearly require that all surface water users forbear from any and all diversion during the dry season as a condition of any permit for commercial cannabis cultivation operations.

55.4.6.5.7 Provisional Permitting

Given the scale and scope of the industry and its impacts and the vast oversupply of existing operations and their product, this section is very difficult to justify. It appears to contemplate allowing existing operations to continue to cause potentially serious, lasting harms to watersheds and wildlife while effectively being given a permit that would shield the operation from the code enforcement and law enforcement.

No provisional permitting should be allowed. Focus on permitting operations that actually have their act together. Shut the rest down.

> *Violations and areas of non-compliance subject to a compliance agreement shall be related to land conversion, on-site grading, electricity usage, water usage, agricultural discharges, and similar matters and limited to those improvements, facilities, buildings, and sites that are used for the Commercial Cannabis Activity* ***and shall not extend to personal residences or other structures that are not used for Commercial Cannabis Activities.***

04-28

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This is frankly ridiculous. Compliance with the basic provisions of county code, across the entire property and all structures, should be a fundamental requirement of any and every commercial cannabis permit. If this provision is left in place, the County is basically saying that it is only regulating the specific structures associated with cannabis production. That means a lot of potential harms aren't going to be prevented. That means this whole regulatory effort can be undermined by "off book" impacts. The fish don't care whether the bad, unpermitted grading was for a house or a greenhouse.

04-28 cont

55.4.8 INDOOR CULTIVATION AND MANUFACTURING

We still think indoor cultivation can't be justified. Even renewable grid power imposes substantial carbon costs.

04-29

55.4.12.1.8 Performance Standard–Road Systems

Category 4 Roads are not the same as roads that have minimal impact on watersheds. The standard appears chosen out of concern for emergency access and egress, which are far from unreasonable concerns. However, roads and especially road crossings are very significant sources of sediment inputs into surface waters.

There are private roads and road systems which have, are, and will contribute levels of sediment to surface waters that cannot be sustained without lasting harm to public trust values. This section must clearly articulate standards for roads that makes it clear when permits will not be issued unless roads and crossings are rebuilt to avoid those impacts. Best management practices are helpful guides but often do not provide the clarity needed to insure that the work that can be done and should be done actually does get done.

04-30

It is not enough to require that new roads be well-designed, though that is essential. Many roads now in existence present very serious problems for water quality. The County must take affirmative action to ensure they are remediated. The use of the phrase "to the greatest extent feasible" provides an escape hatch to virtually any compliance the Planning Department can be persuaded to overlook. Specific standards must be articulated and enforced.

No permits should be granted for operations whose impacts cannot be appropriately and effectively mitigated. Especially in key fisheries watersheds, roads that cause continuing watershed impacts should preclude the issuance of any commercial cannabis cultivation permit.

The Ordinance should specify the qualifications appropriate to evaluate the impacts of a road system. With all due respect to licensed engineers, we would suggest that evaluations of aquatic impacts would be more appropriately conducted by independent consulting biologists or state or federal agency biologists than by consulting engineers working for project proponents.

04-31

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Where an evaluation has determined, to the satisfaction of the County, that all private road segments comply with relevant best management practices, no further work is needed.

If someone can show me even a single road in Humboldt County where "no further work is needed," I'd be astonished. There has to be a standard for maintenance and inspections. Roads that were okay become not at all okay over the course of a bad winter, especially under hard use. This strongly suggests that the County views this aspect of permitting as a one-time matter. If we are to effectively reduce the watershed impacts of roads associated with commercial cannabis cultivation, it has to be a constant priority for decades to come. O4-31 cont

Comments on DEIR

The Draft Environmental Impact Report (DEIR) fails to fully analyze, disclose, and specify mitigations necessary to address a range of serious and significant environmental impacts directly associated with the commercial cannabis industry. It must be rewritten to incorporate analyses and information not considered in this draft and recirculated. O4-32

It is well within the County's power to dramatically reduce the significant environmental impacts of the commercial cannabis industry in Humboldt County today, and thus to create a licensed, regulated pot industry that does not damage public trust values over time. The defects in the DEIR reflect no fundamental disability on the County's part, but rather a profound reluctance to act, to do what it knows perfectly well would have to be done to accomplish the reduction in impacts it wants us to pretend can be achieved with voluntary compliance and unenforced mitigations. O4-33

The DEIR's claims that the significant cumulative watershed, fisheries, and wildlife impacts of Humboldt County's commercial cannabis industry, or even the relatively small permitted subset of that industry, will be adequately mitigated are not supported by the evidence at hand. The effectiveness of the proposed mitigations depends entirely on the extent to which they will be implemented. Without adequate enforcement resources, the County cannot begin to insure that will be the case. O4-34

Areas of Controversy

#1 Concerns regarding the County's ability to conduct enforcement activities against illegal cannabis operations.

#2 Biological and watershed impacts from land disturbance associated with existing and new cannabis operations.

The DEIR is correct to flag these, and a number of other key questions around environmental impacts. Unfortunately, the document does not provide the evidence and analysis necessary to conclude that these questions will be effectively addressed by the proposed Ordinance. O4-35

13

Local and State Permitting Requirements

We find it hard to credit the County's suggestion that it is now going to require compliance with the Grading Ordinance that has been routinely ignored for the last twenty years. 04-36

2.3 PROJECT LOCATION AND EXISTING CONDITIONS

It has been estimated that there may be as many as 15,000 cannabis operations in the County.

That's not an unreasonable estimate for the number of **outdoor** operations. We have no useful estimate of the number of indoor operations in the county, but we're pretty sure it's a lot. What we want to know is why the County does not provide any inventory of currently existing operations. There are any number of sources ready to hand, the most obvious being the County Assessor's office, the Regional Board, the Department of Fish and Wildlife, and Google Earth. 04-37

> *Based on review of the applications, cannabis cultivation operations in the County typically have the following characteristics: ...*
>
> > *Distance from County – maintained roads: typically located one mile or greater from a County-maintained road.*

This is a key point with respect to existing operations. Many of them have very large watershed impacts not because they are huge sites but because of the roads used to reach the sites. The County's unwillingness to bar commercial cultivation from such remote, high-impact sites, or to adopt strict standards – not just best management practices – to ensure that roads don't generate real watershed harms is one of the fatal flaws in the County's approach to these problems. 04-38

The DEIR notes in its discussion of Construction water quality impacts that

> *Poorly constructed unpaved roads are prone to accelerated wear and erosion that can lead to catastrophic failure. Road failure, especially at culverts or other types of watercourse crossings, can degrade water quality and destroy riparian habitats.*

The mitigations offered by the Ordinance and the discussions of road impacts scattered through the DEIR never quite manage to address the fact that the road systems serving large proportions of the existing cannabis industry create significant cumulative effects on public trust resources, including wildlife habitat and especially surface waters and fisheries habitat. For example, the wetland protection mitigations don't protect against fisheries impacts from road crossings and inadequate road design and maintenance. 04-39

On page 2-13, the County summarizes the permit applications received under its existing permitting program. It has been widely reported that California's domestic legal market for marijuana is going to require some 1100 acres of weed. As we noted in our previous comments, even if that estimate is off by 100%, Humboldt County already has far more than its share of productive capacity in its permitting process. The DEIR notes a total of 1250 acres were covered with some 2000 applications submitted under the MMLUO. How 04-40

many acres of cultivation is Humboldt County going to permit? Apparently the answer is "as much as possible." 04-40 cont

OBJECTIVES OF THE PROPOSED ORDINANCE

> *.... support the local cannabis industry through maximizing participation of existing non-permitted cannabis farmers in the County's permitting program;*

There's a logical disconnect between the Ordinance's ostensible aim, on the one hand, to permit operations that will sell to – and only to – legal California distributors and manufacturers, and the County's evident determination to issue permits to operations which already produce far more marijuana than the state system will ever demand.

"Maximizing participation of existing non-permitted cannabis farmers in the County's permitting program" is clearly an overriding priority for the County and its political leaders. This policy goal appears to be at least potentially in conflict with the County's stated purpose, "to protect the environment from harm resulting from cannabis activities, including but not limited to streams, fish, and wildlife." 04-41

Presumably, "maximizing participation of existing non-permitted cannabis farmers in the County's permitting program" is at least part of the reason the County is not willing even to consider in its DEIR analysis limits on the number, size, and location operations necessary to define an industry which can be sufficiently mitigated "to protect the environment."

The DEIR truly founders on its inability to square the County's desire to maximize the number of existing operations with the resulting requirement under CEQA to reflect the potential impacts under that system.

> *Pre-existing cultivation sites are defined as parcels where cultivation activities occurred at any time between January 1, 2006 and December 31, 2015.* 04-42

Cultivation sites are not the same thing as the parcels where they are located. Both specific sites and particular parcels must be considered for their impacts and suitability.

The decade in question is a window that's open to a lot of impacts. A lot of half-considered development in unsuitable areas happened across Humboldt County between 2006 and 2015. Sites that were abandoned before 2015 should not necessarily be allowed to be re-established. We would suggest that these provisions apply only to existing homesteads with permanent occupancy and clear evidence of cultivation on the site proposed for the operation as of 2015. That would limit "pre-existing sites" to a smaller set of more sustainable locations. Similarly, generators should not be permitted on pre-existing sites. 04-43

We note here that the County is essentially legalizing not only the cultivation operations, but all the development that has happened on these parcels. It is not appropriate to disregard the impacts associated with these operations, which have in many cases included significant sediment impacts which will continue to cause watershed harms for years and decades to come. The DEIR must consider not just the potential impacts of potentially 04-44

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permitted sites, but the broader context of continuing impacts from the commercial cannabis cultivation industry the County has allowed to flourish across its landscape, particularly over the last two decades when it declined to attempt to regulate medical marijuana production.

04-44 cont

Generators should be prohibited for commercial cannabis production.

Generator noise limits set to human audibility standards will not prevent impacts on wildlife. It would really make a lot more sense to ban generator use than to pretend that the County is ever really going to enforce the complex and subjective standards suggested by the DEIR. Please note that Northern Spotted Owls and other species highly sensitive to noise do not necessary respect parcel lines. They have a habit of nesting and roosting where the habitat is. So a standard that sets impacts based on fencelines may fail entirely to protect wildlife. The DEIR fails to reflect such information.

04-45

LIGHTING PERFORMANCE STANDARDS: NEW AND EXISTING SITES

Structures used for mixed-light cultivation and nurseries would be shielded so that no light escapes between sunset and sunrise.
No mixed-light cultivation may occur within 200 feet of a riparian zone.
All security lighting would be shielded and angled in such a way as to prevent light from spilling outside of the boundaries of the site or directly focusing on any surrounding uses.

04-46

Again, these projected mitigations depend on enforcement that simply is not going to happen. Note, for example, that the proposed "annual inspection" for each site could only happen during business hours. Which means that inspectors won't be inspecting any light-prevention systems, nor the shielding and angling of outdoor lighting.

SITE RECONFIGURATION CRITERIA: EXISTING SITES

Who is a "qualified professional" in this context? What would be done if the biological resource protection plan concludes that unpermitted development or disturbance has occurred within a protected area or community? More importantly, will this plan assess the potential impacts generated from the site that are not necessarily within protected areas?

This section suffers from the focus on specific sites, to exclusion of their setting, that is a consistent problem throughout this DEIR. It will be difficult enough to conduct the kind of review and remediation suggested in the draft, but without considering the larger landscape context of the watershed(s) within which the operation and its roads exist, the reader cannot begin to assess whether a reconfigured site will continue to impose significant impacts on public trust values.

04-47

The section does not make clear when reconfiguration will be required. What are "certain eligibility requirements?" The section suggests that reconfiguration "may be permitted." Does this mean it is up to the Planning Department? What if it is not permitted? Will the County allow the site to continue in use?

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RETIREMENT, REMEDIATION, AND RELOCATION OF PRE-EXISTING CULTIVATION SITES
The County has placed a lot of emphasis on the environmental benefits that will be achieved by encouraging existing operations to move into lower-impact sites. That a policy is politically palatable, or even popular, doesn't make it effective. 04-48

The DEIR provides very little evidence or analysis of any cognizable reduction in impacts that will be achieved by these provisions. This is not to say that there will be none. But we have no way to know if they will be enormously effective or meaningless for the fish that need clean water in the creeks without more analysis and information than is provided in the DEIR. 04-49

The DEIR and Ordinance do not provide adequate guidance or enforceable measures to ensure that abandoned or remediated cultivation sites will be restored to ecological function. The DEIR states only that such sites will be restored to "natural habitat conditions," without defining what that means or what standards and processes will be used to ensure such restoration is achieved. 04-50

These should apply equally to cultivation sites relocated under the County's RRR program, those shut down by official action, as well as those simply abandoned by their operators. Nor does the DEIR provide an adequate analysis of potential cumulative effects at the sites to which increased production will be directed under the relocation program. Relocated operations should not be permitted on FR zoned lands, given the density of operations already existing on many such lands and their overlap with critical fisheries habitat. 04-51

2.4.5 Reasonably Foreseeable Compliance Responses

This analysis is not informative. The Bustic study, as we have pointed out, is the most misleading of all the studies done to date of the extent of Humboldt County's outdoor commercial cannabis cultivation industry. By selecting watersheds at random in a landscape that is highly structured by parcel size and zoning, the authors seriously understate the extent and severity of the Green Rush in the County. 04-52

The DEIR describes law enforcement and resource agency estimates as "anecdotal." But the County is deliberately refusing to take the hard look that CEQA requires at the information available to it about the extent and impact of the cannabis-driven development that the County has allowed to happen over the last two decades.

> *Owners and operators of pre-existing sites that continue to be used for cultivation activities, and who did not seek permits under the existing regulations and who do not participate following adoption of the proposed Ordinance are considered illegal, and subject to code enforcement. Enforcement activities would be taken by the County in coordination with other agencies that could result in bringing some cultivation operations into compliance with County and state standards and the closure and remediation of other operations. However, it is acknowledged that illegal cannabis operations would continue to occur in the County after adoption and implementation of the Ordinance.* 04-53

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This provides zero useful information about how many operations the County intends to shut down, or how that's consistent with its objective to "maximize" the number of existing operations that get new permits. The DEIR fails to present any analysis of how the existing pattern of development is causing severe watershed impacts, information necessary to evaluate how changes will affect those impacts in the future. "Some" operations will be brought into compliance. "Others" will be closed and remediated. But "illegal cannabis operations would continue to occur." How many? Where? What efforts would be necessary to significantly change those numbers?

04-53 cont

> *For purposes of evaluating the potential environmental impacts of new cannabis operations from implementation of the proposed Ordinance, this EIR assumes that an additional 941 applications over an area of 283.35 acres of new commercial cannabis operations could be approved and established over the next three years.*

04-54

And in the years after that? The logic here appears to be that the County has gotten 941 applications in the last process, so it will get a similar number in this one. Why is that a reasonable basis for the consideration of potential environmental impacts this document is meant to reflect?

The DEIR must consider the potential impacts associated not with the level of permit applications the County wants to get, or suspects it might get, but with those it is allowing with the proposed regulations. At a minimum, it must do the math on a maximal scenario in which every eligible parcel and site is built out to the extent allowed under the Ordinance. How much weed would Humboldt be producing under such a scenario? What impacts would likely be entailed?

04-55

As well, it is remarkable that the County should on the one hand refuse to impose any reasonable limit on future permit numbers, but on the other hand insists on using a low number of "reasonably foreseeable" permits as the basis for its impacts analysis. This is wildly inconsistent, entirely illogical, and a natural consequence of the County's refusal to decide between its competing desires to maximize the potential economic returns from legal and illegal cultivation and to minimize its responsibility for the accompanying impacts.

04-56

The bottom line, though, is that the DEIR presents no detailed, substantive analysis of readily available information, either of existing or projected commercial cannabis operations, or of their potentially significant impacts on public trust resources in watersheds, water quality, fisheries, wildlife, and habitat. This absence of analysis makes it impossible to evaluate the cumulative impacts of those effects taken together.

04-57

> *Cannabis is identified as a Schedule 1 controlled substance under the federal Controlled Substance Act. Operations related to the growing, processing, and sale of cannabis products are in violation of federal law. Federal agencies are prohibited from issuing permits or approvals for any operation that is in violation of federal law. Thus, compliance with federal permitting requirements that would usually address*

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environmental impacts (e.g., filling of waters of the U.S. and incidental take authorization under the federal Endangered Species Act) cannot be utilized.

04-57 cont

The actions that are causing harms to listed species and their habitat, including wetlands and waters of the US, are not people stuffing salmon with pot, or whacking owls with cannabis plants. They are land use actions – grading, road building, road maintenance, and so forth – which are routinely the subject of consultation with federal agencies.

Nor does this argument address the parallel responsibilities of the Department of Fish and Wildlife under the California Endangered Species Act to consult on projects which may cause take of species listed under California law.

04-58

The County appears to be stating its intention to proceed in violation of federal environmental law. We would advise against this course of action. If it cannot obtain incidental take and wetland modification coverage from relevant federal agencies, the County's only option to avoid serial and significant violations of the Endangered Species Act and Clean Water Act is to prevent take of listed species and modification of wetlands altogether. Significantly, the Ordinance does not even attempt to prevent all take of listed species. Thus, significant unmitigated impacts will occur which the DEIR has not disclosed or analyzed. The document must be recirculated.

For the purposes of this EIR, the description of the existing or baseline conditions of cannabis cultivation in the County has been informed by the County's recent registration and time-limited permit application process that closed December 31, 2016, which resulted in 2,936 applications. Approximately 68 percent of these applicants claim to have historically cultivated cannabis and are seeking a permit for continued cannabis operations. In some cases, applicants are choosing to retire and remediate existing cultivation sites, and are requesting to relocate to new properties that qualify to receive them, with the benefit of allowing applicants to expand the total cultivation area. A smaller percentage of the total applications received are linked to projects proposing to establish new cultivation sites. The smallest percentage of applications received involves proposals for indoor cultivation, or the development of manufacturing operations or wholesale distribution facilities. Additionally, the baseline also includes existing commercial cannabis operations for which no permit applications have been submitted. The EIR assumes that these applications will seek to participate in the state's legal and regulated marketplace.

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The County could simply have provided a table with far more information than is actually presented here. How many of the applications approved to date are existing operations? Where are they located, by watershed and subwatershed?

Cultivation operations that do not comply with the proposed Ordinance would be considered illegal upon its adoption. Enforcement activities would be taken by the County in coordination with other agencies that could result in bringing some cultivation operations into compliance with County and state standards and the closure and remediation of others. However, it is acknowledged that illegal cannabis

04-60

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> *operations would continue to occur in the County after adoption and implementation of the Ordinance. While this Draft EIR acknowledges the adverse environmental effects of continued illegal cannabis operations as part of the environmental baseline condition, the Draft EIR does not propose mitigation measures to address illegal operations as they are not part of the project.*

04-60 cont

Same hillsides, same roads, same dirt, same water, same fish, same weed. Same set of impacts. This is the County trying to absolve itself of its failure to regulate land use over the last twenty years. "Some" and "other" are not sufficient for a cumulative effects analysis under CEQA, though.

04-61

> *The impact analysis would also consider the environmental protections provided by existing regulations, unrelated to the proposed Ordinance, that would apply to cannabis facilities (e.g., County Code Title III – Land Use & Development, Division 3 – Building Regulations, Chapter 5 – Flood Damage Protection, and Chapter 6 – Geologic Hazards).*

How does the County plan to enforce those existing regulations, which it almost never actually enforces, on hundreds or thousands or many thousands of operations? The DEIR appears to provide no information regarding the extent to which its regulations, including those regarding the diversion of surface waters, grading, disturbance of streams and riparian areas, and so forth, have actually been followed, or at least enforced, across the landscape of existing operations.

It's not like this is information that would be difficult for the County to examine. How many permits has it issued for grading and road construction and so forth over the last two decades? What proportion of the existing operations who have applied for permits are able to comply with existing Ordinances and codes? If existing operations fail to comply with key environmental requirements at a high rate, that would be important information for the DEIR to analyze and disclose.

04-62

To recap: the County wants to claim the putative environmental benefits of regulations it does not enforce, but seeks to obscure the actual environmental costs of not enforcing its regulations for any commercial cannabis operations that don't seek a permit. Which is nearly all of them.

The Regional Board's waiver program, including its suite of self-enforced Best Management Practices, lacks a substantial enforcement component. While the provisions of the Waiver might in theory be enforceable with adequate inspection and enforcement, the Regional Board lacks the staff, resources, and will to conduct on-site reviews of more than a tiny fraction of the operations it is permitting. Reports of widely variable performance by independent, unsupervised third party compliance consultants only amplify these concerns. With each added layer of uncertain enforcement, the connection between regulatory requirements and environmental benefits grows more and more attenuated.

04-63

The DEIR does not reflect this reality. Instead, it appears to assume that the Regional Board's Waiver will result in perfect compliance, flawless implementation, and definite achievement of the hoped-for reductions in impacts. Given the nature of the industry we're talking about here, that's the one scenario we can absolutely rule out.

The County may not rely on the Regional Board's indiscriminate permitting as evidence that operators are actually following the Waiver's requirements or proceeding on schedule with required remediation actions. To the extent the mitigations required by the Regional Board are necessary to prevent or reduce potentially significant impacts which may contribute to cumulative environmental effects that are the subject of this DEIR, it is not appropriate for the County to analyze the potential impact of Regional Board-permitted operations as if those impacts will be fully mitigated, unless the County demonstrates that it will itself insure that it will provide the inspection and enforcement resources necessary to ensure that is the case. 04-63 cont

The DEIR states (p 3.4-34) that the Foothill Yellow-Legged Frog is a species of special concern under the California Endangered Species Act. The species is actually a candidate species for listing, which means it's entitled to the protections due to listed species, including the prohibition on take. The DEIR fails to reflect this fact, and fails to provide any meaningful analysis of potential, current, or cumulative effects on the species or its habitat, or of the trends that may affect its prospects for survival and recovery. Naturally, then, the DEIR and Ordinance also fail to provide enforceable and certain measures to mitigate potential impacts, including take of the species. This appears to be an admission that the County will allow operations which, individually or in aggregate, will violate state law by causing take of FYLF. In addition to consulting with DFW to obtain programmatic incidental take coverage, the County must recirculate the DEIR with adequate treatment of these issues. 04-64 04-65

As mitigation for potential impacts on amphibians, including foothill yellow-legged frogs, the DEIR and Ordinance propose to require relocation of proposed cultivation sites on an immediate basis. The DEIR does not analyze how such relocation would affect, or be consistent with, the various permitting and compliance requirements which the Ordinance requires and depends upon. Both here and in the Ordinance's provisions regarding impacts on special status plant species, the Ordinance appears to contemplate allowing impacts which are not reflected in any detailed analysis in the DEIR. 04-66

The DEIR correctly notes that "critical habitat" is limited to federally-designated areas on federal lands. However, such areas are hardly the only areas necessary to the survival and recovery of species listed under both the California and federal Endangered Species Acts (CESA and ESA, respectively). The South Fork Eel and its various tributaries contain a lot of habitat that is absolutely essential to the survival and recovery of coho salmon and steelhead. 04-67

Such areas include, for example, tributaries of the South Fork Eel River which have little or no federal land ownership – Redwood Creek, Sprowel Creek – but are home to native runs of coho salmon and steelhead. Cumulative development impacts have wrecked habitat in

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nearby Salmon Creek that had been the focus of longstanding restoration efforts. If the County fails to restrain current impacts in Redwood Creek, it is allowing take of coho and steelhead to continue. This is contrary to both the California and federal Endangered Species Acts.

If the County allows continued cannabis-driven development in the Barnum Timber lands in Sprowel Creek – and there is nothing in this Ordinance or DEIR which suggests it will not – then it may well be foreclosing the possibility of recovering coho in the South Fork Eel at all. The failure of Eel River coho has grave implications for the regional population, the Southern Oregon – Northern California Coho ESU, of which the Eel are an indispensable part. The DEIR does not reflect any consideration of these questions at all.

04-67 cont

04-68

EXISTING STRESSORS ON BIOLOGICAL RESOURCES IN HUMBOLDT COUNTY

> *Historic and modern development in Humboldt County that has resulted in adverse effects to natural resources in the region includes timber harvest (beginning in the mid-19th century), watershed alteration because of dam construction, mining, agricultural activities, urban development, and introduction of invasive plant and wildlife species. More recently, illegal cannabis cultivation operations within public and private lands have led to illegal water diversions, unpermitted removal of sensitive vegetation, and direct mortality to protected species from exposure to rodenticides and insecticides (Gabriel et al. 2012 and 2013).* ***The magnitude of impacts from illegal cannabis operations to wildlife and plant species are difficult to fully quantify due to the clandestine nature of the sites.***

04-69

The "clandestine nature of the sites." Again, the DEIR might start by asking the County Assessor how they count buildings and assess property taxes every year. FOER and several other independent groups and researchers, including DFW, have used Google Earth's public imagery since 2013 to estimate the number, size, location, potential impacts, and rate of change for now-ubiquitous greenhouse grow operations across the County. The Regional Board managed to send letters to the owners of parcels with marijuana grow operations on them.

This analysis doesn't begin to meet the need for a detailed examination of cumulative impacts to inform future land use decisions, including enforcement, across this landscape. CEQA defines cumulative effects at §15355:

> *"Cumulative impacts" refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. (a) The individual effects may be changes resulting from a single project or a number of separate projects. (b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.*

04-70

The thresholds of significance offered by the DEIR appear to represent an attempt by the County to define itself out of liability for the cumulative effects of weed-driven

04-71

development on watersheds and wildlife across the County. For example, the relevant legal threshold is not, whether there is a "substantial adverse effect" on wetlands, but whether any wetlands are affected by removal, filling, drainage, or similar manipulation. Under CEQA, a "threshold of significance" is "an identifiable quantitative, qualitative, or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant." (CEQA Guidelines §15064.7)

04-71 cont

Similarly, the County should provide authority to support its claim that it is enough for it to merely avoid allowing activities that might rise to the level of jeopardizing listed species, e.g. which: "*substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; or substantially reduce the number or restrict the range of an endangered, rare, or threatened species.*"

Even if this quasi-jeopardy standard were appropriate and adequate, which it is not, the DEIR may not assume for the purposes of its analysis that the County will actually act to prevent impacts which rise to such a level. We know this because the County is still allowing precisely such impacts to listed species to continue in China Creek, a tributary to Redwood Creek and one of a number of creeks in that watershed which provide habitat critical to the hope of coho survival and recovery.

04-72

In China Creek, the County has evidence of take under CESA, clear evidence of willful and repeated water rights violations, and of refusals to comply with DFW and Regional Board permitting requirements. Yet the County has failed to act to abate at least a dozen unpermitted commercial cannabis operations in the China Creek watershed for years during which diversions continued to contribute to disastrous conditions for native fish. If China Creek is not a proper focus of enforcement action, what is? If China Creek is not a priority for limited enforcement resources, what is? And if China Creek is a priority, when will it be addressed? What does the County's performance in that watershed suggest about its ability to address what may be literally a thousand times more problems than those presented in China Creek?

In many instances, the proposed mitigations for wildlife habitat fail to preclude continued incremental degradation of wildlife values. The proposed 24 hour and 48 hour site inspections are at best going to be partially effective in preventing harm to target species. Operators are invited to suggest modifications to areas around raptor nests outside breeding season.

04-73

This is particularly troublesome for corridor and fragmentation issues. Because the DEIR avoids detailed analysis of existing operations, newly permitted operations, and critical biological resources, it does not provide any meaningful and specific analysis of the impacts of habitat loss and fragmentation. Such habitat and fragmentation impacts are generalized in their cumulative consequences for larger population, but specific in their causes and consequences.

04-74

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To effectively mitigate fragmentation and habitat degradation impacts requires detailed consideration of the particular landscape and causes of fragmentation and habitat loss. The failure to analyze these impacts with specificity means that the DEIR is left to make broad claims about habitat loss and fragmentation without providing any certainty about the degree to which its proposed mitigations might effectively address those impacts.

O4-74 cont

There are abundant sites available, even in Humboldt County, where such wildlife conflicts are not likely because of previous impacts. Commercial cannabis cultivation should locate there rather than relocating wildlife.

O4-75

Northern Spotted Owl

It's kind of amazing that the County would think that the level of analysis presented in the DEIR is adequate to evaluate and avoid impacts on the NSO. But the DEIR does not conduct even a simple comparison of known activity centers and home ranges against the existing inventory of commercial pot operations. Such an analysis is standard protocol for a Timber Harvest Plan. But the DEIR appears to analyze NSO populations as if they are limited to designated critical habitat on federal lands.

Nor does the DEIR provide the mitigation measures that would be necessary to avoid ongoing impacts to the birds and their habitat. The Ordinance would allow noise, light, and habitat impacts, any of which might cause continuing take of the species. Again, we note that it is impossible to evaluate the cumulative effects of either proposed or existing operations if you don't look at where on the landscape the things that might be subject to those effects are.

O4-76

FISHERIES

Impact 3.4-2: Disturbance to or loss of special-status fisheries.

Surface water diversions from new commercial cannabis cultivation that may occur under the proposed Ordinance could adversely affect several special-status fish species. Special-status fish species are protected under ESA, CESA, or other regulations. The alteration of surface water conditions that support special-status fish species would be a ***potentially significant*** *impact.*

O4-77

The DEIR's assertion that impacts to surface waters would continue to be a "potentially significant" impact appears, in the absence of such analysis, optimistic at best. The evidence is strong that existing operations, including permitted operations, are causing impacts to fisheries that are significant. The Ordinance and DEIR do not provide sufficient analysis and mitigation measures to ensure they are reduced to less than significant levels.

Similarly, the DEIR's analysis of surface water withdrawals is frankly conclusory. No information or analysis by watershed is provided. The DEIR points out, as if it means anything, that

> *Humboldt County Code Coastal Zoning regulations prohibit withdrawal of water from anadromous fish streams if such activity is likely to result in adverse effects to the fish species.*

O4-78

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It's clear that, notwithstanding this section of County code, such withdrawals have occurred and continue to occur within the Coastal Zone. Has the County ***ever*** enforced these regulations in the cannabis context? The DEIR should provide at least some information to assess the methods and practices which the County follows, or intends to follow, in enforcing this rule. Does the County have a clear policy, numeric standards, or any other meaningful metric which can be relied on to indicate the circumstances in which the regulation will be enforced? 04-79

Mitigation 3.4-2: Implement Mitigation Measure 3.8-5: Implement water diversion restrictions and monitoring and reporting requirements.

Significance after Mitigation

> *When State Water Board Policy is adopted, Mitigation Measure 3.8-5 will require cannabis-related surface water diversions to meet flow rate standards during a limited period of time through the year, which correlates to the greater level of water availability within watersheds in Humboldt County. Monitoring of flow and inspection and repair of leaks and old equipment will ensure that cannabis cultivation activities are consistent with permitted diversion rates established by legal water rights. Because implementation of this mitigation measure would ensure that Numeric Flow Requirements are met throughout Humboldt County, this impact would be* ***less than significant.***

04-80

The DEIR provides no substantial evidence or analysis to support the claim that implementation of the proposed water diversion restrictions and monitoring and reporting requirements will reduce the impacts of cannabis-related diversions to less than significant levels. First, as elsewhere, the DEIR insists here on focusing on the relatively tiny subset of permitted operations to ignore the cumulative effects of cannabis-related diversions. Second, as throughout the DEIR, the analysis begins and ends with rules, with no consideration of how they will be enforced.

Is the County seriously suggesting that scheduled annual inspections conducted by its not at all overwhelmed staff of Code Enforcement officers will magically reveal illegal diversions at permitted sites? Because it definitely won't help the County's argument to insist, as various elected and appointed officials have suggested, that such concerns are best left to DFW and DWR. The DEIR may not rely on those agencies' overstretched staff and resources to do what the County declines to do.

The implication of the County's argument here is that Redwood Creek's tributaries could continue to be entirely dewatered by pot farmers as they have been in recent years, destroying year-class after year-class of coho and steelhead reproduction, without any violation of the County's cannabis cultivation Ordinances, or any cumulative impacts that the County's DEIR must address – because those growers don't choose to ask the County for a permit.

04-81

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The County must explain how annual, scheduled inspections are going to reveal illegal diversions. It must explain how it will review and verify water logs that are certain to be falsified in at least some cases. And the County must recirculate this DEIR with an adequate analysis of the cumulative and specific effects of pot-related surface water diversions on listed and special status fisheries, and the specific measures that will be taken to reduce those impacts to less than significant status on a watershed and subwatershed basis. 04-82

Impact 3.4-5: Disturbance to or loss of waters of the United States.

Potential land use conversion and development under the proposed Ordinance could adversely affect waters of the United States, such as streams, rivers, lakes, and wetlands. This would be a potentially significant impact.

Failure to consider cumulative effects undermines the DEIR's analysis of potential impacts on waters of the US and wetlands. Given the DEIR's relatively clear admission that wetland impacts must be entirely avoided to avoid liability under §404 of the Clean Water Act, our largest concern is whether wetlands will be accurately identified. Who is a "qualified biologist?" for purposes of site surveys? Wetland delineations are not necessarily the province of amphibian specialists. It's important that the consulting experts actually have relevant expertise in the issues the County is here relying on them to accurately assess. Such delineations should be subject to review by trust agencies. 04-83

Aquatic Corridors

Aquatic wildlife movement corridors within the County include all major rivers and their tributaries. Several anadromous fish species, including steelhead, Coho salmon, and Chinook salmon, have runs within Humboldt County's rivers and streams from the spring to the fall. Adverse effects to these aquatic wildlife corridors could include degradation to streams and rivers (e.g., inadvertent fill) or improper surface water diversion which could create isolated pools which could decrease survival of young salmonids.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-6a would reduce impacts to aquatic corridors to a less-than- significant level because it would require approval and permits from CDFW, RWQCB, and USACE and result in no net loss of functions and acreage of wetlands, including aquatic corridors through implementation of USACE mitigation guidelines. 04-84

The DEIR fails to show that, or indeed how, the proposed mitigations would actually prevent the serious and continuing impacts that cannabis-related diversions and development are creating for aquatic corridors in Humboldt County. The permitting requirements cited do not necessarily protect watersheds from severe harms to fisheries habitat, including fish passage, spawning, and rearing habitat.

Punting the County's responsibility to regulate these impacts to state and federal agencies is neither an adequate policy nor a sufficient analysis under CEQA. As well, by focusing on the regulation of individual sites without even considering the cumulative impacts on 04-85

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aquatic corridors, the DEIR only compounds the segmentation of impacts analysis that has undermined the effectiveness of the Regional Board's approach to regulation of cannabis impacts on water quality.

04-85 cont

Terrestrial Corridors

> *Future cannabis activities under the proposed Ordinance would likely not significantly alter the habitat quality and connectivity within the range of these species, as most development involves fencing in the immediate vicinity of the cannabis activity, leaving adjacent areas free from barriers. Additionally, the North Coast RWQCB Order prohibits cannabis cultivation within at least 50 feet of any surface water. Deer migration areas, and thus mountain lion occurrences, are largely associated with waterways and riparian areas within the County. By requiring compliance with the North Coast RWQCB Order through establishment of stream setbacks, development under the proposed Ordinance would have a less-than-significant impact on migratory corridors for mule deer and mountain lion. No further mitigation is required.*

04-86

The DEIR provides no analysis whatsoever of cumulative effects of cannabis cultivation on these issues. There is no analysis of populations, corridors, existing human activities and development trends, nor of areas where future development will occur. The suggestion that compliance with the Regional Board waiver will reduce the impacts, including cumulative impacts, on mule deer and mountain lion to less than significant levels is not supported by the evidence and analysis presented by the DEIR.

Geology

The same points we've made repeatedly above with respect to cumulative effects and the DEIR's paucity of analysis of the existing industry apply to geologic and soil issues. The DEIR fails entirely to address the question of how road systems as well as individual sites may affect "dormant" landslides ubiquitous in the County's mountainous regions. Such features may be affected by road use, construction, or maintenance above, below, or within them. They may result in impacts clearly significant under CEQA for single large slides, let alone the dozens or hundreds which may occur when intense rainfall events or seismicity adds to human impacts.

04-87

The DEIR's note with reference to hydrologic issues would appear relevant to the question of landslides:

> *Environmental impact analyses under CEQA generally are not required to analyze the impact of existing environmental conditions on a project's future users or residents. But when a proposed project risks exacerbating those environmental hazards or conditions that already exist, an agency must analyze the potential impact of such hazards on future residents or users.*

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The analysis and data presented in the DEIR do not suffice to assure the reader that the County's Ordinance will prevent or reduce these potential impacts to a less than significant level. 04-89

Wildfire

The DEIR's suggestion that small reductions in wildfire risks achieved by requiring less inappropriate locations for some number of cannabis cultivation operations are an environmental benefit of the proposed Ordinance amounts to an admission that the cumulative impacts of the existing industry in this area are likely to be quite large. The DEIR provides no information or analysis on this front, however. 04-90

Hydrology and Water Quality

As we have noted at length, the DEIR fails to consider the cumulatively significant effects of the existing cannabis cultivation industry on hydrology, water quality, and beneficial uses of surface waters, particularly including fisheries habitat, at the watershed scale necessary to avoid those impacts. 04-91

EXISTING STRESSORS ON HYDROLOGY AND WATER QUALITY FROM CULTIVATION

> *Predominantly unregulated for years, thousands of cannabis cultivators have developed cultivation sites in remote areas of California near streams. In many cases the routine cannabis cultivation practices result in damage to streams and wildlife. These practices (e.g., clearing trees, grading, and road construction) have been conducted in a manner that causes large amounts of sediment to flow into streams during rains. The cannabis cultivators have also discharged pesticides, fertilizers, fuels, trash, and human waste around the sites, that then discharges into waters of the state. In the North Coast region, the state has invested millions of dollars to restore streams damaged by decades of timber harvesting. Cannabis cultivation is now reversing the progress of these restoration efforts (SWRCB 2017b).*
>
> *In addition to these water quality discharge related impacts, cannabis cultivators also impair water quality by diverting water from streams in the dry season, when flows are low. Diversion of flow during the dry season have caused complete elimination of stream flows. The effects of these diversions have been exacerbated in recent years by periods of drought (SWRCB 2017b). Water quality related constituents of concern associated with cannabis cultivation discharges include nitrogen, pathogens (represented by coliform bacteria), phosphorus, salinity, and turbidity. Water quality can be affected by excessive use of fertilizer, soil amendments, or other sources. The constituents have the potential to discharge to groundwater by infiltration and to other waters of the state by either surface runoff or by groundwater seepage (SWRCB 2017b).*

04-92

While the DEIR admits to the existence of water quality impacts, it fails to outline mitigation measures sufficient to reduce those impacts to less than significant levels. The DEIR claims that but for the exemption of smaller cultivation sites from Regional Board's waiver, its mitigations would be sufficient, and that by requiring such sites to comply with

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the waiver's terms, water quality impacts can be adequately mitigated. However, in the absence of any commitment by the County to effective enforcement and long-term remediation efforts, the DEIR cannot rely on mitigations that are uncertain. 04-92 cont 04-93

Neither the Ordinance nor the DEIR address the vast majority of the industry's operations or their impacts on water quality. Given that those cumulative effects will apparently continue indefinitely, any additional impacts from even the County's regulated program which contribute to water quality violations and impairment of beneficial uses must be analyzed as significant. 04-94

The point of CEQA analysis is to illuminate critical environmental questions, not to obscure them. The question that faces Humboldt County is whether it will continue to allow an industry to impose serious, lasting harms on its watercourses. The DEIR fails by refusing to address this question squarely. The Ordinance fails by pretending that regulating a small fraction of the industry with various half-hearted and barely-enforced rules will suffice to protect our streams and rivers. 04-95

Groundwater impacts

Groundwater data must be made public. The process described for mitigating potential groundwater impacts appears to rely entirely on the County to note and address the pumping impacts associated with cannabis operations. There is no suggestion that the County will engage in any monitoring of potentially associated surface waters, including springs. The DEIR fails to analyze such impacts as they may affect amphibians, fish, and other wildlife. Southern torrent salamanders can't call the County and complain that their spring has dried up. 04-96

Impact 3.8-5: Effects of diversion of surface water.

New commercial cannabis cultivation operations in the County that may occur under the proposed Ordinance could result in decreased flow rates on County streams and rivers because of surface water diversion. Low flows are associated with increased temperature and may also aggravate the effects of water pollution. While available data indicates that some rivers in Humboldt County would not be substantially affected by surface water demand during typical water years, data is not available for the potential effects on individual tributaries. Thus, substantial decreases to some individual tributary flows could occur, which could result in degraded water quality conditions. This impact would be potentially significant. 04-97

It is not the case that "no data" are available to allow the consideration of potential impacts on key tributaries. Please reference the Salmonid Restoration Federation's Redwood Creek stream-monitoring data, which is on the Regional Board's website among others.

The DEIR fails to address the serious cumulative impacts of cannabis-related water withdrawals in key tributaries of the Eel River, in addition to other Humboldt County watercourses. That the DEIR must admit, even in the absence of such analysis, that impacts 04-98

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on water quality are potentially significant, strongly suggests that they are significant indeed. 04-98 cont

As throughout the Ordinance and DEIR, the County places a confidence which cannot be justified on the available facts in the efficacy of its proposed mitigations. Without committing to a level and intensity of enforcement orders of magnitude greater than the County has ever maintained, history and experience tell us that most operators will continue to ignore rules and requirements that are inconvenient, expensive, or even novel, to the extent they can. 04-99

Cumulative Effects 04-100

The following is the DEIR's analysis of the cumulative effects of the existing industry.

4.2.2 Existing Cannabis Cultivation Operations in Humboldt County

A study of 2012 satellite imagery conducted by Butsic and Brenner (2016) revealed the presence of 4,428 outdoor cultivation sites within 60 of the 112 subwatersheds visible in Humboldt County. In 2015, during a presentation before the Humboldt County Board Supervisors, Mr. Butsic (2016) confirmed that the 60 watersheds selected and surveyed were chosen randomly and that it was, therefore, reasonable to extrapolate almost double that number could exist within Humboldt County in 2012. Anecdotal information received from observations by local regulatory and enforcement agencies suggests a pattern of rampant growth in the industry during the past decade, with some estimates of as many as 10,000 to 15,000 cultivation operations currently in existence. As identified in Table 2-2, the County has received cannabis applications in response to the 2016 CMMLUO that cover approximately 1,252 acres of existing and proposed new operations (8 to 13 percent of the total estimated cultivation operations in the County).

Historic and on-going cannabis cultivation practices have resulted in damage to streams and wildlife. More recently, illegal cannabis cultivation operations within public and private lands have led to illegal water diversions, unpermitted removal of sensitive vegetation, and direct mortality to protected species from exposure to rodenticides and insecticides (Gabriel et al. 2012 and 2013). In addition, these practices (e.g., clearing trees, grading, and road construction) have been conducted in a manner that causes large amounts of sediment to flow into streams during rains. The cannabis cultivators have also discharged pesticides, fertilizers, fuels, trash, and human waste around the sites, that then discharges into waters of the state. Furthermore, diversion of flow during the dry season have caused complete elimination of stream flows in some areas of the County. Water quality related constituents of concern associated with cannabis cultivation discharges include nitrogen, pathogens (represented by coliform bacteria), phosphorus, salinity, and turbidity. Water quality can be affected by excessive use of fertilizer, soil amendments, or other sources.

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Cultivation operations that do not participate in the proposed Ordinance would continue to be considered illegal upon adoption of the Ordinance. Enforcement activities would be taken by the County in coordination with other agencies that could result in bringing some cultivation operations into compliance with County and state standards and the closure and remediation of other operations. The removal of illegal cultivation sites is on-going, and consideration of general locations where this would occur and number of future illegal sites is unknown and cannot be known at this time. While it is acknowledged that illegal cannabis operations would continue to occur in the County after adoption and implementation of the Ordinance, details on the full extent of the environmental effects of existing cannabis operations are considered speculative and are not assessed in this evaluation of cumulative impacts.

04-100 cont

While this passage does concede obvious generalities, it is fatally incomplete as an analysis of cumulative effects which can guide policy choices to avoid, prevent, and mitigate those impacts in the future. CEQA states at Section 15355: "Cumulative impacts" refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. (a) The individual effects may be changes resulting from a single project or a number of separate projects. (b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

04-101

04-102

The DEIR fails to adequately consider the impacts of the proposed project, especially given its uncertain mitigations. But its greatest defect is its failure to analyze the impacts of the project "when added to other closely related past, present, and reasonably foreseeable probable future projects."

04-103

The County claims, in the section quoted above, that "*The removal of illegal cultivation sites is on-going, and* ***consideration of general locations where this would occur and number of future illegal sites is unknown and cannot be known at this time****. … details on the full extent of the environmental effects of existing cannabis operations are* ***considered speculative*** *and are not assessed in this evaluation of cumulative impacts."*

04-104

The County's continued reliance on the Butsic study, which systematically understates the extent of the industry and its impacts, and the County's refusal to consider information it can readily access, including information already in its possession, all reflect an unwillingness to address cumulative effects that is not consistent with CEQA's requirements.

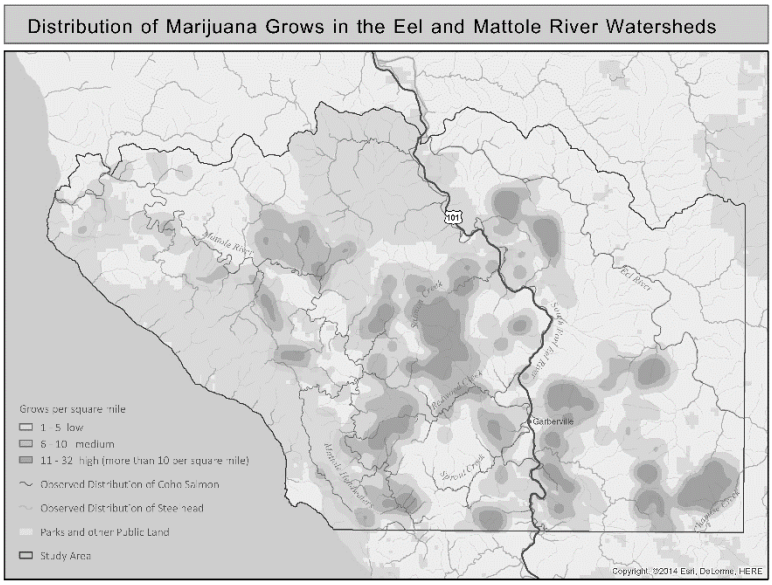
04-105

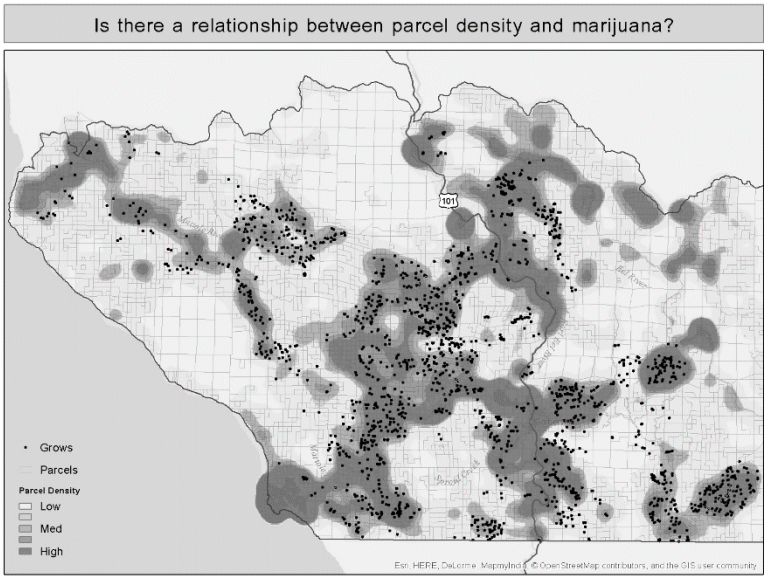
The County has not even bothered to count existing sites or analyze their locations. The County has not analyzed the impacts of areas where there is a high density of cultivation operations, or the correlation between such areas and smaller parcel sizes. The County has presented no meaningful discussion of the overlap of high-density or high-impact operations with critical public trust and biological resources.

04-106

31

Friends of the Eel River prepared such analyses and produced a series of such maps in 2014. Here are two.





04-107

It is not credible for the County to suggest that the "general location" of existing operations "cannot be known." It is, however, a real shame that the public and our fish and wildlife can't decide that those impacts are "speculative" and dismiss them as easily as the County has here. 04-108

FOER is concerned that the County has engaged, and is here engaging, in a pattern and practice of allowing, through a systematic failure of enforcement, truly significant development across much of the County, to the detriment of its public resources, public health, and welfare. This pattern and practice now apparently extends to creating a system of cannabis regulation which will allow cultivators who want to sell to California's domestic system to obtain permits, while allowing the majority of current growers who market to the national black market to continue to do so with a level of enforcement pressure similar to that which has failed to prevent serious environmental harms over the last two decades. 04-109

We are concerned that this exposes both the County and the state's project of marijuana legalization, and its citizenry, to risks from federal government action. As the County is well aware, the federal government is refraining from interfering with state legalization efforts which take effective measures to keep their weed out of the black market. It's difficult to mount much of a defense of Humboldt County's efforts in that respect, especially on the basis of the policies and information presented in the proposed Ordinance and DEIR.

Conclusion

The DEIR must be recirculated. The Ordinance should be reconsidered in light of adequate environmental review. 04-110

As proposed, the Ordinance will not prevent significant and severe environmental impacts, including impacts to listed species and their habitat and other critically important biological and public trust resources. 04-111

Sincerely,



Scott Greacen
Conservation Director

Letter 04	Friends of the Eel River Scott Greacen 10/16/2017

04-1 This comment provides introductory statements for the comment letter and the Friends of the Eel River advocation for the protection and restoration of the Eel River. This comment is noted.

04-2 The comment asserts that the cannabis industry in the County is already too large and that the County continues to not utilize its land use authority to address cannabis. The DEIR is not a land use regulation or policy document. It is a document used to inform lead agency decision makers and the public of the significant environmental effects of the proposed ordinance. The reader is referred to Master Response 6 for a discussion on improvements to the County's code enforcement activities.

04-3 The comment asserts that the environmental and social consequences of permitting cannabis operations cannot be evaluated separate from the existing illegal cannabis industry and its impacts.

As described in Master Response 1, the DEIR provides disclosure of the environmental impacts from existing unpermitted cannabis operations in the County and Master Response 6 regarding enhanced enforcement.

04-4 The comment states that the Friends of the Eel River have requested a cap on cannabis operations that will be permitted and to conduct an analysis of watershed impacts and carrying capacity in key fishery watersheds.

As further described under Master Response 5, a watershed analysis to establish cannabis cultivation caps for each watershed would be difficult for the County to conduct as it would require details on existing water users in each watershed and the extent that riparian water rights may be exercised, which is infeasible given information availability and the financial constraints to otherwise collecting this data. Regional and state agencies that would have the appropriate technical information and experience to conduct a watershed analysis include State Water Board, North Coast Regional Water Quality Control Board, and CDFW. The County would be willing to participate in joint watershed evaluation studies with these agencies. The DEIR does provide a watershed level impact analysis associated with the proposed ordinance that includes details on current water quality and surface water flow conditions (see DEIR pages 3.8-14 through 3.8-47). Water quality impacts would be mitigated through compliance with the State Water Board Policy as well as implementation of Mitigation Measure 3.8-2.

The DEIR analysis acknowledges that cannabis irrigation could result in a significant decrease in watershed flows during low flow conditions (see DEIR pages 3.8-44 and 3.8-45). Implementation of Mitigation Measure 3.8-5 in compliance with State Water Board Policy would require that all cannabis cultivation surface water and groundwater diversions comply with the numeric flows and aquatic base flows that have been established by watershed under the Policy in consultation with CDFW. The State Water Board Policy's numeric flows and aquatic base flows and associated diversion requirements function as an aquatic carrying capacity suggested by the comment. The proposed ordinance would prohibit new commercial cannabis cultivation in the forested areas of the upper watersheds and limit it to non-forested areas generally in the lower portions of the watersheds where the USGS gages used in the implementation of the State Water Board Policy exist. The State Water Board Policy's flow standards and diversion requirements were developed to protect fish spawning, migration, and rearing for endangered anadromous salmonids, and flows to needed to maintain natural flow

variability within each watershed. Thus, the need to prepare a watershed to a determine the aquatic carrying capacity is not necessary to adequately address the water resources impacts of the proposed ordinance at a watershed level of detail.

It should be noted that at the time of the preparation of this FEIR the County was considering modifications to the proposed ordinance that would establish a cap to limit the extent of permitted commercial cannabis operations in the County.

04-5 The comment asserts that impacts of the illegal cannabis need to be addressed to allow permitted cannabis operations.

While these existing environmental conditions of unpermitted cannabis cultivation operations were disclosed as part of the baseline condition in the DEIR, CEQA is not intended to conduct environmental review and mitigate these existing conditions. State CEQA Guidelines Section 15125(a) identifies that the baseline physical conditions are the basis by which a lead agency determines whether an impact of the project is significant. Published case law has identified that baseline conditions include unpermitted and/or harmful activities that have occurred prior to the project. In *Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 234 Cal.App.4th 214 (183 Cal.Rptr.3d 736], the Fourth Appellate District upheld the baseline conditions and ruled that the baseline condition must reflect the physical conditions at the time the environmental analysis begins even if the current conditions includes unauthorized and even environmental harmful conditions that never received environmental review.

The County believes that regulating cannabis operations will result in permitting of "good" operations—ones that comply with regulations—and the eventual eradication of illegal operators who choose to avoid or ignore the permitting process. The County has addressed enhanced enforcement as a separate project with amendments to its Code Enforcement program. (Ordinance No. 2576, June 27, 2017 and Ordinance No. 2585, November 7, 2017) designed to eliminate delays that hindered effective enforcement, and substantially increase administrative civil penalties. The Code Enforcement Unit is engaged in the initial implementation of the enhanced enforcement program (see Master Response 6). The overall purposes of the proposed ordinance are to establish legal commercial cannabis activities and expand upon the existing regulations set forth under the current CMMLUO to improve baseline environmental conditions in the County.

The reader is referred to Response to Comment 04-4 regarding comments on establishing a cap on cannabis operations.

04-6 The comment asserts that the proposed ordinance provides too many incentives for compliance of cannabis operations that cannot provide meaningful reductions in watershed impacts.

As noted above, the DEIR is an informational document that discloses the potential significant environmental impacts from the implementation of the proposed ordinance. The DEIR is not the proper document or process to develop incentives to existing unpermitted cannabis operations to obtain coverage under the proposed ordinance. The reader is referred to Response to Comment 04-4 regarding watershed impact concerns and 04-5 regarding the consideration of baseline environmental conditions from existing cannabis operations. See Master Response 6 regarding enhanced enforcement.

04-7 The comment states that the County is under pressure to develop a plan to permit commercial cannabis operations. The County believes that regulating cannabis operations will result in permitting of "good" operations—ones that comply with regulations and environmental protections—and the eventual eradication of illegal operators who choose to

avoid or ignore the permitting process. Enforcement is anticipated to reduce the number of illegal cannabis operations that occur in the unincorporated areas of the County as well as result in the remediation and restoration of environmental damage from these operations (the reader is referred to Master Response 6 regarding enforcement activities by the County). This is expected to improve baseline and cumulative environmental conditions associated with cannabis operations.

04-8 The comment asserts that the cannabis industry wishes to remain illegal (black market) and that the County has no intention of undertaking enforcement measures. The comment also asserts that the DEIR relies on unenforceable promises that mitigation measures will be implemented.

The DEIR identifies and recommends mitigation measures that are feasible to implement that are based on current local, regional, and state regulations and guidance and are based on technical information in the record. Should the proposed ordinance be adopted, the DEIR mitigation measures are adopted as part of a mitigation monitoring and reporting program and are legally binding requirements. The comment provides no technical information or analysis that identifies the DEIR mitigation measures are infeasible. This brings up a basic tenant of CEQA and land use regulation in general: there is an assumption that regulated individuals will act legally and within the requirements included in adopted mitigation measures. To assume otherwise would obliterate the premise of land use regulation, including CEQA compliance. Enforcement is a critical component.

The County believes that regulating cannabis operations will result in permitting of "good" operations—ones that comply with regulations—and the eventual eradication of illegal operators who choose to avoid or ignore the permitting process. The County has addressed enhanced enforcement as a separate project with amendments to its Code Enforcement program. (Ordinance No. 2576, June 27, 2017 and Ordinance No. 2585, November 7, 2017) designed to eliminate delays that hindered effective enforcement, and substantially increase administrative civil penalties. The Code Enforcement Unit is engaged in the initial implementation of the enhanced enforcement program (see Master Response 6).

04-9 The comment asserts that the proposed ordinance requirements are unenforceable and will add to the inadequacies of the Regional Board and County approaches to protecting water quality and fisheries.

The North Coast Regional Water Quality Control Board Order R1—2015-0023 that regulated cannabis cultivation has been superceded by the State Water Board Policy and Cannabis General Order that establishes new water quality and water diversion regulations that are designed to protect aquatic and fishery resources in County watersheds. These regulations were developed in consultation with CDFW and were scientifically peer-reviewed. The reader is referred to Master Response 5 for further details on the State Water Board Policy and Master Response 6 for details on improvements to the County's code enforcement activities.

04-10 The comment asserts that the DEIR presents little analysis of the implications of the CMMLUO or the proposed ordinance. DEIR Table 2-2 provides a summary of the applications submitted for compliance with the CMMLUO. As shown in Table 2-2, most of the applications submitted are for coverage of existing cannabis operations. The DEIR uses the application information to identify reasonably foreseeable compliance response to the proposed ordinance (see DEIR pages 2-28 through 2-30) and provides an extensive analysis of the environmental impacts of the implementation of the proposed ordinance in DEIR Sections 3.0 through 3.14 and Chapters 4 and 5. This analysis is based on modeling, technical analysis, and substantial evidence that is cited in DEIR Chapter 8, "References." The comment does not provide any specific examples or analysis of where the DEIR fails to adequately analyze environmental impacts of the proposed ordinance.

04-11 The comment states that the County permit application data identifies that few existing cannabis operations have applied for permits and that most of the permits approved to date are for new operations. The comment asserts that this permitting situation is the result of the County's actions associated with regulations.

DEIR Table 2-2 identifies that most of commercial cannabis operation permit applications received have been for existing operations. New commercial cannabis cultivation operations are anticipated to be limited. DEIR page 2-29 identifies that the California Department of Food and Agriculture (CDFA) estimates that cannabis production in the state in 2016 was 13.5 million pounds. Of this total, CDFA estimates that the North Coast area (consisting of Del Norte, Humboldt, Mendocino, Lake, Sonoma, Napa, and Marin counties) cannabis production in 2016 was 4.15 million pounds. Estimates for state cannabis consumption in 2018 under the Medical Cannabis Regulation and Safety Act (MCRSA) and the Adult Use of Marijuana Act (AUMA) range from 1.4 million pounds (2016 Economic Impact Study of the Cannabis Sector in the Greater Sacramento area) to 2.5 million pounds (Standard Regulatory Impact Assessment), which is far below the North Coast area's and state's current cannabis production capability.

The DEIR acknowledges the anticipated continuance of unpermitted cannabis operations after adoption of the proposed ordinance. The reader is referred to Master Response 1 for further details on disclosure of unpermitted cannabis operations under baseline and cumulative conditions.

04-12 The comment questions whether the County will have the staffing resources to supervise and enforce compliance with the proposed ordinance.

The reader is referred to Master Response 6 regarding improvements to the County enforcement activities.

04-13 The comment asserts that the current illegal cannabis conditions in the County are a result of the County lack of addressing the issue.

As described in Master Response 1, the DEIR discloses the environmental impacts of existing unpermitted cannabis operations in the County. The reader is referred to Master Response 6 regarding improvements to the County enforcement activities.

04-14 The comment asserts that the County is incapable of regulating the commercial cannabis industry, and that the effectiveness of the DEIR mitigation measures are limited because of the County's inability to regulate cannabis.

The reader is referred to Master Response 6 and Response to Comment 04-8 regarding feasibility and enforcement of DEIR mitigation measures.

04-15 The comment states that the DEIR did not establish numeric or geographic (watershed) limits on cannabis operations or identify the number of existing operations that may be eligible for permitting. The comment also states that there is adequate information available to determine the extent of the existing industry.

The reader is referred to Response to Comment 04-4 and Master Response 5 regarding caps and watershed limits. While it is not the purpose of the DEIR to determine whether existing cannabis operations may be eligible for permitting under the proposed ordinance, it does estimate that the County may contain up to 15,000 cannabis operations (see DEIR page 2-28). The determination of the exact extent of cannabis operations in the County is difficult to determine as several operations are located within forested areas and designed to not be

easily identified. The reader is referred to Master Response 6 regarding improvements to the County enforcement activities.

The current draft of the proposed ordinance does not specifically entitle any commercial cannabis operation or set limits on the extent of permits that may be issued. The DEIR uses reasonably foreseeable compliance responses to the proposed ordinance to conduct the impact analysis county-wide, which includes existing commercial cannabis operations that intend to comply with the ordinance (see DEIR pages 2-28 through 2-30). These existing commercial cannabis operations are part of the existing environmental conditions, but compliance with the proposed ordinance would result in the modification of their operations that could have significant environmental impacts (e.g., restoration of habitat, reconfiguration of cultivation areas, installation of water quality and water diversion control facilities, and roadway improvements). The DEIR programmatically evaluates the environmental impacts of these possible actions.

It should be noted that at the time of the preparation of this Final EIR the County was considering modifications to the proposed ordinance that would establish a cap to limit the extent of permitted commercial cannabis operations in the County.

04-16 The comment asserts that increasing of the size of allowed cultivation sites without addressing their operations should not occur and that the County should consider reducing cultivation area size. The comment also states that the County must address impacts to the County watersheds; develop mitigation and enforcement programs to reduce impacts, and consider carrying capacities to prevent further take under the state and federal endangered species acts.

The County is considering potential size restrictions to allowed cultivation areas as part of revisions to the proposed ordinance. Impacts state and federally listed species under the state and federal endangered species acts is addressed in the DEIR Section 3.4, "Biological Resources." The DEIR identifies mitigation measures to reduce impacts to listed and other special-status species to a less-than-significant level. The reader is referred to Response to Comment 04-4 and Master Response 5 regarding comments on watershed impacts and the need for establishing a carrying capacity. The reader is referred to Master Response 6 for further information on County enforcement efforts.

04-17 The comment questions the effectiveness of the proposed ordinance in meeting its purpose and intent under Section 55.4.2.

This comment is noted. The reader is referred to Master Response 6 regarding improvements to the County enforcement activities.

04-18 The comment provides input on Section 55.4.5.3 (Penalties and Enforcement) of the proposed ordinance and asserts that the County is not effective at code enforcement.

The reader is referred to Master Response 6 for further information on County code enforcement efforts and improvements.

04-19 The comment asserts that outdoor and mixed-light operations do not have the same impacts and suggests limitations on mixed light cultivation.

The County is considering this requested change as part of revisions to the proposed ordinance. The DEIR evaluates the aesthetic, biological, air quality, greenhouse gases, and energy impacts associated with mixed-light cultivation on DEIR pages 3.1-17 through 3.1-18 (aesthetics), 3.3-18 through 3.3-21 (air quality and greenhouse gases, 3.4-66 (biological resources), and 3.14-7 through 3.14-10 (energy).

04-20 The comment asserts that the annual inspections under the proposed ordinance are not adequate to ensure compliance and that the County does not have the staff resources to conduct inspections.

The County is considering this requested change to the inspection provisions as part of revisions to the proposed ordinance. The reader is referred to Master Response 6 for further information on County code enforcement efforts and improvements.

04-21 The comment states that the water use restrictions in Section 55.4.5.10 are not effective and suggests stronger restrictions for water use.

The proposed ordinance requires compliance with the State Water Board requirements for forebearance during the dry summer months. The proposed ordinance also includes a provision that allows the County to curtail cannabis cultivation in the event that water shortages are documented to exist. The reader is referred to Master Response 5 for information on water use restrictions and numeric flow and aquatic base flow requirements set forth in the State Water Policy for cannabis cultivation.

04-22 The comment suggests that commercial cannabis cultivation be prohibited on Forest Recreation lands as they are experiencing environmental impacts.

The County is considering this requested change as part of revisions to the proposed ordinance. The environmental impacts from the permitting of existing and new commercial cannabis operations county-wide (including Forest Recreation zoned lands) are evaluated in the technical sections of the DEIR. As identified in Master Response 1, the existing environmental effects from unpermitted cannabis operations are disclosed in the DEIR.

04-23 The comment asserts that the proposed ordinance allows for cultivation areas that are "too large" and recommends changes to the ordinance. The DEIR evaluated the environmental impacts of the provision of the ordinance allowing these larger grows.

The County is considering this requested change as part of revisions to the proposed ordinance.

04-24 The comment asserts that the DEIR is deficient in its analysis of cumulative impacts for watersheds with listed or special-status fish species that are already impacted by existing unpermitted cannabis operation. The comment recommends that Zoning Certificates for these watersheds not be used for approval of commercial cannabis operations.

The County is considering this requested change as part of revisions to the proposed ordinance. The reader is referred to Response to Comment O4-4 and Master Response 5 for concerns associated with the DEIR's analysis of watershed impacts and Response to Comment O4-5 for the consideration of the existing environmental effects of unpermitted cannabis operations in the DEIR impact analysis.

04-25 The comment recommends that pre-existing cultivation sites on Forest Recreation zoned parcels should be restricted to their existing footprint. The comment asserts that the DEIR fails to address the environmental impacts of expansion of existing cultivation sites.

The DEIR uses reasonably foreseeable compliance responses to the proposed ordinance to conduct the impact analysis county-wide, which includes existing commercial cannabis operations that intend to comply with the ordinance and may expand operations (see DEIR pages 2-28 through 2-30). These existing commercial cannabis operations are part of the existing environmental conditions, but compliance with the proposed ordinance would result in the modification or expansion of their operations that could have significant environmental

impacts (e.g., restoration of habitat, reconfiguration of cultivation areas, installation of water quality and water diversion control facilities, and roadway improvements). The DEIR programmatically evaluates the environmental impacts of these possible actions. The comment letter provides no technical analysis demonstrating that the DEIR fails to programmatically evaluate impacts of reconfiguration or expansion of existing commercial cannabis operations.

04-26 The comment states that the proposed ordinance should not allow the use of any generators for commercial cannabis production. The comment asserts that the DEIR fails to address the environmental impacts of generator noise and artificial lights on wildlife. The comment also asserts that enforcement will be limited as sites that use generators will be remote and will not generate complaints.

The reader is referred to Response to Comment O3-2 regarding generator noise impacts on wildlife. The DEIR includes Mitigation Measure 3.4-1f (now 3.4-1h) that requires additional noise standards that are based on the USFWS 2006 *Transmittal of Guidance: Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*. The proposed ordinance requires that artificial lighting used for mixed-light cultivation or nurseries in a greenhouse be prohibited from allowing any light from escaping the structure between sunset and sunrise (see DEIR page 3.1-18). The County would conduct annual inspections as part of permit renewals to ensure compliance. The reader is also referred to Master Response 6 regarding code enforcement efforts of the County.

04-27 The comment recommends a text change to Section 55.4.12.7.2 of the proposed ordinance regarding forbearance requirements for water diversions. The comment asserts that the DEIR cannot assume that the County will require forbearance in dry seasons. The comment identifies that stream diversions are known to be a critical cause of watershed and fishery harms.

The reader is referred to Response to Comment O4-4 and Master Response 5 regarding consideration of impacts on watersheds in the DEIR and water diversion restrictions set forth in the State Water Board Policy for cannabis cultivation.

04-28 The comment asserts that no provisional permitting under the proposed ordinance should be allowed and recommends changes to the proposed ordinance.

The County is considering this requested change as part of revisions to the proposed ordinance; regardless, provisional permitting was evaluated as part of the DEIR.

04-29 The comment asserts that indoor cultivation cannot be justified and states that even renewable grid power imposes substantial carbon costs.

It is unclear in the comment letter what "substantial carbon costs" would occur under the proposed ordinance requirements for the purchase of renewable energy sources that would avoid greenhouse gas emissions from indoor cultivation energy use. The purchase of renewable energy is a common and state-wide method for projects to mitigate greenhouse gas emissions associated with energy use.

04-30 The comment states that the proposed ordinance requirements for roadway standards would not address water quality impacts from roads.

The proposed ordinance roadway standards for new roadways and improvements to existing roadways include compliance with the *Water Quality and Stream Habitat Protection Manual for County Road Maintenance in Northwestern California Watersheds* that would require implementation of BMPs to control sediment and protect water quality (see DEIR page 2-23).

In addition, commercial cannabis operations would also be required to comply with the sediment control requirements for roadways set forth in the State Water Board Policy and the Cannabis General Order. The reader also referred to Master Response 5 and Response to Comment R2-8.

04-31 The comment suggests that no permits be granted for operations and roadways that cannot be mitigated, including in areas of key fishery watersheds. The comment recommends qualifications appropriate for the roadway impact evaluation include biologists. The comment also suggests a standard for roadway maintenance.

The reader is referred to Response to Comment 04-30 and Master Response 5 regarding roadways and water quality. Qualified biologist is defined in the definitions section of Attachment A of the State Water Board Policy as:

> **Qualified Biologist** – an individual who possesses, at a minimum, a bachelor's or advanced degree, from an accredited university, with a major in biology, zoology, wildlife biology, natural resources science, or a closely related scientific discipline, at least two years of field experience in the biology and natural history of local plant, fish, and wildlife resources present at the cannabis cultivation site, and knowledge of state and federal laws regarding the protection of sensitive and endangered species.

This definition will be used in the state permitting process of all commercial cannabis operations in the County.

Under Section 55.4.12.1.8 (d) of the proposed ordinance where three or more applications are filed for commercial cannabis activities served by the same shared private road system, the owner of each property must join or establish a Road Maintenance Association. The owners of properties with commercial cannabis activities permits granted under the existing Commercial Medical Marijuana Land Use Ordinance as a condition of permit renewal. Owners of existing small cultivation sites must also participate in any Road Maintenance Association for road systems serving that parcel (Section 55.4.6.5.1 e). Section 55.4.12.1.8 of the proposed ordinance outlines the strategy to address sediment discharges from private, shared-use roads by commercial cannabis permit applicants. Road evaluations that are the responsibility of the applicants will inventory existing sources, monitored by the Public Works Department. Remediation plans will be required where necessary and annual inspections of cannabis operations would include evaluation of roadway conditions. The County is responsible for addressing sediment discharges from county roads.

04-32 The comment asserts that the DEIR fails to address and mitigate the significant environmental impacts of the proposed ordinance and needs to be revised and recirculated.

The DEIR provides detailed analysis of the significant environmental impacts of the proposed ordinance that is based on technical reports, modeling results, consultation with natural resource agencies, and the technical evaluation by environmental professionals. Each comment in this letter has been evaluated and responded to. None of the issues identified by the comment constitute "significant new information" that would require recirculation of the DEIR under State CEQA Guidelines Section 15088.5. The County considers the DEIR adequate for disclosure of the significant environmental effects of the proposed ordinance.

04-33 The comment asserts that the DEIR and County have the ability to reduce the significant environmental impacts of the commercial cannabis industry in the County today, but fails to address or mitigate these impacts.

The purpose of the DEIR is to disclose the significant environmental impacts of the proposed ordinance and identify mitigation measures and alternatives to address these impacts. The

DEIR identifies that all significant environmental impacts from the implementation of the proposed ordinance can be mitigated to a less-than-significant level, with the exception of project and cumulative impacts from particulate matter emissions, exposure to objectional odors, and public water supplies and infrastructure facilities. While existing environmental effects of current unpermitted cannabis cultivation operations in the County were disclosed as part of the baseline condition in the DEIR, CEQA is not intended to conduct environmental review and mitigate these conditions. State CEQA Guidelines Section 15125(a) identifies that the baseline physical conditions are the basis by which a lead agency determines whether an impact of the project is significant. Published case law has identified that baseline conditions include unpermitted and/or harmful activities that have occurred prior to the project. In *Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 234 Cal.App.4th 214 (183 Cal.Rptr.3d 736], the Fourth Appellate District upheld the baseline conditions and ruled that the baseline condition must reflect the physical conditions at the time the environmental analysis begins even if the current conditions includes unauthorized and even environmental harmful conditions that never received environmental review. Nevertheless, the proposed ordinance includes provisions that require restoration of environmental damage under Section 55.4.6.5.9 and 55.4.6.6. The DEIR programmatically evaluates the environmental impacts of restoration actions.

04-34 The comment asserts that the DEIR's conclusions regarding the mitigation of cumulative watershed, fisheries, and wildlife impacts from the County's commercial cannabis industry is not supported by substantial evidence and mitigation will not be implemented by the County.

This comment appears to confuse the existing environmental conditions related to unpermitted cannabis operations in the County with the proposed ordinance regarding the adequacy of the DEIR. The reader is referred to Response 04-33 for a discussion of the requirements of the CEQA to evaluate project impacts in relation to baseline environmental conditions. The DEIR impact analysis of watersheds, fisheries, and wildlife impacts is based on substantial evidence that is cited in DEIR Sections 3.4, "Biological Resources," 3.8, "Hydrology and Water Quality," Chapter 4, "Cumulative Impacts," and identification of the reference material in Chapter 8, "References." The reader is also referred to Master Response 5 for further evidence that water quality and surface water flow impacts would be mitigated through compliance with the State Water Board Policy. The State Water Board Policy's flow standards and diversion requirements were developed to protect fish spawning, migration, and rearing for endangered anadromous salmonids, and flows to needed to maintain natural flow variability within each watershed.

The County would conduct annual inspections as part of permit renewals to ensure compliance. The reader is referred to Master Response 6 on enhanced code enforcement by the County. The State Water Board Policy also identifies various methods of enforcement of its requirements. These include the following:

- Modification of water right permits by the State Water Board should it determine that a permitted diversion results in an adverse impact as provided under Water Code Section 100 and 275;
- Expansion of the Watershed Enforcement Team to conduct enforcement actions on cannabis cultivation activities that are not in compliance with the Policy requirements;
- Informal and formal enforcement actions involving Notices of Violation, Notices to Comply, orders for investigations and monitoring, monetary penalties, Cleanup and Abatement Orders, Time Schedule Orders, Cease and Desist Orders, revocation of water right permits and licenses, and modification or rescissions of water discharge requirements.

04-35 The comment re-states areas of controversy identified in the Executive Summary of the DEIR and asserts that the DEIR does not address enforcement, biological, and watershed impacts.

The reader is referred to Response to Comment 04-34 for information on enforcement measures, biological impacts, and consideration of watershed impacts.

04-36 The comment asserts that the County will not enforce its Grading Ordinance.

Demonstration of compliance with the County's grading requirements would be included as part of commercial cannabis application submitted to the County. The County will conduct annual inspections for permit renewals to ensure compliance and require any corrective actions. The reader is referred to Master Response 6 for a further discussion of the County enhancements of its code enforcement operations.

04-37 The comment generally agrees with the estimate of existing cannabis operations cited in the DEIR. This comment is noted. The determination of the exact extent of cannabis operations in the County is difficult to determine as several operations are located within forested areas and designed to not be easily identified. They are illegal.

04-38 The comment states that existing cannabis have large watershed impacts because of roadways and that the County has not adequately addressed these sites. This comment is noted. The reader is referred to Master Response 1 for further information on the DEIR's disclosure of existing environmental effects from unpermitted cannabis operations and Master Response 5 for further discussion on water quality and surface water impacts and mitigation for the proposed ordinance.

04-39 The comment asserts that the DEIR does not address existing roadway impacts from the cannabis industry public trust resources that include wildlife habitat, surface waters, and fisheries habitats.

The DEIR specifically addresses these impacts from implementation of the proposed ordinance in DEIR Sections 3.4, "Biological Resources," 3.8, "Hydrology and Water Quality," and Chapter 4, "Cumulative Impacts." The reader is also referred to Master Response 5 for further evidence that water quality and surface water flow impacts would be mitigated through compliance with the State Water Board Policy. The comment letter provides no technical analysis or information that counters the conclusions of the DEIR.

04-40 The comment refers to information in the DEIR on permit applications received under the CMMLUO and suggests that the state's domestic legal market will require 1,110 acres of cannabis cultivation. The comment also asks how much commercial cannabis cultivation will be permitted by the County.

The proposed ordinance currently has no limitations on the total amount of commercial cannabis cultivation that may be permitted in the County. DEIR page 2-29 identifies that the California Department of Food and Agriculture (CDFA) estimates that cannabis production in the state in 2016 was 13.5 million pounds. Of this total, CDFA estimates that the North Coast area (consisting of Del Norte, Humboldt, Mendocino, Lake, Sonoma, Napa, and Marin counties) cannabis production in 2016 was 4.15 million pounds. Estimates for state cannabis consumption in 2018 under the Medical Cannabis Regulation and Safety Act (MCRSA) and the Adult Use of Marijuana Act (AUMA) range from 1.4 million pounds (2016 Economic Impact Study of the Cannabis Sector in the Greater Sacramento area) to 2.5 million pounds (Standard Regulatory Impact Assessment), which is far below the North Coast area's and state's current cannabis production capability.

The County received limited interest in new commercial cannabis operations (see DEIR Table 2-2). Of the 2,936 cannabis applications submitted in response to the CMMLUO, only 941 applications for 432 new commercial cultivation sites were for proposed new commercial cannabis operations. The DEIR assumes that the County could receive an additional 941 applications for new commercial cannabis operations under the proposed ordinance (see DEIR page 2-29).

It should be noted that at the time of the preparation of this Final EIR the County was considering modifications to the proposed ordinance that would establish a cap to limit the extent of permitted commercial cannabis operations in the County.

04-41 The comment provides input on the project objectives and asserts that the objectives do not relate to the current oversupply of cannabis in the state. The comment also asserts that the objectives conflict regarding the permitting existing cannabis operations and environmental protection.

The comment regarding project objectives and the current cannabis production capacity of the state is noted. The comment appears to suggest that one of the DEIR project objectives is "to protect the environment from harm resulting from cannabis activities, including but not limited to streams, fish, and wildlife." This is not correct. The DEIR identifies the following project objectives that address the environment:

- establish requirements that address land use and environmental impacts of cannabis operations, consistent with state agency regulations; and
- improve baseline environmental conditions in the County by removing existing cannabis cultivation operations from environmentally sensitive locations and relocating them to areas with public services. (see DEIR page 2-14)

The DEIR specifically addresses these impacts from implementation of the proposed ordinance on streams, fish, and wildlife in DEIR Sections 3.4, "Biological Resources," and 3.8, "Hydrology and Water Quality."

04-42 The comment asserts that the DEIR fails to address the environmental impacts of existing cannabis cultivation sites that may elect to comply with the proposed ordinance. The comment also asserts that cultivation sites and parcels are not the same thing and specific sites and specific parcels must be considered for impact and suitability.

The current draft of the proposed ordinance does not specifically entitle any commercial cannabis operation or set limits on the extent of permits that may be issued. The DEIR uses reasonably foreseeable compliance responses to the proposed ordinance to conduct the impact analysis county-wide, which includes existing commercial cannabis operations that intend to comply with the ordinance and may expand their operations (see DEIR pages 2-28 through 2-30). These existing commercial cannabis operations are part of the existing environmental conditions, but compliance with the proposed ordinance would result in the modification of their operations that could have significant environmental impacts (e.g., restoration of habitat, reconfiguration of cultivation areas, installation of water quality and water diversion control facilities, and roadway improvements). The DEIR programmatically evaluates the environmental impacts of these possible actions in DEIR Sections 3.1 through 3.14 and Chapter 4.

The DEIR specifically notes that commercial cannabis operations may involve multiple operations and licenses for a single parcel based on review of current applications (see DEIR page 2-13). The purpose of the DEIR is to disclose the significant environmental impacts of the proposed ordinance, including on sites that are less suitable for this activity.

04-43 The comment suggests that the definition of pre-existing should be limited and that generators should not be allowed on pre-existing sites.

This comment is noted and will be provided to the Planning Commission and Board of Supervisors for consideration of changes to the proposed ordinance. The DEIR evaluates the continued use of generators as provided for under the proposed ordinance.

04-44 The comment states that the DEIR must address the significant environmental impacts of all operations of the commercial cannabis industry.

The DEIR evaluates the significant environmental impacts associated with the construction and operation of all commercial cannabis operations provided in the proposed ordinance. Assumptions regarding future compliance actions and commercial cannabis operations used in the DEIR impact analysis are identified on DEIR pages 2-28 through 2-30 and within the technical analyses of each section of the DEIR.

04-45 The comment states that generators should be prohibited and that the County will not enforce the mitigation identified in the DEIR. The comment also asserts that the DEIR did not adequately address noise impacts to northern spotted owls and noise standards at parcels will not address the impact.

The reader is referred to Response to Comment 03-2 regarding generator noise impacts on wildlife. The DEIR includes Mitigation Measure 3.4-1f (now 3.4-1h) that requires additional noise standards beyond the proposed ordinance noise standards that are based on the USFWS 2006 *Transmittal of Guidance: Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*. The County would conduct annual inspections as part of permit renewals to ensure compliance. The reader is also referred to Master Response 6 regarding code enforcement efforts of the County.

04-46 The comment states that the County will not effectively enforce the lighting standards in the proposed ordinance.

The County would conduct annual inspections as part of permit renewals to ensure compliance. This would include confirming that security light shielding and light covers/blankets for mixed-light and nursery facilities are in place. The reader is also referred to Master Response 6 regarding code enforcement efforts of the County.

04-47 The comment identifies concerns regarding the proposed ordinance site reconfiguration criteria that is summarized in the DEIR Chapter 2, “Project Description.” The comment asserts that the DEIR does not provide an adequate description of the setting (e.g., watershed conditions) in relation to understanding how this section of the proposed ordinance would be implemented.

This section of the proposed ordinance only allows reconfiguration of the cultivation site and associated infrastructure if the reconfiguration results in an improvement in the environmental resources of the site. Generally, the County consults with the California Department of Fish and Wildlife in evaluating these plans.

The DEIR provides a programmatic environmental impact analysis of the implementation of the proposed ordinance county-wide. Each of the DEIR technical sections (Sections 3.1 through 3.14) provide a detailed description of the setting conditions of the County. This includes vegetation and extent of habitat (see DEIR pages 3.4-19 through 3.4-59) and watershed water quality and surface water flow conditions (see DEIR pages 3.8-14 through

3.8-33). The reader is referred to Response to Comment 04-31 regarding definition of a "qualified professional."

04-48 The comment asserts that the proposed ordinance's retirement, remediation, and relocation of pre-existing cultivation provisions is not effective.

The comment provides no technical analysis or information on why these provisions of the proposed ordinance would not be effective. This comment is noted.

04-49 The comment asserts that the DEIR provides little evidence or analysis of any reduction of impacts associated with the proposed ordinance's retirement, remediation, and relocation of pre-existing cultivation provisions.

As identified on DEIR page 2-28, the DEIR uses reasonably foreseeable compliance responses to the proposed ordinance to conduct the impact analysis county-wide, which includes existing commercial cannabis operations that intend to comply with the ordinance and may include actions associated with retirement, remediation, and relocation of pre-existing cultivation. These existing commercial cannabis operations are part of the existing environmental conditions, but compliance with the proposed ordinance would result in the modification of their operations that could have significant environmental impacts (e.g., restoration of habitat, reconfiguration of cultivation areas, installation of water quality and water diversion control facilities, and roadway improvements). The DEIR programmatically evaluates the environmental impacts of these possible actions in DEIR Sections 3.1 through 3.14 and Chapter 4. CEQA does not require the DEIR to evaluate whether the proposed retirement, remediation, and relocation of pre-existing cultivation provisions would improve existing environmental baseline conditions. The reader is referred to Master Response 5 for further discussion of water resources and fisheries.

04-50 The comment asserts that the proposed ordinance and DEIR do not provide enforceable measures to ensure abandoned or remediated cultivation would be restored to ecological function.

The comment is referring to the summary description of the proposed ordinance's retirement, remediation, and relocation (RRR) of pre-existing cultivation provisions provided in DEIR Chapter 2, "Project Description." Application submittals for participation in this provision of the proposed ordinance would be required to provide technical information and plans that demonstrate remediation of the site. As part of the County's review of the application, the technical materials would be reviewed and the site inspected to ensure compliance with the ordinance's requirements.

04-51 The comment asserts that the DEIR does not address the environmental impacts of the implementation of the RRR program associated with the relocated sites. The comment also suggests that relocated sites should not be in Forest Residential zoned areas.

The reader is referred to Response to Comment 04-49 that identifies how existing cannabis operations that participate in the RRR provisions of the proposed ordinance were evaluated in the DEIR.

04-52 The comment asserts that DEIR Sub-Section 2.4.5, "Reasonably Foreseeable Compliance Responses," is not informative. The comment asserts that the Butsic study is misleading.

As identified in Master Response 2, The proposed ordinance does not entitle or approve any specific commercial cannabis operation or establish restrictions on the total number or acreage of new commercial cannabis operations. To evaluate reasonably foreseeable environmental impacts from implementation of the ordinance, DEIR Chapter 3, "Project

Description," includes Subsection 2.4.5, "Reasonably Foreseeable Compliance Responses." Subsection 2.4.5 describes anticipated compliance responses to the proposed ordinance that are based on assumptions developed by County staff based on review of cannabis applications received in response to the 2016 CMMLUO, field review and data associated with existing cannabis operations in the County, CalCannabis documentation, and published information regarding cannabis operations. This approach to the evaluation of impacts is consistent with State CEQA Guidelines Section 15144 which addresses the issue of forecasting: "Drafting an EIR or preparing a Negative Declaration necessarily involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can." The County can forecast a reasonable response to the ordinance, it is noted that individual applications that require approval of a Special Permit or Use Permit under the proposed ordinance would be subject to further environmental review under CEQA.

The Butsic study identified by the comment is a published source that estimated the extent of existing unpermitted cannabis operation in the County. The DEIR uses the estimate of 15,000 existing cannabis operations in the County. The comment letter provides no countering estimate of total cannabis operations in the County.

04-53 The comment asserts that the DEIR provides an "anecdotal" estimate of existing cannabis operations in the County and does not adequately identify the extent and impact of existing cannabis operations. The comment cites a paragraph from the DEIR regarding the impact analysis assumptions for existing cannabis operations in the County and states that it fails to identify how many or where cannabis operations would be shut down, brought into compliance, remediated, or would remain illegal.

The reader is referred to Response to Comment 04-52 and Master Response 2 regarding the use of forecasting to evaluate impacts of the proposed ordinance. Since the proposed ordinance does not entitle or approve any specific commercial cannabis operations, it would be speculative to identify the exact extent and location of cannabis operations that would be shut down, brought into compliance, remediated, or would remain illegal.

04-54 The comment questions the DEIR's assumptions for new commercial cannabis operations.

The reader is referred to Master Response 2 for a detailed discussion of the assumptions used of estimating new commercial cannabis operations. DEIR page 2-29 identifies that the California Department of Food and Agriculture (CDFA) estimates that cannabis production in the state in 2016 was 13.5 million pounds. Of this total, CDFA estimates that the North Coast area (consisting of Del Norte, Humboldt, Mendocino, Lake, Sonoma, Napa, and Marin counties) cannabis production in 2016 was 4.15 million pounds. Estimates for state cannabis consumption in 2018 under the Medical Cannabis Regulation and Safety Act (MCRSA) and the Adult Use of Marijuana Act (AUMA) range from 1.4 million pounds (2016 Economic Impact Study of the Cannabis Sector in the Greater Sacramento area) to 2.5 million pounds (Standard Regulatory Impact Assessment), which is far below the North Coast area's and state's current cannabis production capability.

The County received limited interest in new commercial cannabis operations (see DEIR Table 2-2). Of the 2,936 cannabis applications submitted in response to the CMMLUO, only 941 applications for 432 new commercial cultivation sites were for proposed new commercial cannabis operations. The DEIR assumes that the County could receive an additional 941 applications for new commercial cannabis operations under the proposed ordinance (see DEIR page 2-29). Given that the North Coast area and the rest of the state currently produces more cannabis than projected demands, it would not be a reasonable for the DEIR to assume that all eligible parcels under the proposed ordinance would be converted to commercial cannabis operations. The DEIR uses reasonable assumptions to forecast

compliance to the proposed ordinance consistent, with CEQA Guidelines Section 15144, that is supported by substantial evidence in the record. Thus, consideration of the theoretical maximum potential for commercial cannabis operations in the County would be counter to studies, evidence, and foreseeable demand. The comment letter provides no technical analysis or evidence that counters the information in the DEIR regarding cannabis demand and supply.

It should be noted that at the time of the preparation of this FEIR the County was considering modifications to the proposed ordinance that would establish a cap to limit the extent of permitted commercial cannabis operations in the County.

04-55 The comment asserts that the DEIR should consider a maximum scenario for new commercial cannabis operations.

The reader is referred to Response to Comment 04-54 and Master Response 2. It should be noted that at the time of the preparation of this FEIR the County was considering modifications to the proposed ordinance that would establish a cap to limit the extent of permitted commercial cannabis operations in the County. Further, CEQA requires consideration of the reasonably foreseeable impacts of a project. This term is used throughout CEQA, and perhaps most pertinently to the project at hand, an ordinance, in reference to adoption of a rule or regulation: "The environmental analysis shall, at minimum,

include all of the following:

(1) An analysis of the reasonably foreseeable environmental impacts of the methods of compliance.

(2) An analysis of reasonably foreseeable feasible mitigation measures.

(3) An analysis of reasonably foreseeable alternative means of compliance with the rule or regulation." (Public Resources Code Section 21159.4)

While this statute addresses environmental analysis by state agencies, its concepts are applicable here, to analysis of the County's proposed ordinance. To that end, it is not reasonably foreseeable—and nothing in the record supports the concept—that all sites that *could,* under the ordinance, be used to cultivate cannabis, indeed would. One reason is the over-supply of cannabis; if there is no market for the product, it stands to reason that law-abiding citizens would be hesitant to grow a product that can't be sold. As addressed here and elsewhere, the DEIR uses a reasonable estimate to determine the potential impacts of the ordinance, and the comment provides no substantial evidence to suggest otherwise.

04-56 The comment states that it is inconsistent for the proposed ordinance to not establish limits for new commercial cannabis permits and the DEIR impact analysis to be based on a certain number of new cannabis operations.

The reader is referred to Response to Comment 04-54 and Master Response 2. It should be noted that at the time of the preparation of this Final EIR the County was considering modifications to the proposed ordinance that would establish a cap to limit the extent of permitted commercial cannabis operations in the County.

04-57 The comment asserts that the DEIR presents no detailed or substantive analysis of existing and projected commercial cannabis operations or the potential significant impacts on public trust resources (watersheds, water quality, fisheries, and habitat).

The reader is referred to Master Response 1 for detailed information on the DEIR's disclosure of the estimate extent of existing cannabis operations in the County and the existing environmental effects of cannabis operations; Response to Comment 04-54 and Master Response 2 for details on estimates on reasonably foreseeable responses by existing and new commercial cannabis operations to the proposed ordinance.

The DEIR specifically addresses impacts from implementation of the proposed ordinance on watersheds, water quality, fish, wildlife, and habitat in DEIR Sections 3.4, "Biological Resources," and 3.8, "Hydrology and Water Quality." The comment letter provides no technical analysis or evidence that counters the conclusions of the DEIR.

04-58 The comment asserts that the DEIR fails consider the proposed ordinance's impact on habitat and wetlands and that the County appears to be proceeding in violation of the federal environmental law or consideration of the responsibilities of the CDFW and the state endangered species act.

The comment appears to misinterpret a statement from the bottom of DEIR page 3-1 that introduces the format of the DEIR impact analysis:

> Cannabis is identified as a Schedule 1 controlled substance under the federal Controlled Substance Act. Operations related to the growing, processing, and sale of cannabis products are in violation of federal law. Federal agencies are prohibited from issuing permits or approvals for any operation that is in violation of federal law. Thus, compliance with federal permitting requirements that would usually address environmental impacts (e.g., filling of waters of the U.S. and incidental take authorization under the federal Endangered Species Act) cannot be utilized.

This statement identifies that federal actions such as the issuance of wetland fill permits under Section 404 of the Clean Water Act cannot be utilized as a method to mitigate potential wetlands cannot be relied upon for commercial cannabis operations. This does not state that the County would ignore state and federal environmental laws. Federal and state regulations that protect biological resources are acknowledged in the DEIR on pages 3.4-1 through 3.4-4. Biological resource mitigation measures identified in the DEIR include consultation with CDFW and US Fish and Wildlife Service (USFWS). Mitigation Measure 3.4-5 specifically requires that if a Section 404 permit cannot be obtained, the project must be modified to avoid wetland features.

04-59 The comment cites information from DEIR Section 3.0, "Approach to the Environmental Analysis," that describes the status of commercial cannabis permitting as part of the environmental setting. The comment asserts that the DEIR should have provided a table with more information on the permit applications and their status.

This section of the DEIR summarizes commercial cannabis permit application information that was available at the time of preparation of the DEIR to describe baseline conditions. DEIR Table 2-2 provides this summary information a table format. These applications are for coverage under the CMMLUO and not the proposed ordinance. The reader is referred to the County for details on the individual application status.

04-60 The comment cites a paragraph from DEIR page 3-2 and appears to assert that the DEIR needs to evaluate and mitigate impacts from existing unpermitted cannabis operations in the County.

The reader is referred to Master Response 1 for further discussion on the consideration of existing environmental effects from unpermitted cannabis operations.

04-61 The comment asserts that the County is avoiding existing environmental impacts from historic cannabis operations and the DEIR is not addressing this issue properly in the cumulative analysis.

The reader is referred to Master Response 1 for further discussion on the consideration of existing environmental effects from unpermitted cannabis operations and cumulative impacts.

04-62 The comment asserts that the DEIR should identify the extent that the County enforces its existing regulations to determine their effectiveness in addressing environmental impacts. The comment asserts that the County will not enforce the proposed ordinance.

The proposed ordinance would require submittal of an application with technical information to demonstrate compliance with the ordinance performance standards and other County requirements. The County will review the application material and inspect the site to confirm compliance with the ordinance. The County would also conduct annual inspections as part of permit renewal to confirm compliance and identify any required corrective measures. The reader is referred to Master Response 6 for further discussion on improvements to the County's code enforcement program.

04-63 The comment asserts that the DEIR cannot rely on compliance with the North Coast Regional Water Quality Control Board program to address water resource impacts as enforcement is lacking.

The reader is referred to Master Response 5 for information regarding the new State Water Board Policy that supercedes the North Coast Regional Water Quality Control Board. DEIR mitigation measures 3.8-2 and 3.8-5 require commercial cannabis operations demonstrate compliance with the water quality and water diversion requirements of the State Water Board Policy. This would occur as part of the submittal of an application with technical information to demonstrate compliance with the ordinance performance standards and other County requirements. The County will review the application material and inspect the site to confirm compliance with the ordinance. The County would also conduct annual inspections and review of water use documentation as part of permit renewal to confirm compliance and identify any required corrective measures. The County would conduct annual inspections as part of permit renewals to ensure compliance. The reader is referred to Master Response 6 on enhanced code enforcement by the County. The State Water Board Policy also identifies various methods of enforcement of its requirements. These include the following:

- Modification of water right permits by the State Water Board should it determine that a permitted diversion results in an adverse impact as provided under Water Code Section 100 and 275;
- Expansion of the Watershed Enforcement Team to conduct enforcement actions on cannabis cultivation activities that are not in compliance with the Policy requirements;
- Informal and formal enforcement actions involving Notices of Violation, Notices to Comply, orders for investigations and monitoring, monetary penalties, Cleanup and Abatement Orders, Time Schedule Orders, Cease and Desist Orders, revocation of water right permits and licenses, and modification or rescissions of water discharge requirements.

Thus, enforcement and verification would be part of the permitting and renewal process to ensure compliance that would protect water resources.

04-64 The comment states that the status of the foothill yellow-legged frog is incorrectly cited in the DEIR and asserts that the DEIR fails to provide any meaningful information or impacts analysis on the species or its habitat.

DEIR page 3.4-34 identifies the habitat requirements and known occurrences in the County of the foothill yellow-legged frog. DEIR pages 3.4-61 and 3.4-62 identifies potential impacts to this species (direct take and habitat impacts) and identifies mitigation to reduce this impact to a less-than-significant level. In response to CDFW comments, additional mitigation has been added to ensure that potential impacts to the foothill yellow-legged frog or its habitat are identified at application submittal and development of site-specific measures in consultation with CDFW will be identified that may include project design modifications, buffering, or other appropriate measures. The reader is referred to Response to Comment S1-10 for text changes to the DEIR to reflect the current status of the species and Response to Comment S1-13 for modifications to the mitigation measures.

04-65 The comment asserts that the incorrect reference to the status of the foothill yellow-legged frog in the DEIR will result in violation of state law by causing a take of the species. The comment states that the DEIR must be recirculated to address this issue.

The reader is referred to Response to Comment 04-64. Minor corrections to the DEIR and the additional mitigation to address identified significant impacts in the DEIR does not constitute "significant new information" that would require recirculation of the DEIR under State CEQA Guidelines Section 15088.5.

04-66 The comment asserts that DEIR mitigation that requires relocation of cultivation sites does not address whether the relocation would be consistent with the provisions of the proposed ordinance.

Implementation of the DEIR mitigation measures that require relocation of cannabis cultivation sites would be identified in application submittals and would be required to demonstrate compliance with all the performance standards of the ordinance and other DEIR mitigation measures (including mitigation measures for amphibians). If an individual commercial cannabis project cannot comply with the performance standards and DEIR mitigation measures, it would be denied a permit. It is not expected that implementation of the DEIR mitigation measures for amphibians and special-status plant species would result in a conflict with other provisions of the ordinance.

04-67 The comment states that the DEIR correctly notes the location of designated critical habitat, but identifies that there are areas outside of the critical habitat areas that provide habitat for listed species. The comment specifically notes concerns South Eel River and its tributaries and impacts to coho salmon and steelhead habitat from existing cannabis operations and future commercial cannabis operations.

DEIR Mitigation Measure 3.4-4 requires that proposed commercial cannabis operations identify on-site sensitive habitat communities that include special-status fish stream habitats and prohibit any ground disturbance in these areas. The State Water Board Policy also includes standard setbacks from riparian areas and headwater streams and springs. As identified in Master Response 5, implementation of Mitigation Measure 3.8-5 in compliance with State Water Board Policy would require that all cannabis cultivation surface water and groundwater diversions comply with the numeric flows and aquatic base flows that have been established by watershed under the Policy in consultation with CDFW. The proposed ordinance would prohibit new commercial cannabis cultivation in the forested areas of the upper watersheds and limit it to non-forested areas generally in the lower portions of the watersheds where the USGS gages used in the implementation of the State Water Board Policy exist. This includes monthly numeric instream flow and aquatic base flow

requirements for the Mad-Redwood, Lower Eel, and South Fork Eel watersheds (see Master Response 5 for flow requirements by watershed). The State Water Board Policy's flow standards and diversion requirements were developed to protect fish spawning, migration, and rearing for endangered anadromous salmonids, and flows to needed to maintain natural flow variability within each watershed. Thus, implementation of Mitigation Measure 3.4-4 and 3.8-5 in concert with the State Water Board Policy would ensure that the proposed ordinance would not result in significant impacts to coho salmon and steelhead and their habitat.

04-68 The comment asserts that the DEIR does not address the importance of Eel River coho salmon.

The reader is referred to Response to Comment 04-67.

04-69 The comment cites the fourth paragraph on DEIR page 3.4-59 and suggests that the DEIR provide further details on the extent of existing unpermitted cannabis operations in the County.

The DEIR does estimate that the County may contain up to 15,000 cannabis operations (see DEIR page 2-28). The determination of the exact extent of cannabis operations in the County is difficult to determine as several operations are located within forested areas and designed to not be easily identified. The comment letter provides no countering estimate on the extent of existing cannabis operations. The reader is referred to Master Response 1 for further discussion of baseline conditions and the DEIR's disclosure of the existing environmental effects of unpermitted cannabis operations.

04-70 The comment asserts that the DEIR fails to provide an adequate level of detail for the cumulative impact analysis.

The reader is referred to Master Response 1 for further discussion on the consideration of existing environmental effects from unpermitted cannabis operations and cumulative impacts. The DEIR provides a detailed analysis of cumulative impacts and identifies cumulative baseline conditions. Pursuant to CEQA Guidelines Section 15130(b), the discussion of cumulative impacts need not provide as great detail as is provided for effects attributed to the project alone.

04-71 The comment asserts that the thresholds of significant used by the DEIR appear to be an attempt to define itself out of liability for the cumulative effects. The comment cites the State CEQA Guidelines definition of thresholds of significance.

As identified in the "Environmental Impacts and Mitigation Measures" sub-section of DEIR sections 3.1 through 3.14, the thresholds of significance are based on questions of environmental impact in Appendix G of the State CEQA Guidelines. These sub-sections also identify the methods and assumptions that were used in the impact analysis to determine whether the proposed ordinance would result in a significant impact. In some circumstances the DEIR uses quantification to determine if a threshold would be exceeded and a significant impact would occur (e.g., air quality impacts use North Coast Unified Air Quality Management District recommended mass emission thresholds and noise is based on compliance with County Noise Element standards). Biological resource thresholds of significance are not quantified and require technical evaluation by a biologist using published data and habitat mapping to determine significance, the rationale for determining an impact is significant is identified under each DEIR impact discussion and is supported by substantial evidence.

Cumulative impacts in the DEIR were determined to be significant if:

- the cumulative effects of related projects (past, current, and probable future projects) are not significant and the incremental impact of implementing the ordinance is substantial enough, when added to the cumulative effects of related projects, to result in a new cumulatively significant impact; or

- the cumulative effects of related projects (past, current, and probable future projects) are already significant and implementation of the proposed ordinance makes a considerable contribution to the cumulative impact. The standards used herein to determine a considerable contribution are either that the effect of the proposed ordinance is substantial or exceeds an established threshold of significance. (see DEIR page 4-3)

04-72 The comment asserts that the seventh threshold of significant in DEIR Section 3.4, "Biological Resources" on DEIR page 3.4-60 is not an adequate threshold. The comment also asserts that the DEIR not assume that the County will enforce requirements and mitigation measures to avoid such impacts of fish and wildlife species. The comment cites existing issues with cannabis cultivation impacting listed species in China Creek (water rights violations and permitting requirements).

The referenced threshold of significant is an adequate threshold; it is identified as one of the conditions that trigger the need to prepare an EIR under State CEQA Guidelines Section 15065(a)(1) (Mandatory Findings of Significance).

The proposed ordinance would require submittal of an application with technical information to demonstrate compliance with the ordinance performance standards, adopted mitigation measures, and other County requirements. The County will review the application material and inspect the site to confirm compliance with the ordinance. The County would also conduct annual inspections as part of permit renewal to confirm compliance and identify any required corrective measures. The reader is referred to Master Response 6 for further discussion on improvements to the County's code enforcement program.

04-73 The comment asserts that DEIR mitigation fails to address wildlife value (habitat) degradation. The comment notes raptor nests as an example.

DEIR mitigation measures identified in Section 3.4, "Biological Resources," include provisions for buffers zones for occupied habitats. Mitigation Measure 3.4-3b would ensure that existing habitat conditions are not impacted by invasive species, and Mitigation Measure 3.4-4 would prohibit ground disturbance and vegetation removal for the following sensitive habitats: old growth Sitka spruce, Douglas fir, and redwood forests; coastal oak woodlands; riparian habitat associated with aquatic features; special-status fish stream habitats; marsh habitats; and northern foredune grassland near Humboldt Bay and the Mattole River; and coastal terrace prairie within Table Bluff Ecological Reserve. Thus, the DEIR includes mitigation measures that provide habitat avoidance. Additionally, built-in prohibition of cultivation activities within public land (e.g., state and national parks, Six Rivers National Forest) and within TPZ-zoned and Timberland designated areas under the proposed ordinance further protects nesting raptor habitat in the County.

04-74 The comment asserts that the DEIR does not adequately address wildlife movement and habitat fragmentation issues by failing to address existing habitat impacts from existing cannabis cultivation operations.

The DEIR describes wildlife movement in the County on DEIR page 3.4-54 and identifies essential connectivity areas in DEIR Exhibit 3.4-7. The DEIR identifies potential impacts to aquatic and terrestrial corridors on DEIR pages 3.4-75 through 3.4-77. Implementation of Mitigation Measure 3.8-5 in concert with the State Water Policy (water diversion restrictions), Mitigation Measure 3.4-5 (wetland protection measures), and Mitigation Measure 3.4-6b

(retention of fisher and Humboldt marten habitat features) would mitigate this impact to a less-than-significant level.

The reader is referred to Response to Comment O4-73 regarding mitigation measures to protect habitat and Master Response 1 regarding the consideration of baseline environmental conditions from unpermitted cannabis cultivation operations and DEIR disclosure of these existing environmental conditions.

O4-75 The comment states that there are abundant sites available in the County where wildlife conflicts with commercial cannabis operations could be avoided.

This comment is noted. It should be noted that the proposed ordinance would prohibit new commercial cannabis operations from occurring on public land (e.g., state and national parks, Six Rivers National Forest), TPZ-zoned areas, and General Plan designated Timberland areas that contain a substantial portion of the County forest habitat areas.

O4-76 The comment asserts that the DEIR does not provide an adequate analysis of northern spotted owl impacts associated with impacts to the birds, habitat, noise, and light.

The DEIR identifies habitat conditions that support northern spotted owl and specifically identifies its habitat requirements and occurrences in the County (see DEIR page 3.4-36). The reader is referred to Response to Comment S1-11 that provides additional information on known norther spotted owl occurrences in relation the areas of the County where new commercial cannabis operations would be allowed (see Exhibit 3.4-9) and additional mitigation that would explicitly prohibit the removal of habitat for the species that was already identified in Mitigation Measure 3.4-4 and prohibition of cultivation activities if northern spotted owls are determined to the present in the area. Minor corrections to the DEIR and the additional mitigation to address identified significant impacts in the DEIR does not constitute "significant new information" that would require recirculation of the DEIR under State CEQA Guidelines Section 15088.5.

The reader is referred to Response to Comment O3-2 regarding generator noise impacts on wildlife. The DEIR includes Mitigation Measure 3.4-1f (now 3.4-1h) that requires additional noise standards beyond the proposed ordinance noise standards that are based on the USFWS 2006 *Transmittal of Guidance: Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*.

The proposed ordinance requires that artificial lighting used for mixed-light cultivation or nurseries in a greenhouse be prohibited from allowing any light from escaping the structure between sunset and sunrise as well as shielding for a security lighting (see DEIR page 3.1-18).

O4-77 The comment asserts that impacts to special-status fisheries would be a significant impact (not potentially significant) and the DEIR does not provide sufficient analysis or mitigation measures to reduce the impact to less than significant.

DEIR page 1-19 identifies that the term "potentially significant impact" used in the DEIR has the same meaning as a significant impact. DEIR Impact 3.4-1 identifies that implementation of Mitigation Measure 3.8-5 would reduce this impact to less than significant by protecting surface water flow conditions for fisheries. As identified in Master Response 5, the DEIR analysis acknowledges that cannabis irrigation could result in a significant decrease in watershed flows during low flow conditions (see DEIR pages 3.8-44 and 3.8-45). Implementation of Mitigation Measure 3.8-5 in compliance with State Water Board Policy would require that all cannabis cultivation surface water and groundwater diversions comply with the numeric flows and aquatic base flows that have been established by watershed under the Policy in consultation with CDFW that was scientifically peer reviewed. The

proposed ordinance would prohibit new commercial cannabis cultivation in the forested areas of the upper watersheds and limit it to areas generally in the lower portions of the watersheds where the USGS gages used in the implementation of the State Water Board Policy exist. The State Water Board Policy's flow standards and diversion requirements were developed to protect fish spawning, migration, and rearing for endangered anadromous salmonids, and flows to needed to maintain natural flow variability within each watershed.

04-78 The comment asserts that the DEIR analysis of surface water fails to provide any information by watershed.

As identified in Master Response 5, DEIR pages 3.8-21 through 3.8-25 provides quantification of historic surface water flow rates for the watersheds in the County based on available United States Geological Survey (USGS) gage data. Flow data for the Lower Eel, Lower Klamath, Mad-Redwood, Mattole, South Fork Eel, and Trinity watersheds include recent flow conditions that would include the impact of water diversions for existing cannabis cultivation in these watersheds. While this information identifies that the County's watersheds pass large surface water flows during the peak portions of the wet season, the DEIR specifically acknowledges that surface water diversions from existing cannabis cultivation has caused elimination of stream flows during the dry season that have resulted in impacts to protected wildlife and plant species (see DEIR page 3.4-59 and 3.8-33).

DEIR Table 3.8-5 estimates cannabis irrigation water demands by watershed for existing cultivation sites (sites that have submitted applications for permitting under the CMMLUO), proposed new commercial cannabis cultivation sites that submitted applications for permitting under the CMMLUO, and assumed new commercial cannabis under the proposed ordinance. DEIR Exhibits 3.8-10 through 3.8-15 identify the contribution of these cannabis irrigation demands to watershed flows during the year. The DEIR analysis acknowledges that cannabis irrigation could result in a significant decrease in watershed flows during low flow conditions (see DEIR pages 3.8-44 and 3.8-45).

Mitigation Measure 3.8-5 would be primary mitigation to address water diversions associated with commercial cannabis cultivation (existing and new operations) rather than compliance with the County Coastal Code Section 313-124. This mitigation measure would require the proposed ordinance to implement the surface water and groundwater diversion requirements of the draft State Water Board Policy that were designed to maintain instream flows that would protect beneficial uses (aquatic resources). The requirements of this Policy will be incorporated into the state's permitting process for commercial cannabis, which includes the State Water Board's Cannabis Small Irrigation Use Registration and the Water Rights Permitting and Licensing Program. The diversion requirements would ensure that the individual and cumulative effects of water diversions and discharges associated with cannabis cultivation do not affect instream flows necessary for fish spawning, migration, and rearing for endangered anadromous salmonids, and flows to needed to maintain natural flow variability (State Water Board 2017c). The Policy was scientifically peer reviewed by four experts. The peer review determined that water quality, instream flow, and diversion requirements of the Policy were based on sound scientific knowledge, methods, and data (State Water Board 2017d).

Thus, implementation Mitigation Measure 3.8-5 (as modified to reflect the adopted Policy) would ensure that instream flows and aquatic resources are protected from implementation of the proposed ordinance. The proposed ordinance would prohibit new commercial cannabis cultivation in the forested areas of the upper watersheds and limit it to areas generally in the lower portions of the watersheds where the USGS gages used in the implementation of the State Water Board Policy exist.

04-79 The comment questions the County's enforcement of existing Coastal Zone requirements and requests that the DEIR provide some information or numeric standards to address water diversions.

The reader is referred to Response to Comment 04-78 for a discussion of numeric standards for instream flows associated with Mitigation Measure 3.8-5 in compliance with the State Water Board Policy.

04-80 The comment asserts that the DEIR provides no substantial evidence that implementation of Mitigation Measure 3.8-5 would mitigate the impact. The comment also asserts that the analysis fails to address the impact of existing cannabis operations.

The reader is referred to Response to Comment 04-78 for a discussion of numeric standards for instream flows associated with Mitigation Measure 3.8-5 in compliance with the State Water Board Policy. As identified in Master Response 1, the DEIR is not required to evaluate and mitigate impacts of existing unpermitted cannabis operations. Compliance with the diversion restrictions and instream flow requirements are based on existing flow conditions that include the impact of existing illegal diversions. The reader is referred to Response to Comment 04-63 on enforcement of water diversion requirements.

04-81 The comment state that the County will not be able to effectively inspect and enforce water diversion restrictions and cannot rely on CDFW or the California Department of Water Resources (DWR). The comment identifies that lack of enforcement and cumulative impacts of existing unpermitted cannabis operations could continue to impact flows on Redwood Creek's tributaries and impact coho and steelhead populations.

The reader is referred to Response to Comment 04-78 for a discussion of numeric standards for instream flows associated with Mitigation Measure 3.8-5 in compliance with the State Water Board Policy. As identified in Master Response 1, the DEIR is not required to evaluate and mitigate impacts of existing unpermitted cannabis operations. Compliance with the diversion restrictions and instream flow requirements are based on existing flow conditions that include the impact of existing illegal diversions. The reader is referred to Response to Comment 04-63 on enforcement of water diversion requirements and Master Response 6 regarding improvements to the County's code enforcement activities.

04-82 The comment requests that the County identify how inspections would be able to reveal illegal water diversions. The comment asserts that the DEIR must be recirculated with an adequate analysis of the cumulative and specific effects of commercial cannabis operation water diversion impacts on listed and special-status fisheries on a watershed and subwatershed basis.

The reader is referred to Response to Comment 04-63 on enforcement of water diversion requirements Master Response 6 regarding improvements to the County's code enforcement activities. Commercial cannabis cultivation operations will be required to water use records that will reviewed annually by the County as part of permit renewals.

The reader is referred to Response to Comment 04-78 for a discussion of the DEIR analysis of current surface water flow conditions of the County's watersheds; quantification of potential water diversions by watershed and the associated impacts; and numeric standards for instream flows associated with Mitigation Measure 3.8-5 in compliance with the State Water Board Policy. As identified in Master Response 1, the DEIR is not required to evaluate and mitigate impacts of existing unpermitted cannabis operations and did consider such operations as part of the cumulative baseline conditions. The inclusion of this additional information and minor modifications to the DEIR and mitigation measures to address

identified significant impacts in the DEIR does not constitute "significant new information" that would require recirculation of the DEIR under State CEQA Guidelines Section 15088.5.

04-83 The comment cites DEIR Impact 3.4-5 and asserts that the DEIR fails to consider cumulative impacts on waters of the US and wetlands. The comment identifies that wetlands may need to be avoided if permitting under Section 404 of the Clean Water Act is not available and requests a definition of "qualified biologist."

It is important to note that the DEIR cumulative impact analysis for biological resources is provided in DEIR Chapter 4, "Cumulative Impacts." DEIR Section 3.4, "Biological Resources," provides the project impact analysis. The comment is not clear on how the cumulative impact analysis of impacts to waters of the US and wetlands is deficient. The cumulative impact analysis in the DEIR identifies that implementation of Mitigation Measure 3.4-5 would require no net loss of functions and wetland acreages and other waters and would offset the proposed ordinance's contribution to this cumulative impact (see DEIR page 4-7). The comment letter provides no technical analysis or information that counters this analysis in the DEIR.

Qualified biologist is defined in the definitions section of Attachment A of the State Water Board Policy as:

> **Qualified Biologist** – an individual who possesses, at a minimum, a bachelor's or advanced degree, from an accredited university, with a major in biology, zoology, wildlife biology, natural resources science, or a closely related scientific discipline, at least two years of field experience in the biology and natural history of local plant, fish, and wildlife resources present at the cannabis cultivation site, and knowledge of state and federal laws regarding the protection of sensitive and endangered species.

This definition will be used in the state permitting process of all commercial cannabis operations in the County.

04-84 The comment asserts that the DEIR fails to identify how mitigation would prevent continuing impacts of cannabis-related diversions and development on aquatic corridors.

The DEIR identifies potential impacts to aquatic corridors on DEIR pages 3.4-75 through 3.4-76. Implementation of Mitigation Measure 3.8-5 in concert with the State Water Policy (water diversion restrictions) and Mitigation Measure 3.4-5 (wetland protection measures) would mitigate this impact to a less-than-significant level. The reader is referred to Response to Comment 04-78 for a discussion of the DEIR analysis of current surface water flow conditions of the County's watersheds; quantification of potential water diversions by watershed and the associated impacts; and numeric standards for instream flows associated with Mitigation Measure 3.8-5 in compliance with the State Water Board Policy. As identified in Master Response 1, the DEIR is not required to evaluate and mitigate impacts of existing unpermitted cannabis operations.

04-85 The comment asserts that the DEIR "punts" the County's responsibility to address project and cumulative impacts to aquatic corridors to state and federal agencies.

The DEIR does not "punt" the County's responsibility to disclose significant environmental impacts of the proposed ordinance and identify mitigation measures to reduce significant impacts. The DEIR identifies Mitigation Measure 3.8-5 in concert with the State Water Policy (water diversion restrictions) and Mitigation Measure 3.4-5 (wetland protection measures) that would apply to individual commercial cannabis operation sites that receive permitting under the proposed ordinance that would mitigate this impact to a less-than-significant level.

As identified in Master Response 1, the DEIR is not required to evaluate and mitigate impacts of existing unpermitted cannabis operations.

04-86 The comment cites the terrestrial corridor discussion under DEIR Impact 3.4-5 and asserts that the DEIR fails to adequately analyze cumulative impacts on populations, corridors, existing human activities, development trends, and future areas of development. The comment asserts that the DEIR relies on the North Coast Regional Water Quality Control Board waiver to reduce impacts.

It is important to note that the DEIR cumulative impact analysis for biological resources is provided in DEIR Chapter 4, "Cumulative Impacts." DEIR Section 3.4, "Biological Resources," provides the project impact analysis. The cumulative baseline conditions and geographic scope of the analysis are described on DEIR pages 4-1 through 4-3 and identify the following:

- County-wide population and growth rates from 2000 through 2040;
- Historic and existing land use and development of the unincorporated area of the County and the incorporated cities;
- Historic and on-going agricultural activities;
- Timber production activities; and
- Cannabis cultivation and related activities.

The DEIR describes wildlife movement in the County on DEIR page 3.4-54 and identifies essential connectivity areas in DEIR Exhibit 3.4-7. The DEIR identifies potential impacts to terrestrial corridors on DEIR pages 3.4-75 through 3.4-77. Implementation of Mitigation Measure 3.4-6b (retention of fisher and Humboldt marten habitat features) would mitigate the project level impact to a less-than-significant level. The cumulative impact analysis identifies that implementation of this mitigation measure would prohibit the removal of old growth habitat, and retain features critical for habitat connectivity and would offset the project's contribution to this cumulative impact (see DEIR page 4-7).

The reader is referred to Response to Comment 04-73 regarding mitigation measures to protect habitat and Master Response 1 regarding the consideration of baseline environmental conditions from unpermitted cannabis cultivation operations and DEIR disclosure of these existing environmental conditions.

04-87 The comment asserts that the cumulative analysis fails to adequately address geology and soil issues. The comment also asserts that DEIR fails to address geologic stability issues associated with development of sites and roadways from landslide hazards.

The comment appears to refer to repeated concerns that the cumulative impacts of the DEIR must address and mitigate existing unpermitted cannabis operations. The reader is referred to Master Response 1 regarding this issue.

The DEIR identifies current County geologic, soil, and landslide conditions on DEIR pages 3.6-4 through 3.6-13. Existing slope stability and landslide conditions are specifically addressed on DEIR pages 3.6-11 and 3.6-12. Impacts associated with landsides are address in DEIR Impact 3.6-2 on pages 3.6-18 and 3.6-19 that identifies compliance with the California Building Code and the County's Geologic Hazards Ordinance would require engineering studies and design considerations to ensure slope stability for commercial cannabis operations and roadway improvements. The comment letter provides no technical analysis or information that counters this analysis in the DEIR.

04-88 The comment cites a portion of a paragraph from DEIR Section 3.8, "Hydrology and Water Quality," (DEIR page 3.8-34) and appears to relate the information to the analysis of landslide hazards.

The comment's citation of the DEIR is incomplete and has been taken out of context. It was not intended to address geologic stability hazards. The entire text of this discussion from Section 3.8, "Hydrology and Water Quality," to clarify the paragraph's intent regarding exposure to seiches, tsunamis, mudflow, and dam failures:

> Environmental impact analyses under CEQA generally are not required to analyze the impact of existing environmental conditions on a project's future users or residents. But when a proposed project risks exacerbating those environmental hazards or conditions that already exist, an agency must analyze the potential impact of such hazards on future residents or users. In those specific instances, it is the project's impact on the environment and not the environment's impact on the project – that compels an evaluation of how future residents or users could be affected by exacerbated conditions (*California Building Industry Association v. Bay Area Air Quality Management District (2015) 62 Cal. 4th 369*). Allowable uses within zoning pertinent to the proposed ordinance would be similar to those currently allowed within agricultural, industrial, and commercial areas. Thus, the proposed ordinance would allow for commercial cannabis operations to occur within specific zones of the County (see Chapter 2, "Project Description") but would not exacerbate any existing conditions related to the potential for seiche, tsunami, mudflow, or dam failure. These topics are not discussed further.

04-89 The comment asserts that the analysis that compliance with the County's ordinance would address impacts is not adequate.

Impacts associated with landsides are address in DEIR Impact 3.6-2 on pages 3.6-18 and 3.6-19 that identifies compliance with the California Building Code and the County's Geologic Hazards Ordinance (Sections 336-1 – 336-5) would require engineering studies and design considerations to ensure slope stability for commercial cannabis operations and roadway improvements. Design considerations may include grading restrictions, soil compaction requirements, terracing, retaining walls, and special drainage design. The Ordinance provides performance standards to ensure slope stability.

04-90 The comment asserts that the DEIR impact analysis of wildlife risks fails to not support by the analysis and is an admission that the cumulative impacts of the existing industry are large.

Fire hazard impacts are addressed in the DEIR on pages 3.7-19 through 3.7-20 and pages 3.11-9 and 3.11-10. The DEIR identifies that commercial cannabis activities permitted by the proposed ordinance are also subject to the California Fire Code, which includes safety measures to minimize the threat of wildfire. Title 14 of the California Code of Regulations (CCR) sets forth the minimum development standards for emergency access, fuel modification, setback, signage, and water supply, which help prevent damage to structures or people by reducing wildfire hazards. In addition, Humboldt County applies standards to proposed development within the State Responsibility Areas (SRA) to reduce the risk of fire. These standards are a locally adopted alternative version of the state's SRA Fire Safe Regulations (Humboldt County Code Title III, Div 11) as authorized by Section 4290 of the Public Resources Code, and have been approved by CAL FIRE as meeting or exceeding state regulations. New development in the SRA is subject to Fire Safe regulations, and the appropriate clearance of vegetation around such development is inspected by CAL FIRE and potentially by Humboldt County with other improvements at the time of construction. Licensed facilities under the proposed ordinance would be required to have certification that they comply with building, electrical, and fire codes, which would require installation of fire

suppression systems, where appropriate. The comment letter provides no technical analysis or information that counters the conclusions of the DEIR.

The reader is referred to Master Response 1 regarding the consideration of existing environmental effects from unpermitted cannabis operations.

04-91 The comment asserts that the DEIR fails to address significant cumulative effects of existing cannabis cultivation industry on hydrology, water quality, and beneficial uses of surface waters for the County's watersheds.

While the existing environmental conditions of unpermitted cannabis cultivation operations were disclosed as part of the baseline condition in the DEIR, CEQA is not intended to conduct environmental review and mitigate these conditions. State CEQA Guidelines Section 15125(a) identifies that the baseline physical conditions are the basis by which a lead agency determines whether an impact of the project is significant. Published case law has identified that baseline conditions include unpermitted and/or harmful activities that have occurred prior to the project. In *Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 234 Cal.App.4th 214 (183 Cal.Rptr.3d 736], the Fourth Appellate District upheld the baseline conditions and ruled that the baseline condition must reflect the physical conditions at the time the environmental analysis begins even if the current conditions includes unauthorized and even environmental harmful conditions that never received environmental review. The reader is referred to Master Response 1 for further discussion of the DEIR's disclosure of the existing environmental effects of unpermitted cannabis and the cumulative impact analysis.

04-92 The comment asserts that the DEIR fails to address significant water quality effects of existing cannabis cultivation industry.

The reader is referred to Response to Comment 04-91 and Master Response 1 for further discussion of the evaluation of existing unpermitted cannabis operations.

04-93 The comment asserts that the DEIR cannot rely on mitigations that are uncertain because of lack of County enforcement.

The reader is referred to Master Response 5 for a detailed discussion of the evaluation of water quality impacts and mitigation that would function in concert with the State Water Board Policy and Master Response 6 and Response to Comment 04-63 on enforcement.

04-94 The comment asserts that neither the proposed ordinance or DEIR address the vast majority of the industry's operations or their impacts on water quality.

The comment appears to in part refer to water quality impacts of existing unpermitted cannabis operations in the County. The reader is referred to Master Response 1 for further discussion of the evaluation of existing unpermitted cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the evaluation of water quality impacts of the proposed ordinance and mitigation that would function in concert with the State Water Board Policy.

04-95 The comment asserts that the point of the CEQA analysis is to illuminate critical environmental questions, such as whether to continue to allow cannabis operations and its impacts to watercourses. The comment states that the DEIR fails to address this question and the proposed ordinance fails to protect streams and rivers.

Pursuant to the requirements of CEQA, the DEIR is an informational document that discloses the potential significant environmental impacts from the implementation of the proposed

ordinance. The DEIR is not the proper document or process to determine whether the County should permit commercial cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the evaluation of water resource impacts.

04-96 The comment states that groundwater data must be made public. The comment asserts that there is no identification that the County will engage in monitoring of surface water and springs and that the DEIR fails to address surface water impacts on aquatic resources.

Application submittals that include groundwater data would be available for public review at the County. The reader is referred to Response to Comment 04-78 for further discussion of the requirements of Mitigation Measure 3.8-5 and the State Water Board Policy to comply with water diversion restrictions and numeric instream flow requirements, and Response to Comment 04-63 regarding inspections, water use documentation, and enforcement of water use performance standards of the proposed ordinance.

04-97 The comment asserts that DEIR Impact 3.8-5 is incorrect that no data is available to key tributaries.

The DEIR provides watershed flow data and estimated cannabis irrigation demands on DEIR pages 3.8-41 through 3.8-45. While it is acknowledged that there is not complete surface water flow data for each tributary in each watershed, the DEIR uses the USGS gage data that will be used for establishing water diversion restrictions and numeric instream flow requirements under the State Water Board Policy that provide protection of aquatic resources. The reader is referred to Master Response 5 for further discussion of these flow standards that provide protection of aquatic resources from cannabis cultivation water diversions.

04-98 The comment asserts that the DEIR fails to address cumulative impacts of cannabis-related water diversions in the Eel River, its tributaries, and other County watersheds. The comment also asserts that the DEIR must identify that water quality impacts are significant and not potentially significant.

The reader is referred to Master Response 5 for further discussion of surface water flow and water quality impacts and implementation of mitigation measures in concert with the State Water Board Policy. The reader is also referred to Master Response 1 for further discussion of the evaluation of existing unpermitted cannabis operations in relation to project and cumulative impacts.

04-99 The comment asserts that the DEIR cannot place confidence on compliance with regulations without committing to increased enforcement efforts.

The reader is referred to Master Response 5 for further discussion of surface water flow and water quality impacts and implementation of mitigation measures in concert with the State Water Board Policy. The reader is also referred to Master Response 6 for a detailed discussion of improved enforcement efforts by the County.

04-100 The comment cites Sub-Section 4.2.2, “Existing Cannabis Cultivation Operations in Humboldt County,” in DEIR Chapter 4, “Cumulative Impacts.” This comment is noted.

04-101 The comment asserts that the analysis of cumulative impacts in the passage cited in Comment 04-100 is fatally incomplete to guide policy choices to avoid, prevent and mitigate those impacts in the future.

The comment appears to misunderstand the purpose of DEIR Sub-Section 4.2.2, “Existing Cannabis Cultivation Operations in Humboldt County.” This discussion is part of the

description of the base conditions upon which the proposed ordinance's cumulative impact analysis is based. While the environmental conditions of unpermitted cannabis cultivation operations were disclosed in the DEIR, CEQA is not intended to conduct environmental review and mitigate these conditions. Published case law has identified that baseline conditions include unpermitted and/or harmful activities that have occurred prior to the project. In *Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 234 Cal.App.4th 214 (183 Cal.Rptr.3d 736], the Fourth Appellate District upheld the baseline conditions and ruled that the baseline condition must reflect the physical conditions at the time the environmental analysis begins even if the current conditions includes unauthorized and even environmental harmful conditions that never received environmental review. The reader is referred to Master Response 1 for a further discussion of CEQA requirements for the consideration of baseline conditions.

Cumulative impacts analysis in the DEIR (see DEIR pages 4-3 through 4-14) is consistent with the requirements of State CEQA Guidelines Section 15130. Cumulative impacts were determined to be significant if:

- the cumulative effects of related projects (past, current, and probable future projects) are not significant and the incremental impact of implementing the ordinance is substantial enough, when added to the cumulative effects of related projects, to result in a new cumulatively significant impact; or
- the cumulative effects of related projects (past, current, and probable future projects) are already significant and implementation of the proposed ordinance makes a considerable contribution to the cumulative impact. The standards used herein to determine a considerable contribution are either that the effect of the proposed ordinance is substantial or exceeds an established threshold of significance. (see DEIR page 4-3)

04-102 The comment cites the definition of cumulative impacts provided in State CEQA Guidelines Section 15355. This comment is noted. The DEIR includes this definition on DEIR page 4-1.

04-103 The comment asserts that the DEIR fails to adequately consider the impacts of the proposed ordinance and relies on uncertain mitigation. The comment also asserts that the DEIR fails to address cumulative impacts associated with other past, present reasonably foreseeable probable future projects.

The comment provides no specific examples or evidence on where the DEIR impact analysis fails to address impacts or relies on uncertain mitigation. The DEIR identifies feasible mitigation measures that would be triggered as part of the proposed ordinance implementation. Previous comments on impact and mitigation measures inadequacy have been responded to above.

The cumulative baseline conditions and geographic scope of the analysis are described on DEIR pages 4-1 through 4-3 and identifies past, present, and reasonably foreseeable probable land use activities in the County that include implementation of the current General Plan and identify the following:

- County-wide population and growth rates from 2000 through 2040;
- Historic and existing land use and development of the unincorporated area of the County and the incorporated cities;
- Historic and on-going agricultural activities;
- Timber production activities; and

- Cannabis cultivation and related activities.

The comment letter provides no information on what past, present, or foreseeable projects or land use activities were omitted from the DEIR.

04-104 The comment cites statement from the last paragraph of DEIR page 4-2. This comment is noted.

04-105 The comment asserts that the Butsic study understates the extent of the cannabis industry and that the County refuses to consider additional information to fully address cumulative effects is not consistent with CEQA requirements.

The Butsic study identified by the comment is a published source that estimated the extent of existing unpermitted cannabis operations in the County. The determination of the exact extent of cannabis operations in the County is difficult to determine as several operations are located within forested areas and designed to not be easily identified. The DEIR uses the estimate of 15,000 existing cannabis operations in the County as the best available published information to describe the extent of existing unpermitted cannabis operations as required by CEQA Guidelines Section 15144 (Forecasting). The comment letter provides no countering estimate of total cannabis operations in the County. It should also be noted that the focus of the cumulative impact analysis in an EIR is the project's contribution to the impact and identification of mitigation measures to reduce or offset the project's contribution to a less than cumulatively considerable level.

04-106 The comment asserts that the County has not bothered to count existing sites or evaluate their locations. The comment also asserts that the DEIR has provided no analysis of density of existing cultivation operations and parcel sizes and their impact on public trust and biological resources.

As part of its code enforcement efforts, the County has begun reviewing aerial imagery and has GIS mapping data and the location and parcel sizes of existing cannabis operations that have submitted permit applications under the CMMLOU. The reader is referred to Master Response 1 for a further discussion of CEQA requirements for the consideration of baseline conditions from unpermitted cannabis operations.

04-107 The comment provides mapping the location and density of existing cannabis cultivation sites in the southern portion of the County.

The County appreciates the mapping information. County GIS mapping data for this area also identifies several existing cannabis operations that have submitted permit applications under the CMMLOU.

04-108 The comment asserts that it is not credible that the location of existing cannabis operations cannot be known. The comment also states that it is a shame that the public and natural resource agencies cannot decide that those impact are "speculative" and dismiss them as the DEIR has.

The reader is referred to Response to Comment 04-105 for a discussion of DEIR estimates of the extent of existing cannabis operations in the County.

The comment appears to be referring to the statement cited in Comment 04-104 from DEIR page 4-2. As identified in Master Response 1, this statement refers to the identification and extent of future illegal cannabis operations in the County after implementation of the proposed ordinance. Enforcement is anticipated to reduce the number of illegal cannabis operations that occur in the unincorporated areas of the County that do not include tribal, state, or federally

owned lands (the reader is referred to Master Response 6 regarding enforcement activities by the County). However, it is not currently feasible to quantify the effectiveness of future enforcement efforts in reducing the extent of illegal cannabis operations. Thus, the DEIR acknowledges that it would speculative to identify the future extent of environmental effects of existing cannabis operations pursuant to State CEQA Guidelines Section 15145. Thus, the DEIR properly considers illegal cannabis operations in the County as part of the baseline for project and cumulative impacts as required under CEQA.

04-109 The comment identifies concerns regarding the impact of the County's failure to conduct enforcement on cannabis operations in the County.

The County believes that regulating cannabis operations will result in permitting of "good" operations—ones that comply with regulations including providing for environmental protection—and the eventual eradication of illegal operators who choose to avoid or ignore the permitting process. The County has addressed enhanced enforcement as a separate project with amendments to its Code Enforcement program. (Ordinance No. 2576, June 27, 2017 and Ordinance No. 2585, November 7, 2017) designed to eliminate delays that hindered effective enforcement, and substantially increase administrative civil penalties. The Code Enforcement Unit is engaged in the initial implementation of the enhanced enforcement program (see Master Response 6). The overall purposes of the proposed ordinance are to establish legal commercial cannabis activities and expand upon the existing regulations set forth under the current CMMLUO to improve baseline environmental conditions in the County.

04-110 The comment asserts that the DEIR must be recirculated. All comments regarding the adequacy of the DEIR have been addressed in the responses above and no significant new information, as defined by CEQA (see State CEQA Guidelines Section 15088.5) was raised in this comment that would result in the need for recirculation. The County considers the EIR adequate for disclosure of the significant environmental effects of the proposed ordinance.

04-111 The comment asserts that the proposed ordinance will not prevent significant and severe environmental impacts, including impact to listed species and their habitat and other biological resources.

The DEIR adequately discloses the significant environmental impacts of the proposed ordinance and includes feasible mitigation measures to reduce impacts to biological resources and water resources to a less-than-significant level.

Letter 05

From:	Natalynne DeLapp-Hinton
To:	Lazar, Steve; Lippre, Suzanne; Planning Clerk; Ford, John
Cc:	Terra Joy Carver
Subject:	HCGA Comments County Ordinance for Planning Commission
Date:	Thursday, September 21, 2017 2:34:17 PM
Attachments:	HCGA Ordinance 2.0 Planning Commission 9-21-17.pdf

Dear Planning Director Ford, Planning Staff, and Humboldt County Planning Commissioners,

Please accept the following comments on behalf of the Humboldt County Growers Alliance.

With regards,

Natalynne DeLapp

September 21, 2017

Humboldt County Planning Commissioners and Planning Director John Ford,

These comments are submitted on behalf of the Humboldt County Growers Alliance (HCGA). Our mission is to *preserve, protect and enhance Humboldt County's world-renowned cannabis industry*. We are a membership-based, trade association with more than 50 members. Our members are those who have applied for permits and will be seeking state licensure in 2018.

HCGA appreciates the opportunity to provide comments and feedback on the Commercial Cannabis Land Use Ordinance. Based on our initial read of the ordinance, appendices and environmental impact report we are pleased by the level of work that was put into the development of planning documents that incorporated public input and concern. 05-1

Specific areas where HCGA has questions or concerns, and would appreciate further "teasing out" by the Commission and Planning Department are:

1. Changing "permit limits" to number of acres 05-2
2. Allow cannabis support facilities where on-grid power is available 05-3
3. Distinguish between volatile and non-volatile manufacturing 05-4

4. Indoor Cultivation and Manufacturing should be two separate sections 05-5

5. Road Performance Standards allow for Same Practical Effect, and feasible implementation timelines 05-6

6. Ensure definitions within the ordinance are consistent with the final state regulations e.g. outdoor and mixed light 05-7

Specific Suggestions are provided below: 05-8

55.4.3.1

"In effect at time of submission (delete "approval") and replace with submission.

This prevents changing the rules mid-stream for permittees, otherwise as written, after Ordinance 2.0 is approved and in effect; permittees from Ordinance 1.0 would be then subjected to 2.0.

55.4.4 Definitions: 05-9

"Category 4 Roads" What other equivalent road standard could be used? What are the minimums for design, safety, turn-arounds, widths and surfaces? Replace with "Same Practical Effect." Allow discretion from Planning Department.

"Manufacturing" expand on the definition to include volatile (combustion) and non-volatile manufacturing, (physical process that creates rosins and/or ice-hash). 05-10

55.4.5.4 Permit Limits 05-11

Current: "No more than **four Commercial Cannabis Activity permits** may be issued to a single person, as defined herein."

Change to: "No more than **four acres of Commercial Cannabis** may be issued per the state's 'ownership' definition."

This would be consistent with the draft regulations from CDFA section, 8204, that read, "The Department shall not restrict the total number of cultivation licenses a person is authorized to hold at any point in time, provided the person's total licensed canopy does not exceed 4

acres."

05-11 cont

55.4.6.2 –Commercial and Industrial Areas

55.4.6.2.1 **Allow commercial cannabis activity on areas zoned C-2** when accompanied be a Commercial or Industrial General Plan land use designation, with a Special Permit.

05-12

55.4.6.3 Eligibility Criteria—All Areas

55.4.6.4.2 Conversion of Timberland Prohibited
Change to: No new cultivation shall be allowed on TPZ. Existing Cultivation on TPZ (in existence prior to January 1, 2016), may be allowed to reconfigure sites with a Special Permit, **and recommendation by Water Board and/or DFW**, and following 55.4.12.111(c).

05-13

55.4.7 Cannabis Support Facilities

"Roads providing access to Cannabis Support Facilities must comply with Road System Performance Standards for functional capacity (all segments must either be paved with center stripe, or paved meeting Category 4 standard). **DELETE EXEMPTIONS ARE PROHIBITED. Replace with Same Practical Effect.**

We believe the better way to limit the environmental impacts of Cannabis Support Facilities would be to couple the facilities to grid power (not road systems).

05-14

55.4.7.1 Distribution, Off-site Processing, etc…

Add: "If not meeting all Eligibility and Siting Criteria specified, **a Special Permit or a Use Permit may be considered.**

05-15

55.4.8 Indoor Cultivation and Manufacturing

These need to be three separate sections, not lumped into a single category. It seems they were placed into one category because they are thought to all be high-energy dependent processes; however some activities within non-volatile manufacturing e.g. ice hash production and rosin-pressing do not require significant energy use. These non-volatile manufacturing processes can be run using 100% renewable, off-grid systems e.g. solar power and should be considered with a special permit.

05-16

1. Indoor (AG, AE, Industrial)

2. Non-volatile manufacturing: **should be allowed anywhere outdoor and mixed light cultivation is allowed, with a special permit, no use of generators, and/or where on-grid power is available or 100% renewable e.g. solar power.**

3. Volatile manufacturing (industrial zones)

05-16 cont

55.4.10.2 Farm-based retail sales

Delete: "Farm based retail sales are not permitted on any parcel zoned TPZ. (Nothing that didn't exist prior to Jan. 1, 2016)." No generators. Must be able to use on-grid power, and/or 100% off-grid renewable.

05-17

55.4.10.3 Microbusiness

Delete: Microbusinesses are not permitted on any parcel zoned TPZ. (Nothing that didn't exist prior to Jan. 1, 2016)." No generators. Must be able to use on-grid power, and/or 100% off-grid renewable.

05-18

Anywhere it reads, "Exemptions are prohibited"

Replace with, "OR SAME PRACTICAL EFFECT"

05-19

Performance Standards--Road Systems

- Develop an implementation timeline of 3-10 years
- Is there an alternative to Category 4 road standards that can be developed? Site-specific alternatives
- Provide the option for Same Practical Effect must be considered

05-20

Performance Standards for Public Accommodation

05-21

- Allow on RA and TPZ with Special Permit.

05-21 cont

Thank you for your time and consideration. Should you have any questions please don't hesitate to reach out.

05-22

Terra Carver, Executive Director

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Natalynne DeLapp-Hinton
Humboldt County Growers Alliance
Operations Director
600 F Street Ste. 3 #125
Arcata, CA 95521



HUMBOLDT COUNTY
GROWERS ALLIANCE

1

September 21, 2017

Humboldt County Planning Commissioners and Planning Director John Ford,

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Specific areas where HCGA has questions or concerns, and would appreciate further "teasing out" by the Commission and Planning Department are:

1. Changing "permit limits" to number of acres
2. Allow cannabis support facilities where on-grid power is available
3. Distinguish between volatile and non-volatile manufacturing
4. Indoor Cultivation and Manufacturing should be two separate sections
5. Road Performance Standards allow for Same Practical Effect, and feasible implementation timelines
6. Ensure definitions within the ordinance are consistent with the final state regulations e.g. outdoor and mixed light

05-23

Specific Suggestions are provided below:

55.4.3.1
"In effect at time of submission (delete "approval") and replace with submission.

This prevents changing the rules mid-stream for permittees, otherwise as written, after Ordinance 2.0 is approved and in effect; permittees from Ordinance 1.0 would be then subjected to 2.0.

55.4.4 Definitions:

"Category 4 Roads" What other equivalent road standard could be used? What are the minimums for design, safety, turn-arounds, widths and surfaces? Replace with "Same Practical Effect." Allow discretion from Planning Department.

To preserve, protect, and enhance Humboldt County's world-renowned cannabis industry.

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2

"Manufacturing" expand on the definition to include volatile (combustion) and non-volatile manufacturing, (physical process that creates rosins and/or ice-hash).

55.4.5.4 Permit Limits
Current: "No more than **four Commercial Cannabis Activity permits** may be issued to a single person, as defined herein."

Change to: "No more than **four acres of Commercial Cannabis** may be issued per the state's 'ownership' definition."

This would be consistent with the draft regulations from CDFA section, 8204, that read, "The Department shall not restrict the total number of cultivation licenses a person is authorized to hold at any point in time, provided the person's total licensed canopy does not exceed 4 acres."

55.4.6.2 –Commercial and Industrial Areas

55.4.6.2.1 **Allow commercial cannabis activity on areas zoned C-2** when accompanied be a Commercial or Industrial General Plan land use designation, with a Special Permit.

55.4.6.3 Eligibility Criteria—All Areas

55.4.6.4.2 Conversion of Timberland Prohibited
Change to: No new cultivation shall be allowed on TPZ. Existing Cultivation on TPZ (in existence prior to January 1, 2016), may be allowed to reconfigure sites with a Special Permit, **and recommendation by Water Board and/or DFW**, and following 55.4.12.111(c).

55.4.7 Cannabis Support Facilities
"Roads providing access to Cannabis Support Facilities must comply with Road System Performance Standards for functional capacity (all segments must either be paved with center stripe, or paved meeting Category 4 standard). **DELETE EXEMPTIONS ARE PROHIBITED. Replace with Same Practical Effect.**

We believe the better way to limit the environmental impacts of Cannabis Support Facilities would be to couple the facilities to grid power (not road systems).

55.4.7.1 Distribution, Off-site Processing, etc…

Add: "If not meeting all Eligibility and Siting Criteria specified, **a Special Permit or a Use Permit may be considered.**

05-23 cont

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55.4.8 Indoor Cultivation and Manufacturing
These need to be three separate sections, not lumped into a single category. It seems they were placed into one category because they are thought to all be high-energy dependent processes; however some activities within non-volatile manufacturing e.g. ice hash production and rosin-pressing do not require significant energy use. These non-volatile manufacturing processes can be run using 100% renewable, off-grid systems e.g. solar power and should be considered with a special permit.

1. Indoor (AG, AE, Industrial)

2. Non-volatile manufacturing: **should be allowed anywhere outdoor and mixed light cultivation is allowed, with a special permit, no use of generators, and/or where on-grid power is available or 100% renewable e.g. solar power.**

3. Volatile manufacturing (industrial zones)

55.4.10.2 Farm-based retail sales
Delete: "Farm based retail sales are not permitted on any parcel zoned TPZ. (Nothing that didn't exist prior to Jan. 1, 2016)." No generators. Must be able to use on-grid power, and/or 100% off-grid renewable.

55.4.10.3 Microbusiness
Delete: Microbusinesses are not permitted on any parcel zoned TPZ. (Nothing that didn't exist prior to Jan. 1, 2016)." No generators. Must be able to use on-grid power, and/or 100% off-grid renewable.

Anywhere it reads, "Exemptions are prohibited"
Replace with, "OR SAME PRACTICAL EFFECT"

Performance Standards--Road Systems

- Develop an implementation timeline of 3-10 years
- Is there an alternative to Category 4 road standards that can be developed? Site-specific alternatives
- Provide the option for Same Practical Effect must be considered

Performance Standards for Public Accommodation
- Allow on RA and TPZ with Special Permit.

Thank you for your time and consideration. Should you have any questions please don't hesitate to reach out.
Terra Carver, Executive Director

05-23 cont

Letter 05	Humboldt County Growers Alliance Terra Carver, Executive Director 9/21/2017

05-1 This comment is an introduction to the letter and provides further background of the organization, as well as language outlining further concerns to be addressed within the letter. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the proposed ordinance.

05-2 The comment requests changes to the proposed ordinance associated with permit limits. The proposed ordinance now reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-3 The comment requests changes to the proposed ordinance associated with cannabis support facilities. The proposed ordinance now reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-4 The comment requests changes to the proposed ordinance associated with volatile and non-volatile manufacturing. The proposed ordinance now reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-5 The comment requests changes to the proposed ordinance associated with indoor cultivation and manufacturing. The proposed ordinance now reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-6 The comment requests changes to the proposed ordinance associated road performance standards. The proposed ordinance now reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-7 The comment requests changes to the proposed ordinance associated with consistency with state regulation definitions. The proposed ordinance reflects the cultivation areas appropriate for local conditions. There is no compelling advantage to using the state standards for cultivation area. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-8 The comment requests changes to the proposed ordinance associated with Section 55.4.3.1. The proposed ordinance now reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-9 The comment requests changes to the proposed ordinance associated with Section 55.4.4. The proposed ordinance now reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-10 The comment requests changes to the proposed ordinance associated with Section 55.4.4. The proposed ordinance now reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-11 The comment requests changes to the proposed ordinance associated with Section 55.4.5.4. The proposed ordinance now reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-12 The comment requests changes to the proposed ordinance associated with Section 55.4.6.2.1. The proposed ordinance now reflects this requested change where the application is for a microbusiness. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-13 The comment requests changes to the proposed ordinance associated with Section 55.4.6.4.2. The proposed ordinance appropriately requires consultation with CDFW. It does not abdicate County approval authority to state agencies. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-14 The comment requests changes to the proposed ordinance associated with Section 55.4.7. The proposed ordinance now reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-15 The comment requests changes to the proposed ordinance associated with Section 55.4.7.1. The proposed ordinance now reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-16 The comment requests changes to the proposed ordinance associated with Section 55.4.8. The proposed ordinance now reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-17 The comment requests changes to the proposed ordinance associated with Section 55.4.10.2. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-18 The comment requests changes to the proposed ordinance associated with Section 55.4.10.3. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-19 The comment requests changes to the proposed ordinance associated with wording modification. The proposed ordinance now reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-20 The comment requests changes to the proposed ordinance associated with road performance standards. The proposed ordinance now reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-21 The comment requests changes to the proposed ordinance associated with public accommodation performance standards. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

05-22 This comment includes a closing statement from the organization. This comment is noted.

05-23 This comment includes a repeat of the provided letter. Comments have been addressed in Response to Comments 05-1 through 05-22.

Letter 06

From: LCHS
To: Lazar, Steve
Subject: Commercial Cannabis Draft EIR
Date: Monday, October 16, 2017 5:00:25 PM

Dear Steve;

The Lost Coast Humane Society does not agree with the Commercial Cannabis Draft EIR. Animal Welfare was an after thought at best. 06-1

Barbara Shults-Director and Founder
Lost Coast Humane Society
P.O. Box 1991
Redway Ca 95560

Letter 06	Lost Coast Humane Society Barbara Shults, Director and Founder 10/16/2017

06-1 The comment identifies that DEIR does not adequately address animal welfare Animal welfare is not a topic covered under CEQA. Impacts to wildlife is addressed in DEIR Section 3.4, "Biological Resources." The comment has been noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter 07

From: jenkalt@gmail.com on behalf of Jennifer Kalt
To: Lazar, Steve
Cc: Ford, John
Subject: Comments on the CCLUO DEIR
Date: Monday, October 16, 2017 4:32:20 PM
Attachments: BaykeeperCommentsCommCannDEIR10-16-17.pdf

Steve,

Please find attached Humboldt Baykeeper's comments on the proposed streamlining for reuse of industrial sites in the CCLUO.

I trust that you have some understanding of the problems from the Royal Gold situation on the former Blue Lake Forest Products site.

Please feel free to contact me if you have any questions or would like more specific info. Thanks, Jen

07-1

Jennifer Kalt, Director
Humboldt Baykeeper
Office: 415 I Street in Arcata
Mail: 600 F Street, Suite 3 #810, Arcata, CA 95521
www.humboldtbaykeeper.org



Sent via electronic mail

October 16, 2017

Humboldt County Planning & Building Department
Attn: Steve Lazar
3015 H Street
Eureka, CA 95501

Dear Mr. Lazar,

On behalf of Humboldt Baykeeper, please accept these comments on the Draft Environmental Impact Report (DEIR) for the proposed Commercial Cannabis Land Use Ordinance (CCLUO), SCH # 2017042022.

Humboldt Baykeeper was launched in 2004 with a mission to safeguard coastal resources for the health, enjoyment, and economic strength of the Humboldt Bay community through education, scientific research, and enforcement of laws to fight pollution.

07-2

While we believe that some industrial sites can be appropriate locations for reuse for industrial cannabis activities, the DEIR fails to adequately protect public health, safety, and welfare by ensuring that contaminated soil and/or groundwater is fully assessed, remediated, and disclosed to the public and responsible agencies charged with protecting public trust resources before ground disturbing activities are permitted.

07-3

Many former lumber mill sites are contaminated with dioxins and furans from pentachlorophenol, a wood preservative that was used for decades. Many of these sites continue to impact Humboldt Bay, its tributaries, adjacent wetlands, and groundwater to the detriment of human health and the environment.

07-4

Humboldt Bay was designated as Impaired by dioxins in 2006, yet the DEIR's Environmental Setting section fails to describe contaminated industrial sites or this legacy of dioxins in the watershed, despite the fact that many if not most have soil and/or groundwater contamination.

07-5

Mailing Address: 600 F Street, Suite 3 #810
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www.humboldtbaykeeper.org

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Dioxin contaminated industrial sites are known from other watersheds in Humboldt County as well, including the Mad and Eel River watersheds. Dioxin contamination is poorly documented in many areas of the county due to the fact that responsible agencies generally failed to address it until fairly recently.

Dioxins are dangerous, extremely persistent reproductive toxins that biomagnify up the food chain. Any ground disturbance on any former or currently operating industrial site has the potential to mobilize dioxins and other contaminants, putting human health and the environment at risk, including protected species such as salmonids and fish-eating species such as raptors, marine mammals, and humans. 07-6

Mitigation Measure 3.7-2a calls for the preparation of environmental site assessments (page 3.7-16) as a performance standard. This mitigation measure is a good start, but should not circumvent the public and environmental review process required to ensure that experts are given the opportunity to review and comment on the reuse of these sites. 07-7

The DEIR states on page 2-18 that "Manufacturers that produce edible or topical products using infusion processes or other types of medical cannabis products other than extracts or concentrates, and that do not conduct extractions, may be permitted with a Zoning Clearance Certificate."

We strongly urge the County to require Conditional Use Permits for any ground disturbance on lands previously used for industrial activities, regardless of zoning. These sites must be regarded as having a high likelihood of contamination, just as one would assume that buildings built in certain eras are likely to contain lead and asbestos until adequate sampling is conducted. 07-8

We appreciate the opportunity to comment on the Draft Environmental Impact Report for the proposed Commercial Cannabis Land Use Ordinance, and we hope that these comments are helpful in improving the ordinance to ensure that human health and the environment are protected by activities that would be allowed under the ordinance. 07-9

Sincerely,

Jennifer Kalt

Jennifer Kalt, Director
jkalt@humboldtbaykeeper.org
(707) 499-3678

Letter 07	Humboldt Baykeeper Jennifer Kalt, Director 10/16/2017

07-1 The comment is an introduction to the letter and brings the former Blue Lake Products site to attention. This comment is noted.

07-2 The comment includes additional introduction and background information regarding the organization and their mission. This comment is noted.

07-3 The comment states that the DEIR does not adequately protect public health, safety, and welfare by not fully assessing contaminated soil and groundwater.

Existing conditions and information pertinent to contaminated soil and groundwater is included in Section 3.7, "Hazards and Hazardous Materials" on page 3.7-10 of the DEIR. Potential exposure to contamination is addressed in DEIR Impact 3.7-2 and would be mitigated through site evaluations and remediation of contamination measures identified in Mitigation Measures 3.7-2a and 3.7-2b (see DEIR pages 3.7-15 through 3.7-17).

07-4 The comment includes information regarding existing contaminated former mill sites that impact waterbodies in and surrounding Humboldt Bay. Should these sites be utilized for commercial cannabis operations they would be subject to compliance with Mitigation Measures 3.7-2a and 3.7-2b. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

07-5 The comment states that the Draft EIR does not describe contaminated industrial sites within the Humboldt Bay watershed. As a programmatic EIR, the Draft EIR provides a general setting of existing hazards and conditions throughout the entire County, rather than specific sites or locations, in addition to providing "a more exhaustive consideration of effects" [CEQA Guidelines Section 15168(b)(1)]. The impaired status of Humboldt Bay is identified on DEIR page 3.8-18 (impaired for dioxin and PCBs).

07-6 The comment includes information regarding dioxin contamination and asserts that the DEIR does not identify the impaired status of Humboldt Bay. The impaired status of Humboldt Bay and other water bodies in the County is identified on DEIR pages 3.8-17 through 3.8-21.

07-7 The comment states that Mitigation Measure 3.7-2a, on page 3.7-16 of the Draft EIR, should not circumvent public and environmental review of reuse sites. As stated in the Draft EIR, Mitigation Measure 3.7-2a serves as a performance standard, rather than a means of streamlining approval of a project. Compliance with this mitigation measure would involve submittal of the assessment as part of the permit application that would be available for public review.

07-8 The comment recommends that the proposed ordinance require Use Permit approvals for any ground disturbance on lands previously used for industrial activities. The proposed ordinance requires commercial and industrial structures proposed for cannabis activities be evaluated for possible contamination.

07-9 The comment includes closing remarks to the letter. Comments raised in the comment letter have been responded to above. This comment is noted.

Letter 08







October 16, 2017

Humboldt County Board of Supervisors and Planning Commission
825 5th Street, Room 111
Eureka, CA 95501

RE: Draft EIR for Humboldt County Commercial Cannabis Code & Protecting Instream Flows

Dear Board of Supervisors and Planning Commission:

Thank you for the opportunity to comment on the draft environmental impact report for amendments to the Humboldt County code regulating commercial cannabis activities. The following comments focus on the protection of stream flow quantity for endangered salmon populations, public trust resources and other instream beneficial uses of water. 08-1

We support provisions in section 3.8-5 that require forbearance periods, water system maintenance, and groundwater users to demonstrate that groundwater sources are not hydrologically connected to adjacent surface water. We are concerned, however, that the regulations will allow water diversions that jeopardize or take endangered fish populations and/or harm public trust resources. 08-2

The proposed bypass flow language reads: "Cannabis cultivators shall bypass a minimum of 50 percent of the surface water flow past their point of diversion, as estimated based on visually observing surface water flow at least daily."

This bypass flow standard is not adequate to determine whether water is available for diversion and/or appropriation in excess of instream flows necessary to protect endangered fish populations or public trust resources. To determine whether water is available, diverters and/or the State Water Resources Control Board must demonstrate that water is available for diversion in excess of both legal instream flow requirements and the total of other diversions from a given stream. 08-3

Given the importance of salmon and other public trust resources in the North Coast, we request that Humboldt County refrain from issuing commercial cannabis permits that rely on diversions from streams where total diversions have not been quantified, and where 08-4

the state of California has not yet quantified instream flow requirements that satisfy existing laws. 08-4 cont

Sincerely,

Konrad Fisher,

Konrad Fisher

Director, Klamath Riverkeeper

Thomas Wheeler

Thomas Wheeler

Executive Director, EPIC

Jennifer Kalt

Jennifer Kalt

Director, Humboldt Baykeeper

Letter 08	Klamath Baykeeper Konrad Fisher, Thomas Wheeler, Jennifer Kalt 10/16/2017

08-1 The comment is an introduction to the letter. The comment is noted.

08-2 The comment supports Mitigation Measure 3.8-5 that identifies water diversion requirements, but expresses concerns that the water diversions would jeopardize fish populations and harm public trust resources.

The reader is referred to Master Response 5 for further discussion of surface water flow and water quality impacts and implementation of mitigation measures 3.8-2 and 3.8-5 in concert with the State Water Board Policy. The diversion restrictions and numeric instream flow requirements would ensure that the individual and cumulative effects of water diversions and discharges associated with cannabis cultivation do not affect instream flows necessary for fish spawning, migration, and rearing for endangered anadromous salmonids, and flows to needed to maintain natural flow variability (State Water Board 2017c).

08-3 The comment asserts that the bypass flow provisions are not adequate to protect fisheries and public trust resources. The reader is referred to Master Response 5 for further details on water diversion restrictions (including bypass flow provisions) and their ability to protect fisheries and beneficial uses.

08-4 The comment recommends that the County refrain from issuing commercial cannabis permits that rely on surface water diversions where the state has not yet quantified instream flow requirements.

The State Water Board Policy has established monthly numeric instream flow and aquatic base flow requirements for watersheds in the County (see Master Response 5 for flow requirements by watershed). The State Water Board Policy's flow standards and diversion requirements were developed to protect fish spawning, migration, and rearing for endangered anadromous salmonids, and flows to needed to maintain natural flow variability within each watershed. Thus, implementation of 3.8-5 in concert with the State Water Board Policy would ensure that the proposed ordinance would not result in significant impacts to coho salmon and steelhead and their habitat.

Letter 09

October 16, 2017

Board of Supervisors
825 5th Street, Room 111
Eureka, CA 95501

Dear Board of Supervisors,

On behalf of The Buckeye, please accept these comments on the proposed Commercial Cannabis Land Use Ordinance (CCLUO). The Buckeye is a non-profit organization with 200 families, individual and commercial membership, representing over 300,000 acres of forests and ranchland found on the California North Coast. If followed, the CCLUO, together with the mitigation measures identified within the draft environmental impact report, could significantly reduce negative environmental and social impacts from individual marijuana farms, and the industry collectively. As such, we are encouraged. 09-1

Regardless, our private, land-based organization have major concerns about the potential cumulative impact of permitting additional "new" cultivation sites while the county struggles with enforcement against the vast number of operations that are not in compliance with the County land use ordinance. Therefore, we urge you to adopt a modified version of Alternative # 5 that would prohibit all new cannabis operations and severely limit the expansion of operations into Humboldt County's Prime Ag and TPZ zoned lands. 09-2 09-3

Humboldt County has experienced unacceptable social and environmental impacts from the illegal cannabis industry for decades, and this continues to this day, despite the County's attempts to regulate the industry since the advent of the Medical Marijuana Land Use Ordinance (MMLUO). The fault lies with the inadequate enforcement of the MMLUO due to the enormous magnitude of the cannabis grow operations vis-à-vis the agency enforcement teams.

This plethora of operations certainly include the many operators that did not file an application with the County under the MMLOU. According to the Draft Environmental Impact Report (DEIR), only 8-13% of extant farms—only 2,300 operations—filed a cultivation application under the MMLUO. That proportion shrinks further when one factors in the number of incomplete applications (~400) and withdrawn applications (~100).[1] 09-4

[1] As of September 22, 2017.

We are encouraged by the Board's recent move to decrease the time between a notice of code violation and an abatement order, from seventy-five days to only ten days, as well as the Board's approval of a drastically steeper fine schedule, with a total maximum fine increasing from $10,000 to $90,000.

09-4 cont

Despite this work, we are still too far from remediating the social and environmental impacts to our County and communities, especially on Prime Ag and TPZ zoned lands, and we are mired in slow progress at best. Until we deal with the existing social and environmental damages, and the glut of cannabis operations not currently in compliance, we should not consider increasing the social and environmental damages in our County by permitting any additional new grows.

09-5

09-6

Thus, we urge the Board of Supervisors to adopt a modified version of Alternative # 5 that would prohibit the licensing of all new commercial outdoor, mixed light, *and* indoor cultivation that did not exist on or before December 31, 2015, nor sought a Permit under the MMLUO, except under the RRR Program.

As evaluated in the DEIR, our opinion is that Alternative 5 is the most protective of the proffered alternatives examined.

09-7

Should you have any questions or wish to speak further, please contact The Buckeye at info@thebuckeye.org or (707)725-8847

Sincerely,



James L. Able
Chairman
The Buckeye

Letter 09	The Buckeye Lauren Sizemore, Executive Director 10/16/2017

09-1 The comment is an introduction to the letter and additional information regarding the organization. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

09-2 The comment identifies concerns regarding the cumulative impact of addition of new cannabis cultivation operations while the County struggles with enforcement.

The County believes that regulating cannabis operations will result in permitting of "good" operations—ones that comply with regulations—and the eventual eradication of illegal operators who choose to avoid or ignore the permitting process. The County has addressed enhanced enforcement as a separate project with amendments to its Code Enforcement program. (Ordinance No. 2576, June 27, 2017 and Ordinance No. 2585, November 7, 2017) designed to eliminate delays that hindered effective enforcement, and substantially increase administrative civil penalties. The Code Enforcement Unit is engaged in the initial implementation of the enhanced enforcement program (see Master Response 6). The overall purposes of the proposed ordinance are to establish legal commercial cannabis activities and expand upon the existing regulations set forth under the current CMMLUO to improve baseline environmental conditions in the County.

09-3 The comment includes support of a modified version of DEIR Alternative 5. This comment is noted. It should be noted that at the time of the preparation of this Final EIR the County was considering modifications to the proposed ordinance that would establish a cap to limit the extent of permitted commercial cannabis operations in the County.

09-4 The comment states that the County has experienced unacceptable social and environmental impacts from existing unpermitted cannabis operations and identifies inadequate enforcement efforts by the County.

While the existing environmental conditions of unpermitted cannabis cultivation operations were disclosed as part of the baseline condition in the DEIR, CEQA is not intended to conduct environmental review and mitigate these conditions. State CEQA Guidelines Section 15125(a) identifies that the baseline physical conditions are the basis by which a lead agency determines whether an impact of the project is significant. Published case law has identified that baseline conditions include unpermitted and/or harmful activities that have occurred prior to the project. In *Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 234 Cal.App.4th 214 (183 Cal.Rptr.3d 736], the Fourth Appellate District upheld the baseline conditions and ruled that the baseline condition must reflect the physical conditions at the time the environmental analysis begins even if the current conditions includes unauthorized and even environmental harmful conditions that never received environmental review.

The reader is referred to Response to Comment 09-2 regarding enforcement efforts by the County.

09-5 This comment states that County is far from remediating the social and environmental impacts to the community resulting from existing illegal operations.

This comment is noted. The reader is referred to Response to Comment O9-4 regarding the consideration of the existing environmental effects of unpermitted cannabis operations and Response to Comment O9-2 regarding enforcement efforts by the County.

O9-6 The comment recommends that the County not permit any new cannabis cultivation. This comment is noted. It should be noted that at the time of the preparation of this Final EIR the County was considering modifications to the proposed ordinance that would establish a cap to limit the extent of permitted commercial cannabis operations in the County.

O9-7 The comment includes conclusory language and additional support of a modified Alternative 5. This comment is noted. It should be noted that at the time of the preparation of this Final EIR the County was considering modifications to the proposed ordinance that would establish a cap to limit the extent of permitted commercial cannabis operations in the County.

Letter O10

epic

Delivered via email

October 16, 2017

Board of Supervisors
Planning Commission
825 5th Street, Room 111
Eureka, CA 95501

Dear Board of Supervisors and Planning Commission,

Thank you for the opportunity to comment on the proposed cannabis land use ordinance and accompanying DEIR. Please accept these comments on behalf of the Environmental Protection Information Center (EPIC) in addition to comments already submitted by EPIC. EPIC believes that a well-regulated cannabis industry is the best way to preserve and protect Humboldt County's environment.

Incorporate DEIR measures into ordinance

The best way to improve environmental conditions is through clear regulations that are no more onerous than necessary to ensure that all environmental impacts, both individual and cumulative, are below significant effects. The draft ordinance provides many important safeguards. The DEIR contains additional safeguards necessary to reduce environmental impacts to below a point of significance. Given that both documents will need to be adhered to, the simplest way to provide clear rules is to incorporate all of the mitigation measures identified in the DEIR into the ordinance. 010-1

Suggested Resolution:

Incorporate all mitigation measures identified by the DEIR into section 55.4.12.2: Performance Standards for Commercial Cannabis Cultivation Activities

Background Environmental Effects

Humboldt County is currently experiencing significant environmental effects from the cannabis industry. At the most basic level, the county has difficulty in 010-2

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estimating, even roughly, the scope of the problem. *See* DEIR at 2-28 (estimating between 4,428 and 15,000 cultivation operations currently in existence). In our estimation, most of these effects are coming from operations not currently permitted or seeking permits. The DEIR routinely arrives at the conclusion that because individual farms will be brought into compliance and will follow mitigation measures, the environmental impacts will be reduced to below significant levels. While EPIC agrees that individual operations are likely to have a small effect on the environment—likely that below other similar forms of agriculture—what this crucially misses is the significant *background* environmental effects from unregulated farms. Furthermore, the DEIR identifies numerous ways that existing regulations are not sufficient to ensure that there will be now significant environmental effects. To the degree that existing cultivation licensed under the Medical Marijuana Land Use Ordinance will be grandfathered and does not need to comply with this ordinance, *see* section 55.4.3.8, there are ~2,000 operations that could produce significant background effects. To the degree that background effects are significant, even small risk increases, such as those created by new operations, are themselves also significant. For example, if a glass is overflowing with water, even small amount of water added to the glass will exacerbate the problem.

O10-2 cont.

Suggested Resolution:

Out of concern for background environmental effects, EPIC believes that the county must limit the new ordinance towards the licensing of existing cultivation sites *until* the background environmental effects are below significant levels. EPIC firmly believes that regulation is the best way to remediate the extreme and severe environmental impacts from the green rush; however, until these impacts are themselves minimized and mitigated to below points of significance, the ordinance should not permit additional new harms.

Generators

The ordinance allows on-site generator usage, with the exception of TPZ and U with a Timberland overlay, up to 20% of the total energy demand for cultivation. EPIC recommends completely banning the use of generators. Generators contribute to cumulative noise, which impacts both wildlife, especially special status species, and humans. Generator and fan noise are pervasive in grow country and the noise is one of the most frequent complaints by neighbors. Established in the environmental setting, section 3.10.3, generators were omitted as a predominant source of noise contrary to existing knowledge on the noise impacts from generators and the pervasive of use of them in the county. Further, the DEIR identified diesel generators as a source of PM10 emissions in impact 3.2-2 which the NCAB is currently in nonattainment for and PM10 emissions were determined to be a significant and unavoidable impact. In impact 3.7-7, which was determined to be

O10-3

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less than significant, generators were also identified to possibly contribute to the risk of wildfires; with the recent intense fire seasons that California has been experiencing and due to fire season coinciding with the outdoor harvest season we believe that the county is underestimating the inherent risk of fires associated with generator use.

The ordinance relies on noise and decibel requirements to minimize potential harm. These are difficult to enforce, largely requiring a complaint-based system. As shown by past experience, a complaint-based system does not result in enforcement as neighbors are not inclined to complain on their neighbors. A simpler and better way to achieve the same effect—no to little background noise—is to ban the sources of the noise pollution: generators.

Cannabis is a plant that grows naturally in the sun. To the degree that artificial lights can be used to boost production or create multiple harvests, they should only be permitted where the lights can be powered entirely by on-grid power supplied by 100% renewable sources or on-grid renewable energy.

Suggested Resolution:

These reasons outline the inherent risk with allowing the use of generators . EPIC encourages the county ban the use of generators as they pertain to the commercial cannabis ordinances.

O10-3 cont.

Enforcement Potential Overestimated

While EPIC supports the requirement of annual inspections and feels such inspections, as mandated by sections 55.4.5.6 and 55.4.5.7, are necessary to ensure that cannabis operations individually and cumulatively are not contributing to significant environmental impacts, EPIC questions the feasibility of the annual inspection system. Generously assuming that county staff can inspect two properties per day and that only one employee will be needed for an inspection, an inspection period of May-October, and ~5,000 permitted farms (roughly half the number of cannabis farms in the county), the county would need to inspect some 41 farms per day and would require around 20 inspectors in these months. This is a very high largely seasonable demand for employees. Frankly, we are doubtful that such an ambitious task can be done alone.

O10-4

Suggested Resolution:

EPIC encourages the county to enter into multi-agency agreements with CDFW, the Regional Water Board, and others to combine inspection efforts. Further, EPIC encourages the Board to examine potential third party certification groups, with sufficient safeguards in place to ensure accuracy and uniformity of inspections.

Environmental Protection Information Center
145 G Street, Suite A, Arcata, CA 95521 | (707) 822-7711
www.wildcalifornia.org

Prioritizing Enforcement

EPIC recommends that section 55.4.5.3 be amended to include language that directs the Planning Department to inform the Sheriff's office and the District Attorney's office should, in the annual inspection or otherwise in the course of business, the Planning Department becomes aware of environmental crimes occurring on a licensed or unlicensed cannabis operation.

Suggested Resolution:

EPIC requests that the county codify a policy that pursues both civil and criminal enforcement against operations that violate criminal environmental laws. Further, the county should work with the Sheriff's office to prioritize enforcement by law enforcement officers those sites that are likely to contain the most significant environmental effects. Lastly, the county should ensure that the District Attorney have all available resources to prosecute environmental criminals.

010-5

Noise

Many special status and nonspecial status species in the county have evolved to be highly sensitive to noise. The examination of noise impacts within the DEIR is inaccurate and not fully flushed through. The Northwestern Pacific Railroad, which was identified as a predominant source of noise in environmental setting section 3.10.3, has not been used since 1984 so the notion that it is an existing source of noise pollution casts doubt on the validity on the examination of noise impacts within Humboldt county. Further, generators and other machinery have been omitted as a predominant source of noise despite being extensively used across the county.

Suggested Resolution:

Again, the best way to address the problem of noise pollution is to address its sources. Generator noise is the predominant noise associated with cannabis production (with greenhouse fans second). Banning generators and requiring low-noise fans is the most effective way to deal with noise pollution.

010-6

* * *

Thank you for taking our comments under advisement. Should you have any question, please contact Tom Wheeler at tom@wildcalifornia.org or (707) 822-7711.

Thomas Wheeler

Thomas Wheeler
Executive Director

Environmental Protection Information Center
145 G Street, Suite A, Arcata, CA 95521 | (707) 822-7711
www.wildcalifornia.org

Letter 010	Environmental Protection Information Center (EPIC) Thomas Wheeler 10/16/2017

010-1 The comment requests that the mitigation measures identified in the DEIR be incorporated into the performance standards of the proposed ordinance.

FEIR Chapter 4, "Mitigation Monitoring and Reporting Program," identifies how each mitigation measure would be either incorporated into the performance standards of the proposed ordinance or would be implemented as part of the application requirements of the proposed ordinance.

010-2 The comment states that the County is currently experiencing significant environmental effects from existing cannabis operations. The comment also asserts that the DEIR does not consider the significant background effects from unpermitted cannabis operations in its conclusions. Lastly, the comment recommends the County limit the proposed ordinance to licensing of existing cultivation sites until existing environmental effects are addressed.

As described in Master Response 1, the existing environmental conditions of unpermitted cannabis cultivation operations were disclosed as part of the baseline condition in the DEIR. CEQA is not intended to conduct environmental review and mitigate these existing conditions. State CEQA Guidelines Section 15125(a) identifies that the baseline physical conditions are the basis by which a lead agency determines whether an impact of the project is significant. Published case law has identified that baseline conditions include unpermitted and/or harmful activities that have occurred prior to the project. In *Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 234 Cal.App.4th 214 (183 Cal.Rptr.3d 736], the Fourth Appellate District upheld the baseline conditions and ruled that the baseline condition must reflect the physical conditions at the time the environmental analysis begins even if the current conditions includes unauthorized and even environmental harmful conditions that never received environmental review.

The County believes that regulating cannabis operations will result in permitting of "good" operations—ones that comply with regulations—and the eventual eradication of illegal operators who choose to avoid or ignore the permitting process. The County has addressed enhanced enforcement as a separate project with amendments to its Code Enforcement program. (Ordinance No. 2576, June 27, 2017 and Ordinance No. 2585, November 7, 2017) designed to eliminate delays that hindered effective enforcement, and substantially increase administrative civil penalties. The Code Enforcement Unit is engaged in the initial implementation of the enhanced enforcement program (see Master Response 6). The overall purposes of the proposed ordinance are to establish legal commercial cannabis activities and expand upon the existing regulations set forth under the current CMMLUO to improve baseline environmental conditions in the County.

It should be noted that at the time of the preparation of this FEIR the County was considering modifications to the proposed ordinance that would establish a cap to limit the extent of permitted commercial cannabis operations in the County.

010-3 The comment asserts that the DEIR did not completely consider the environmental impacts of generator use related to noise, air quality, and fire hazards. The comment suggests that generators should be banned.

Noise associated with existing generator varies in the County depending on the extent of generator use, distance from noise-sensitive receptors, and topography, vegetation and

structures that attenuate (reduce) noise. The DEIR addresses generator noise on DEIR page 3.10-10 as well as on DEIR pages 3.4-65 and 3.4-66 (generator noise impacts on wildlife). Implementation of the proposed ordinance would reduce the current extent of generator use that occurs under existing conditions. This would include prohibiting them in TPZ and General Plan designated Timberland areas. Under recent updates to the proposed ordinance cultivation sites (including sites using generators) would be required to submit documentation demonstrating compliance with the noise standards (no increase in existing ambient noise levels at the property line of the site beyond 3dB, the human ear can begin to detect sound level increases at 3dB), including: a site plan detailing the location of the generator, property lines, and nearby forested areas, existing ambient noise levels at the property line using current noise measurements (excluding generators) during typical periods of use, details on the design of any structure(s) or equipment used to attenuate noise, as well as details on the location and characteristics of any landscaping, natural features, or other measures that serve to attenuate generator noise levels at nearby property lines or habitat. Review of this documentation as well as annual site inspections as part of permit renewals would ensure compliance. The DEIR includes Mitigation Measure 3.4-1f (now 3.4-1h) that requires additional noise standards that are based on the USFWS 2006 *Transmittal of Guidance: Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California* to address impacts to special-status wildlife species.

As identified in DEIR Table 3.3-7, significant particulate impacts from implementation of the proposed ordinance are associated with road dust emissions and not generator use.

DEIR Impact 3.7-7 and 3.11-1 identify the permitted commercial cannabis operations would be required to demonstrate compliance with Fire Code and County Code requirements that would reduce the risk of fire and would improve fire safety conditions for existing cannabis operations that obtained permit coverage under the proposed ordinance.

Thus, there are no significant environmental impacts associated with generator use that would necessitate a ban on their use. The reader is also referred Master Response 6 for a discussion of improvements to the County's code enforcement activities.

010-4 The comment questions the ability for the County sufficiently conduct annual inspections under the proposed ordinance. The comment recommends that the County enter into multi-agency agreements to combine inspection efforts.

The County is considering this requested change to the inspection provisions as part of revisions to the proposed ordinance. The reader is referred to Master Response 6 for further information on County code enforcement effort improvements and coordination with other agencies.

010-5 The comment provides recommendations to Section 55.4.5.3 of the proposed ordinance regarding enforcement.

This suggestion is noted will be considered by the County as part of revisions to the proposed ordinance. The reader is referred to Master Response 6 for further information on County code enforcement effort improvements.

010-6 The comment asserts that the DEIR did not adequately address noise impacts, including impacts to wildlife in the County.

DEIR pages 3.4-65 and 3.4-66 provides an impact analysis of noise impacts on special-status wildlife species and identifies Mitigation Measure 3.4-1f (now 3.4-1h) that requires additional noise standards beyond the proposed ordinance that are based on the USFWS

2006 *Transmittal of Guidance: Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*. The comment provides no analysis or evidence that counters the analysis and conclusions of the DEIR. The reader is referred to Response to Comment O3-3 regarding corrections made to the DEIR regarding noise associated with the Northwestern Pacific Railroad and Master Response 3 regarding the consideration of all noise sources.

2.3.5 Individuals

Letter I1

From: Peter and Sharron Childs

Sent: Sunday, September 03, 2017 7:41 PM

To: Lazar, Steve

Cc: Fennell, Estelle; Bohn, Rex; Bass, Virginia; Sundberg, Ryan; mike.wilson@co.humboldt.co.us; Robert Sutherland

Subject: CCLUO Workshop

Hi Steve,

I may not be able to make it to the workshop, so permit me to deliver myself of a considerable amount of pent-up feeling regarding the whole cannabis issue.

I've seen it all, having lived in SoHum (Salmon Creek) for forty-five years. Phase I, the Age of Innocence, when hippies sat naked in the sun with a toke under their skin, thanking God for the wonderful life amidst natural surroundings that we'd somehow been able to find in this still beautiful place. Under such circumstances we certainly weren't going to buy herb (which we all smoked); we grew it, and it didn't take long for us to take some down to our friends in the city; they got fine herb and we got a little money, which we could dearly use. Win-win.

Then Phase II. Somebody swung down the pike in the early Seventies saying "Pull out the males!" Which we did, and sinsemilla made its appearance. The power of the herb skyrocketed and so did the price, which was the watershed moment; the beginning of the madness that now encompasses us (how enormously ironic that we were the ones who rubbed the bottle!). People started flocking into the hills, not at all for the reasons why the "originals" came here but simply for the money, and all the ills associated with the pursuit of money for its own sake came into play, culminating in the current zoo. Originally there had been nothing but Moms and Pops; now large grows popped up all over the place (the place being our home paradise), and they came with a full slate of negative impacts, from illegal grading, siltation of streams, discharge of poisons into the streams and land, generator noise (truly distressing to those of us who love peace and quiet), lights doing to our night eyes what the generators do to our ears, sucking an inordinate amount of water out of our streams, trashing our roads, and on and on and on. These grows should have been eliminated then and there; they should never have been allowed in "rural residential" areas but there was, aside from blanket (and overall ineffective) raids by CAMP, virtually no enforcement. So people realized that they could get away with just about anything, and they grew up a storm. A greenrush (or greedrush).

I1-1

Then Phase III. There developed a general awareness of the fact that the public had nothing against cannabis and that this was leading to not just overt public acceptance but legalization, which meant that

the gold mine would open not just for growers but for a whole new industry including dispensaries, testing facilities, etc. and for local and state governments as well, through the massive fees associated with legalized operations at every level. Naturally Humboldt County, being situated at the head of the spear, felt obliged to maintain that leadership by setting up a legal framework for this new industry. It was a massive (actually impossible) task, and the Board, the Commission, and Staff are to be congratulated for the enormous amount of work that they have put in and continue to put into the project; it's a substantial achievement.

I1-1 cont.

But from the start of this process us old farts at HUMMAP have insisted that the way HumCo should handle things would be to eliminate grows over (say) 2500 sq. ft. and to ensure that the only product we would produce would be that for which we were already world-famous; genuine top grade organic sun grown Humboldt County sinsemilla, grown by many small farmers; emphatically not by industrial sized operations, which we realized from bitter experience were far more harmful than helpful to the interests of the people or the land of Humboldt County. Nobody should have been allowed to grow on land that they did not own and on which they did not reside. There are areas in the county where larger grows could be considered appropriate (so long as they don't poison the land and make it impossible to convert back to the kind of food production that was so important in the thirties and could well be again). Let others knock themselves out in this mad circus of commercial activity; let them, if they lack the wit to do otherwise, ruin their rural residential neighborhoods, drain their streams, and turn their lovely rural county into a money-mad industrial scramble.

I1-2

The Board heard us out and said "You make sense." Then they listened to the next layer of constituents, who wanted to grow big. They said "Those old hippies are good people and they dream sweet dreams, but they're not being realistic. This train is roaring out of the station and if we don't get on board we'll be left behind." The Board said "You make sense". Then the people who wanted to grow huge made their sensible case, and the Board did what Boards generally feel obliged to do since they represent all, not part of their constituents; they compromised, the result being the CCLUO. So we have a legal framework of sorts, and the new Industry is trying to take shape.

Which will, in my not particularly humble opinion, lead directly to Phase iV, when the other forty states snout up to the trough, the basic law of supply and demand comes into play in a big way, the price goes through the floor (it's already well on the way) and the whole thing collapses. God only knows what Lorillard and Reynolds have been doing in the corridors of Washington, but we can be sure that they haven't sat on their hands. Already there's a shadow entity patenting cannabis strains, which could be enormously significant and harmful. I'm reminded of how us kids would put fifty fireflies in a cream jar on top of a barber pole in our bedroom, so we'd have a little lighthouse. In the morning, in the cream jar there'd be a bunch of legs and wing casings, and one Bad Bug. I think this scene will evolve in much the same way, with a few big players and a small chance of a boutique market surviving where Phase One types can continue to exist. But I'm not holding my breath; the odds would be much better if HumCo had focused on and protected a strictly Mom and Pop system. The passengers who bought a ticket on this train like to think that it's going to be a smooth ride but I predict otherwise; there will be

I1-3

(just as with climate change) unforeseen problems ahead on this track. Just as with the logging, fishing, and other boom-and-bust economies, the bottom line is proving to be money, not long-term vision and effective protection of the resource base. I1-3 cont.

Meanwhile, we "original" hill dwellers weep. The problem grows have not been eliminated; they've been legitimized. Our roads are being trashed and are now downright dangerous to drive on, our creeks drained (and our rivers; there's a steady stream of water trucks on our roads), our lands polluted. Directly in what used to be my pristine view there are four large greenhouse grows stacked up on the hillside; four big scars on the hill (care to bet on whether or not the grading was permitted?), much of the graded material is probably now in the creek below, and they have roaring fans that, over a mile away, make it sound as though I was back in New York City when I open the sliding glass door of my bedroom at night. Not to mention the grow(s) ninety degrees from there, where there's a steady generator hum, and where they're regularly transporting tanks of water from that property to a different grow scene they own. And someone just stole my main toolbox from my barn (easy to do but never a problem until recently). Our local Facebook page lists ten incidents in the past month of tires picking up greenhouse screws on the road (and that's just the ones listed). We expect little enforcement; there are just too many grows. Unless the County wakes up to the possibilities in doing it with paper rather than brute force; if problem grows can be identified (anonymously or officially) then fines can be levied and liens placed. But it would seem that Staff is far too busy working on legalization to put much effort into any kind of enforcement. And even if substantial action were to be taken along those lines, there are far too many large grows that will be legal under the new rules; industrial operations will be allowed to continue in rural residential lands where, as I've already observed, they should never have been allowed to exist in the first place. I1-4 I1-5

Many of us feel that the County made an enormous (although understandable) mistake in failing to see how sketchy the future is of this whole "industry" (which rests entirely upon the artificially high price created by illegality) rather than having the vision and courage to focus on and protect top grade, dispersed, wholly organic production, thus maximizing our chances for an economically sustainable and environmentally viable future. I1-6

Another thing: in view of my experience working with County government over the last four decades it's difficult for me to ignore the substantial feeling on the part not just of officials but also of others, that we shouldn't be living out here in the hills. Some environmentalists (ironically our natural allies; among other things, I was on the board of an international environmental organization when many of the Healthy Humboldters were neophytes) think that the very presence of humans on "resource lands" necessarily degrades them (never mind what their cities did to the land on which they sit, how our logged-over lands have improved under our stewardship, or our natural right to the pursuit of happiness), and they've been a significant force working to harm our interests (several beers' worth there). Regarding the official attitude: when United Stand began its work nearly forty years ago the Chief Building Inspector publicly announced that he felt it was his duty to "use the codes as a tool to rid the county of the riffraff". I think that this attitude has improved but it certainly hasn't disappeared; I1-7

quite recently Planning Director Kirk Girard, when asked directly "Are you trying to get rid of us?" replied "Yes! We're trying to get you out of there so we can gentrify the county on the Marin/Sonoma model and bring some real money into this county." So we do occasionally get the feeling that our legitimate concerns are, shall we just say, being overlooked, and this whole marijuana issue is an excellent example.

I1-7 cont.

Good luck, Steve. I hope you're getting ringmaster pay! Go well, Peter

P.S. No industrial grows should be allowed on rural residential lands. At an absolute minimum there should be a residency (and ownership) requirement for any grow on land zoned Rural Residential.

I1-8

Letter I1	Peter and Shannon Childs 9/3/2017

I1-1 The comment includes interpretation of cannabis use over time. The comment does not raise any issues with the environmental analysis provided in the DEIR. The comment is noted.

I1-2 The comment suggests limiting cultivation sizes to 2,500 square feet. The section of the proposed ordinance encouraging small cultivation sites reflects this suggestion. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I1-3 The comment discusses the evolution of the County cannabis regulations and the proposed ordinance. does not raise any issues with the environmental analysis provided in the Draft EIR. The comment is noted.

I1-4 The comment includes information of existing conditions within Humboldt County, such as decaying roads, empty streams, and visual impacts.

This comment is noted. The DEIR addresses aesthetic impacts in DEIR Section 3.1, "Aesthetics," surface water diversion impacts in DEIR Section 3.8, "Hydrology and Water Quality," and roadway impacts in DEIR Section 3.12, "Transportation and Circulation."

I1-5 The comment expresses opinions regarding the development of cannabis regulations and enforcement. This comment is noted. The reader is referred to Master Response 6 for further discussion on improvements to the County's code enforcement program.

I1-6 The comment expresses opinions regarding the development of cannabis regulations. This comment is noted.

I1-7 The comment includes opinion regarding the County's ability to legitimize citizen's concerns. The comment does not raise any issues with the environmental analysis provided in the Draft EIR. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

I1-8 The comment recommends that no industrial cannabis grows be allowed on rural residential lands. The proposed ordinance reflects the first portion of this requested change. The County is considering the second portion of this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

Letter I2

From:
Sent: Monday, September 04, 2017 7:47 AM
To: Lazar, Steve
Subject: Pot grows

Living in Willow Creek, I can tell you we do not need more Grows! There are so many now that the county does not have the manpower to check the legal or illegal ones out. Up the hill from my house there are probably 10 or more grows and I doubt they are all legal. I live in a residential area on a forest service road that the growers are tearing up with their deliveries of dirt, loaders, building materials, plants and whatever else they might need at their grows. They do not care about our neighborhoods! So many of the vehicles that go past my house have out of state plates so how are they contributing to anything in Humboldt? Oh yes they buy groceries at Rays which is owned by someone in Oregon, Renner is owned by someone down south. I2-1

We also do not need more plants on 1 acre or less! We have people who have bought in our neighborhoods and subdivisions that do not care about the neighbors and put in as many plants as they want and don't care about your codes. Thankfully code enforcement has worked with me to get rid of the 2 bigger grows by my house. You need to go to some of these areas and check out what the results are of the pot codes in enforce already, people growing in the subdivision above the golf course and right next to bus stops. We do not need more pot farms. I2-2

Last, why should we apply for permits to do anything to our house when you do nothing about the growers even when it has been reported. Oh yes and a lot of people are so afraid of the growers they will not report them. I2-3

Marjorie Heddinger

Letter I2	Marjorie Heddinger 9/4/2017

I2-1 The comment states that the County does not need more cannabis cultivation sites and states that the County does not have the resources to conduct code enforcement.

The comment is noted. The reader is referred to Master Response 6 for further discussion on improvements to the County's code enforcement program. DEIR Alternatives 1 and 5 consider options where no new commercial cannabis would be permitted.

I2-2 The comment states concern regarding cannabis cultivation on 1 acre or less in size and states that their subdivision does not need any more cannabis operations. The proposed ordinance reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I2-3 The comment includes statements regarding existing unpermitted cannabis growers. The reader is referred to Master Response 6 for a discussion of improvements to the County's code enforcement activities. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I3

From: Tims outlook desktop

Sent: Tuesday, September 05, 2017 6:32 PM

To: Lazar, Steve; Fennell, Estelle; 'Mark Wheetley';

Cc: 'Joan Bennett'; 'Dawn Wolcott'

Subject: EIR Workshop

Hello,

I'm sure most of you are aware of the situation my father and I are dealing with. Located at 400 Nob Hill Rd in Fortuna and within the Sphere of Influence, we have cultivators attempting to surround our property. The closest grow (less than 200 feet away) resembles a gypsy camp. I would like to invite all Fortuna city council members and Humboldt County officials just to just drive through our driveway and without getting out of the vehicle you can see what I'm ranting about. I3-1

Unfortunately I will not be able to attend the upcoming Draft EIR Workshop as I have to attend my late first wife's funeral services. Please accept the attached notes in my absence. I3-2

In general, I feel the draft EIR does effectively recognize some of the impacts brought out in the NOP comments and in some cases has addressed some of those issues. I3-3

Unfortunately some damage has already been brought upon citizens and the environment and we still face a long path to recovery. I3-4

Thank you for understanding,

Tim Meade- Fortuna, CA

ATT: Steve Lazar Questions and Notes on EIR Draft Workshop 1 9-7-17

*** Impact 3.3-2: Long-term operational emissions of criteria pollutants and precursors.**

PM10 emissions, primarily generated from fugitive dust from travel of workers on unpaved roads is a concern. Typical greenhouse operations, which includes road activity, begins in the Spring and runs through to the end of the harvest in the Fall. And what about the mixed light year-round operations? I3-5

*** Mitigation Measure 3.8-3 (Annual Groundwater monitoring)** I3-6

Does this include existing wells?

*** Mitigation 3.8-5: Implement water diversion restrictions and monitoring and reporting requirements.** I3-7

Again, does this include existing wells?

*** Impact 3.10-2 Long-term non-transportation operational noise.** I3-8

The use of circulation fans and filtration fan motors emitting noise levels that are interfering with nearby residences should be declared as significant.

*** Impact 3.3-4: Exposure of people to objectionable odors.**

It is possible to mitigate the elimination of odors in mixed-light greenhouse facilities (in particular, for greenhouses located within a SOI) as suggested in the NOP comments: I3-9
1. A greenhouse utilizing a mixed-light operation used for marijuana production or a building used for marijuana processing shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
4. Negative air pressure shall be maintained inside the building.
5. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
6. The filtration system shall be designed by a mechanical engineer licensed in the State of California. The engineer shall stamp the design and certify that it complies with the amended ordinance.
7. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of California demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.
Tim Meade-Fortuna, CA

Letter I3	Tim Meade 9/5/2017

I3-1 The comment expresses concern regarding existing cannabis operations within the City of Fortuna sphere of influence. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project. The setback requirements of the proposed ordinance are intended to address these concerns.

I3-2 The comment notes that they will not be able to attend the DEIR Workshop. This comment is noted.

I3-3 The comment states the opinion that the DEIR effectively recognizes some impacts identified in the NOP comments. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

I3-4 The comment identifies that some damage to the citizens and environment has already occurred and the County faces a long path to recovery.

The reader is referred to Master Response 1 for further details on the DEIR's evaluation of existing environmental effects from unpermitted cannabis operations. While the existing environmental conditions of unpermitted cannabis cultivation operations were disclosed as part of the baseline condition in the DEIR, CEQA is not intended to conduct environmental review and mitigate these conditions. State CEQA Guidelines Section 15125(a) identifies that the baseline physical conditions are the basis by which a lead agency determines whether an impact of the project is significant. Published case law has identified that baseline conditions include unpermitted and/or harmful activities that have occurred prior to the project.

I3-5 The comment identifies concerns with dust emissions associated with DEIR Impact 3.3-2 and questions whether annual mixed-light operations were considered.

The impact analysis provided under DEIR Impact 3.3-2 evaluates all commercial cannabis operations, including all cultivation and non-cultivation operations (see DEIR Table 3.3-7). As identified on DEIR page 3.3-19, air quality modeling identifies that a single cultivation operation would not exceed the North Coast Unified Air Quality Management District (NCUAQMD) recommended threshold of 15 tons per year of particulate matter emissions. However, peak activities at a harvest would exceed the NCUAQMD recommended daily threshold of 80 pounds per day of particulate matter.

I3-6 The comment questions if annual groundwater monitoring, described in Mitigation Measure 3.8-3, includes existing wells.

Mitigation Measure 3.8-3 applies to the operation of any well that would be utilized for commercial cannabis operations.

I3-7 The comment questions if the water diversion restrictions and monitoring and reporting requirements, described in Mitigation Measure 3.8-5, includes existing wells.

Diversion restrictions associated with aquatic base flows would apply to the operational of groundwater wells for commercial cannabis operations. The reader is referred to Master Response 5 for further information on the State Water Board Policy and its groundwater use restrictions.

I3-8 The comment states the opinion that DEIR Impact 3.10-2, Long term non-transportation operational noise, should be considered significant.

The reader is referred to Master Response 3 that addresses noise sources from commercial cannabis cultivation operations. The types of fans commonly used for outdoor or mixed-light cannabis cultivation would generate noise levels below that of motorized trimmers. Additionally, fans are typically used for indoor cannabis cultivation operations, and therefore, would experience additional noise level reduction because of being located within a fully enclosed structure. Since release of the DEIR, the County adopted the General Plan Update that consists of a new Noise Element. The new Noise Element retains the same land use/noise compatibility standards from the previous Noise Element cited in the DEIR, but now includes short-term peak noise standards for daytime (6:00 a.m. to 10:00 p.m.) and nighttime conditions (10:00 p.m. to 6:00 a.m.) (Standard N-S8). The new Noise Element also includes Implementation Measure N-IM3 that requires the County to investigate noise complaints and determine of a violation has occurred, and Implementation Measure N-IM7x that requires the County to adopt a noise control ordinance (Humboldt County 2017). Permitted commercial cannabis operations would be subject to these new short-term noise standards and enforcement actions by the County.

The County has also updated the proposed ordinance's performance standards for noise at cultivation sites that now prohibit noise from cultivation and related activities from increasing the ambient noise level at any property line by more than 3 dB. As identified on DEIR page 3.10-2, the human ear can begin to detect sound level increases at 3dB.

I3-9 The comment states that it is possible to mitigate odor impacts resulting from implementation of the proposed ordinance. The reader is referred to Master Response 4 for detailed discussion of odor impacts. Section 55.4.4 (Definitions) of the proposed ordinance specifically requires that all enclosed cannabis facilities to minimize odor outside of the structure through the carbon filtration or other methods.

Letter
I4

From: p farnham

Sent: Wednesday, September 06, 2017 7:26 PM

To: Lazar, Steve; Bill Thorington

Subject: letter supporting Exclusion zones around cities for Cannabis

Please find attached my letter supporting the idea of an exclusion zone for marijuana operation permits around cities.

It is NOT enough to just notify neighbors, let them request a hearing and try to prove to a" Hearing Officer" that there is sufficient cause to deny a permit. The neighborhoods in a city's SOI or nearby should NOT have to continually fight off these businesses. The way the proposed change reads, it certainly puts the applicant in the "drivers seat". How many other County policies can override the intent of an SOI? I4-1

Thank You,

Paul Farnham

Re: The revision of the County Cannabis Permit Ordinance September 6,2017

To: the Humboldt County Board of Supervisors and the Planning Commission

In your proposed ordinance revision, a Special Permit is required for marijuana operations within Spheres of Influence (SOI) or 1000' from the current boundaries (city limits) of cities in the County. The County could still grant a discretionary permit for a commercial marijuana growing operation after notifying the neighboring land owners if the neighbors don't show, in the *opinion* of the Hearing Officer, that the "public health, safety or welfare" of the surrounding community is sufficiently detrimentally effected. This seems to put the Cannabis applicant in the "drivers seat" and the community on the defensive. Your oridinance should be written to protect the community, not the applicant.

Since cities can create their own ordinances with regard to these businesses including complete prohibition, it is unreasonable that the County ordinance could impose these controversial operations so near to a City.

Therefore, I urge you to adopt ordinance revisions that would PROHIBIT marijuana growing or processing permits for County parcels within the Sphere of Influence of any city in Humboldt County and in places where the SOI has not been designated beyond the city limits, there should be at least a 1 mile buffer zone where commercial marijuana operations are PROHIBITED. I4-2

Cities grow. Land is annexed and new developments are built. The County should respect that and give our cities room for this future growth that is usually residential in nature. Commercial cannabis is not compatible with residential areas, as your current ordinance admits. Commercial cannabis is not common agriculture. Common agriculture does not require security fences, night lighting, cameras and guard dogs and usually does not produce a product that is illegal in the eyes of the federal government and is not for use by children. I4-3

General Plans should be respected. There are areas around Fortuna designated as Rural Residential in their general plan(for 2030) AND in the County's own Planning Commission Approved Draft General Plan Update (March 2015) where applications for permits were accepted because the land is technically still zoned AG. These areas already have houses in them and receive city services. A generous buffer zone around our cities prohibiting this controversial business that is incompatible with neighborhoods must be legislated to allow development in keeping with the city's ordinances as they grow into these areas. I4-4

I urge you to work with the city governments and their citizens to adopt County rules that do not infringe on the rights of cites or on the rights of their citizens, present and future, to decide if Commercial Marijuana operations are compatible with their lifestyle, aspirations and circumstances. I4-5

Respectfully, Paul Farnham
3576 Nelson Lane, Fortuna, CA 95540

Letter I4	Paul Farnham 9/6/2017

I4-1 The comment states that it is not enough to notify neighbors under the proposed ordinance provisions and that they should be allowed to request a hearing. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I4-2 The comment provides input on the proposed ordinance Special Permit requirements for permit requests in spheres of influence or within 1,000 feet of a city boundary. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I4-3 The comment identifies concerns regarding commercial cannabis operations near cities. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I4-4 The comment state that general plans should be respected and buffers should be provided around cities. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I4-5 The comment urges local government cooperation with citizens in adopting County regulations and rules. The commenter's concerns are noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

Letter
I5

From: Rusty & Bump
Sent: Friday, September 08, 2017 5:06 PM
To: Lazar, Steve
Subject: rec. marijuana

We are dead set against legalizing recreational marijuana until firm code enforcement is established. I5-1

Randall and Alverna Moore

Sent from Mail for Windows 10

Letter I5	Randall and Aleverna Moore 9/8/2017

I5-1 The comment includes opposition of the legalization of recreational marijuana until adequate code enforcement has been established. This comment is noted. The reader is referred to Master Response 6 for further discussion on improvements to the County's code enforcement program.

Letter I6

From: Carol Nichols

Sent: Saturday, September 09, 2017 10:14 AM

To: Lazar, Steve

Subject: Cannabis Ordinance Environmental Impact Review Draft

I am a resident of the county just outside of Fortuna city limits at [redacted] I would just like to express my concern regarding cannabis grows and air quality. There are multiple small outdoor grows already here in this area, and I'm assuming they are related to 215 card holders. However, even those small grows frequently compromise the air quality in the neighborhood. I can't imagine having to deal with odor from larger commercial grows. I would like to be assured that air quality for those of us NOT growing is a high priority as the Impact Review is drafted. I haven't done enough reading to know if the EIR will apply only to commercial or to all grows, but hope it will include all. I rarely hear about any regulations regarding the odor except for requirements for carbon filters on large indoor operations. There have been times when I can't even enjoy sitting in my backyard because of the odor; and it typically occurs during the best season of the year, weather wise, which is even more frustrating. Please give us options for keeping our neighborhood a pleasant place to live; and put the responsibility for air quality on the growers, not the surrounding residents. I6-1

Thank you for your consideration in this matter,

Carol Nichols

Letter I6	Carol Nichols 9/9/2017

I6-1 The comment expresses concern with odors associated with cannabis operations. The commenter is referred to Master Response 4 for further discussion on odor impacts identified in the DEIR.

Letter
I7

September 19, 2017

Steve Lazar
Humboldt County Planning Department

Dear Mr. Lazar,

Thank you and the Humboldt County Supervisors for the opportunity to comment on the proposed Cannabis ordinance.

My wife and I have owned property in the Burr Valley area near Dinsmore since 1981. We own two contiguous parcels, and lived there until 1984, when we moved away to another county for career reasons. However, we continue to enjoy our property several times a year, keep in touch with the neighbors and pay our road fees and property taxes diligently.

Our concerns are as follows:

1. increased traffic on the roads. This year for the first time, a neighboring parcel is leasing to growers who do not live on site, so there is traffic through our parcel including heavy trucks, daily as workers come and go since they are not living on site. We pay our road fees, but this traffic through our parcel is causing impacts, by driving larger vehicles through wet areas which is tearing up our internal road, which is not generally maintained by the Burr Valley Road Dept. I do not know if these new users are paying their fair share, but our road is getting damaged. I do not know if permits have been applied for, or if this is a large scale grow, since I do not feel comfortable monitoring it. Also, the main Burr Valley, Tree Farm and Elderberry roads now have a lot more traffic, are in poor condition much of the time, and generally unsafe as big trucks hauling pallets of soil can come around a corner leaving no place to get out of the way. I7-1
2. Water use. More than once we have had to remove water gathering encroachments from our property, which we had not agreed to or approved. This requires monitoring and we are not there much of the time to do this. I7-2
3. Noise. What used to be quiet evenings, now there is the constant hum of generators that goes on all night. I7-3
4. Light pollution. Greenhouses in the area are reducing the quality of the night sky. I7-4
5. Gunfire. Day and night, especially at sunset, random firing of weapons large and small. I7-5
6. Trespass. Our property is now basically invaded at any time by unknown persons on quads, atvs, etc. going right up to our structures. In the recent past, we have been broken into and things taken from our property. I7-6
7. Wildlife. With so much going on in the hills, there are less deer and other animals on the property which we used to enjoy seeing. I7-7
8. Family values. The new normal is our guests' children are now exposed to the signs and symptoms of outlaw cannabis growing culture, including armed strangers, plants in plain view, greenhouses and related debris everywhere. I7-8

9. Many of these rural parcels are not appropriate places for this type of large scale agriculture. There is not enough water as it is for many homesteads in the hills. The cumulative environmental impacts are increasingly significant. I7-9

In summary, we are not opposed to cannabis cultivation, however enforcement of the ordinance is essential. The County needs to be sure to bring the vast majority of these rural parcels into compliance, and get the large scale unpermitted grows out. I7-10

Thank you for your attention to this matter.

Sincerely,

Steve Barager
PO Box 89
Lee Vining, CA 93541
760-647-6644
email: regarab@aol.com

Letter I7	Steve Barager 9/19/2017

I7-1 The comment includes concerns with increased traffic. DEIR Section 3.12, "Transportation and Circulation, "provides a details impact analysis of traffic operational and safety impacts (see DEIR pages 3.12-9 through 3.12-17). The reader is also referred to additional mitigation added to the EIR in Response to Comment S2-5.

I7-2 The comment identifies water encroachments from existing cannabis operations and the need for monitoring. This comment is noted. The reader is referred to Master Response 6 for further discussion on improvements to the County's code enforcement program.

I7-3 The comment identifies concerns with noise. The reader is referred to Master Response 3 for a detailed discussion of commercial cannabis noise sources and potential impacts.

I7-4 The comment identifies concerns with light pollution. The proposed ordinance requires that artificial lighting used for mixed-light cultivation or nurseries in a greenhouse be prohibited from allowing any light from escaping the structure between sunset and sunrise as well as shielding for a security lighting (see DEIR page 3.1-18).

I7-5 The commenter expresses concern with gun firing. These concerns are noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

I7-6 The comment includes concerns with trespassing. These concerns are noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

I7-7 The comment includes concerns with lack of wildlife. DEIR Section 3.4, "Biological Resources," evaluates impacts to wildlife from implementation of the proposed ordinance.

I7-8 The comment includes concerns with family values. CEQA analyzes impacts that a proposed project would have on the physical environment. Therefore, family values are not evaluated under CEQA. These concerns are noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

I7-9 The comment includes concerns with water supply and availability. DEIR Section 3.8, "Hydrology and Water Quality," Section 3.13, "Utilities and Service Systems," and Chapter 4, "Cumulative Impacts," address project and cumulative impacts County water resources.

I7-10 The comment expresses concern for the need for enforcement of the proposed ordinance. The County believes that regulating cannabis operations will result in permitting of "good" operations—ones that comply with regulations—and the eventual eradication of illegal operators who choose to avoid or ignore the permitting process. The County has addressed enhanced enforcement as a separate project with amendments to its Code Enforcement program. (Ordinance No. 2576, June 27, 2017 and Ordinance No. 2585, November 7, 2017) designed to eliminate delays that hindered effective enforcement, and substantially increase administrative civil penalties. The Code Enforcement Unit is engaged in the initial implementation of the enhanced enforcement program (see Master Response 6). The overall purposes of the proposed ordinance are to establish legal commercial cannabis activities and expand upon the existing regulations set forth under the current CMMLUO to improve baseline environmental conditions in the County.

Letter I8

Humboldt County Planning Commission

9/7/17

CCLUO Updates

To the Planning Commission,

Since this program's initial ordinance crafting process our County has fallen into a perpetual state of putting the cart before the horse. The trend we have monitored in this process follows a lack of process, logic, or timely action, and seemingly a level of favoritism amongst certain applicants whom hold permits to date. The County has failed at extending proper direction to the public regarding this process, nor extended enough of an opportunity for applicants and agents to stay abreast this experiment. Consistently, guidelines and processes are changed without public notification from the Department, and furthermore each initiative that has passed through the County has not undergone thorough community review before decisions are made. I ask of you, how do we expect to be successful when we are perpetuating the "Green Rush" by attracting new impacts to our already impending social, environmental, and economic constraints, without first addressing the issues on our plate primarily. I8-1

While real estate values have exploded, new attractive investment interests have come to the table, and the possibility of a promising future lingers, there are some key issues that need to be made publicly known. I am speaking today on behalf of the Community, the County, and lastly for my business whom is servicing individuals who are going through this process as their key business advisor, project planner, and confidant. I fear that this trend of steadfast behavior will ultimately result in a bust for our County if we don't take the time needed to conduct diligent assessment, make prudent decisions, and analyze our key players that have come to the table to participate in this industry. I8-2

I ask of you today, to reconsider your approach to re-opening this program until the County can adhere to a timely process of approvals for the applications already impending, some of them by 8-10 months and still haven't been heard by your Commission, nor the Supervisors. It is not pragmatic to invite a swarm of additional applicants into the application process, when we already have a mountain of paperwork to process and are still sorting out the mess we created due to poorly coordinated processes, lack of personnel, lack of professional resources, and time to produce the work needed to fulfill the County and State application requirements. The average permitting project takes approximately one year to develop now based on the burden our professional partners have experienced. I8-3

Furthermore, applicants whom are not backed by investment are struggling to supplement the additional costs associated with the County's increasing fees, professional fees, and unforeseen assessments, change orders, and ancillary legal costs. There is a great fear that Phase II will prove to be furthermore burdensome on the County's staff and applicant's checkbooks. We do advise that changes be presented for the next Phase ordinance, however, that it be reeled back until all issues and impending matters are resolved at the Department, Commission, Supervisory levels. We are happy to participate in this discussion and offer sensible solutions to this. I8-4

For our suggestions to the Ordinance changes: I8-5

- Build in Prime Soils/AG Land requirements to produce crops, orchards, or some supplemental agricultural products. The cost of Agricultural lands makes it difficult for farmers to compete,

and often leave them feeling the need to sell their now very valuable cultivation land to cannabis farmers, leaving us with virtually no protections for a future of sustainability in regard to local food production in the event of emergency. I8-5 cont.

- Consider land use permits to allow for on-site sales under a Special Permit rather than a CUP. This process is too onerous for small farmers, who need on-site sales and agri-tourism to survive in this competitive marketplace. I8-6
- Adhere to a the 30-day processing timeline for notifications. A lack of timely process lends to the County's inability to manage the workload that exists today. I8-7
- Offer a transitioning program for Medical to Recreational licensing without the burdensome review we are facing today. I8-8
- Take advantage of issuing the provisional permits that were guaranteed under the Ordinance No. 2544 so that we may stand a chance at "competing" at the State level. Revise the timeline back to two years in accordance with restrictions on Department's ability to process permits and inability to work out of season. I8-9
- Remove Pre-Existing definition. This definition though well intended puts many people at risk for federal enforcement, and therefore needs to be removed as a qualifier, rather, it should State that pre-existing operations cannot expand on TPZ or U with a GPLU of T Get rid of pre-existing proof, this should be purely Departmental discretion and should not be included in Public files for safety reasons. I8-10
- Remove 4 Permit Limit, as this infringes on the Medium License Restriction at the State level. Hence, if an individual has 3- 1-acre Cultivation sites, they would only be per missed one medium license, and would need to obtain multiple smaller licenses to qualify for State licensing. Our permitting should adhere to some consistency with State level modeling and be purely discretionary on an applicant's ability to adhere to the Standards set by the County and the State. I8-11
- Create an interim Good Standing Letter for the State Licensing Program if not willing to issue provisional permits under a Compliance Agreement. I8-12
- Allow Grandfathering provisions under Ordinance No. 2544 for applicants who have invested into this program to date. I8-13
- Remove mandatory Renewable Energy Requirement from the Ordinance. This is not an economic, nor feasible option to support residential energy demands, nor commercial activities. Please consult with renewable energy companies about the feasibility of this in terms of supplemental energy capabilities. Rather create an incentive for renewable energy supported models (such as, reduced permit tier, or tax incentive.) I8-14
- Restricting energy use on TPZ and U; with GPLU T zones is purely discriminatory and either needs to be removed completely. Rural properties do not have the luxury of PG&E supported and very likely not renewable energy either. This is an unreasonable expectation. Section 55.4.6.5.6 should read that Performance Standards for Generators are 9am to 9pm, adhering to Best Management Practices, and adhere to Water Board and Air Quality Standards. I8-15
- Clarify Recreational Application of this Proposed Ordinance. I8-16
- Require Industrial Sites to Undergo through Testing and Clean-up Measures for Brownfield Sites. I8-17

- Support temporary event permits to for commercial cannabis activities to eliminate grey area concerns behind onsite consumption with a Conditional Use Permit. I8-18
- Include RA zones and FP zones back into the ordinance. I8-19
- Allow for onsite nonvolatile manufacturing and infusion of home goods, as well as home based distribution/brokering businesses. Many of these businesses can and should be per missed to operate on any zone applicable under this ordinance. I8-20
- Remove diversionary water language from the ordinance for open air cultivation. This is unreasonable and extreme considering the tumultuous territory behind jurisdictional water sources and additional environmental impacts of well rigs to rural territories. I8-21

Furthermore, we are happy to extend all support and suggestions for the improvement of the existing program. It will take you the County to step up and reach out for this type of coordination. Please consider us a valuable resource in the County's planning goals as we have an overarching vantage of the economic, environmental, and social concerns to be addressed. This program is just a small part of remediating these issues and should not be taken lightly furthermore. I8-22

Best,

Teisha Mechetti

AgDynamix

Teisha Mechetti

Letter I8	Teisha Machetti (AgDynamix) 9/7/2017

I8-1 The comment provides general comments on the County's process of developing the proposed ordinance. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I8-2 The comment provides general comments on the proposed ordinance development and impacts to the County. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I8-3 The comment requests reconsideration of the County's approach to the proposed ordinance until the County can process applications pending. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I8-4 The comment expresses concern regarding the costs for applicants to comply with the proposed ordinance. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I8-5 The comment recommends changes to the proposed ordinance associated with building in prime soils and agricultural lands. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I8-6 The comment recommends changes to the proposed ordinance associated with allowing on-site sales under a Special Permit rather than a Conditional Use Permit. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I8-7 The comment recommends that the County adhere to a 30-day processing timeline for notifications. The County is processing cannabis permits as fast as possible in conformance with statutory and local regulatory requirements. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I8-8 The comment recommends changes to the proposed ordinance by providing a transitioning program for medical to recreation licensing. The proposed ordinance reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I8-9 The comment recommends changes to the proposed ordinance to allow for provisional permitting provided under Ordinance 2544 and revise the timeline back to two years. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I8-10 The comment recommends changes to the proposed to remove the pre-existing definition. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I8-11 The comment recommends changes to the proposed ordinance to remove the four-permit limit. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I8-12 The comment recommends changes to the proposed ordinance to create an interim good standing letter for the state licensing program if the County is not willing to issue provisional permits. The County is issuing interim permits for qualified pre-existing cultivation activities. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I8-13 The comment recommends changes to the proposed ordinance to allow grandfathering provisions under Ordinance 2544. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I8-14 The comment recommends changes to the proposed ordinance to remove mandatory renewable energy requirements from the proposed ordinance. Consider an incentive for renewable energy supported models. The County is considering this requested change as part of revisions to the proposed ordinance. It should be noted that the renewable energy requirements of the proposed ordinance help address the state renewable energy requirements and state efforts to reduce greenhouse gas emissions as described in DEIR Sections 3.3, “Air Quality and Greenhouse Gas Emissions,” and Section 3.14, “Energy.”

I8-15 The comment recommends changes to the proposed ordinance to remove energy restriction requirements on TPZ and U with GPLU T zones. Change Section 55.4.6.5.6 for performance standards for generators are 9:00 a.m. to 9:00 p.m., adhering to best management practices, and adhere to Water Board and air quality standards. The County is considering this requested change as part of revisions to the proposed ordinance. It should be noted that energy use restrictions provide protections for special-status wildlife species that are sensitive to noise from generators. No changes to the EIR are recommended.

I8-16 The comment recommends changes to the proposed ordinance to clarify the recreational application. The proposed ordinance reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I8-17 The comment recommends changes to the proposed ordinance to require industrial sites to undergo testing and clean-up measures for brownfield sites. The proposed ordinance reflects this requested change. The DEIR addresses potential on-site contamination issues on pages 3.7-15 through 3.7-17.

I8-18 The comment recommends changes to the proposed ordinance to support temporary event permits and eliminate grey area concerns behind on-site consumption with a Conditional Use Permit. The proposed ordinance reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I8-19 The comment recommends changes to the proposed ordinance to include RA zones and FP zones. The proposed ordinance reflects this requested change. This comment reflects a

proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I8-20 The comment recommends changes to the proposed ordinance to allow nonvolatile manufacturing and infusion of home goods and home based distribution/brokering businesses. The proposed ordinance reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I8-21 The comment recommends changes to the proposed ordinance to remove diversionary water language for open air cultivation. The County is considering this requested change as part of revisions to the proposed ordinance. As identified in Master Response 5, all commercial cannabis operations would be required to comply with water diversion restrictions under the State Water Board Policy. DEIR Impact 3.8-3 addresses potential groundwater impacts from commercial cannabis operations that may use wells (see DEIR pages 3.8-38 and 3.8-39).

I8-22 The comment offers assistance in the improvement of the proposed ordinance. This comment is noted.

Letter I9

From: Zeta Farms
To: Lazar, Steve
Subject: Fwd: Dispensary in Willow Creek
Date: Wednesday, September 13, 2017 8:10:57 AM

Good Morning Steve. I am forwarding you the email I sent Ryan Sundberg regarding the concerns I have with removing C2 from cultivation. I have a meeting with Ryan on Monday morning and hope to get his opinion.

Thanks,

Nate Bones
---------- Forwarded message ----------
From: **Zeta Farms** <zetahumboldt@gmail.com>
Date: Mon, Sep 11, 2017 at 8:01 PM
Subject: Dispensary in Willow Creek
To: Nathan Bones <nathanbones77@gmail.com>, josh@tvce.biz

Hello Ryan,

This is Nathan Bones. I emailed you earlier regarding opening a dispensary in Willow Creek. I am negotiating th lease of a building on highway 299 in downtown Willow Creek. It was a burn down building that is being rebuilt, scheduled for completion in mid November.

I recently attended the cannabis ordinance workshop meeting and learned that the planning commission is thinking about removing cultivation in the C2 zone. I feel this would be detrimental to the new business model termed "microbusiness" particularly in Willow Creek. The State is allowing for cultivation, extraction, consumption, distribution, and retail all under the same roof , if your cultivation space is less than 10,000sft. I am seeking approval of approximately 1,000sft of cultivation at this location. Part of the new rule allows for self distribution if you are a micro-farmer. If cultivation in C2 is removed from the ordinance, than we are not encouraging the small farmer. Especially in Willow Creek, C2 is the only location for this sort of tourism attraction. There is not even Industrial space for a micro-farmer. C2 zone would be the desirable zone for "microbusiness" in most of humboldt.

I hope to display a small sampling of how our product is grown in an a custom, state of the art system. Considering the ordinance allows for volatile extraction in this zone, we should certainly allow for a micro-farm which is far safer. With indoor cultivation we control the smell nuisance with state of the art carbon filters and were also able to capture all our runoff to be disposed of properly. We will also be utilizing the Redwood Coast Authority Program to source 100% renewable resources for our power consumption. The owner of the building runs Westhaven Solar and we intend to implement solar panels in the near future as well.

I believe this business will be an asset to our community. We are going to be an upscale atmosphere that will attract quality patrons. We will be able to promote and sell locally grown products and encourage tourism to local compliant farms. We hope to not get pushed out by the larger players due to lack of suitably zoned property. I am looking forward to our community flourishing in the years to come.
Thank you for finding the time to consider my concerns. I can be reached any time

I9-1

at 714-448-2018 or at zetahumboldt@gmail.com.

Thank You,

Nate Bones

Letter I9	Nate Bones 9/13/2017

I9-1 The comment provides input on the proposed ordinance and the potential removal cultivation in the C2 zone. The proposed ordinance reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

Letter I10

From: Zeta Farms
To: Lazar, Steve
Subject: Sunhouse Dispensary
Date: Wednesday, September 13, 2017 5:01:51 PM

Hi Steve,

I wanted to share my business plan with you. If you can find the time to review this, I think it will paint a clearer picture of our goals. I look forward to talking with you soon. I10-1

Sincerely,

Nathan Bones



Nate Bones
Proprietor
Sunhouse Gardens LLC
zetahumboldt@gmail.com
(714) 448 2018

1

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2

Executive Summary

Let us pretend that you live in a world renowned neighborhood that is known for being lined with lemonade stands every day in the summer months. You've been living there for a while now and fancy yourself a connoisseur of homemade lemonade. You have been to each stand on multiple occasions and now you feel that it's time to cast your vote and pick a favorite. You want to support the lemonade vendor that is dedicated to their craft, the one who mindfully and consistently produces quality. The stand that provides the most perfectly flavored summer beverage, one who uses whole and natural ingredients.

These lemonade merchants love what they do and this fact shows through their attention to detail. This is the booth that appreciates commerce and they tactfully expand their operation in order to satisfy an increasing demand. This booth is dedicated to the crafting and creating this citrus beverage. They pay homage to the familial techniques handed down while staying open to innovation. If these lemonade stands were an analogy of cannabis farmers, then we would be your chosen lemonade producer.

As second generation farmers, we have dedicated our lives to the cultivation of the cannabis plant, and have been devout students of the effects it has as a medicine. With over 25 years of experience growing the cannabis plant indoors, we have achieved incredible results. From our experience with cannabis clubs across California, we are sure that our coveted products are in high demand. Our methods, such as drip irrigation and injectors, are modern and efficient, allowing us to maximize production and profit, all while pushing the envelope of quality standards.

The progress of our organization begins with the acquisition and permitting of the ideal location in Willow Creek. We love our community and want to see it blossom in the coming years. We feel that this property is the perfect fit for our business. This location is welcoming and we foresee it to be a future hub for canna tours. From here we would provide local cannabis farm tour information and be a reliable retail store where people can purchase local products.

With this opportunity to emerge into the "Napa Valley" of cannabis tourism, we can help our community thrive. As parents of young children, we understand the importance of instilling good values and opportunities for them to succeed. We intend on donating to local schools while helping keep our community clean so we have a beautiful place to live and raise our children.

We plan on building an upscale, warm and inviting business similar to that of a

brewery or wine tasting room atmosphere. Our business will attract quality patrons, seeking quality cannabis products and or educational information. We believe that the vertical integration business model will succeed and be most beneficial to the community. We would like to provide tours of our indoor cultivation facility, as well as a store front were people can shop for and consume locally made products.

We are thrilled to have the opportunity to start our business here in Willow Creek. We are confident in our ability to continue to produce consistently remarkable cannabis and attract positive business and revenue to the area.

4

Company Statements

Our Company
As second generation farmers our story begins in 1980 in the hills of Southern Humboldt County, California. After a rich history of outdoor farming, our focus transitioned towards indoor cultivation in 1990. With over 25 years of experience cultivating cannabis indoors, we have achieved remarkable results. As we have weathered the challenges of indoor gardening, and honing our unique craft, we have emerged with effective, and efficient methods to producing high quality medicinal cannabis. From this past Sunhouse Gardens is born.

Sunhouse Gardens takes great pride in cultivating Grade A cannabis strains to yield a quality assured medical product that is potent, clean, and safe. We do this by masterfully maturing our crops to their fullest potential, in a pristine, state of the art, indoor garden; all while living and working harmoniously with our community and our planet.

Our Mission
Sunhouse Gardens mindfully cultivates cannabis, in an indoor environment, while striving to use sustainable and natural methods. This means that every step of the way in the growing process we are considering how to maximize every plants potential in producing clean, potent, flavorful flowers, while working towards using renewable energy and methods that recycle waste water and minimize our impact on our planet.

Our Vision
Our business is recognized as one of top shelf connoisseur quality and our products are known as being environmentally friendly. Locals and people from far and wide frequent our establishement for reliable products and service, while providing revenue for our community.

5

Goals and Objectives

One Year

- We have built out our facility.
- We have obtained local and state licensing
- We have gained local costomers as well as developed a steady flow of tourism clientele.
- We have developed effective advertising and are published in at least one local publication.
- We have formulated plans on lowering environmental impact and on becoming a sustainable company.
- Sunhouse Gardens website is published with attention grabbing content.
- We have received more validating recognition for our flower products and solvent-less rosin extract.
- We are instrumental in community projects

5 Year

- We are a leading competitor for top shelf products.
- Our products are environmentally friendly and green labeled by the industry's most reputable certifications.
- We have expanded to another facility.
- We employ approximately 20 people to operate both facilities.
- We are the proud recipients of eight cannabis cup competition awards.

10 Year

- We have built 3 additional facilities that are fully operational and we employ approximately forty people.
- We are continually involved in our community and contribute to community development and rehabilitation programs.
- Our products are produced 80% sustainably.

Accomplishments

- 1st Place for Solvent-less extracts - 2017 Humboldt County Cup.
- 25 years of indoor cannabis cultivation.

6

Financial Plan

Currently
In 700 sq. ft. flowering canopy, and a 100 sq. ft. vegetation room, we are able to produce 156 – 208 pounds annually. Fair market price for a pound of indoor flower ranges from $1,500.00 - $2,000.00. After production costs (approximately $800 per pound – this including all expenses from kwh to labor, excluding operation manager's salary) are subtracted from the purchase price our profits can range from $700 - $1,300 per pound or an annual profit of $109,200.00 - $270,400.00.

Future Plans
We intend to sell our excess product that does not get purchased on site. We will self distribute our products to other local store fronts. This will ensure that there is not wasted product and income.

Startup Expenses

- Licensing and permits - $20,785.00
- Drawing, engineering and building permit fees apprx. - $10,000.00
- Room build and retrofit to be determined apprx. $300,000
- $72,000 for property lease

Financial Investment Note

- We intend to invest $100,000.00 as working capital.
- We are seeking property to lease or buy.
- We have several investor opportunities if banks will not loan

Products and Services
Our flowers are all produced in an indoor environment to allow us more control of the environment. This way we can consistently produce the same product every harvest, and our patients can rely on the quality, freshness, and potency of our cannabis. We will also carry other locally grown brands to offer selection and to promote local business.

We focus our efforts on producing cannabis flower from an expanding repertoire of strains. We seek out the most reputable varieties with potent effects from a combination of their THC and CBD attributes (profiles). We are currently working with select strain breeders to develop more remarkable strains that are exclusively grown by Sunhouse Gardens. Our current varieties are as follows:

7

Underdog OG
King Louie XIII
Kobeyashi
True OG
Miami White
Durban Poison
Blue Cheese
Mendo Breath

Although our efforts are directed primarily towards growing cannabis flower we are open to expanding our selection of products to extracts, edibles, and tinctures. We have developed techniques for producing rosin extracts and have been recognized at the most recent Humboldt County Cup – winning first place for our non-solvent King Louie XIII rosin concentrate. Our current line-up of Rosin reflects the strains that we offer as flower products with the addition of bubble hash variations.

Market Analysis

Target Consumer

- Environmentally conscious cannabis user with a keen sense of quality.
- Travelers coming to the area. Tourism
- New to cannabis consumers that place a high importance on sustainability in products and on their environmental impact.
- Any, and every, medical patient or recreational user, who relies on quality assured, potent, clean medicine.

Competition

- Large scale indoor commercial cannabis producers with working knowledge and hands on experience with the cannabis plant.

Sales Channels

- Select distribution
- Local dispensaries
- Select brokers
- Emerald Family Farms
- Delivery services

Note: We intend to continue to build lasting relationships with distribution, brokers, and industry experts.

8

Competitive Advantages

- 25 plus years of experience working exclusively with the cannabis plant in the indoor growing environment.
- Able to consistently produce a remarkable product which test clean of impurities.
- Award winning rosin – 1st place in Humboldt County Cup 2017
- We are established in Humboldt County - a fact that we consider a considerable selling point.
- We have a large network of friends and family involved in the same industry with direct relations to functioning dispensaries.
- Through raising young children in the community and by staying actively involved, we have strong community support.
- Knowledgeable and dedicated staff.

Disadvantages

- More cultivators learning our trade leading to the market being flooded with products.
- Flooded market with comparable products hampers distribution flow.
- Dropping prices due to the flooded market and the lack of unions.
- Uncertain legalities in the cannabis industry.

Marketing Plan

Marketing Objectives

- Host social media pages and a website while consistently publishing new and themed content.
- Generate a following through themed and interesting content for a blog linked to our website – publish new content consistently.
- Create a theme for brand recognition.
- Submit and publish articles and interviews in local publications.
- Create advertisements for magazines such as: Emerald, Savage Henry, High Times.
- Advertise online through various publications associate with the industry and through various ad - spaces.
- Get involved as a contestant or hold booth space in available cannabis events.

Opportunities

- We are on the frontline of a new legitimized market.
- We have the potential to have a recognizable brand and products.

- We have the ability to provide quality medicine at an affordable price to medical patients.
- We have developing relationships with respected brands such as Hemp Health.
- We love what we do, we love the cannabis plant, and we feel great about our product.

Risks

- The changing of cannabis legislation.
- The possibility of burglary or theft.
- Pests and diseases ruining, or tainting whole harvests.
- Self-doubt and fear of the unknown in a fluctuating industry.
- Large scale operations flooding the market with inexpensive and mediocre commercial products.
- The local economy struggling through legalization.

Risk Mitigation

- Continue to stay current and informed on regulations and laws regarding the industry.
- Acquire all necessary permitting for our facilities.
- Fence the parameter of the facility and install a high level security system.
- Stay diligent on preventatives for pests and diseases.

Operational Plan

Our Team

Nate Bones – *Proprietor and Operations Manager*
Job description: oversees all stages of production from cloning to quality control of the end product and all aspects of our organizations development.

Michelle Bones – *Accounting and Bookkeeping*
Job description: oversees the financial aspects of the business as well as the office administrative responsibilities.

John Porter – *Lead Grower*
Job description: cloning, watering plants, feeding plants, foliar sprayings, trimming up and pruning, turnarounds, quality control, packaging, marketing and design.

Processing Crew (a.k.a. - The Trimmers)– We sub contract a group of ten people who are available to consistently manicure our harvested dried flowers.

Cultivation - Standard Operating Procedures

Personnel

In order to successfully operate the gardening aspects of a minimally sized facility - including one 28 light flowering room at 42.5' x 25', vegetative growth room for mother plants and cloning being approximately 35'x20'- it requires one Operations Manager (or master grower), and a skilled laborer. A skilled laborer is paid $1000 a week with quarterly harvest bonuses. The Operations manager is paid a salary based on a percentage of gross revenue.

General Cultivation Tasks:

- Turnarounds
  - Harvesting
  - Room and pot sterilization
  - Filling pots with soil and labeling
  - Transplanting new stock then watering
- Maintenance in Bloom Room
  - Pruning
  - Plant trim up
  - Trellising and staking
  - Feedings and watering's
  - Foliar feeding
  - Foliar pest and disease prevention
  - Timer maintenance
  - Room cleaning
- Maintenance in Mom Room
  - Cutting clones
  - Cutting maintenance
  - Room cleaning and disinfecting
  - Feed and water plants
  - Plant training (staking and pruning)
  - Replanting moms
- Maintenance in Curing Room
  - Maintain humidity and temperature
  - Check current harvests condition
  - Manage manicured products cure
  - Package finished product

Trimming – Standard Operating Procedures.

Note on Trimming

The quality of the manicure is of the utmost importance to us, seeing as how the efforts to grow the product, and nurture plants through all the stages, culminates up to this point of the representation the finished product. If the manicure is done poorly then it doesn't really matter how well the plant is grown.

11

Key Steps

1. Wash hands
2. Put on gloves
3. Set up or arrange trim station
    a. Scissors and isopropyl alcohol and/or oil
    b. 1 paper bag for the finished product
    c. 1 paper bag for the finished trim
    d. 1 clean tray
    e. Strainer for duffing small plant matter off of buds
    f. Pen and paper for personal record keeping
    g. Any personal items to make your stay more comfortable
4. Collect a plant from bin for bucking. Clarify which strain is being worked on to ensure appropriate labeling.
5. Separate fan leaves and stems over an empty tray or trash while carefully keeping track of the valuable plant matter.
6. After bucking one plant then return to your trim station for the finish manicuring work. Note: If bucking then trimming one plant at a time significantly affects your process then please discuss with scene manager to determine another method.
7. Label two small pieces of paper with your name (or trimming alias) and the name of the strain. Place one in the paper bag for trim and one in the trimmed flower bag.
8. Remove oils and alcohol from your scissors.
9. Trim all of the leaf from each bud while avoiding circumference trimming. Break each flower into the desired nugget size.
10. Lightly shake the trimmed bud in strainer to remove trim then place in the paper bag. Note: Review finished job with quality control to ensure that it's being done properly.
11. When all of the plant is trimmed then empty your tray of trim into the trim bag and return to buck another plant (step 4 - 6).
12. Repeat steps until break or lunch. All employees must wash their hands before returning to work after using the bathroom.
13. When finished for the day: turn in your work, then clean your work station.
    a. Sweep the floor around you.
    b. Clean off the table (take supplies with you).
    c. Break down any left-over bags or supplies.
    d. Slide your chair back in.
    e. Enjoy the rest of the day.

12

Legalities

Legal Objectives

- Acquire licensing and permits through Humboldt County. Note: work with attorney to secure all of the necessary permits.
- Comply with handicap and ADA requirements.
- Comply with commercial or industrially zoned property.
- Trademark Sunhouse logo.

Conclusion

Thank you for reviewing this document and for your time shared with us and our organization. We truly appreciate your considerations.

13

Letter I10	Nathan Bones 9/13/2017

I10-1 The comment provides a copy of the Sunhouse Gardens Business Plan. This comment is noted.

Letter I11

From: Sue Leskiw <sueleskiw1@gmail.com>
Sent: Thursday, September 14, 2017 10:17:02 AM
To: Ford, John
Cc: tomleskiw@gmail.com
Subject: Request to revised proposed RRNA map for Essex Gulch, McKinleyville

September 13, 2017

TO: John Ford, Director. Humboldt County Planning & Building Department

We are writing to formally request that our property at 155 Kara Lane, McKinleyville, be included in the Rural Residential Neighborhood Area (RRNA) shown on page 9 of the document, "Combined_RRNA%20Maps_reduced%20file%20side.pdf," that was released as part of the "Amendments to Humboldt County Code for Regulating Commercial Cannabis Activities," dated September 2017.

Currently, the properties in Essex Gulch that have street addresses on either Alder Lane and Kara Lane are not in the shaded RRNA because the mapmakers went with a straight line border along the western edge of the RRNA. Also, the proposed RRNA seems to include a significant piece of Green Diamond timberland, which is not a residential area.

Attached is a table we created that lists the APN number, street address, parcel size, current General Plan designation, zoning with combining zones, and use description and code for each property on Essex Lane, Alder Lane, and Kara Lane. Although the current General Plan has the Kara/Alder areas (as well as 810 and 860 Essex) designated as "FOREST (MC65)," the USE descriptions are either "Rural Improved (9931)" or "Improved Rural Residential (3101, 3102, or 3103)." Our parcel, having the use description and code "Improved Rural Residential, 1-5 acres (3102)," actually has the same use – single-family residential – as nearly all the parcels along Essex Lane that were included in the RRNA map. I11-1

The current General Plan stems from the 1980s and has been undergoing a required update for almost 20 years. The Kara Lane subdivision was created in 1994, after the current General Plan was adopted. Thus, its FOREST designation of these residential parcels is out-of-date. In a conversation that Sue had with Steven Lazar on September 5, he noted that under the proposed General Plan Update (GPU), all the properties in Essex Gulch will be reclassified as Rural Residential.

Section 55.4.5.1.5b of the proposed "Ordinance Amending Provisions of Title III of the Humboldt County Code Relating to the Commercial Cultivation, Processing, Manufacturing, Distribution, Testing and Sale of Cannabis for Medicinal or Adult Use" would require a Special Permit for any commercial cannabis activity that will be located within mapped RRNAs. Section 55.4.5.1.5c would require early notification to neighbors within 1,000 feet of the parcel on which a permit is being requested.

We are requesting that our parcel (APN 504-021-015-000) receive this added level of protection immediately, rather than waiting for the GPU amendments to be adopted. We ask that the map of the Essex Gulch RRNA referenced above be revised to include ALL properties on Alder, Kara, and Essex Lanes.

Please let us know if we need to take any additional action to have this map revision implemented ASAP.

Sue & Tom Leskiw
155 Kara Ln, McKinleyville CA 95519
707-442-5444; sueleskiw1@gmail.com

	A	B	C	D	E	F	G
1	**Zoning & Use Descriptions for All Properties on Essex Lane, Kara Lane & Alder Lane**						
2							
3	APN #	Address	Parcel Size	Current GP	Zoning w/Combo Zones	Use Description	Use Code
4							
5	151 022	110 Essex	1.6	DH	U	Vacant RR	3001
6	151 023	N/A	1	DH	U	Improved RR	3101
7	091 005	N/A	7	Timber-DH	TPZ	100% TPZ, Vacant	7002
8	091 006	477 Essex Springs	34.6	Timber	TPZ	100% TPZ, Improved	7003
9	031 008	N/A	5	DH	TPZ	100% TPZ, Vacant	7002
10	031 011	600 Essex	10.6	DH	AG	Rural Improved	9931
11	031 019	690 Essex	3.2	DH	AG	Rural Improved	9931
12	021 012	810 Essex	5.2	Forest	AG	Licensed mobile home on fee parcel	97
13	021 009	860 Essex	1	Forest	AG	Rural Improved	9931
14	021 011	197 Alder	15.2	Forest	AG	Improved RR, 10-20 A	3103
15	021 013	45 Kara	7.7	Forest	AG-B-7	Improved RR, 5-10 A	3101
16	021 014	65 Kara	5.3	Forest	AG-B-7	Rural Improved	9931
17	021 015	155 Kara	4.5	Forest	AG-B-7	Improved RR, 1-5 A	3102
18							
19	151 012	N/A	4.5	Grazing	U	Rural-Vacant	9930
20	091 004	N/A	16.7	DH-Grazing	AE	Rural w/Timber Infl-Vacant	9938
21	091 003	N/A	20	DH-Grazing	TPZ	100% TPZ, Vacant	7002
22	031 007	449 Essex	5.5	DH	AG	Rural Improved	9931
23	031 016	467 Essex	2.4	DH	AG	Rural Improved	9931
24	031 015	481 Essex	4	DH	AG	Rural Improved	9931
25	031 017	583 Essex	4.1	DH	AG	Rural Improved	9931
26	031 028	805 Essex	14.7	DH	AG	Rural Improved	9931
27	031 027	855 Essex	3.3	DH	AG	Rural Improved	9931
28	031 024	889 Essex	2.8	DH	AG	Improved RR, 5-10 A	3102
29	031 025	893 Essex	2.5	DH	AG	Improved RR, 1-5-A	3101
30							
31	NOTES: Properties on Lines 5-17 are on the WEST of Essex Lane, starting from SR 299.						
32	Properties on Lines 19-29 are on the EAST side of Essex Lane, starting from SR 299.						
33	All APN numbers start with 504- and end in -000.						
34	N/A = No street address; DH = Dispersed Houses; RR = Rural Residential.						

Letter I11	Sue and Tom Leskiw 9/14/2017

I11-1 The comment provides a formal request for 155 Kara Lane, McKinleyville to be added to the Rural Residential Neighborhood Area (RRNA). The proposed ordinance reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

Letter I12

From: Terra Carver
To: Lazar, Steve; Ford, John
Subject: Mixed light/outdoor
Date: Wednesday, September 20, 2017 7:38:16 AM

Hi John and Steve,

Yesterday in Sacramento Amber Morris made it pretty clear the definitions of outdoor and mixed light are going to change. I just wanted to pass that along and encourage you to add language to ordinance 2.0 that allows for the county definitions to square up with the states once the regs are out.

HCGA will be submitting formal written comments soon, but this one was on my mind so I wanted to shoot you a quick email. I12-1

Call me if you have any questions.

Thank you for all your hard work! It's mind boggling the amount of effort your department has put towards cannabis. I appreciate you.

Best,

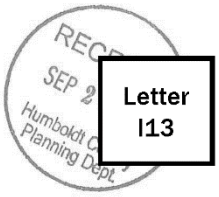
Terra

Sent from my iPhone

Letter I12	Terra Carver 9/20/2017

I12-1 The comment identifies that the definitions of outdoor and mixed-light under the state regulations was going to change. This comment is noted. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

B. Crowder
PO Box 32
Honeydew, CA 95545



Letter I13

Input for Public Comments on EIR and Cannabis Expansion

Dear Mr. Lazar:

Humboldt County is on the wrong track with its cannabis ordinance. Although the medical benefits of cannabis are many, our Board of Supervisors seems more interested in promoting recreational aspects with weed-fests, farm tours and bud-and-breakfasts. The Green Rush has become the Greed Rush. I13-1

A big concern is the over-burdening of our roads. Traffic is constant, with cannabis workers coming and going 24/7, plus frequent large deliveries of soil supplies, fuel and propane. In my area it has gone beyond serious. Increased traffic plus lots of deferred maintenance have turned the Panther Gap-Bull Creek-Mattole Road system into an obstacle course of potholes and drop-offs. I13-2

I wish to strongly urge that no more permit applications be accepted until all current ones are processed and operational. Declaring a moratorium on new applications until the end of 2018 would provide the opportunity to assess and apply State requirements as well as our own. It just may be that 2337 licensed grows are all this county can handle right now. I13-3

Rather than continually seeking to expand the cannabis industry, the County ought to be looking for ways to lessen its impact on the rest of us by enforcing the law as it stands. I13-4

Thank you
Betty Crowder

Copy To:
Senator Mike McGuire
1303 10th St.
Sacramento, CA 95814

Assemblyman Jim Wood
PO Box 942849
Sacramento, CA 94249-0002

Letter I13	Betty Crowder 9/20/2017

I13-1 The comment asserts that the County is on the wrong track with the proposed ordinance associated with the consideration of recreational uses. This comment is noted.

I13-2 The comment identifies concerns with traffic and roadway facility impacts from cannabis operations. The reader is referred to DEIR Section 3.12, "Transportation and Circulation," for an analysis of traffic operational and facility impacts from implementation of the proposed ordinance. The County is considering this concern regarding the proposed ordinance.

I13-3 The comment states that the County should not accept any additional permit applications until current applications are processed and operational. The County is considering this requested change as part of revisions to the proposed ordinance. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities to address issues with cannabis operations.

I13-4 The comment asserts that the County should consider ways to lessen the impact of current cannabis operations rather than expand cannabis operations. The reader is referred to Master Response 6 for details on improvements to the County's code enforcement activities to address issues with cannabis operations that are not in compliance with County requirements.

Letter I14

From: Sami Osman
To: Planning Clerk; Lazar, Steve
Subject: Planning Commission Public Workshop - Cannabis Ordinance Review - Thursday, September 21, 2017 - Comment
Date: Thursday, September 21, 2017 9:30:31 AM

Dear Steve and the Planning Clerk,

I hope you're both well!

I'd like to make a comment regarding one of the issues noted for discussion on the agenda for this meeting, namely 'applicability of the new ordinance to existing applicants'.

I believe it would be equitable to allow for some flexibility for existing applicants, along the lines suggested by county staff in the agenda, either holding them to the original ordinance requirements, or requiring they meet partial new ordinance requirements at some future point in time. We can reasonably anticipate that holding existing applicants to requirements in the new ordinance is likely to result in extensive delays to a large number of existing applications, due to additional work needing to be done by all parties. Such delays could jeopardize the applicants ability to take advantage of Director Ford's very generous offer to have applications completed by the end of the year (which would allow successful applicants to take advantage of the anticipated State allowance to continue operating even before having corresponding State permits issued). This would put a large number of applicants at a distinct market disadvantage to program participants in other counties, and would undermine the extensive work Humboldt County staff has done to expedite such applications. Aside from this critical temporal concern, requiring current applicants to adhere to new ordinance requirements would also reasonably foreseeably necessitate extensive further resource commitments by the applicants, as well as County staff and all other agencies offering assistance with such reviews. This would not only duplicate work already done, in many cases, but result in an net addition to resourcing needs for all parties, particularly applicants. I14-1

Holding existing applicants to the requirements of the existing ordinance would reduce such additional burdens to applicants, county staff and other agency staff. A compromise in between, whereby current applicants were subjected to some new requirements, but these were delayed, would relieve applicants/county/agency staff from needing to address such requirements at this particularly busy juncture, and would avoid the critical loss of first mover advantages outlined above vis-a-vis State licensing.

Thank you for your time and consideration.

Yours Sincerely,

Sam.

Letter I14	Sami Osman 9/21/2017

I14-1 The comment states that the County should allow flexibility for existing applicants to comply with the proposed ordinance requirements. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

Letter I15

From: Thomas Mulder [mailto:hrh707@outlook.com]
Sent: Friday, September 22, 2017 7:05 PM
To: Lazar, Steve
Subject: Fwd: Cathey road

Please forward this to John as I don't have his email. As we are discussing roads for commercial use. This is a few sections of a road that was approved for the cell tower on Cathey road to be installed. This is out a different fork than I drive or use but I was just out this road today doing some road repair in a different section for the neighbors. I15-1

Sent from my Verizon 4G LTE smartphone

-------- Original message --------
From: Thomas Mulder <muldercst@gmail.com>
Date: 9/22/17 5:44 PM (GMT-08:00)
To: Thomas Mulder <hrh707@outlook.com>
Subject: Cathey road

Road to the tower and residential road

Sent from my iPhone




1005470K





Letter I15	Thomas Mulder 9/22/2017

I15-1 The comment provides photos of an existing roadway for consideration of road provisions of the proposed ordinance. The comment is noted.

Letter I16

From: Kathy
To: Lazar, Steve
Cc: Kathy
Subject: comments on amendments to cannabis ordinance
Date: Monday, September 25, 2017 11:12:57 PM

Attention: Steve Lazar
Humboldt County Planning and Building Department
3015 H Street
Eureka, CA 95501

Dear Mr. Lazar,

I have been making an effort to understand the amendments to the ordinance on Commercial Cultivation, etc. of Cannabis. While I do not presume to understand all the nuances presented amidst all the many words and numbers, a few things are catching my attention.

1) I still oppose the county granting permits to grows over 10,000 square feet, as I feel that our county needs to promote small family farms and the highest standards of quality.

2) page 14, 55.4.6.3.1, Water Source; Irrigation water can only come from non-diversionary sources.

I16-1

During the rainy season, which can encompass six months of the year, water can be collected at a rate approved by CDFW into storage for use during the summer. CDFW also has in place a "forbearance" period beginning May 15, to prevent pumping large volumes of water to storage during potential low flow months. As I understand it, we use less than 1% of the water that flows through our area during the rainy season. Where will farmers who do not have wells or springs, be able to acquire sufficient water for a successful season without using water diversion? How does this restriction promote small farmers, or benefit the county? Investing in rain catchment systems, if allowed, can be costly and take time to set up. Using large amounts of well and spring water can negatively affect water table levels and environmental health. I am definitely supportive of measures to protect native habitat, wildlife and fish, but with the high volume of water flowing downstream to the ocean during the rainy season, and if the county would only permit family size farms that do not use enormous volumes of water, how will these elements be compromised? *However*, if I understand the wording correctly, a farmer can apply for a special permit to divert water for commercial cannabis cultivation, BUT, at what cost?

I16-2

3) pages 14, 55.4.6.3.1 Energy Source; page 16, 55.4.6.56 Energy source, etc. page 27 55.4.12.5

Here I am first reading that a farmer is required to use only a renewable energy source, but in the next section, I am reading that a farmer can use a generator, as long as a list of conditions are met. Then on page 27, I read that a farmer can use grid power as long as it meets county standards. Does PGE qualify?

I16-3

4) page 16, 55.4.5.5.1 Small cultivation sites, b)

I16-4

I find this restrictive and defeating; if a small farmer needs to employ help at critical times in order to manage his/her product in a timely manner, you are not allowing it. It also prevents senior citizen farmers and farmers with disabilities from being successful. *This is discrimination*. What other small businesses are restricted like this? I16-4 cont.

5) page 29, 55.4.12.8, Ponds and Reservoirs, b), d)
b) How will the native plant and animal species be protected by draining a pond if there is a bull frog presumed to be present?

d) Ponds shall not be fenced
If a pond is properly fenced there is very small likelihood that larger wildlife will be able to get in or be trapped, yet if a pond is unfenced there is a very high chance that a small child could wander over and be at risk. Insurance companies require swimming pools to be enclosed; will a homeowner with an unfenced pond be able to get insurance? It is odd that so much attention has been placed on the proximity of cannabis farms to schools, churches and bus stops to protect children, and yet the county wants our ponds unfenced! I16-5

I sincerely hope that attention is given to the concerns I have presented here. While there are many matters to be addressed in the ordinance, I have presented my most pressing concerns. Overall, the county (as well as the state), is creating too many expenses, deadlines, and obstacles for a small farm to be successful and this is very disappointing and discouraging. It would appear that large, corporate size farms are being favored to the detriment of our local family farmers. I16-6

Sincerely, Katherine Wolman
PO Box 1060 Redway CA 95560

September 21, 2017

Virus-free. www.avast.com

Letter I16	Katherine Wolman 9/25/2017

I16-1 The comment identifies concerns regarding the allowance for cultivation areas to exceed 10,000 square feet in size and water source provisions under Section 55.4.6.3.1. The comment is noted. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I16-2 The comment expresses concern regarding the proposed ordinance's water use restrictions and the ability for an operation to comply. The comment also asserts that using large amounts of well and spring water can negatively affect the water table.

Groundwater impacts are addressed in DEIR Impact 3.8-3 on DEIR pages 3.8-38 and 3.8-39. Implementation of the proposed ordinance's groundwater well standards and DEIR Mitigation Measure 3.8-3 would ensure testing, monitoring, and modification of well operations to mitigate local groundwater impacts should groundwater drawdown impacts occur. Groundwater use would also be restricted under the State Water Board Policy when aquatic base flow requirements in County watersheds are not being met. Reader is referred to Master Response 5 for further discussion of groundwater impacts and the requirements of the State Water Board Policy that are designed to protect aquatic resources.

I16-3 The comment requests clarifications on the renewable energy requirements under the proposed ordinance under sections 55.4.6.3.1, 55.4.6.56, and 55.4.12.5. Pacific Gas & Electricity (PG&E) offer plans that meet the renewable energy requirements of the ordinance.

I16-4 The comment expresses concern regarding the restrictions under Section 55.4.5.5.1 of the proposed ordinance. The proposed ordinance reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I16-5 The comment questions how bull frogs could be protected by draining ponds and fencing restrictions under the proposed ordinance (Section 55.4.12.8). Bull frogs are an invasive species that is harmful to native aquatic species. This species is not protected under state and federal laws. The proposed ordinance includes other pond design provisions intended to protect wildlife (ponds are to be designed with pathways enabling escape by local wildlife). The County is considering this requested change as part of revisions to the proposed ordinance.

I16-6 The comment provides closing remarks to the letter and asserts that the County and state are creating too many expenses, deadlines, and obstacles for small farms. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

Letter
I17

From: Ken Miller
To: Lazar, Steve
Subject: Cannabis EIR comments
Date: Friday, September 29, 2017 6:48:41 PM
Attachments: Cannabis EIR comments KM.pdf

Steve Lazar

HCPD

Cannabis EIR comments

9/29/17

Dear Mr. Steve,

My focus is the impact of this industry on Mountain View Road (MVR), a county road that I travel 30 miles each way roughly 30-40 times a year to property I have owned for over 15 years. But my comments apply generally to most remote rural routes.

There has been a dramatic increase in traffic of vehicles ranging in size and type from large vans, to large trucks, to "trimmer cars" which can be anything.

I17-1

MVR is in a dangerously impaired state, especially about 3miles past the airport, with deep ruts and potholes that can be avoided only by jeopardizing safety because of the precipitous shoulders in many parts, and drivers unfamiliar with this narrow road. It is deteriorating from Kneeland airport south.

I17-2

It is obvious that the only significant and relevant change has

I17-3

been the marijuana industry growth, and prospects for growth, in the Mad River watershed served by MVR. The wet winter set the stage for the road damages.

How can or will the impacts to MVR, and others similarly situated, be addressed as the MJ industry grows? The County's roads all need help, but what about roads vulnerable to induced traffic that are not main arteries?

I17-3 cont.

MVR is nowhere listed in the DEIR, despite its serving Showers Pass, numerous residences and property where cannabis is a growth industry. The DEIR appears to limit its consideration of rural traffic increases to a 15 mile radius from a main road, would MVR qualify?

I17-4

However, residential areas along Mt View Road leading to Jack Shaw Rd and beyond do not appear on your maps, and "Existing Conditions" fails to include the conditions of rural roads such as MVR, as far as I can tell.

I17-5

Safety concerns on MVR (and other winding narrow rural roads) due to speeding vehicles with drivers unfamiliar with the road do not appear to be addressed in " Impacts related to traffic operations and safety from cannabis cultivation operations."

I17-6

Relocation from of existing grow sites (2.4.1 pg2-16) may help if poor access arteries meet the requirements.

I17-7

All these impacts to MVR, which include safety on the road, road repairs and maintenance, impaired emergency and residential vehicle access and accelerated damage to local vehicles, especially those belonging to commuters to town, and sediment discharged to the Mad River from drainages intersecting MVR, will only worsen with the expanding industry. The Mad R is already impaired for sediment, turbidity and temperature, and home to numerous threatened or endangered species under the ESA, all of which will respond negatively to increased sediment inputs.

I17-8

What evaluations of current and future reasonably foreseeable impacts associated with increased traffic on MVR and rural roads generally have been conducted, and what, if any mitigations are proposed? Who will pay to fix the damages? I17-9

Remote areas like those served by MVR attract illegal grows which will continue to contribute to and likely exacerbate the adverse cumulative impacts associated with legal grows and should be included in the DEIR, as suggested by the Buckeye letter of 5/4/17. However, the document dismisses their reasonably foreseeable impacts because "…they are not part of the project (Pg 3-2). I17-10

Since they are acknowledged as reasonably foreseeable, should their impacts be part of the cumulative effects section?

The DEIR cites the 1988 HCGP, which includes the following goals, which would appear to be a standard that should apply to roads like MVR:

> Sec 4231 Roads
>
> "Improving roads to accommodate land uses served by an inappropriate road classification." I17-11
>
> And 4237
>
> "Decisions to change or expand the land use of a particular area should include an analysis of the impacts to existing and/or proposed transportation facilities and services so as to minimize or avoid serious operational or economic consequences."
>
> "New development shall only be approved which will not significantly create or aggravate safety, capacity or parking problems on County roads."

3.12-4 cites changes to the HCGP, Policy C-P4, which relies on CEQA review data to implement, but this DEIR does not appear equipped to generate such data. Perhaps such rural I17-12

traffic does not qualify as "circulation," but the impacts are undeniable. I17-12 cont.

"Policy C-P4: Mitigation Measures. Development with potentially significant circulation impacts as determined by CEQA review shall be conditioned to proportionally mitigate such impacts through payment of impact fees, construction of on- and off-site improvements and dedication of rights-of-way or a combination of impact fees, improvements and dedications."

This policy suggests one rational mitigation solution, a special road tax on grows depending on distance to a paved main road. For MVR, the impacts begin at 3-Corners, because residents along Greenwood Heights and Freshwater are impacted. I have noticed recent vehicle counting devices for these two communities, but not past the airport at Kneeland, where the grow traffic contribution might be somewhat measurable, since almost all the MJ traffic uses MVR, rather than Butte Creek Rd. to access Showers Pass. I17-13

The standard applied to private roads in the DEIR "Standard 3 – Private Road Systems: Protections for Water Quality and Biological Resources, illuminates exactly the issue on MVR and elsewhere. I have witnessed two cliff edge rollovers in 15 years, near Dead Woman's curve, and heard of two recent rollovers near Jack Shaw. I17-14

Specific sections of the DEIR that could evaluate these concerns include the following:

3.3-3 GHG generation I17-15

This discussion accounts only for on-site generation, but does not account for rural transportation GHGs, which tend to include a disproportionate number of diesel vehicles.

3.3-5 Climate change I17-16

This ignores the GHG emissions associated with more remote

rural transportation, such as MVR. I17-16 cont.

3.7-6

Road damage already on MVR impede all vehicles and would be expected to obstruct them if the damage continues without repairs and maintenance, given the vastly increased traffic of all sized vehicles. I17-17

3.8-2

MVR discharges sediment into the Mad River. I17-18

3.11-1

Property road access is only as accessible as the main artery serving the property and beyond. However, the DEIR only addresses local property access: I17-19

"Compliance with existing building, electrical, and fire code regulations as well as roadway access performance standards set forth in the proposed ordinance would provide a sufficient level of fire prevention and access such that fire protection services and response times would not be substantially affected."

3.12-1&2

This attributes long-term traffic increases to construction and the Fall harvest season, downplaying the substantial increases already present all during the preparation and cultivation season, from March through October. I17-20

3.9-3

Emergency terrestrial access is only as reliable as the road I17-21

system, and MVR is in no condition to serve these vehicles, *especially at night.* I17-21 cont.

3.14-1&2

Again, where is remote rural transportation's use of fossil fuels and GHG emissions accounted for? I17-22

Respectfully, and with gratitude for the prodigious work

Ken Miller

Letter I17	Ken Miller 9/29/2017

I17-1 The comment identifies concerns are focused on Mountain View Road and generally applies to most remote rural roads. The comment asserts that there has been a dramatic increase in traffic. This comment is noted. Traffic operational issues are addressed in DEIR Section 3.12, "Transportation and Circulation."

I17-2 The comment describes the existing condition of Mountain View Road. As identified on DEIR page 3.12-13, the existing and new commercial cannabis operations under the proposed ordinance would be required to obtain access to a roadway system that is equivalent or exceeds the County's Category 4 road standard. The Category 4 road standard provides 18 to 20-foot wide travel lanes, 2-foot wide bladed shoulders (as required by the County), 25 to 40-mile per hour design speed, and sight distance requirements for safe passage. The County has determined that the Category 4 road standard is adequate to accommodate commercial cannabis operation traffic volumes and vehicle types (e.g., passenger vehicles, small trucks, large service trucks). This may require commercial cannabis operations to improve existing roadways as part of their permitting process. In addition, commercial cannabis operations would be required to join or establish road maintenance associations for the funding of on-going maintenance.

I17-3 The comment identifies that the only significant change to traffic on Mountain View Road has been cannabis grows and how would roadway impacts be addressed. The reader is referred to Response to Comment I7-2 for a description of the proposed ordinance's roadway requirements.

I17-4 The comment identifies that the DEIR does not identify Mountain View Road and appears to limit its analysis to traffic increases within 15 miles of a main road.

The DEIR provides a programmatic analysis of the environmental impacts from the implementation of the proposed ordinance county-wide. The DEIR does not provide site-specific environmental review of every roadway facility in the County. The referenced 15-mile radius is used for estimating traffic generated by commercial cannabis cultivation sites during harvest. As described on DEIR page 3.12-12, the DEIR trip estimations were based on GIS mapping and travel time. The reader is referred to Response to Comment I7-2 for a description of the proposed ordinance's roadway requirements.

I17-5 The comment states that the residential areas along Mountain View Road are not shown in the DEIR. The reader is referred to Response to Comment I7-2 for a description of the proposed ordinance's roadway requirements and Response to Comment I17-3 regarding the programmatic analysis of the DEIR.

I17-6 The comment states that safety concerns regarding Mountain View Road and other narrow rural roads are not addressed in the DEIR. The reader is referred to Response to Comment I7-2 for a description of the proposed ordinance's roadway requirements.

I17-7 The comment states that relocation of existing grow sites may help poor access arteries. This comment is noted. The reader is referred to Response to Comment I7-2 for a description of the proposed ordinance's roadway requirements.

I17-8 The comment asserts that impacts on Mountain View Road (road maintenance, safety, and emergency access) will only get worse with expansion of the cannabis industry. The comment

also notes existing water quality issues with the Mad River that will worsen with increased sediment inputs.

Emergency access is address on DEIR page 3.12-17. The DEIR identifies that existing and future commercial cannabis operations would be required to meet the County's Category 4 road standards and the emergency access standards set forth in Chapter 10 – Fire Safe Regulations of the County Code. The reader is also referred to Response to Comment I7-2 for a description of the proposed ordinance's roadway requirements.

Current water quality condition of the Mad River is identified on DEIR page 3.8-20 and 3.8-21. Water quality impacts from sediment from commercial cannabis operations and related roadway improvements are addressed on DEIR pages 3.8-35 through 3.8-39. The reader also referred to Master Response 5 for further discussion of water quality requirements and the recent adoption of the State Water Board Policy.

I17-9 The comment asks what evaluations and reasonably foreseeable impacts have been conducted for Mountain View Road and other rural roadways and who will fix damages.

The reader is referred to Response to Comment I7-2 for a description of the proposed ordinance's roadway requirements and Response to Comment I17-3 regarding the programmatic analysis of the DEIR.

I17-10 The comment asserts that remote areas attract illegal cannabis cultivation that contribute to cumulative impacts in combination with legal grows and that the DEIR dismissed these impacts.

While these existing environmental conditions of unpermitted cannabis cultivation operations were disclosed as part of the baseline condition in the DEIR (see Master Response 1), CEQA is not intended to conduct environmental review and mitigate these conditions. State CEQA Guidelines Section 15125(a) identifies that the baseline physical conditions are the basis by which a lead agency determines whether an impact of the project is significant. Published case law has identified that baseline conditions include unpermitted and/or harmful activities that have occurred prior to the project. In *Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 234 Cal.App.4th 214 (183 Cal.Rptr.3d 736], the Fourth Appellate District upheld the baseline conditions and ruled that the baseline condition must reflect the physical conditions at the time the environmental analysis begins even if the current conditions includes unauthorized and even environmental harmful conditions that never received environmental review.

The County believes that regulating cannabis operations will result in permitting of "good" operations—ones that comply with regulations—and the eventual eradication of illegal operators who choose to avoid or ignore the permitting process. The County has addressed enhanced enforcement as a separate project with amendments to its Code Enforcement program. (Ordinance No. 2576, June 27, 2017 and Ordinance No. 2585, November 7, 2017) designed to eliminate delays that hindered effective enforcement, and substantially increase administrative civil penalties. The Code Enforcement Unit is engaged in the initial implementation of the enhanced enforcement program (see Master Response 6). The overall purposes of the proposed ordinance are to establish legal commercial cannabis activities and expand upon the existing regulations set forth under the current CMMLUO to improve baseline environmental conditions in the County.

I17-11 The comment cites information in the DEIR on the provisions of the 1988 General Plan and identifies that such requirements should be applied to Mountain View Road.

The 1988 General Plan has been superceded by the recent adoption of the 2017 General Plan Update. Existing and new commercial cannabis operations under the proposed ordinance would be required to obtain access to a roadway system that is equivalent or exceeds the County's Category 4 road standard. The Category 4 road standard provides 18 to 20-foot wide travel lanes, 2-foot wide bladed shoulders (as required by the County), 25 to 40-mile per hour design speed, and sight distance requirements for safe passage. The County has determined that the Category 4 road standard is adequate to accommodate commercial cannabis operation traffic volumes and vehicle types (e.g., passenger vehicles, small trucks, large service trucks). In addition, commercial cannabis operations would be required to join or establish road maintenance associations for the funding of on-going maintenance.

I17-12 The comment asserts that the DEIR does not provide mitigation as identified in General Plan Update Policy C-P4 regarding impacts to rural roadways.

As identified on DEIR pages 3.12-14 through 3.12-17, no significant traffic operational or safety impacts were identified and no mitigation measures were required. This conclusion was based on the fact that existing and new commercial cannabis operations under the proposed ordinance would be required to obtain access to a roadway system that is equivalent or exceeds the County's Category 4 road standard. The Category 4 road standard provides 18 to 20-foot wide travel lanes, 2-foot wide bladed shoulders (as required by the County), 25 to 40-mile per hour design speed, and sight distance requirements for safe passage. The County has determined that the Category 4 road standard is adequate to accommodate commercial cannabis operation traffic volumes and vehicle types (e.g., passenger vehicles, small trucks, large service trucks). In addition, commercial cannabis operations would be required to join or establish road maintenance associations for the funding of on-going maintenance.

I17-13 The comment references Policy C-P4 and suggests that special road tax for grows be considered. The reader is referred to Response I17-12 for a discussion of roadway maintenance requirements under the proposed ordinance. The County is considering this requested change as part of revisions to the proposed ordinance.

I17-14 The comment references proposed ordinance roadway standard 3 asserts that this standard is the issue for safety issues occurring on Mountain View Road.

As identified on DEIR page 2-23, standard 3 consists of water quality requirements and not the safety design of the roadway. Existing and new commercial cannabis operations under the proposed ordinance would be required to obtain access to a roadway system that is equivalent or exceeds the County's Category 4 road standard. The County has determined that the Category 4 road standard is adequate to accommodate traffic from commercial cannabis operations.

I17-15 The comment asserts that the DEIR greenhouse gas impact analysis does not factor transportation sources of greenhouse gases (GHG).

The DEIR GHG impact analysis includes the consideration of mobile GHG emissions. DEIR page 3.3-21 specifically notes that there would likely be an increase in mobile emissions of GHG from increases in vehicle miles traveled, but that the amount of GHG emissions from existing sites required to comply with the renewable energy standards (or shut down because of code enforcement) of the proposed ordinance is expected to offset mobile GHG emissions.

I17-16 The comment states that the DEIR Impact 3.3-5 fails to address GHG emissions associated with remote transportation.

DEIR Impact 3.3-5 is an analysis of exposure to the environmental effects of climate change (higher average temperatures, changes in precipitation and flood events, reduced water supply, water quality impacts, and sea level rise) and not directly associated with potential GHG emissions associated with implementation of the proposed ordinance (see Response to Comment I17-15 regarding this issue). As identified in Section 3.3, "Air Quality/Greenhouse Gases," the environmental effects of climate change are a global issue and not limited to the County.

I17-17 The comment states that there is roadway damage already on Mountain View Road and impedes vehicles and would continue to unless repairs are made.

The comment is noted. The proposed ordinance requires commercial cannabis operations to join or establish road maintenance associations for the funding of on-going maintenance.

I17-18 The comment states that Mountain View Road discharges sediment to the Mad River. The reader is referred to Response to Comment I17-8 for a response on water quality conditions for the Mad River and sediment impacts.

I17-19 The comment asserts that the DEIR only addresses local property access that not the main artery. As identified on DEIR page 3.12-13, the existing and new commercial cannabis operations under the proposed ordinance would be required to obtain access to a roadway system that is equivalent or exceeds the County's Category 4 road standard. The County has determined that the Category 4 road standard is adequate to accommodate traffic from commercial cannabis operations. In addition, commercial cannabis operations would be required to join or establish road maintenance associations for the funding of on-going maintenance.

I17-20 The comment appears to assert that the DEIR fails to address traffic from cultivation from not considering existing traffic from cultivation during the months of March through October.

Existing traffic conditions are part of the baseline condition and are not directly part of the project. As identified in the DEIR, the peak operation condition for commercial cannabis is during the harvest that includes up to 15 temporary employees over a four-week period. The DEIR traffic analysis conservatively assumes that all new outdoor, mixed-light, and indoor commercial cannabis cultivation operations are harvesting at the same time county-wide. This could generate up to 31,897 daily trips during the harvest period. This traffic generation is equivalent to the daily traffic generation of approximately 3,190 single family residential dwelling units (3,190 dwelling units is 12 percent of the total single family residential dwelling units that exist in the unincorporated area of the County in 2017 [California Department of Finance 2017). No comment letters provide any evidence countering traffic assumptions identified above or that the DEIR underestimates the potential extent of traffic generation and impacts to highway level of service operations.

I17-21 The comment states that emergency access along Mountain View Road is not reliable. This comment is noted. Emergency access is address on DEIR page 3.12-17. The DEIR identifies that existing and future commercial cannabis operations would be required to meet the County's Category 4 road standards and the emergency access standards set forth in Chapter 10 – Fire Safe Regulations of the County Code.

I17-22 The comment questions whether the DEIR addresses GHG emissions from mobile sources. The reader is referred to Response I17-15 for a discussion of mobile GHG emissions.

Letter I18

From: Margro Advisors
To: Ford, John
Cc: Lazar, Steve
Subject: Comments and Recommendation on Draft Ordinance
Date: Wednesday, October 4, 2017 8:43:20 AM
Attachments: MargroAdvisors_Comments_on_Draft_Ordinance.pdf

Hi John,

Thanks again for you and your team hosting the workshop on Monday night. Attached is our comments and recommendations in response to the draft ordinance.

We appreciate all the hard work and ongoing commitment you and your department has shown in working with all of us in building this emerging industry for Humboldt County.

Please don't hesitate to contact me if you have any questions.

Regards,

Kelly

--
Kelly Flores
Margro Advisors
1-707-500-2420

Margro Advisors

Comments on 2017 Commercial Cannabis Draft Ordinance - Inland Areas

The following comments are based on our experience working directly with farmers in the rural areas of Humboldt County. Our goal is to encourage environmental improvements through guiding clients into compliance, while preventing the unnecessary exclusion of these farmers due to overly restrictive regulations. I18-1

Page 5 - Section: 55.4.4 Definitions

> "Distribution Facility" as used in this section related to cannabis means a facility where a person conducts the business of procuring cannabis from licensed cultivators or manufacturers for sale to licensed retailers, and performs or coordinates the inspection, quality assurance, batch testing, storage, labeling, packaging and other related processes, as well as transportation to or from other licensees."

Comment: The state draft regulations would allow for cultivators and manufacturers to sell directly to a retailer, with the requirement that the products pass through distribution for transport, testing, and quality control. As a result "procuring cannabis from licensed cultivators or manufacturers for sale" does not apply to those distributors. I18-2

Recommendation: Modify the definition to also include non-sales distribution.

> "Distribution Facility" as used in this section related to cannabis means a facility where a person conducts the business of **receiving or** procuring cannabis from licensed cultivators or manufacturers for **transport and/or** sale to licensed retailers, and performs or coordinates the inspection, quality assurance, batch testing, storage, labeling, packaging and other related processes, as well as transportation to or from other licensees.

Page 7 - Section: 55.4.4 Definitions

> "Outdoor" means outdoor cultivation using no artificial lighting.

Comment: It is common for outdoor grows to use a small amount of supplemental lighting for early propagation, generally five watts per square foot or less. The definition should note this inclusion. I18-3

Recommendation:

> "Outdoor" means outdoor cultivation using no artificial lighting, **except supplemental lighting for propagation.**

Page 14 - Section: 55.4.6.3.2 Water Source

> "Irrigation shall exclusively utilize Stored Water from Non-Diversionary Sources or water from a Public or Private Water Supplier. Water from on-site greywater systems is also authorized for year-round use. Dry Farmed Outdoor or Mixed Light cultivation sites may utilize Irrigation from Diversionary Sources for propagation areas and transplantation. Irrigation water sourced from Diversionary Sources may be permitted with a Special Permit pursuant to the Streamside Management Area Ordinance, Humboldt County Code Section 314-61.1., and subject to the Performance Standards for Diversionary Water Use."

Comment: This paragraph is confusing. Item 55.4.12.2.5 ("Trucked water shall not be allowed") bans water delivery, so it is not clear why "water supplier" is included in the description. Diverted water is regulated by California Fish & Wildlife, the Division of Water Rights, and the State Water Resource Control Board. If the purpose of this code is to require a special permit for water diversions then the text needs to be clarified. I18-4

Recommendation:

> "Irrigation ~~shall exclusively utilize Stored Water~~ from Non-Diversionary Sources or ~~water~~ from ~~a Public or Private Water Supplier. Water from~~ on-site greywater systems is ~~also~~ authorized for year-round use. Dry Farmed Outdoor or Mixed Light cultivation sites may utilize Irrigation from Diversionary Sources for propagation areas and transplantation. **All other** irrigation water sourced from Diversionary Sources must be permitted with a Special Permit pursuant to the Streamside Management Area Ordinance, Humboldt County Code Section 314-61.1., and subject to the Performance Standards for Diversionary Water Use."

Page 15 - Section: 55.4.6.4.4 Setbacks

> "(i) Cultivation Site(s) and Appurtenant Facilities including surface water diversions, agricultural wells, and similar infrastructure must observe all prescribed setbacks and limitations pertaining to the use of land located within or affecting Streamside Management Areas (SMAs) or other wet areas, as identified and described under Section 314-61.1. Under certain circumstances, a Special Permit may be required."

Comment: This paragraph is unclear. Water diversions by default occur in the waterway, they cannot be setback. Existing wells should not be considered "Appurtenant Facilities" as they are already established and can not be moved. If a setback restriction is required on new wells, the Health Department should be aware not to approve plans that do not meet this new requirement. I18-5

Recommendation:

> "(i) Cultivation Site(s) and Appurtenant Facilities including ~~surface water diversions,~~ **new** agricultural wells, and similar infrastructure must observe all prescribed setbacks and limitations

pertaining to the use of land located within or affecting Streamside Management Areas (SMAs) or other wet areas, as identified and described under Section 314-61.1. Under certain circumstances, a Special Permit may be required."

I18-5 cont.

Page 16 - Section: 55.4.6.5.1 Small Cultivation Sites

"b) Only residents of the site shall engage in cultivation, harvesting, drying, curing, or trimming activities on the site;"

Comment: This specification is overly restrictive. It is common for small farmers to obtain assistance from friends and family. If the purpose is not to allow for commercial employees then that should be specified.

I18-6

Recommendation:

"Only residents of the site and **non-employees** shall engage in cultivation, harvesting, drying, curing, or trimming activities on the site"

Page 17 - Section: 55.4.6.5.7 Provisional Permitting

"Applicants shall provide plans for curing such violations to the Planning & Building Department within one (1) year of issuance of the provisional clearance or permit….As part of application submittal, *[sic]*Pre-Existin1g cultivation sites seeking provisional approval shall identify, document, and itemize all current violations related to commercial cannabis activities, as well as areas of non-compliance with applicable performance standards and siting criteria, and include a plan and schedule to abate or cure all violations and achieve compliance targets."

Comment 1: This section asks for the same thing in two different ways. It first gives one year for a plan to be provided after a permit is issued, then expects a plan with the application to be provided before the permit is issued. If different levels of detail are being requested, they should be specified. Requesting an itemized list and schedule with the initial application, then a detailed plan within one year is reasonable.

Comment 2: A typo needs correction.

I18-7

Recommendation:

"Applicants shall provide **detailed** plans for curing such violations to the Planning & Building Department within one (1) year of issuance of the provisional clearance or permit….As part of application submittal, **Pre-Existing** cultivation sites seeking provisional approval shall identify, document, and itemize all current violations related to commercial cannabis activities, as well as

Page 3

areas of non-compliance with applicable performance standards and siting criteria, and include a ~~plan and~~ **proposed** schedule to abate or cure all violations and achieve compliance targets."

I18-7 cont.

Page 21 - Section: 55.4.10.3 Microbusiness

Microbusiness activities are a permitted use, subject to a Special Permit, in any of the zones in which authorized cannabis activities is a permitted use (except on parcels zoned FP or TPZ).

Comment: Why are farm-based retail sales not allowed in (55.4.10.2 Farm-Based Retail Sales) "parcel zoned U with an underlying land use designation of Timberland", but Microbusinesses are?

I18-8

Recommendation: Allow retail sales where mircobusinesses are also allowed:

55.4.10.2 Farm-Based Retail Sales - "Farm-based retail sales are not permitted on any parcel zoned TPZ~~, or a parcel zoned U with an underlying land use designation of "Timberland".~~

55.4.10.3 Microbusiness - Microbusiness activities are a permitted use, subject to a Special Permit, in any of the zones in which authorized cannabis activities is a permitted use (except on parcels zoned ~~FP or~~ TPZ).

Page 25 - Section: 55.4.12.1.8 Performance Standard–Road Systems

"d) Road Maintenance Associations and Cost Sharing

1) Where three or more permit applications have been filed for Commercial Cannabis Activities on parcels served by the same shared private road system, the owner of each property must consent to join or establish the appropriate Road Maintenance Association (RMA) prior to operation or provisional permit approval. This requirement shall also apply to existing permittees seeking to renew their permit."

Comment: Road associations are new to many rural farmers, especially those used to seclusion and independence. This may be challenging in some areas, especially where there are feuds among neighbors.

I18-9

Recommendation: If this requirements stands, the county should provide guides, forms, and documentation to assist with and support the development of RMAs for those requiring this participation. We suggest considering partnering with a local bank to sponsor training and offer new accounts for these organizations.

Page 26 - Section: 55.4.12.2.3 Performance Standards for Commercial Cannabis Cultivation Activities

"Where no agreement has been secured for prior work within areas of DFW jurisdiction, notification pursuant to 1602 of the Fish and Game Code shall not commence until the processing of the County permit has been completed."

Comment: CDFW permits are often difficult and now significantly more expensive to obtain, and may be a determining factor whether a site will be viable for cultivation. It is unfair to expect an applicant to go through the entire county process and expense, then the CDFW process and expense only to realize they can not obtain approval from CDFW. In addition, the CDFW process can be lengthy and should be allowed concurrently and independently of the county's application process. I18-10

Recommendation: Remove this restriction.

~~"Where no agreement has been secured for prior work within areas of DFW jurisdiction, notification pursuant to 1602 of the Fish and Game Code shall not commence until the processing of the County permit has been completed."~~

Page 27 - Section: 55.4.12.4 Performance Standard for Light Pollution Control

"c) Structures used for Mixed-Light Cultivation or Nurseries are prohibited within 200 feet of a riparian zone."

Comment: Riparian zones are already regulated by the State Water Resource Control Board and California Department of Fish and Wildlife. Many farms have been approved with proper 50ft, 100ft, and 150ft setback requirements based on these agencies restrictions. It is unnecessary, and unfair to the already enrolled participants and permittees in those programs for the county to establish additional restrictions. I18-11

Recommendation: Modify the statement to specify the existing authority's requirement for compliance.

"c) Structures used for Mixed-Light Cultivation or Nurseries are prohibited within setback limits established by the State Water Resources Control Board for riparian zones."

Page 27 - Section: 55.4.12.4 Performance Standard for Light Pollution Control

"d) Upon receiving notice, the applicant shall correct the violation as soon as possible and submit written documentation within fourteen (10) calendar days, demonstrating that all shielding has been repaired, inspected and corrected as necessary." I18-12

Comment: Typo. Is it 10 days or 14 days?

Page 27 - Section: 55.4.12.5 Performance Standards for Energy Use

All electricity sources utilized by Commercial Cannabis Cultivation, Manufacturing, or Processing activities shall conform to one or more of the following standards:

55.4.12.5.1 grid power supplied from 100% renewable source
55.4.12.5.2 on-site renewable energy system with zero net energy use
55.4.12.5.3 grid power supplied by partial or wholly non-renewable source with purchase of carbon offset credits

I18-13

Comment: This appears to ban farmers in rural areas who do not have access to grid power, and are using generators. It is understandable to not allow new farms to rely on generators and to want existing farmers to convert to renewable energy but they should be given a path to compliance. A ban eliminates all the other environmental and economic benefits of a farm entering the regulated legal market.

Recommendation: Add a provision for pre-existing non-grid powered farms to move to renewable energy within three years.

"Off-grid pre-existing cultivation sites that can not meet the performance standards for energy use will have three years to comply, from the date a permit is issued."

Page 28 - Section: 55.4.12.7 Performance Standards for Diversionary Water Use

"b) A water budget showing weekly and monthly past or projected Irrigation demands, including daily Irrigation demand during periods of peak usage, broken out by each discrete Cultivation Site. Irrigation reporting or projections shall be differentiated where cultivation methods and conditions result in differences in water usage at specific cultivation sites. "

Comment: This request for weekly and daily data collection by discrete cultivation area is too extreme. Farmers are not statisticians. Monthly data collection is being requested by multiple State agencies and should suffice in providing proper water usage tracking information. Excessive data requests are likely to result in guesstimates which may reduce the level of accuracy over time. In addition, measuring usage from different water sources should be the focus rather than the usage by cultivation method.

I18-14

Recommendation:

"b) A water budget showing ~~weekly and~~ monthly past or projected Irrigation demands, ~~including daily Irrigation demand during periods of peak usage, broken out by each discrete Cultivation Site.~~ Irrigation reporting or projections shall be differentiated where ~~cultivation methods and conditions result in~~ **there are** differences in water **sources** ~~usage~~ at specific cultivation sites. "

Page 33 - Section: 55.4.13 Humboldt Artisanal Branding

"The county shall develop a program for recognition and certification of commercial cannabis cultivators meeting standards to be established by the Agricultural Commissioner, including, but not limited to, the following criteria:

a) Outdoor Cultivation area of 3,000 sq. ft. or less "

Comment: Humboldt farmers are being challenged to compete with industrial grows in other parts of California. For Humboldt to build a Craft Cannabis industry more farmers should be eligible to participate. We believe within a few years a 10,000 square-foot farm will be the "little guy" in comparison to others in the industry. This is understood at the state level as "Microbusinesses" will be allowed for cultivators 10,000 sq ft or less. I18-15

We believe if Artisanal Branding is to be successful it should be allowed for up to 10,000 square-foot organic-quality farms as well. If Humboldt is to compete in the new market it must have enough players to establish a presence and set itself apart.

Recommendation:

"a) Outdoor Cultivation area of **10,000** sq. ft. or less"

If you have questions or require additional information regarding these comments and recommendations please contact:

Kelly Flores
Margro Advisors
(707) 500-2420
Kelly@margroadvisors.com

Letter I18	Kelly Flores (Margo Advisors) 10/4/2017

I18-1 The comment is an introduction to the letter that provides input on the letter. Comment noted.

I18-2 The comment provides input on the proposed ordinance's definition of "distribution facility." The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I18-3 The comment provides input on the proposed ordinance's definition of "outdoor." The proposed ordinance allows for nurseries in association with cultivation activities. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I18-4 The comment provides input on the proposed ordinance Section 55.5.6.3.2 (Water Source). Private water companies that provide water through in-ground infrastructure would be allowed by the proposed ordinance. The reader is referred to DEIR Section 3.8, "Hydrology and Water Quality," and 3.13, "Utilities and Service Systems," for a discussion of water supply sources and impacts.

I18-5 The comment provides input on the proposed ordinance Section 55.4.6.4.4 (Setbacks). This section of the proposed ordinance is simply pointing out that, per other sections of County Code, setbacks apply to these types of uses. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I18-6 The comment provides input on the proposed ordinance Section 55.4.6.5.1 (Small Cultivation Sites). The proposed ordinance reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I18-7 The comment provides input on the proposed ordinance Section 55.4.6.5.7 (Provisional Permitting). The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I18-8 The comment provides input on the proposed ordinance Section 55.4.10.3 (Microbusinesses). The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I18-9 The comment provides input on the proposed ordinance Section 55.4.12.1.8 (Performance Standard – Road Systems). The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I18-10 The comment provides input on the proposed ordinance Section 55.4.12.2.3. The proposed ordinance has retained but modified this provision to avoid conflicts between CDFW process and the County permitting process. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I18-11 The comment provides input on the proposed ordinance Section 55.4.12.4c (Light Pollution Control). The proposed ordinance reflects this requested change. However, all commercial cannabis cultivation would be required to comply with riparian habitat setbacks set forth in the State Water Board Policy. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I18-12 The comment provides input on the proposed ordinance Section 55.4.12.4d (Light Pollution Control). The proposed ordinance reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I18-13 The comment provides input on the proposed ordinance Section 55.4.12.5 (Energy Use). The County is considering this requested change as part of revisions to the proposed ordinance. It should be noted that generator noise can have negative impacts to special-status wildlife species (see DEIR Section 3.4, “Biological Resources,”). No changes to the EIR are recommended.

I18-14 The comment provides input on the proposed ordinance Section 55.4.12.7 (Diversionary Water Use). The County is considering this requested change as part of revisions to the proposed ordinance. As identified in Master Response 5, cannabis cultivation would be subject to the water diversion requirements under State Water Board Policy.

I18-15 The comment provides input on the proposed ordinance Section 55.4.13 (Humboldt Artisanal Branding). The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

Letter
I19

From: Joan Bennett
To: Lazar, Steve
Subject: Fw: 14-Year-Old Fortuna Girl Tells County Supervisors She's Tired of Smelling Pot in Her Home – Redheaded Blackbelt
Date: Friday, October 6, 2017 3:26:25 PM

-----Original Message-----
From: Dawn Wolcott
Sent: Friday, October 06, 2017 10:58 AM
To: Tims outlook desktop ; jbennett475
Subject: 14-Year-Old Fortuna Girl Tells County Supervisors She's Tired of Smelling Pot in Her Home – Redheaded Blackbelt

https://na01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fkymkemp.com%2F2017%2F10%2F06%2F14-year-old-fortuna-girl-tells-county-supervisors-shes-tired-of-smelling-pot-in-her-home%2F&data=01%7C01%7CSLazar%40co.humboldt.ca.us%7Ce96fad31310b41c3f62e08d50d094686%7Cc00ae2b64fe844f198637b1adf4b27cb%7C0&sdata=l6cWvVDRe8mzSvUM7g31X9BzlT8kQGI4sov0NI4OfAQ%3D&reserved=0

Sent from my iPhone

14-YEAR-OLD FORTUNA GIRL TELLS COUNTY SUPERVISORS SHE'S TIRED OF SMELLING POT IN HER HOME

October 6, 2017 Kym Kemp 295 comments



The Lewis family lives on the far side of the row of trees.[Crop of a tweet by CaliPharms that according to Jenna Lewis's mother shows the nearby cannabis farm.]

This letter from a 14-year-old Fortuna girl was originally sent to the Humboldt County Board of Supervisors, but her family has requested that we reprint it here. Their family's property is in the city of Fortuna. The cannabis grow is just outside of the city limits. I19-1

To Whom It May Concern,

My name is Jenna Lewis and I currently live…in Fortuna, CA. I am a freshmen at Fortuna high school and I currently play volleyball. I19-2

Lately, a pot smell has been surrounding my house. I know that the city of Fortuna and the county of Humboldt know there is a pot garden right across from the residential area

I live in, but I don't think they realize how much it actually affects me, my family, and the families around us. The smell is VERY strong. I19-2 cont.

My brother and I like to open up our windows, which helps us sleep. Well, now when we open our windows, we get a strong smell of pot into our rooms, which gives us headaches and then we're not able to sleep as well. My family and I are also very active. We have a basketball hoop outside and a ping pong table in the garage. We also like to play catch with a football, play wiffle ball, and even set up a volleyball net in the backyard and play volleyball. There is also a fire pit in our side yard and we love to roast s'mores in it. However, lately we haven't been able to go out and do those things because of how bad the smell of the pot has been. I19-3

We also really like to have people over, including the Fortuna high football team for their weekly Thursday night dinners. For those dinners the team eats outside because there is not enough room in our house. While they're outside eating, it is VERY embarrassing to have the smell of pot roaming around as if it was my family with a pot garden.

I realize that the pot industry is very big right now and someone is getting A LOT of money for the garden across from us, but life isn't all about money. Besides, wouldn't you rather have a nice, friendly family that does a lot to support the community live here than some pot growers who will just cause more problems? I19-4

Aside from my personal views on pot, this is a problem I would like fixed because of the way it is affecting my life and the air that I breathe everyday.

Thank you for your time and for considering my family when you make decisions.

Sincerely,

Jenna Lewis

14 years old

Fortuna, CA

Letter I19	Joan Bennett 10/6/2017

I19-1 The comment includes introductory remarks. The comment is noted.

I19-2 The comment includes remarks of cannabis-related odor. The comment is noted. The reader is referred to Master Response 4 for a further discussion on odor impacts.

I19-3 The comment includes remarks of cannabis-related odor. The comment is noted. The reader is referred to Master Response 4 for a further discussion on odor impacts.

I19-4 The comment includes remarks of cannabis-related odor. The comment is noted. The reader is referred to Master Response 4 for a further discussion on odor impacts.

Letter I20

From: John LaBoyteaux [mailto:helenthemelon@earthlink.net]
Sent: Friday, October 06, 2017 3:28 PM
To: Ford, John
Subject: Cannabis Ordinance

Hello John,

I understand you will be at a Farm Bureau Land Use meeting on Tuesday. I hope I am able to make it.

Attached is a letter from the Food, Fiber and Flowers agricultural organization which was sent to the Board of Supervisors at the beginning of discussions about the cannabis ordinance. I am sending in case you have not seen it. The only thing that we might change at this point would be more emphasis on distancing commercial grows from residential areas. I20-1

If you have any questions you can call me at 496-3270. I have to do deliveries Tuesday but hope to make the meeting.

John LaBoyteaux

Letter I20	John LaBoyteaux 10/6/2017

I20-1 The comment states that an attached letter from the Food, Fiber and Flowers agricultural organization has been provided to present additional comments. The attachment was not provided, but was submitted in regard to the development of the proposed ordinance prior to release of the Notice of Preparation and provides no input on the DEIR or the current form of the proposed ordinance. This comment is noted.

Letter I21

From: Kathy Wolman
To: Lazar, Steve; Cannabis Services Division
Cc: Kathy Wolman
Subject: Community meeting on ordinance amendments
Date: Friday, October 6, 2017 10:07:47 AM

Dear Mr. Lazar and Director Ford,

Thank you for coming down to Garberville to hear from the Southern Humboldt folk about the new amendments to the Cannabis Ordinance. It seemed that you and the other staff members were interested to hear our concerns.

Regarding the question that was raised by Director Ford, "What is a small grow?" I would like to comment. My family lives on a parcel in Briceland and we have applied for a permit for 4,999 square feet. When permitted, this will be a farm for 2 families, as my adult son lives on the property with us. My partner and I are senior citizens and appreciate that he wants to live here and be part of the farm, providing us with a lot of youthful help. For two families, just under 5,000 square feet would be a "small grow," providing what we hope might be a modest living, (supplemented with other income), after all the expenses for permits, fees, taxes, materials, water tanks, etc. and taking into consideration that the price per pound for cannabis is rapidly falling as statewide legalization takes place. I think there are other families in Southern Humboldt that would be in the same situation, as many of us arrived in the '70's and '80's as "Back to the landers," and now need help maintaining our homesteads. I heard the number of 3,000 square feet put out as a "small grow" and wanted to elaborate, as I know that some of these older people are living alone, while others of us have the gift of family around. I21-1

Thank you again for considering my comments,
Sincerely, Katherine Wolman

This email has been checked for viruses by Avast antivirus software.
www.avast.com

Letter I21	Katherine Wolman 10/6/2017

I21-1 The comment provides input on the definition of a small grow. The proposed ordinance considers 3,000 square feet of cultivation as a "Small Cultivation" site. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

OCT 12 2017

cc: BOS all ,
cc: Planning

Letter
I22

October 10, 2017

Humboldt County Board of Supervisors
825 5th Street, Room 111
Eureka, CA 95501

Dear Supervisors,

I am an hydrologist with a long carerer focused on restoring watersheds, with an emphasis on salmon and steelhead habitat. Much of my work in recent years has centered on extreme low flows documented in many of Humboldt County streams, conditions made worse by the rapid growth of the cannabis industry. I am writing this to urge you to vote against any General Plan updates that allow rezoning of any timberlands or prime agricultural lands to allow new cannabis cultivation. There is already far too much cannabis cultivation occurring in Humboldt County, and the growth over the past ten years or so has had devastating effects on our watersheds. I22-1

In particular, there are several parcels in the Jacoby Creek watershed considered for such rezoning. Doing so would likely cause irreparable harm to what is arguably one of the healthiest watersheds tributary to Humboldt Bay. Several parcels are being considered for rezoning from Timber to Rural Agriculture for cannabis cultrivation, while others are being considered for rezoning from Timber to Residential. All of these parcels either abut or are close to the City of Arcata's Jacoby Creek Forest. The City's forests in Jacoby Creek and elswhere, and the existing high-quality timberlands considered for rezoning, are crucial for maintaining healthy watershed conditions for fish and wildlife, moderating floods that threaten downstream residents, and maintaining summer low flows for both aquatic habitat and residential water supplies. These important values, and the people and animals that depend on them, would suffer from the rezoning being considered by your Board. I22-2

If increasing the land base for legal cannabis cultivation remains something you see as important to do, for whatever reasons, there are far better areas for this to occur, such as the many parcels of un-used or under-used former industrial lands that lie all over Humboldt County. These wastelands would be a much better choice for rezoning to allow cannabis cultivation, being already located along existing transportation routes and in areas that would allow for much more transparent oversight by law enforcement and other government regulatory agencies. I22-3

In summary, I urge you to reject any General Plan update elements or changes that allow any further incursions by the cannabis industry into the areas of Humboldt County's watersheds, especially Jacoby Creek, that are providing crucial habitat for fish, wildlife, and humans. Please adopt a modified version of Alternative # 5 of the DEIR that would prohibit the licensing of all new commercial cultivation that did not exist on or before December 31, 2015, unless located on parcels presently zoned as industrial. I22-4

Sincerely,

Randy D. Klein

Randy D. Klein
Hydrologist
Arcata, CA

Letter I22	Randy Klein 10/10/2017

I22-1 The comment includes concern with effects to watersheds from cannabis operations. The reader is referred to Master Response 5 for a further discussion of DEIR discussion of watershed impacts and the recently adopted State Water Board Policy that would work with DEIR mitigation measures to protect fishery resources.

I22-2 The comment expresses concern for potential cannabis cultivation in the Jacoby Creek watershed. DEIR Section 3.4, "Biological Resources," addresses wildlife, fishery, and habitat impacts associated with implementation of the proposed ordinance. The reader is referred to Master Response 5 for a further discussion of DEIR discussion of watershed impacts and the recently adopted Stat Water Board Policy that would work with DEIR mitigation measures to protect fishery resources.

I22-3 The comment includes suggestion for alternative areas and lands to be used for cannabis cultivation. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project. The proposed ordinance does include provisions for allowing commercial cannabis operations on previous used sites that include industrial sites. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I22-4 The comment includes suggestion to reject General Plan updates that would impact County watersheds and to adopt a modified version of Alternative 5. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

OCT 13

Letter I23

TO: STEVE LAZAR AND SUPERVISORS

I HAVE LIVED AND RAISED A FAMILY HERE IN CARLOTTA ON THE VAN DUZEN RIVER. I OWN A SMALL RANCH WHICH HAS BEEN HERE SINCE 1922, I'M THE SECOND OWNER. I AM VERY FAMILIAR WITH THE WATER, FOREST AND LAND IN THE VAN DUZEN WATERSHED. THE DAMAGE DONE BY THE CANNABIS GROWERS AND WHAT CONTINUES TO GET WORSE EVERY YEAR, THE WATER DIVERSIONS, CUTTING TREES, AND ILLEGAL GRADING IS COMPLETELY UNACCEPTABLE! I23-1

THE VAN DUZEN RIVER AND ITS WATERSHED ARE FEDERALLY DESIGNATED AS "WILD AND SCENIC" AND ARE TO BE PROTECTED TO PRESERVE THE PRISTINE WATERS OF VAN DUZEN RIVER AND WATERSHED. I23-2

IT IS VERY CLEAR AND JUST COMMON SENSE THAT WE DO NOT NEED TO EXPAND THIS INDUSTRY, WE NEED TO CONCENTRATE ON STOPPING THE EXISTING DAMAGE AND TRY TO SAVE OUR NATURAL RESOURCES HERE IN HUMBOLDT. THE GROWERS HAVE MADE IT CLEAR THAT THEY ARE HERE JUST TO MAKE AS MUCH MONEY AS FAST AS THEY CAN, THEY DO NOT CARE ABOUT THE ENVIRONMENTAL DAMAGE, OR WHAT IT I23-3

MEANS TO THE PEOPLE THAT LIVE HERE IN HUMBOLDT. HUMBOLDT COUNTY USED TO A WARM AND FRIENDLY PLACE TO LIVE AND VISIT, NOW THE CANNABIS INDUSTRY HAS CREATED A HOSTILE AND DANGEROUS ENVIRONMENT. IT HAS BROUGHT INCREASED CRIME, INCREASED DRUGS, AND HAS BROUGHT A MASS OF UNDESIREABLE PROBLEMS. THE CANNABIS INDUSTRY AND IT PROBLEMS HAVE RUINED THE QUALITY OF LIFE HERE IN HUMBOLDT FOR ME AND MANY OTHERS, WE DO NOT NEED TO EXPAND THIS INDUSTRY

I23-3 cont.

P.S. I WOULD LIKE TO REMAIN ANONYMOUS FOR SAFETY REASONS I DO NOT WANT TO B TARGETED

I23-4

I HAVE ENCLOSED PICTURES OF THE VAN DUZEN RIVER IN JULY AND AUGUST 2017

I23-5

JULY - AUGUST 2017
VAN DUZEN RIVER









Letter I23	Unknown 10/13/2017

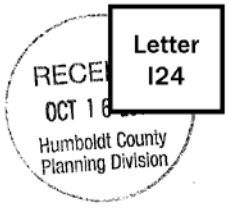
I23-1 The comment states that current impacts to water resources to the Van Duzen River is unacceptable. The DEIR identifies that the Van Duzen River is designated as an impaired water feature sediment on DEIR page 3.8-18. The reader is referred to Master Response 5 for further information regarding impacts to water resources.

I23-2 The comment states that the Van Duzen River is designated as a wild and scenic river. The DEIR identifies that it is part of the Eel River designation for outstanding remarkable values for fisheries and recreation (see DEIR page 3.8-17).

I23-3 The comment expresses opposition with the cannabis industry and provides further concern with maintaining natural resources in the County. This comment is noted. The DEIR identifies the significant environmental impacts from the implementation of the proposed ordinance on the County's natural resources in DEIR Sections 3.1 through 3.14.

I23-4 The comment includes a statement that the commenter would like to remain anonymous. The comment is noted.

I23-5 The comment includes pictures of the Van Duzen River provided by the commenter. This comment is noted.



October 13, 2017

RE: A few comments on the "Commercial" Mythical Medical Marijuana **Ordinance(s)**

Steve Lazar,

Please find enclosed what I read at the Public Theater in Garberville at the Redwood Playhouse October 2nd – **Cannabis partakers, and Hemp oil users, BEWARE: Pesticide poison.** Congratulations, after 20 months of a superfluous *Ordinance* imposed on **private** property and a specific part of the people, the producers – WITHOUT A VOTE ON "NEW TAXES" - ah yes, it does take the consent of the governed – I find dead squirrels, snakes, and raccoons who strayed too close to **21 phucking greenhouses** just down the hill from me. **Right on the Van Duzen River**. I24-1

Also enclosed are **Six Reasons Why Centralization Is Bad** and **Collectivist Fallacies and Interventionist Follies.** It's not like tyranny hasn't been recorded before. I24-2

Some years back my neighbor Mona came to you regarding who can live where and for how long – Riverside Acres, Carlotta. You told her (and it's a great example) that if she had Christmas tree lights all around her house all year long for years, and the Board of Directors decided this isn't allowed, that unless she agreed to it, she didn't have to remove her lights – unless they were not on her house for a period of two years. I24-3

Growing hemp for X amount of years is the same. I don't need some pretend Master's permission to plant whatever I please. If any of the Oath-less, Bondless Revenue Generators came to my grow, they would find a large **HEMP** sign, and a second one – **Shoot Trespassers, Hang Traitors, End Problems.**

"The County" is on the wrong side of history. Think about it.

Sincerely,

Linda Cassara
c/o 801 Riverside Park Road
Carlotta, California
RR95528

768-1704

RECEIVED
OCT 16 2017
Humboldt County
Planning Division

SIX REASONS WHY CENTRALIZATION IS BAD
Freeman's Weekly
March 3, 2017

The odd thing about centralization is that people expect its bad aspects to be external things, like economic issues. But those aren't the most important things. If the internal effects of centralization were recognized, and if we did something about them, the outer problems would vanish with them.

But since everyone expects economic reasons, I'll start there:

#1: Centralization disrupts price discovery.

Disrupting price discovery... that sounds very "economic." What it means is this: Whenever headquarters decides to meddle in business transactions, large sections of the marketplace are thrown out of order. The biggest offenders in this area were the 20th century's socialist states. I'm not sure precisely how many people died (mainly of starvation) from their economic "experiments," but the number is in the range of 100 million. I24-4

Prices are not just numbers, you see; they are crucial information. How many separate prices, for example, go into the delivery of a pencil to your local store[1]? Wood, graphite, lacquer, the pigment for the lacquer, the machines that mix and apply the lacquer, the machines that cut the trees into small pieces of wood, the trucks that move the materials, the cost of hiring the drivers, the cost of the tires, and so on, at great length.

Once the political boss says, "Pencils should cost X," all those costs are pushed and shoved accordingly. Changes have to be made, corners are cut, or scrambles for the extra few cents begin. The process is disrupted, and you can be sure that the quality of pencils will decline, fewer will appear, and/or the various suppliers will fight like crazy.

In the end, this delivers big problems, like the aforementioned starvation. A hundred million deaths, in just the 20th century, came from this. (And it wasn't the bosses who starved; it was the poor and powerless. You know,

the people whom the bosses "love and serve.") So, disrupting price discovery is really, really bad.

#2: Centralization robs you.

Centralization creates a group of people who eat (and generally grow rich) at the expense of everyone else. Every dollar that goes to politicians – for their very fine offices and cars and travel budgets and everything else – is money that is stolen from you and your neighbors.

#3: Central bosses try to show they're necessary.

Did you ever notice that politicians are forever creating new fears? And why? Well, because solving those fears (even if they're mostly imaginary, as most are) makes them seem necessary.

From this we get any number of disasters, especially wars. Have you noticed that presidents become far more popular when they wage a war? Fear sells, and war is a tremendous spectacle. And it makes the centralizers look necessary. (Too bad about all those dead guys.)

I24-4 cont.

#4: Centralization limits you.

Centralized power solving our fears requires an ever-increasing number of codes, and each code is a restriction of some kind. Pretty soon, you can't do half the things you could a couple of decades before. There's a code for every problem and a department to solve it. Address it yourself and you're likely to get hurt.

So, to keep us safe from our professionally cultivated fears, your kid can't run a lemonade stand without a license, your older aunt can't watch the neighbor kids, and God help you if you try to give a lost child a ride home.

Centralization is a straightjacket... restraining not just our bodies, but also our souls.

#5: Centralization kills cooperation.

There are rules for everything. So, you can no longer cooperate with your neighbor because you enjoy it. No... you cooperate because it's commanded by law and you'll be punished if you don't.

Have you noticed people yearning for the old days and talking about small, rustic communities where the people "still look out for each other"? Well, they're right to yearn for that, because it's a very healthy way to live. And it's centralization that stole it from us.

#6: Centralization robs you of self-worth.

Following on from #5 above: What happens inside you when you help people because you, by yourself, give a damn? I think we all know the answer: You become a better, happier, and more beneficial person. You know you did a good thing. And then you feel good about yourself.

Every time you do "the right thing" because it's mandated by law, you are being robbed of self-worth and self-improvement. And your friends and neighbors are robbed of your improved state.
Have We Had Enough?

Perhaps you've thought of items that could be added to this list, but these six are at least a good start.

The conclusion is this:

Centralization is anti-human. It's the enemy of human goodness and progress.

What supports centralization is a steady stream of fears, most of which are imaginary.

So, have we had enough? Can we ditch this garbage now? Can we please start growing up?

I24-4 cont.

RECEIVED
OCT 1 6 2017
Humboldt County
Planning Division

Cannabis partakers, and Hemp oil users, BEWARE: Pesticide poison

September 17, 2017

Caretakers of the land and of the living: **take notice**

A recent article in The Atlantic reveals highly toxic pesticides are being used on immigrant outdoor-grown and greenhouse-grown hemp plants in California, **and the runoff is poisoning forests and rivers.**

The Atlantic article reads:

"Secret growers are taking advantage of the state's remote stretches of public land---and the environmental impact is severe."

"...this past November, Californians voted 'yes' on Proposition 64, making California the fifth state to "**legalize**" recreational cannabis. Almost two-thirds of the country's total harvest comes from the Golden State..." [poisoned pot shipped everywhere]

"The lethal poisons used to protect the crops and campsites from pests are annihilating wildlife, polluting pristine public lands, and maybe even turning up in your next bong hit."

"...grow sites tested positive for carbofuran, a neurotoxic insecticide that is so nasty it has been banned in America, Canada and the EU. Farmers in Kenya have used it to kill lions. Symptoms of exposure range from nausea and blurred vision to convulsions, spontaneous abortions, and death...."

"Some 50 different toxicants have turned up at grow sites... They use the poisons to keep rodents and other animals from eating the sugar-rich sprouting plants, from gnawing on irrigation tubing, and from invading their campsites in search of food. Acute rodenticides cause neurological damage and internal bleeding. Animals literally drown in their own blood or stumble around until they're eaten themselves, passing the poison up the food chain to predators like owls and fishers."

I24-5

"'It's a massive problem,' says Craig Thompson, a wildlife ecologist with the U.S. Forest Service. 'People don't tend to grasp the industrial scale of what's going on. There are thousands of these sites in places the public thinks are pristine, with obscene amounts of chemicals at each one. Each one is an environmental disaster'."

"Gabriel [biologist] and Thompson fear the poisons could spread far beyond each grow site and contaminate the water supply of towns and cities far downstream. The toxicants can leach into the soil and linger for years. Using water monitors, Gabriel has already found organophosphates---nerve agents used to make insecticides and certain types of chemical weapons---several hundred meters downhill from grow sites."

I24-5 cont.

Mark Higley, a wildlife biologist with the Hoopa Tribe in Humboldt County, whose reservation has seen an explosion in grow sites, says, "While there is no proof that the poisoned plants ends up in the burgeoning 'legal' market, many familiar with the industry suspect it does."

I24-6

"Legal enforcement agents think many of the trespass grows are set up [on public land] by Mexican drug cartels, which prefer to ship marijuana from state to state rather than smuggle it over the border. Persons arrested during raids are often undocumented immigrants in their 20s from Michoacan, experienced in covert agriculture and hard living. They earn around $150 a day for two-to-four months, much more than they would at a farm or winery."

"Captured immigrants sometimes claim their employers are holding their families hostage until the harvest is collected. Whether or not that's true, they're motivated to protect the crop. Thompson estimates between a quarter and half of raids turn up some kind of weapon, from crossbows to automatic rifles. He has found elevated sniper positions set up near grow sites."

"Just walking through rows of plants coated with toxic chemicals can be enough to bring on symptoms like lethargy and headaches---let alone spending hours cutting them

I24-7

down in the hot sun under the wash of a helicopter. Gabriel [biologist] and his employees have started getting **monthly blood tests to check for pesticide exposure."**

"Some chemical threats are more immediate. At one site Gabriel was inspecting an unfamiliar container full of aluminum phosphide, a poisonous powder used to kill rodents and insects. It had gasified and built up pressure in the heat of the sun. When he touched it, it exploded in his face. Luckily he was wearing a hazmat respirator."

"'My biggest fear is that some kid will come across one of those bottles," Gabriel says. 'Carbofuran is pink, it looks like Pepto, like candy. Can you imagine what a five-year-old would do with that?'"

I24-7 cont.

----end of Atlantic excerpt---

So the contamination and the poison are in the land, in the water, in animals, in the cannabis people smoke, and in the manufactured hemp products.

This is not the first time that hemp has been found to contain pesticides. A quick search will turn up a number of articles. However, the level of toxicity here in these California indoor, and immigrant outdoor, hemp farms is extreme, to say the least.

How can cannabis smokers be sure they're smoking clean product? For example, are 'legal' dispensaries working with proper labs to test many, many samples? In these tests, how many pesticide compounds are covered? How many aren't?

Over time, stories like the one in The Atlantic come and go, and people forget them. But that would be a mistake.

People who use cannabis often reply to stories like this with the claim they know that a great deal of it is pure, and their suppliers are ethical. One hopes that's true, but is it?

If some of these highly contaminated hemp farms in California are run by Mexican drug cartels, don't expect legal enforcement to solve the problem. It isn't going to happen. The

I24-8

determination isn't there. And "The County" of Humboldt 'permit$' and applauds greedy greenhouse Gods. I24-8 cont.

The corporate governmental employees in the State of California considers the State to be a sanctuary for illegal immigrants. So how are the State persons going to stop some of these immigrants from becoming growers who deploy highly dangerous chemicals on a daily basis? I24-9

As for the California forests and rivers, the public service agencies are far behind the curve. The illegal **and "permitted Legal" greenhouse growers** are, in effect, staging wide-ranging random attacks on the environment.

This has nothing to do with a "progressive attitude" toward cannabis. It has everything to do with criminals seeding the land and rivers with poison, and no incentive for oversight is in place. I24-10

And it is yet one more consequence of the unchecked and unprosecuted growth of the pesticide industry, in which, over many decades, corporations have been manufacturing and selling all sorts of heinous poisons---"better living through chemistry"--- reversing centuries of agricultural practice that fed populations good clean food.

-Jon Rappoport nomorefakenews.com

Collectivist Fallacies and Interventionist Follies

Richard M. Ebeling
09/18/2017

For more than a century the world has been caught in the grip of social engineers and political paternalists determined to either radically remake society from top to bottom in collectivist directions, or to use various government regulatory and redistributive policies to try to modify existing society into desired "social justice" forms and shapes. Both are based on false conceptions of man and society.

One of the leading voices challenging the social engineers and the interventionist-welfare statists in the twentieth century was the Austrian economist, Ludwig von Mises. In such important works as *Socialism* (1922), *Liberalism: The Classical Tradition* (1927), *Critique of Interventionism* (1929), *Planning for Freedom* (1952), and in his monumental treatise, *Human Action* (1949; 1966), Mises demonstrated the economic unworkability and negative unintended consequences resulting from attempts to impose systems of socialist central planning on society, as well as the social quagmire brought about by introducing piecemeal regulations and interventions into the market economy.

I24-11

But it was in his often-neglected work, *Theory and History: An Interpretation of Social and Economic Evolution*, that Ludwig von Mises systematically challenged the underlying philosophical premises behind many of the socialist and interventionist presumptions of the last one hundred years. This year marks the sixtieth anniversary of the publication of *Theory and History* in 1957, and it seems, therefore, worthwhile to appreciate Mises's arguments and their continuing relevance for our own time.

The Illusive Search for Meaning and Purpose in Life

The world is a confusing and uncertain place. While we may live in communities and societies the values, traditions, customs and routines of daily life of which we have grown up in and tend to take for granted, and which provide us with degrees of orienting certainty and predictability in our everyday affairs, they still fail to answer a variety of "big questions."

Among these big questions are, why am I here? What is the meaning of life? What is it – life and reality – all about? Why do bad or disappointing or "evil" things happen to others and to me? Who's to blame? How do we make a "better world"? Ludwig von Mises argued that attempts to find and pursue particular answers to these questions have sometimes brought with them disaster and destruction to society.

Over the ages, people have turned to religious faith and philosophical reflections to try to "understand it all and how it all fits together," and to find ways to accept and live with those things that seem to be unchangeable (at least in one's lifetime) and to try to improve those things in society that do seem to offer avenues and openings for personal and social betterment.

The Rise of Modern Science and Its Positive Impact

In the nineteenth century, Mises explained, there arose new ideas about man, society, and social change. Out of the Enlightenment era of the earlier eighteenth century had come an increased freeing of the human mind from constraining superstitions, and political prohibitions on freedom, to inquire into and discover the reality of the natural world surrounding man. The problem was that the unaided human mind is not only limited and faulty in its powers to correctly see the world as it really is, but that same human mind is often filled with ghostly fantasies and thought-confining superstitions about the universe and man's place in it.

In place of these fantasies and superstitions there arose modern science with its method of observation, conjecture, and empirical testing. The physical world around us has shape, form and size. If we are to know this world, we need to quantify and measure its magnitudes and dimensions, to have benchmarks for understanding outside of the subjective and unreliable belief systems in any one person's imperfect mind.

The development of this scientific method was and has been transformative. It has enabled man to understand many of the past mysteries of physics, biology, and chemistry. And now, knowing more of the objective "laws of nature" and their workings, men were and have been able to harness them for changes and improvements in the physical and social surroundings of humanity. I24-11 cont.

The Error of Reducing Man to Merely Measurable Matter

But a fundamental misstep was taken, Mises argued, when a further conclusion was drawn. If we needed to give up the faulty and imperfect surface impressions about the physical or natural world provided by the unaided "subjective" human mind, and we needed to step out of ourselves to, instead, look at that physical reality in terms of its "objective" and quantifiable characteristics to really understand it, then if we are to better understand man, we need to similarly ignore the human mind's pretentious beliefs about itself, and study man, as well, in terms of the measureable and quantifiable.

It is no denying that man, too, is a physical, biological, and chemical entity, just like everything else in the world in which he lives. But man has something that most other life forms on earth do not possess – a self-reflecting, thinking, conceptualizing, planning and acting mind.

Even in the twenty-first century's scientific advancements, including the accelerating attempts to develop robots possessing "artificial intelligence," the workings of the human mind and the "mystery" of how the impact and impressions of the external, physical world generate the creative act and form of human ideas remains unanswered.

Some developers of robots with artificial intelligence consider an achievable goal to be when the complexity of the robot's computer "mind" will enable it to absorb external sense data and information, and then devise "solutions" to unique, and unplanned for problems and situations, not already programed into the machine.

If this point were ever reached, then the robot's "mind" would have a degree of unpredictability similar to the human mind that had created it. The robot's mind, just like man's, would be an autonomous source of non-deterministic causal change, which even the human creator of the mechanical brain cannot fully predict and determine ahead of time. It may still be inappropriate, at that point, to assert that such a robot had transcended its own origin as a machine, and now possessed human-like consciousness and qualities, and therefore "human rights" (as some are already suggesting). But it would no longer be a mere "calculating machine" in the traditional meaning of that concept.

Our Mind and Not "Observations" Explain Human Action

Mises insisted that if man is to understand himself and the social world in which he lives, he must accept the fact that the working of the human mind cannot simply or merely be reduced to physical matter and external measurable influences on it, on the basis of which human actions may be predicted, manipulated and controlled.

In his many writings on these wider "philosophical" issues, Mises pointed out, and especially in *Theory and History*, that is there is one certain fact that man can know about himself if he but undertakes an introspective reflection on the workings of his own thought processes, and that is that there exists a logical structure to his own mind, which guides his thinking and his acting. It tells us that two plus two cannot equal five, that an object defined as a triangle cannot have four sides, and that "A" cannot simultaneously be "non-A."

Human action, Mises said, is nothing more than our reason applied to the pursuit of our purposes under conditions of scarcity. And, thus, the logic of choice and action, are not something "out there" in the physical world to be learned about through "observation," "measurement," and "empirical testing." I24-11 cont.

From only physical observation all that would be seen in the actions of men would be "movements," no different than billiard balls bouncing off the felt sides of a pool table or a rock falling to earth. We know that our own actions are not such because our very consciousness tells us that they are intentional actions, and we make the same assumption about the "movements" of others based on the "empirical" observation that the observed object is a conscious human being like ourselves.

The fundamental relationships and "laws" of economics, therefore, are not "out there"; they are inside each of us and are derived from the inescapable ways that our minds work. Weighing alternatives, comparing "costs" and "benefits," deciding on desirable "trade-offs," undertaking "exchanges" in terms of what's worth giving up to get something the decision-maker prefers more, are all aspects of the logic that guides our practical and inescapable actions when we discover that means are too scarce to satisfy and fulfill all the imagined ends for which they might be applied.

But Mises also emphasized that what men may concretely imagine, what specific ends they may want to pursue, which particular types of things might be judged to be useful means, what terms of trade would or would not be acceptable to justify entering into an exchange, these are not known "a

priori" from the logical structure of our minds. These depend on the "empirical" reality and circumstances of the physical and social world around each of us.

We discover these things through our lived experience in society and among other humans who are also choice-making and action-undertaking beings. The logic of choice and action is the template within which our own decision-making is undertaken, and which provides us with an interpretive method for understanding and discerning the underlying logic in the actions of others.

But within all this, the human mind remains the creative and never fully predictable agent of imagination, possibility and change. It has been and remains the ideas that form in men's minds that drive "the course of human events," that is the source of all that we call the products and residues and forms of human history. The future ideas of others and even ourselves can never be deterministically predicted from the observed experiences and actions of people in the past. Ideas remain an inexplicable "cause" of the various consequences that comprise the subject matter and content of history.

Furthermore, it is only individuals who have minds, individuals who conceptualize, who imagine, who project themselves into possible futures, who design mental blueprints of plans for possible action, and then attempt to bring to fruition the ends and goals that seem worth the costs to do so, rather than to follow some other future possibilities that they may have imagined.

Marxism and Imaginary "Laws" of History

I24-11 cont.

So what does all of this have to do with the collectivists, social engineers and "social justice" regulators of our own time? The task that Ludwig von Mises primarily set for himself in *Theory and History* was to show the philosophical and ideological house-of-cards upon which the designs and plans of these political paternalists are all built.

Fascinated and, indeed, overpowered by the successes of the scientific method in the natural sciences, some thinkers wondered if the use of the same tools might open the door to discovering the "laws" of human societal development and change. At the same time, if such laws of societal evolution could be discovered, might not man have it within his powers to bend society into the shapes and patterns of his own desire? This could give "meaning" to the "why?" of life and the course it follows, and provide hope that the world could be and will be redesigned for greater happiness and the illusive security for which many yearn.

The most revolutionary of these theories of societal evolution, Mises argued, in terms of its impact on history during the twentieth century, was Karl Marx's theory of dialectical materialism. Marx offered an image of the social world in which technological means and methods of production follow an autonomous trajectory of evolutionary development that leads to a final state of mechanical sophistication at which point machines will produce such a degree of material abundance that work, worry and human hardship will finally be a closed chapter in the history of mankind.

But each step and stage in this evolution of the technology around men requires its own particular social institutional setting for its full transformative development, before the next step and stage in

this evolutionary process requires a new and different set of human institutions to sustain its further development.

Hence, the slave society, the system of feudalism, the capitalist system of profit-oriented production have all been necessary and inescapable stepping-stones to the final stage of societal change, that being post-scarcity socialist and communist societies. Here was a vista and vision that could make sense of it all to the poor and the weary – and more especially to the many intellectuals who are always asking "why" in a world that often seems to not make sense.

The poverty and hardships experienced by many are part of history's preordained path, Marx explained. But the abuse and misery born by untold generations under the boot of the feudal lord or the capitalist exploiter would all come to an end with the arrival of socialism and communism. The world of material plenty would belong to all humankind once the autonomous technological evolution of the methods of production had reached the point at which they could shed the last vestiges of the cruel, unjust and exploitive institution of private property. Salvation is coming – the "laws of history" dictate it. Praise Marx, for "scientifically" showing us the way, the truth and the collectivist light at the end of the capitalist tunnel.

Carried away by this vision of a historical force of technological change that is on a seemingly teleological mission to take humanity from poverty to plenty, the revolutionary Marxist high priests saw it as their duty and destiny to be the "mid-wife" to the final radical change to socialism and central planning. Their task, as the "vanguard" of the revolution, was to lead, guide and impose the new collectivist order on "the masses" who were too ignorant or brainwashed by their former capitalist bosses to fully know where their "true" workers' interest lie. Freedom for mankind would come through a transition period of the dictatorship of the proletariat. And if the blood of many individuals had to flow to bring it about, the collective interests of all took precedence over the personal desires of any one, even if that personal interest by any individual was to be simply left alone to live his life peacefully as he chose in voluntary association with others.

I24-11 cont.

Men Make Machines, Machines Do Not Impose Ideas on Men

While claiming to be objectively scientific, at the heart of Marx's conception of "history" is an unspoken mystical notion of "technology gods" who decide on how and when they will develop, and what they will dictate as the social arrangements that they need and want at each stage of their pre-ordained path to a final stop at the doorstep of socialism. Machines become the acting agents on the stage of history, and man the mind-passive entity carried on the back of technological transformations outside of human understanding and control.

Mises challenged this mystical belief in technologies and machines that followed autonomous paths of evolution and change. Machines do not make and dictate the actions and institutions of men. Machines are inanimate objects made of physical materials. It is the human mind that imagines and manufactures the machines that serve men's purposes. How could a technology or method of production dictate the social conditions and thoughts of men, when it is human ideas about imagined productive possibilities that bring technologies into existence, and which are facilitated in their forms and uses by the social institutional setting within which they are applied? Mises emphasized:

A technological invention is not something material. It is the product of a mental process, of reasoning and conceiving new ideas. The tools and machines may be called material, but the operations of the mind which created them is certainly spiritual.

Furthermore, Mises asked, on what basis do these purveyors of the "law" of predetermined historical transformation claim to know what are the "true" and "real" interests of "the workers" versus that of the property-owning capitalists? In each of his actions, the individual manifests and demonstrates what he considers to be his "interests," whether this concerns the breakfast food he eats, the clothes he likes to wear, or the political and social ideas and beliefs he holds.

The Marxists, and all other collectivists like them, merely have shown their personal arrogance and dictatorial hubris, Mises said, in asserting and claiming the right to impose a particular set of values and governmental policies on all through the use of political force to make everyone conform to the central plans within which they wish to confine humanity.

The Planner's Hubris vs. Unintended Consequences

All philosophies of history, including Marx's, presume that "history" follows a special and particular course, a predetermined path leading to a specific outcome and end result. In analyzing these claims, Mises insisted upon playing the role of the boy in the story who announces loudly that the ideological and philosophical "emperors" have no clothes.

I24-11 cont.

If "history" is on some "mission" or is following some predetermined course, this is beyond any common sense or "scientific" human understanding. History, Mises explained, is the story of human actions guided by the ideas men come to have about ends worth wanting, means chosen to try to attain them, and the intended and unintended consequences that have followed in the wake of men undertaking the actions and interactions that we call the cumulative course of human events.

Human history is the record of all the successes and failures, the triumphs and tragedies of men along the way of the lives they have lived. History recounts the beliefs and ideas men have held and which have guided their implementing economic and social changes, institutional reforms, and political policies.

History also reminds us, Mises pointed out, that much of what we consider the social results and institutional products of human design are in fact the unintended, longer-run consequences of choices and actions, the later outcomes and impacts of which none of the human actors in their own, earlier time could have even imagined. As Mises expressed it:

But the historical process is not designed by individuals. It is the composite outcome of the intentional actions of all individuals. No man can plan history. All he can plan and try to put into effect is his own actions that, jointly with the actions of other men, constitute the historical process. The Pilgrim Fathers did not plan to found the United States . . .

The monumental tombs of the Egyptian kings still exist, but it was not the intention of their builders to make modern Egypt attractive for tourists and to supply present-day museums with mummies.

Nothing demonstrates more emphatically the temporal limitations on human planning than the venerable ruins scattered about the face of the earth.

The inescapable humility that such things should guide men to have, based on the misplaced attempts by earlier generations to "plan for the ages" or to presume to know what their own actions will bring about when it was beyond their own mental horizons to even fully imagine, highlights how pretentious and presumptuous all recent and present-day social engineers and economic planners have been and continue to be. As Mises also said:

The utopian author wants to arrange future conditions according to his own ideas and to deprive the rest of mankind once and for all of the faculty to choose and to act. One plan alone, viz., the author's plan, should be executed and all other people be silenced . . .

[The central planner] will . . . reduce all other people to pawns in his plans. He will deal with them as the engineer deals with the raw materials out of which he builds, a method pertinently called social engineering.

Historicism and the Denial of Economics

I24-11 cont.

One other variation of this theme, Mises argued, was that of the "Historicists," the social philosophers who have insisted that there are no "laws" or patterns or regularities to be persistently discovered in the course of human events. Here we find, Mises explained, those who deny or implicitly reject the notion of there being "laws of economics," such as those of supply and demand and the coordinating order that tends to emerge out of the competitive interactions of consumers and producers, buyers and sellers, in the arenas of market exchange.

For the Historicist, governments may do anything they want with no noticeable negative consequences in terms of the policy goals they insist upon pursuing. Workers' incomes are "too low," then simply impose a minimum wage above those wages set in the market; there will be no loss of jobs, they assert, due to employers concluding that some workers are not worth what the government says they are now to be paid.

Some are "too poor" while others are "too rich," then simply impose higher and higher taxes on the wealthy "Peter" to redistribute to the "Paul" who has "too little." This can all be done with no negative effects on the those bearing this greater tax burden in terms of their willingness and ability to save and invest so as to maintain or increase the overall output of goods and services upon which everyone is ultimately dependent in terms of their material betterment and standards of living in society.

All such interventionist and redistributive policies, Mises insisted, ignore that there are patterns and coordinative regularities discoverable in the competitive interactions of the marketplace. They are the interpersonal market manifestations of those basic and inescapable laws of economics that originate in and emerge out of the logic of choice and action that start in the minds of men, that we discussed earlier.

Government dictating what people must pay for something if it is bought, does not necessarily make it worth that amount in the mind of a person who is weighing his personal, or subjective, costs and benefits, and deciding whether the price the government commands to be paid is worth the cost and would still generate a profit rather than a loss. Hence, the worker may remain or become unemployed due to the government pricing that worker out of the market in terms of the subjective valuations and appraisements of those who might otherwise have hired or retained him in their enterprise's workforce.

Taxing even the very wealthy does not change the fact that the individual having great financial means still weighs and compares the trade-offs of the benefits versus the costs from continuing to save, invest, and produce as much as they have been or could be as enterprisers, entrepreneurs and businessmen when, at the margin, the net gains from the effort after the higher taxes reduces the ability for or incentive from doing so.

I24-11 cont.

As long as men think, plan, choose and act, there will be the resulting "laws of economics" in their own minds and lives, and in their interactions with others in the arenas of exchange. Governments may try to ignore these elementary laws of choice and action, and impose commands, controls and restrictions on people in the marketplace. But at the end of the day, the economic logic of the human mind will prevail over the dictates of political paternalists and the hubris of the social engineers.

These lessons, and many others that space does not permit highlighting, are easier to learn and understand due to the arguments and insights to be found in Ludwig von Mises's *Theory and History*. For this reason, sixty years after its original publication, the words on its pages still relevantly speak to us in our own time.

Letter I24	Linda Cassara 10/13/2017

I24-1 The comment identifies their opposition to the proposed ordinance. This comment is noted.

I24-2 The comment refers to attached materials regarding their opposition to the proposed ordinance. These comments are responded to below.

I24-3 The comment provides general comments regarding their opposition to the proposed ordinance. No specific comments on the proposed ordinance or the DEIR are provided. This comment is noted.

I24-4 The comment consists of six points regarding centralization. No specific comments on the proposed ordinance or the DEIR are provided. This comment is noted.

I24-5 The comment provides information regarding the current use of pesticides on unpermitted cannabis cultivation. The existing contamination, biological, and water quality issues with unpermitted cannabis cultivation is documented in the DEIR on pages 3.4-59, 3.7-10, and 3.8-33.

I24-6 The comment suggests that pesticides may end up in cannabis products. Contamination associated with unpermitted cannabis operations is documented on DEIR page 3.7-10.

I24-7 The comment provides further comments on the hazards of unpermitted cannabis cultivation. This comment is noted. The reader is referred to Master Response 1 for further discussion on the DEIR's disclosure of the environmental impacts of unpermitted cannabis operations.

I24-8 The comment provides further input on contamination associated with existing unpermitted cannabis operations. The existing contamination, biological, and water quality issues with unpermitted cannabis cultivation is documented in the DEIR on pages 3.4-59, 3.7-10, and 3.8-33.

I24-9 The comment questions whether the state would be able to ensure cannabis operations are not using dangerous chemicals. All permitted cannabis operations would be subject to compliance with the State Water Board Policy that includes requirements for pesticide usage.

I24-10 The comment asserts that unpermitted and permitted cannabis operations are impacting the environment. The reader is referred to Master Response 1 for further discussion on the DEIR's disclosure of the environmental impacts of unpermitted cannabis operations. The DEIR does address the environmental impacts from the implementation of the proposed ordinance.

I24-11 The comment provides a document called "Collective Fallacies and Interventionist Follies." No specific comments on the proposed ordinance or the DEIR are provided. This comment is noted.

Letter I25

From: Kathy
To: Ford, John; Fennell, Estelle; Lazar, Steve
Cc: Kathy
Subject: Garberville meeting, re-send of comments from correct email address
Date: Friday, October 13, 2017 1:14:37 PM

From: John C
Sent: Friday, October 13, 2017 1:10 PM
To: jford@co.humboldt.ca.us ; efennell@co.humboldt.ca.us ; slazar@co.humboldt.ca.us
Cc: Kathy
Subject: Garberville meeting

Dear Director Ford, Mr. Lazar, and Ms Fennell;

Thank you for holding another meeting in Garberville. I have some unresolved questions, and input on a few issues.

One, I feel it is very important for the commission to adhere to the original ordinance when reviewing applications that were submitted during this initial round. We all, in good faith, did our best to fulfill these requirements. (I am not referring to people who applied as a cover and never intended to complete their application). I25-1

Two, I would like clarification about the 3,000 square foot cultivation permit. There seem to be certain requirements for larger sizes that do not have to met by this size, and the details are unclear to me. I25-2

Was a change made to the pond requirements regarding no fencing,? I hope so, I firmly feel that ponds need quality fencing, to protect children and wildlife. Also, has a change been considered for the need to drain ponds if a bull frog is present? I think they should be caught and relocated (or eaten) as a better alternative to killing all life, native or not, in a pond. I25-3

I would appreciate clarification on the point about not having employees on farms under 3,000 square feet- I think it may have been addressed, allowing allowing employees, but I only caught the end of that statement, if one was made. (That was at the beginning of the meeting and there was some distraction where I was sitting). I25-4

I understand the value of increasing setbacks for outdoor cultivation sites- I have followed some of the issues brought up by concerned citizens in Fortuna. I am still confused about how these new requirements would apply though. Is the 300 foot property line setback for undeveloped parcels or for every neighboring parcel? Does the community type, zoning or size of the cultivation area affect this setback distance? Is there any consideration being made for natural barriers, such as trees, or other forms of mitigation that could be used to reduce smell from outdoor cultivation? If a 5 acre parcel can have a cultivation area up to I25-5

5,000 square feet, this setback could severely limit a farm's possibilities, considering that most rural properties have restrictions as to where a cultivation can be placed, due to slope, riparian areas, wooded areas, homesites, etc. What if neighboring parcels are also used for cultivation? I25-5 cont.

Mr. Ford commented that a permit for using riparian water would not be a big expense. I hope that remains so. We already have to pay Fish and Wildlife and Sate Waterboard fees. I25-6

The need for daily water use records is excessive- we annually file how much water we pump to storage during high flow periods with the State Waterboard, and by observing forbearance, that water is then what we have to use. Pretty clear and simple. A daily, weekly or even monthly breakdown is not necessary. You could ask for volunteers to participate in a data collection program if you want to gather statistics. I25-7

I appreciate the department's commitment to eliminating large, unpermitted grows, but wish actions had begun much sooner. I think the environmental quality, our local economy, and community well being will benefit when these grows are gone. I25-8

I believe that the commission is making a sincere effort to address the concerns of Southern Humboldt farmers, even if it requires some back-tracking on your part. You have taken on a daunting task and have many diverse elements to reconcile. Please continue to put community well being at the forefront of you plans. I25-9

I would appreciate having a meeting with any one of you to address my concerns, if that is possible. Not all the issues I am addressing affect me personally, but I also want to share concerns my friends have expressed. I25-10

Sincerely,
Katherine Wolman
PO Box 1060
Redway, CA 95560

Virus-free. www.avast.com

Letter I25	Katherine Wolman 10/13/2017

I25-1 The comment states that it is important to adhere to the original ordinance when reviewing applications that have been submitted. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I25-2 The comment requests clarification on the 3,000-square foot cultivation permit. Those allowances are explained in Section 55.4.6.5.1 (Small Cultivation Sites) of the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I25-3 The comment requests clarification on water storage requirements in the proposed ordinance. The County is considering this requested change as part of revisions to the proposed ordinance. Bull frogs are an invasive species that impact existing wildlife in the County.

I25-4 The comment requests clarification regarding the prohibition of employees on farms under 3,000 square feet. The proposed ordinance reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I25-5 The comment requests clarifications on the proposed ordinance setback requirements. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I25-6 The comment asks about expenses associated with use of riparian water. This comment is noted. As described in Master Response 5, all cannabis cultivation would be required to comply with the water diversion requirements of the State Water Board Policy. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I25-7 The comment asserts that the proposed ordinance's requirements for water use documentation is excessive. The County is considering this requested change as part of revisions to the proposed ordinance. The reader is referred to Response to Comment I25-6.

I25-8 The comment appreciates the County's commitment to eliminate large unpermitted grows. This comment is noted. The reader is referred to Master Response 6 for a further discussion of County code enforcement activities.

I25-9 The comment states that the Planning Commission is making a sincere effort to address the concerns of southern Humboldt farmers. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I25-10 The comment requests a meeting to address their concerns. This comment is noted. The reader can contact Steve Lazar with the Humboldt County Planning & Building Department to schedule a meeting to discuss concerns.

Letter I26

October 13, 2017

Mr. Steven Lazar
Humboldt County Building and Planning Dept.
3015 H Street
Eureka, CA 95501

Re: Section 314-55.3 of Chapter 4 of Division 1 of Title III of the Humboldt County Code – Public Comment re Cannabis Ordinance Environmental Review

Dear Mr. Lazar:

My husband and I are landowners living in a home we built on our parcel in Humboldt County in a rural residential area just outside of the city limits of Fortuna served by South Loop and Dick Smith Roads. We purchased our parcel over fifteen years ago then continued working for over a decade to be able to afford the opportunity to build a home in Humboldt County where we could live out our retirement years.

Now we are faced with the likelihood of having to live on a daily basis with marijuana grows and processing facilities right next door. Humboldt County residents are all familiar with the powerful, pervasive and noxious smells such grows emit, the fact that toxic chemicals are routinely used and disbursed into the soils and ground waters, the loud noises, dangers and disturbances, increased traffic and road noise, eye sores, transitory workers, trespassers, illegal encampments and violent criminals attracted by large unsecured cash flows. I26-1

It is extremely distressing to think that the groundwater we use daily for drinking and cooking is being contaminated by toxic chemicals and that our wells are at risk of running dry due to the inordinately high water usage of such grows. I26-2

We selected Humboldt County as a place to retire and invest in because of its pristine beauty, plentiful wildlife, native plants, awe inspiring bio-diversity and for its family friendly, environmentally responsible residents. Living just outside of Fortuna city limits, we lack the protection of Fortuna's ordinances prohibiting grows within city limits; but there are hundreds of families living in rural residential areas just outside of city limits whose lives, like ours, will be forever harmed if marijuana growers are permitted to set up shop in their neighborhoods. I26-3

Humboldt County needs to strive to attract more families and professionals to this community, not to drive out those who can afford to build, retire and invest in this area. I26-4

For all of these reasons, I strongly urge action by the Humboldt County Building and Planning Department, the Humboldt County Board of Supervisors and any and all other local government agencies who have the power and determination to protect this County's landowners and its environment, to prohibit the permitting of marijuana grows and processing facilities within the rural residential neighborhoods of Humboldt County. I26-5

Sincerely,

Leslie G. McMurray

Letter I26	Leslie McMurray 10/13/2017

I26-1 The comment includes a summary of impacts associated with cannabis operations that include odors, use of pesticides and contamination, noise, traffic, visual impacts, and law enforcement issues.

The DEIR addresses the environmental impacts of these issue areas in DEIR Section 3.1, "Aesthetics," 3.3, "Air Quality and Greenhouse Gases," 3.7, "Hazards and Hazardous Materials," 3.10, "Noise," and 3.11, "Public Services," and 3.12, "Transportation and Circulation."

I26-2 The comment includes concerns with groundwater quality and contamination resulting from cannabis operations. As identified under DEIR Impact 3.7-3, commercial cannabis operations would be subject to federal and state regulations for the proper use and storage of pesticides that protect public health and the environment (see DEIR pages 3.7-2 through 3.7-6 and 3.7-17). DEIR Impact 3.8-2 also addresses water quality impacts associated with pesticide usage (see DEIR page 3.8-37). The reader is also referred to Master Response 5 for further information on the recent adoption of the State Water Board Policy that provides additional water quality control requirements that address pesticides. DEIR Impact 3.8-3 addresses groundwater supply impacts and identifies that the proposed ordinance's water use and groundwater performance standards in combination with Mitigation Measure 3.8-3 would protect local groundwater resources (see DEIR pages 3.8-38 and 3.8-39).

I26-3 The comment includes general concerns regarding marijuana permitting. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I26-4 The comment includes the opinion that Humboldt County needs to attract more citizens rather than drive them out. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I26-5 The comment includes opposition of marijuana permitting. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I27

From: ernieoriudy
To: Lazar, Steve
Subject: Cannabis EIR Comment(s)
Date: Saturday, October 14, 2017 4:24:18 PM

Under the section referring to setbacks (1,000 feet) from city or residential boundaries, these conditions must be retroactive to the approval of the EIR. That is, if you, the County, approved a permit prior to approvals of the EIR's, then those permits must be updated to conform with the provisions of the approved EIR's. You cannot issue permits, present and past, that are not in conformance with the provisions of the EIR's. I27-1

Additionally, after the permittees are in compliance with the setbacks, they must also adhere to any conditions pertaining to odor or smell emanating from any of the permittees operations. I27-2

I'm afraid you let the "horse" out of the barn by approving permits prior to having completed approved EIS's for Cannabis cultivation. In essence, those permits which you, the County of Humboldt, approved prior to having approved EIS's in place are invalid if they do not conform to the approved EIS's, assuming the EIS's are approved. I27-3

/s/ Ernie DeGraff, Fortuna, CA

Letter I27	Ernie DeGraff 10/14/2017

I27-1 The comment recommends that the 1,000-foot setback for commercial cannabis cultivation from city or residential boundaries should be retroactive after approval of the EIR. The comment further states that approved permits must be updated to conform to the provisions of the EIR.

The DEIR is an informational document that discloses the potential significant environmental impacts from the implementation of the proposed ordinance and not the CMMLUO. The DEIR is not the proper process to develop to modify permits for approved cannabis operations.

I27-2 The comment states that operations must adhere to established odor regulations. The proposed ordinance includes requirements for odor control for indoor cultivation operations. For additional information regarding odor, the reader is referred to Master Response 4.

I27-3 The comment states that the County let the "horse" out of the barn by approving cannabis operations prior to approval of the EIR. Permits that have been approved to date are associated with compliance with the CMMLUO and not the proposed ordinance that is evaluated by the DEIR.

Letter I28

From: Gus Erickson
To: Lazar, Steve
Subject: New apps.
Date: Saturday, October 14, 2017 9:18:19 PM

It seems the two complaints heard the most are that the permitting process is painfully slow and there is a need for more enforcement. Both of these issues are the result of a lack of resources eg., manpower, time or money.
Opening the application process again for a limited times seems like the appropriate thing to do. More money from these application fees could be used to address the complaints rendered above. It would also give some of the people a second chance to enrol now that they understand it more and are perhaps in a better financial situation in which to participate.
Thanks for the consideration
Gus Erickson
707 599 8965
Get Outlook for Android

I28-1

Letter I28	Gus Erickson 10/14/2017

I28-1 The comment includes concerns with enforcement and the permitting process under the proposed ordinance. This comment is noted. The reader is referred to Master Response 6 for further information on the County's enhancement of code enforcement efforts. The County is considering this requested change as part of revisions to the proposed ordinance.

Letter I29

From: heddinger2@aol.com
To: Lazar, Steve
Subject: Pot regulations
Date: Saturday, October 14, 2017 10:08:51 AM

I know I sent an email regarding the grow wanting to expand up Horse Linto on River Access but I also want to address the ongoing issues in our neighborhoods. Code enforcement officers told the guy on Neighbors Lane that he needed to get rid of some plants and he did and then after they no longer checked on him, he brought them back and we continued to smell them as he harvested them. Him and his family all driving vehicles with Florida plates. The huge grow in the subdivision behind the golf course was never touched even after numerous complaints from all of the neighbors.

These people have no respect for the people that live here and choose not to grow, they grow as much as they want regardless of what the code states and we get stuck with the smell. Their driving which is really bad, tearing up our roads which they do not help maintain because a lot of them do drive with out of state plates and now we have the trimagrants that are making our town filthy. I29-1

We also have the pg&email emplogee who seems to be untouchable by code enforcement even though his neighbors have continued to report him for various violations.

Please do not allow more grows in Willow Creek, we do not want the mess thathat Garberville has.

Thanks,
Marjorie Heddinger heddinger2@aol.com

Sent from AOL Mobile Mail

Letter I29	Marjorie Heddinger 10/14/2017

I29-1 The comment includes general concern and opposition for new cannabis operations and identifies damage to roadways.

As identified on DEIR page 3.12-13, the existing and new commercial cannabis operations under the proposed ordinance would be required to obtain access to a roadway system that is equivalent or exceeds the County's Category 4 road standard. The County has determined that the Category 4 road standard is adequate to accommodate traffic from commercial cannabis operations. In addition, commercial cannabis operations would be required to join or establish road maintenance associations for the funding of on-going maintenance. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter
I30

From: George Clark [mailto:gkclark@arcatanet.com]
Sent: Sunday, October 15, 2017 2:08 PM
To: Lazar, Steve
Subject: Public Comment - Commercial Cannabis Activities - Draft E.I.R.

October 15, 2017

Steve Lazar
Senior Planner
Humboldt County
3015 H Street
Eureka, Ca 95501

George Clark
P.O. Box 6302
Eureka, Ca 95502
443-3555

PUBLIC COMMENT:

COMMERCIAL CANNABIS ACTIVITIES
DRAFT ENVIRONMENTAL IMPACT REPORT
HUMBOLDT COUNTY, CALIFORNIA

For over a generation, federal, state and local government have together wasted billions of public dollars attempting to enforce cannabis prohibition in rural Northern California resulting in abysmal failure rates despite paramilitary force, underscoring the challenge to all of the mitigation measures being proposed to address the environmental impacts from commercial cannabis activities. No additional permitting of any commercial activities should be allowed until Humboldt County's numerous impaired streams, tributaries, rivers and biodiversity collapse show signs of recovery from more-effective mitigation measures. I30-1

Regulatory enforcement relies on the observations and cooperation of residents to follow the law and to report criminal activity which can work well in urban neighborhoods, but is undermined by the "feudal outlaw economy" of fear, favor and silence common in rural areas, in effect, large land owners and investors collecting cash for rents, leases and profit-sharing, as part of a long history of unbridled abuses of land and water overwhelming regulatory agencies. The Commercial Cannabis Activities Draft EIR does not address the historic reality of enforcement failures, stating only that this is an, "*area of controversy… to be resolved later*", yet, the Draft E.I.R. recommends that enforcement agencies rely on water-flow technology and recordkeeping maintained by commercial cannabis growers even though self-regulation by other commercial activities have already failed to reverse or stabilize the effects of their negative environmental impacts. I30-2

Local regulatory agencies have decades of on-the-ground experience with violations from the myriad of commercial activities not limited to cannabis production. It is this institutional knowledge and experience behind the California Department of Fish and Wildlife's recommendation, (contained within the Draft EIR), to develop water carrying-capacity regulations and immediately suspend issuance of commercial cannabis permits until more effective enforcement strategies can be determined. I30-3

Suspension is further warranted until Humboldt County holds a series of interactive public workshops with professional hydrologists, local environmental organizations and the wildlife and forestry agencies needed to expand public awareness in the importance of water carrying-capacity certification for every commercial activity in our watersheds. The Draft EIR fails to emphasize the necessity of educating and involving all county residents, especially those living in our headwaters, in order to develop minimal cooperation to implement mitigating measures recommended in the Draft EIR. I30-4

Equitable, countywide water carrying-capacity certification for all commercial purposes would also reduce inevitable violent conflicts stemming from worsening water shortages anticipated from a warming climate, decreasing rainfall, and increasing demand. Closely connected issues, such as unfunded infrastructure liabilities, water quality, habitat loss, and biodiversity collapse represent significant and unavoidable negative impacts that are being under-rated within this Draft EIR. For example, biodiversity collapse, (a precursor to the record number of extinction events recurring worldwide), is primarily the result of human encroachment and water depletion disrupting ecosystems that took millennia to evolve. Our numerous impaired streams and rivers already reflect biodiversity collapse with the real potential of multiple extinctions of species in this region, including native species, meriting extreme public concern and debate. Extinction cannot be mitigated. I30-5

In 2010 I worked in the administrative office of the U.S. Census covering 5 Northern California counties, including Humboldt County. Late in the process we began utilizing a relatively new tool, "Google Earth", and discovered large numbers of structures that were not identified by county records. Humboldt County has the authority through the California Water Act, Sustainable Groundwater Management Act, CDFA, and the RWQCB, with funding available through the Water Code Section 10720.1, to begin implementing water carrying-capacity certification and enforcement by utilizing the latest satellite technology now available to county government. This technology can be used to identify structures to be added to the county tax rolls while providing the opportunity to review water-use saving millions of dollars by eliminating inefficient searches along 1,000 miles of dirt roads; however, there is no substitute for regulatory agencies like CDFW to periodically inspect many miles of Humboldt County's streams, tributaries and rivers for camouflaged pumps, mining, makeshift dams, bridges and roads. I30-6

I have lived in Humboldt County for over 40 years and understand the legacy of abuses of private land and fresh water that are currently overwhelming regulators and are not limited to: I30-7

haphazard logging and road construction; non-permitted and untaxed homes, summer cabins, rental houses, and hunting lodges; free-range livestock using streams as highways; improvised dams and bridges; illegal hunting, trapping, and mining; excavated ponds, trout farms, and water extraction for delivery service; commercial gardens, vineyards, and orchards using fertilizers, phosphates, sulfur, pesticides, fungicides and herbicides; large water pumps with acres of 2" pipe connected to water-tanks overflowing from wells and diverted streams. (Local contractors are backlogged with competition to deepen wells). I30-7 cont.

I have personally witnessed the impacts on pristine streams, tributaries and rivers that ran clear just one generation ago and are now impaired; choked with toxic algae in the summer months due to excessive diversions that cause lower flows and warmer water, combined with nitrogen contamination from fertilizers, phosphates and livestock. Visible populations of crayfish, eels, freshwater clams, reptiles, amphibians and otters have largely vanished, (despite a nascent recovery following 35 years of sharply declining timber industry clear-cuts, herbicides, slash-burns and road construction). I30-8

All commercial activities in Humboldt County's watersheds require immediate and effective regulatory action to protect public health, safety, recreation, natural resources, wildlife, and the tax-revenues providing our communities with law enforcement, schools and infrastructure. Under-regulated and mismanaged land and water is repeating the legacy of abuses occurring throughout the nation, and that were already experienced in Southern California's rural areas in the 1920's, with often violent and catastrophic environmental, economic and social consequences. Humboldt County's rush to collect fees from commercial cannabis production without public workshops, or effective regulatory strategies, are based upon promises of "jobs and prosperity" that were also used by their predecessors 75 years ago in advocating for timber operations on Humboldt Bay without consideration of the long-term environmental, economic, and public health consequences, leaving Humboldt Bay surrounded in toxic brownfields. I30-9

Unless water carrying-capacity certifications are implemented for all commercial uses in our headwaters, Humboldt County's "Wild West" excesses will intensify from the premature issuance of thousands of commercial cannabis permits granted without adequate regulations and without consideration of the combined impact with existing commercial activities, a warming climate, declining fresh water sources, and biodiversity collapse that, if unaddressed, will lead to inevitable extinctions. I30-10

Equitable government regulations and enforcement are the only countervailing force capable of protecting natural habitats and resident's safety, health and posterity against the continuing abuses by whoever can afford the most land, heaviest equipment, largest pumps, and biggest water tanks. I30-11

Sincerely,
George Clark

Fwd: Governor Jerry Brown
Senator Diane Feinstein
Senator Kamala Harris
Senator Mike McGuire
Representative Jared Huffman
Assemblyman Jim Wood

Letter I30	George Clark 10/15/2017

I30-1 The comment asserts that no further cannabis operations should be permitted until impaired streams, tributaries, rivers, and biodiversity improve from existing cannabis.

The reader is referred to Master Response 1 for further details on the DEIR's evaluation of existing environmental effects from unpermitted cannabis operations. While the existing environmental conditions of unpermitted cannabis cultivation operations were disclosed as part of the baseline condition in the DEIR, CEQA is not intended to conduct environmental review and mitigate these conditions. State CEQA Guidelines Section 15125(a) identifies that the baseline physical conditions are the basis by which a lead agency determines whether an impact of the project is significant. Published case law has identified that baseline conditions include unpermitted and/or harmful activities that have occurred prior to the project.

I30-2 The comment states that the DEIR does not adequately address enforcement issues. The reader is referred to Master Response 6 for a detailed discussion of the County's improvements to code enforcement actions in the County and Master Response 1 for the DEIR's evaluation of existing environmental effects from unpermitted cannabis operations.

I30-3 The comment asserts that local regulatory agencies have the experience to address cannabis issues and references CDFW recommendations for water carrying capacity regulations and suspend cannabis permitting until enforcement is improved.

As further described under Master Response 5, a watershed analysis to establish cannabis cultivation caps for each watershed would be difficult for the County to conduct as it would require details on existing water users in each watershed and the extent that riparian water rights may be exercised. The County lacks the technical experience to collect this extent of data and determine what is the appropriate aquatic carrying capacity. Regional and state agencies that would have the appropriate technical information and experience to conduct a watershed analysis include State Water Board, North Coast Regional Water Quality Control Board, and CDFW. The County would be willing to participate in joint watershed evaluation studies with these agencies. The DEIR does provide a watershed level impact analysis associated with the proposed ordinance that includes details on current water quality and surface water flow conditions (see DEIR pages 3.8-14 through 3.8-47). Water quality impacts would be mitigated through compliance with the State Water Board Policy as well as implementation of Mitigation Measure 3.8-2. The State Water Board Policy would require that all cannabis cultivation surface water and groundwater diversions comply with the numeric flows and aquatic base flows that have been established by watershed under the Policy in consultation with CDFW. The State Water Board Policy's numeric flows and aquatic base flows and associated diversion requirements function as an aquatic carrying capacity suggested by the comment. It should be noted that at the time of the preparation of this Final EIR the County was considering modifications to the proposed ordinance that would establish a cap to limit the extent of permitted commercial cannabis operations in the County.

The reader is also referred to Master Response 6 for a detailed discussion of the County's improvements to code enforcement actions.

I30-4 The comment asserts that a suspension of the proposed ordinance is warranted until workshops with hydrologists, local environmental organizations, and natural resource agencies to expand public awareness and address the carrying capacity for watersheds. The comment

also asserts that the DEIR fails to emphasize the necessity of educating and involving all county residents to develop cooperation to implement mitigation measures in the DEIR.

The suggested suspension of the proposed ordinance is noted. The County conducted several public workshops on the proposed ordinance and has consulted with CDFW and the North Coast Regional Water Quality Control Board on the development of the proposed ordinance. The reader is referred to Response to Comment I30-3 for further discussion of developing carrying capacities for watersheds.

The DEIR is an informational document that discloses the potential significant environmental impacts and mitigation measures to address impacts from the implementation of the proposed ordinance for consideration by the public and County decision-makers (Planning Commission and Board of Supervisors). Public comment on the DEIR and its mitigation measures was solicited for a 45-day period through the release of the Notice of Availability that was distributed by the County. CEQA does not mandate that all county residents must participate in the environmental review process.

I30-5 The comment asserts the need to develop water carrying capacities to address water shortages that result in impacts to biological resources and water quality. The comment also asserts that the DEIR underrates theses impacts.

DEIR Section 3.4, "Biological Resources," and 3.8, "Hydrology and Water Quality," provide a detailed description of current conditions of habitats, special-status species, and water quality and flow conditions for County watersheds. These sections also address potential impacts of the proposed ordinance on biological resources and water resources and identifies mitigation measures to reduce the impact of the proposed ordinance to a less-than-significant level. The reader is referred to Master Response 5 for further details on water diversion restrictions and numeric instream flow requirements for County watersheds that would apply to commercial cannabis operations under the proposed ordinance to protect aquatic resources. The comment letter provides no technical analysis or information that counters the analysis provided in the DEIR.

I30-6 The comment provides general statements regarding resources and agencies that can be used for enforcement and development of water carrying capacities.

This comment is noted. The reader is referred to Response to Comment I30-3 and Master Response 6 for further discussion on watershed impacts and County code enforcement activities.

I30-7 The comment includes a list of existing conditions within Humboldt County. This comment is noted. Existing environmental conditions of the County are identified in DEIR Sections 3.1 through 3.14.

I30-8 The comment includes existing conditions and concerns with waterways in Humboldt County. This comment is noted. Impaired conditions of County watersheds are identified on DEIR pages 3.8-17 through 3.8-21, while current flow conditions are identified on DEIR pages 3.8-22 through 3.8-25.

I30-9 The comment states that all commercial activities in County watersheds require immediate regulatory action to protect public health, safety, recreation, natural resources, and wildlife.

This comment is noted. The reader is referred to Master Response 1 for further details on the DEIR's evaluation of existing environmental effects from unpermitted cannabis operations and Master Response 6 for further discussion of County code enforcement activities.

I30-10 The comment asserts that water carrying capacity certification for County watersheds is required to avoid impacts to natural resources and extinction.

The reader is referred to Response to Comment I30-5 for a discussion of the DEIR's analysis of biological and water resource impacts and details on water diversion restrictions and numeric instream flow requirements for County watersheds that would protect aquatic resources.

I30-11 The comment includes further opinion of regulation and enforcement. This comment is noted.

Letter I31

From: Sue Leskiw
To: Lazar, Steve
Subject: Comments on proposed amendments to cannabis ordinance and accompanying DEIR
Date: Sunday, October 15, 2017 4:29:49 PM
Attachments: Cannabis Comments on DEIR and Proposed Ordinance.docx

October 15, 2017

Steven Lazar, Senior Planner (slazar@co.humboldt.ca.us)

Humboldt County Planning & Building Department

Dear Mr. Lazar:

Following are my comments on the "Ordinance amending provisions of Title II of the Humboldt County Code relating to the commercial cultivation, processing, manufacturing, distribution, testing, and sale of cannabis for medicinal or adult use," as well as the Draft Environmental Impact Statement (DEIR), "Amendments to Humboldt County code regulating commercial cannabis activities" (September 2017).

Overall, I commend the Humboldt County Planning Department for its suggested improvements to the commercial cannabis ordinance adopted by the Board of Supervisors in 2016. In many instances, the proposed amended ordinance would add or strengthen provisions that would "ensure the health and safety of residents, employees, County visitors, neighboring property owners, and end users of cannabis."

However, it is of the utmost importance that cannabis permit applications, especially for new sites, that have not been approved by the time a revised ordinance is adopted are NOT grandfathered in under the current weaker ordinance. Why would you want to approve hundreds (or even thousands) of projects that couldn't pass heightened environmental muster? That strategy will lead to problems and conflicts down the road. Illegal cannabis grows have caused a lot of negative impacts on Humboldt County. It would be unconscionable to compound that damage by approving less-than-ideal plans before the new regulations are enacted. (For example, the 2016 ordinance contains NO road standard requirements, a major oversight.) Whether or not commercial cannabis permit applications will be required to meet the specifications of any amended/updated ordinance is, in my opinion, the most important decision the Humboldt County Board of Supervisors faces. I31-1

Comments on Proposed Cannabis Ordinance

[55.4.5.1] Special Area Provisions

Rural Residential Neighborhood Areas -- "A special permit shall be required for any Commercial Cannabis Activity permit for an activity that will be located within mapped Rural Residential Neighborhood Areas (RRNAs)."

- The County needs to create and expedite a process whereby property owners can appeal boundaries drawn on draft RRNA maps that are based on General Plan designations from the 1980s. RRNA maps should be automatically updated to reflect new designations when the General Plan Update is completed. I31-2

Early Notification

- Notifying property owners within 1,000 feet is not enough. I suggest that all owners and occupants of property within 1 road mile along any public or private road used to access the I31-3

project be notified.
- Nearby property owners should be notified when a cannabis project is submitted, rather than waiting until it has been determined complete for processing to inform neighbors.

I31-3 cont

[55.4.5.6] Term of Commercial Cannabis Activity Clearance or Permit

- I concur that permits should last only 1 year, but will the County have the resources to perform an annual inspection of all permitted sites?
- The fee assessed for the inspection and/or for renewal of the annual permit should be set to, at a minimum, recoup the County's cost to perform the assessment. "Annual inspection fees" of no specified amount are referenced in Section 44.4.12.1.6, but should also be noted in Section 55.4.5.6.

I31-4

[55.4.5.10] Restriction of water use under special circumstances – I concur with this, but it should not be limited to adverse effects to fish and wildlife resources. The water use restriction should also apply to situations where water withdrawals by a cannabis operation cause neighboring residential wells to go dry.

I31-5

[55.4.6.3] Eligibility Criteria

- Access Roads – These MUST meet Category 4. The only possible exception I can envision to this standard would be if a cannabis project is located at the terminus of a road; that is, if no other residents have to get past it to reach their properties. Use the same language as in 55.4.7.

I31-6

[55.4.6.4] Siting Criteria

I31-7

- Conversion of Timberland Prohibited – I concur with this.
- Setbacks – 30 feet from any property line is too close; minimum should be 100 feet. 300 feet from any residence is too close; minimum should be at least 500 feet. Noise and smells can travel farther than that! Setbacks of "cultivation sites, wells, and similar infrastructure must observe all prescribed setbacks and limitations pertaining to the use of land located within or affecting Streamside Management Areas or other wet areas…" Add language requiring applicants to have all SMAs and wet areas on their property delineated by a qualified professional. Why not spell out the setbacks here, rather than referring to Section 314-61.1 [of Title 3, Land Use and Development, Division 1, Planning and Zoning Regulations, Chapter 6, General Provisions and Exceptions, Streamside Management Ordinance]?

I31-8

[55.4.7] Cannabis Support Activities

- "Roads providing access to the parcel or premises must comply with the Road System Performance Standard for Functional Capacity (all segments must either be paved with centerline stripe, or paved meeting the Category 4 standard). Exceptions are prohibited." – I concur, but ask that a requirement be added that in Rural Residential areas, permit seekers MUST perform traffic studies, to predict increased road use from locating a business in a low-density residential area. The County should not be permitting commercial businesses in the middle of residential neighborhoods, using outdated General Plan designations.

I31-9

- "Distribution, off-site processing, enclosed nurseries, and propagation centers" should NOT be principally permitted with a Zoning Clearance Certificate. These higher impact facilities should require a Special Use Permit and be subject to a public hearing. [NOTE: Page 1-3 of the DEIR states that the County's project objectives include that "commercial distribution and nurseries, testing centers, and community propagation centers would be located within designated commercial and industrial land areas." However, page 2-18 of the DEIR allows these facilities in AE, AG, FR, and U inland zoning districts.]

I31-10

[55.4.8] Indoor Cultivation and Manufacturing

- "Roads providing access to the parcel or premises must comply with the Road System Performance Standard for Functional Capacity (all segments must either be paved with centerline stripe, or paved meeting the Category 4 standard). Exceptions are prohibited." – I concur. but in Rural Residential areas, permit seekers MUST perform traffic studies, to predict increased road use from locating a business in a residential area. I31-11
- Indoor cultivation "may only be conducted within a non-residential structure which was in existence prior to 1/1/2016." I find this language confusing; it seems to say that if greenhouses weren't built before 1/1/2016, there can be no indoor cultivation on the property. I31-12

[55.4.10] Other Provisions

- Farm-based Retail Sales – Not all growers should be able to sell products on site. It must be determined how much this would increase traffic on access road(s). If the farm is also approved for processing cannabis that is produced off-site, the County would need to ensure that what the permit holder is selling is limited to product grown on-site. I31-13
- Temporary Special Events/Onsite Cannabis Consumption/Tours – The County must take into account road access to the site and whether public safety would be jeopardized by attendees driving under the influence post-event. Tour frequency and size/weight of the bus used to transport people need to be evaluated in light of what the access roads can safely accommodate. I31-14

[55.4.12] Performance Standards

- Road Systems, Functional Capacity – DELETE the phrase "(or same practical effect"). Everywhere else in the proposed ordinance, it states "NO EXCEPTIONS" for Category 4 road requirements. Including "or same practical effect" here creates a huge loophole that could result in residential users of the access road having to pay for a rebuttal road assessment to the one submitted by the permit applicant. The DEIR includes the "or same practical effect" language in the Road Standard 2, Functional Capacity section – DELETE. The last sentence states "the report [prepared by a licensed engineer] would be required to also include a recommendation or formula for cost sharing among all parcels served by the road system." This is confusing – if it applies to ONLY parcels requesting cannabis permits, it should say so. The way it is written makes it sound like ALL residents along the road would have to pay for upgrades to benefit cannabis growers! I31-15
- "Only emergency trucked water" – I concur with this, but a maximum time length of what is considered an "emergency" needs to be specified I31-16
- "Approved means of sewage disposal" -- If using a septic tank, it must be permitted by the County. I31-17
- Light Pollution Control – I concur that light must not be allowed to escape from mixed-light cultivation and nurseries during night-time lighting sessions and that security lighting must be shielded and angled to prevent light from spilling outside of site boundaries. I concur that structures for mixed-light cultivation or nurseries should be prohibited within 200 feet of a riparian zone. However, the ordinance needs to add that applicant must provide a delineation performed by a qualified professional of all riparian zones on the property. I31-18
- Energy Use – I concur that energy must be 100% renewable and grid power. However, the revised ordinance needs to specify that NO generators are allowed on new sites. I concur that generators should not be audible from neighboring residences on pre-existing sites, but the language should be changed from "residences" to "property lines" to be more protective of neighbors. I31-19
- Wells on Small Parcels – Section 3.8-3 of the DEIR discusses groundwater supply impacts. It would require testing for new wells on parcels 10 acres or smaller located within 400 feet of property lines to determine if drawdown could occur on any adjacent wells. What is the I31-20

justification for applying these performance standards only to "small" parcels? The DEIR states that "it is PRESUMED that parcels larger than this contain sufficient buffer to prevent effects to wells on adjacent properties." However, if a well is sited near a boundary of a parcel, it definitely could affect (draw down) wells on neighboring parcels or reduce flows in nearby streams. I suggest changing the testing requirement from a parcel size limitation to instead require performance standards based on the distance in feet (I'm not sure 400 feet is sufficient) from an adjoining property line. Or better yet, require ALL permit applicants to determine connectivity of the source supply well to neighboring wells and to surface water. Wells should be subject to the same performance standards as diversionary water use, requiring documentation of use, forbearance, metering, and recordkeeping. Any well yield tests should be required to be performed during the dry season of the year, as the County requires for new residential development. Water use by a single residence is miniscule compared to a cannabis farm! ALL permits obtaining water from a well should document well production and changes in groundwater levels during each month of the year. The DEIR mentions adaptive management for wells that may include forbearance (e.g., prohibition of groundwater extraction from May to October), water conservation measures, reductions in cultivation, etc. "Adaptive management measures will remain in place until groundwater levels have recovered." However, language regarding adaptive management IS NOT INCLUDED IN THE PROPOSED ORDINANCE. The EIR admits "it is not known if operation of wells … over an extended period could result in isolated locations that affect the operability of adjacent wells. As a result, this would be potentially SIGNIFICANT impact." Under the revised ordinance, neighbors of cannabis projects irrigating with well water should have an established protocol to report to the County that their wells have run dry, immediately triggering limitations on continued cannabis-related irrigation. Cannabis permit holders should be required to certify that they will arrange for and cover the costs of water deliveries to non-cannabis-growing neighboring properties, until the groundwater is recharged. Neighbors should NOT have to foot the bill for deepening their wells because a cannabis project has depleted the groundwater. [SEE ALSO further discussion under "Comments on DEIR" section, 3-8.3, of these comments.]

I31-20 cont

- Soils Management – I concur with this.

DEFICIENCIES of the Proposed Ordinance Not Discussed Above

Odor control – Section 3.3-4 of the DEIR discusses exposure of people to objectionable odors. "Setbacks do not preclude the generation of odorous emissions in such quantities as to cause detriment, nuisance, or annoyance to a substantial number of people. This would be a SIGNIFICANT impact." According to the DEIR, "the proposed ordinance states that indoor cultivation would be required to be mechanically ventilated with a carbon filter or other feature to prevent the odor from escaping the structure." HOWEVER, THIS REQUIREMENT DOES NOT APPEAR IN THE PROPOSED ORDINANCE.

I31-21

Number of harvests -- The DEIR narrative lists a general number of harvests per year for the different systems of cultivation. First, should this be codified in the ordinance, and second, should applicants be prohibited from getting around such a requirement by rotating harvest schedules through different greenhouses? It makes a big different in impacts to the neighbors whether a cannabis project hosts two harvests per year versus twelve!

I31-22

Noise – The ordinance covers generators but does not mention other sources of noise: barking guard dogs, fans, water pumps, work crews (especially during harvesting), busloads of people on cannabis tours, etc. These could be significant sources of noise and should be regulated.

I31-23

In Table 2-3, "Indoor Cannabis Cultivation – Allowable Zoning Districts, for Resource Production/ Residential Areas, with AE, AG, FR, and U Designation," I do not understand the limit of 5,000 square feet located in a non-residential structure that existed prior to 1/1/16 allowed with a ZCC. Does this mean that LARGER proposed grows in greenhouses that are not yet built need MORE than

I31-24

a ZCC? I31-24 cont

Comments on the DEIR

Summary of Impacts and Mitigation Measures

[3.2.2] Conversion of forest land – I concur that no new commercial cultivation sites should be allowed in lands zoned as TPZ. I31-25

[3.3.4] Exposure of people to objectionable odors -- "Setbacks do not preclude the generation of odorous emissions in such quantities as to cause detriment, nuisance, or annoyance to a substantial number of people. This would be a SIGNIFICANT impact." The DEIR states that "the proposed ordinance states that indoor cultivation would be required to be mechanically ventilated with a carbon filter of other feature to prevent the odor from escaping the structure." HOWEVER, THIS REQUIREMENT DOES NOT APPEAR IN THE PROPOSED ORDINANCE. The only mitigation measure regarding odor control is a prohibition on burning excess plant material. I31-26

[3.4.1a] Preconstruction surveys for special-status amphibians – It matters what time of year these surveys are done, to properly detect the presence of animals that are dormant during cold weather. The ordinance should specify that any surveys be done by a qualified biologist using a generally accepted protocol. I31-27

[3.4.3b] Invasive plant species – I concur with requiring removal of invasive plants from cannabis sites. I31-28

[3.4.4] Riparian habitat and wetland vegetation – I concur with the need for surveys for these sensitive resources and prohibiting ground-disturbing activities and vegetation removal within these areas. I31-29

[3.4.5] Waters of the U.S. – I concur that a qualified biologist should survey sites for wetlands, streams, and rivers and, if found, apply for a Section 404 permit. If the permit is denied, a minimum 50-foot buffer around these features is required. I31-30

[3.8.3] Groundwater supply impacts – What is the justification behind this applying only to "small" parcels? The important factor is that the well is located within 400 feet of a property line, rather than having the size of the property be the determining factor for bringing this mitigation into play. A proposed cannabis property may be more than 10 acres in size, but adjoining properties (e.g., rural residential) may be smaller. A drawdown could occur on an adjacent parcel if the new well is drilled close to the property line. "The close proximity of wells to other wells, and structure and volume of the groundwater basin (among many factors), can influence if a well would affect other wells." ALL permits obtaining water from a well should document well production and changes in groundwater levels during each month of the year. The DEIR mentions adaptive management measures that may include forbearance (e.g., prohibition of groundwater extraction from May through October), water conservation measures, reductions in cultivation, etc., to recover groundwater levels and protect adjacent wells. "Adaptive management measures will remain in place until groundwater levels have recovered." BUT LANGUAGE ON ADAPTIVE MANAGEMENT IS NOT INCLUDED IN THE PROPOSED ORDINANCE. Even if a well passes a short-term drawdown test, the DEIR admits "it is not known if operation of wells … over an extended period could result in isolated locations that affect the operability of adjacent wells. As a result, this would be potentially SIGNIFICANT impact." Under the revised ordinance, neighbors of cannabis projects that are irrigating with well water should have an established protocol to report to the County that their wells have run dry, triggering limitations on continued cannabis-related irrigation. The cannabis permit holder should be required to arrange and pay for water deliveries to non-cannabis-growing neighboring properties until the groundwater is recharged. I31-31

[3.8.5] Water diversion restrictions and monitoring and reporting requirements – I concur with the provision that "groundwater users will be required to demonstrate that the groundwater source is I31-32

NOT hydrologically connected to an adjacent surface water feature and is not subject to the forbearance requirements through the establishment of a flow gage in the stream or river and groundwater pumping tests to monitor and verify no connection to the satisfaction of the County and/or State Water Resources Control Board." I31-32 cont

[3.9.3] Potential for inadequate emergency access – I concur that commercial cannabis operations should comply with County fire safe regulations and Category 4 road standards. Inadequate emergency access could tragically impact all residents of a road serving a cannabis project, so there must be NO EXCEPTIONS. I31-33

[3.10.2] Long-term non-transportational operational noise – I do not agree with the DEIR's contention that setback requirements in the proposed ordinance would prevent sensitive users from being exposed to excessive noise levels during each harvest. Property line setbacks are only 30 feet! The DEIR does not consider the CUMULATIVE effect of noise from sources such as machinery, workers, OHVs, fans, and generators. The DEIR does not speak to the LENGTH OF TIME that neighbors could be exposed to what the County General Plan considers an "acceptable level" of noise, both through multiple harvest periods per year and via operations lasting up to 11 hours per day. One might endure short bursts of "lawn equipment noise" levels, but be negatively affected by hearing it during most waking hours! People should not have to stay indoors or at the furthest point on their property from a cannabis project to have the noise attenuated enough to not be bothered by it. The ordinance also should take into account what ambient noise levels are pre-cannabis project before finding a significant increase in decibels to be acceptable. The DEIR states that "additional noise reduction would be provided by any intervening topography, dense stands of trees, or manmade structures located between the cultivation sites and off-site receptors." I know from personal experience with noise generated by Redwood Acres Raceway that sound can carry great distances and be funneled by topography and weather conditions. I31-34

[3.12.2] Long-term increase in traffic – I do not understand why this impact is only determined for state highways and therefore set as less than significant. Traffic impacts could be VERY SIGNIFICANT on the lower-standard roads where many cannabis farms would be located. Because these public and private roads are infrequently traveled, the impact of harvesting, sales, tours, and other cannabis-related traffic would be disproportionately large. I31-35

[3.12.3] Transportation and Circulation, Assumptions & Analysis Techniques – It is unrealistic to expect that each worker will make only one trip to the site and one trip from the site per day, if he/she is working at a cannabis location less than 15 miles from areas with amenities for eating, shopping, banking, etc. I31-36

[6.2.2] The County's project objectives include "relocating existing non-permitted cannabis-related activities into more centralized locations with better infrastructure (e.g., nurseries, community propagation centers, processing centers)." Then, why does the proposed ordinance allow new sites for these activities to be located in in AE, AG, FR, and U inland zoning districts? I31-37

[6.3] Alternatives Selected for Detailed Analysis

- Alternative 1, No Project, No Additional Permits Issued – I consider this alternative unacceptable because it does not implement the proposed changes to the existing ordinance. I31-38
- Alternative 2, No Project, New Permits Issued – I consider this the least acceptable alternative because it does not implement the proposed changes to the existing ordinance AND it allows new applications for cannabis operations to be submitted. I31-39
- Alternative 3, Prohibition of New Outdoor and Mixed-Light Cultivation Operations in City Spheres of Influence and Community Plan Areas – I like that this alternative implements a revised (strengthened) ordinance. I like that this alternative is intended to "address I31-40

environmental impacts associated with objectionable odors from cannabis cultivation, water supply impacts to service providers, and potential conflict with local groundwater sources and existing wells." However, it applies ONLY in city spheres of influence and community plan areas. What about the rest of unincorporated Humboldt County, particularly Rural Residential Neighborhood Areas? I31-40 cont

- Alternative 4, Prohibition of New Outdoor and Mixed-Light Cultivation Operations – I like that this alternative implements a revised (strengthened) ordinance. I like the cap on outdoor and mixed-light cultivation applications. Given the unlikelihood that the Supervisors would opt for Alternative 5, this would be my preferred alternative, I31-41
- Alternative 5, Reduction of New Commercial Cannabis Operations – The DEIR deems this to be the environmentally superior alternative. It is based in part on the Friends of the Eel River Notice of Preparation comments that suggested a "Watershed and Wildlife Protection Alternative." What about new cultivation permits that have already been approved? What about new applications that would be able to meet the more-stringent requirements of the proposed revised ordinance? While it is appealing to focus on cleaning up existing non-compliant cannabis operations, I do not see this alternative having political traction with a majority of Humboldt County Supervisors. I31-42

Thank you for considering my comments on the proposed amendments to the commercial cannabis ordinance and the DEIR that accompanies it.

Sincerely yours,

Susan Leskiw
155 Kara Ln, McKInleyville CA 95519
707-442-5444; sueleskiw1@gmail.com

[NOTE: Using CAPITALIZATION for emphasis is my convention and is not part of the two documents under review.]

Letter I31	Sue Leskiw 10/15/2017

I31-1 The comment provides introductory statements on the proposed ordinance and specifically requests that current cannabis applications that are not approved prior to adoption of the proposed ordinance not be grandfathered under the CMMLUO.

This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project. Current applications are subject to the CMMLUO that is not evaluated in this EIR for the proposed ordinance. These operations would still be monitored by the County and code enforcement would be implemented for noncompliance.

I31-2 The comment provides input on the proposed ordinance Section 55.4.5.1 (Special Area Provisions – Rural Residential Neighborhood Areas). The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I31-3 The comment provides input on the proposed ordinance Section 55.4.5.1 (Special Area Provisions – Early Notification). The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I31-4 The comment provides input on the proposed ordinance Section 55.4.5.6 (Terms of Commercial Cannabis Activity Clearance or Permit). The County is considering this requested change as part of revisions to the proposed ordinance. The County Planning & Building Department may need additional staffing, and can request additional staff as needed. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I31-5 The comment provides input on the proposed ordinance Section 55.4.5.10 (Restriction of water use under special circumstances). DEIR Mitigation Measure 3.8-3 would ensure testing, monitoring, and modification of well operations should groundwater drawdown impacts occur. Groundwater use would also be restricted under the State Water Board Policy when aquatic base flow requirements in County watersheds are not being met.

I31-6 The comment provides input on the proposed ordinance Section 55.4.6.3 (Eligibility Criteria). The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I31-7 The comment supports proposed ordinance Section 55.4.6.4 (Siting Criteria – Conversion of Timberland Prohibited). This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I31-8 The comment provides input on the proposed ordinance Section 55.4.6.4 (Siting Criteria – Setbacks). The reader is referred to Master Response 3 for a further discussion of noise impacts and Master Response 4 for a further discussion of odor impacts. The County is considering this requested change as part of revisions to the proposed ordinance.

I31-9 The comment provides input on the proposed ordinance Section 55.4.7 (Cannabis Support Activities – road standards). The County is considering this requested change as part of revisions to the proposed ordinance. DEIR Section 3.12, "Transportation and Circulation," identified that implementation of the proposed ordinance was not expected to generate traffic volumes that would result in deficient level of service operations. A mitigation measure (Mitigation Measure 3.12-2) has been added to the Final EIR to ensure that highway access points and intersections are properly designed to accommodate anticipated traffic volumes and safety.

I31-10 The comment provides input on the proposed ordinance Section 55.4.7 (Cannabis Support Activities – distribution, off-site processing, enclosed nurseries, and propagation centers). The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does identify any environmental issues not addressed in the EIR.

I31-11 The comment provides input on the proposed ordinance Section 55.4.8 (Indoor Cultivation and Manufacturing – road standards). The County is considering this requested change as part of revisions to the proposed ordinance. The reader is referred to Response to Comment I31-9.

I31-12 The comment provides input on the proposed ordinance Section 55.4.8 (Indoor Cultivation and Manufacturing – structure limitation). Section 55.4.8.1.1 establishes requirements for indoor cultivation in new structures. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I31-13 The comment provides input on the proposed ordinance Section 55.4.10 (Other Provisions – Farm-based Retail Sales). The County is considering this requested change as part of revisions to the proposed ordinance. The reader is referred to Response to Comment I31-9 regarding traffic concerns.

I31-14 The comment provides input on the proposed ordinance Section 55.4.10 (Other Provisions – Temporary Special Events/Onsite Cannabis Consumption/Tours). The proposed ordinance reflects this requested change. It should be also noted that roadways would be required to meet the County's Category 4 road standard. The County has determined that this roadway is adequate to accommodate commercial cannabis operation traffic. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I31-15 The comment provides input on the proposed ordinance Section 55.4.12 (Performance Standards – Road Systems, Functional Capacity). As identified on DEIR page 3.12-13, the proposed ordinance requires the roadway system meets, is equivalent, or exceeds the County's Category 4 road standard. The Category 4 road standard provides 18 to 20-foot wide travel lanes, 2-foot wide bladed shoulders (as required by the County), 25 to 40-mile per hour design speed, and sight distance requirements for safe passage. The County has determined that the Category 4 road standard is adequate to accommodate commercial cannabis operation traffic volumes and vehicle types (e.g., passenger vehicles, small trucks, large service trucks).

I31-16 The comment provides input on the proposed ordinance Section 55.4.12 (Performance Standards – Only emergency truck water). The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I31-17 The comment provides input on the proposed ordinance Section 55.4.12 (Performance Standards – Approved means of sewage disposal). The County is considering this requested

change as part of revisions to the proposed ordinance. Sewer service and improvements would be required to meet County Code requirements. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I31-18 The comment provides input on the proposed ordinance Section 55.4.12 (Performance Standards – Light Pollution Control). The County is considering this requested change as part of revisions to the proposed ordinance. Delineations and avoidance of sensitive habitats (including riparian areas) is required under DEIR Mitigation Measure 3.4-4. All commercial cannabis cultivation would be required to meet the State Water Board Policy setback requirements as well.

I31-19 The comment provides input on the proposed ordinance Section 55.4.12 (Performance Standards – Energy Use). The County is considering this requested change as part of revisions to the proposed ordinance. The County has updated the proposed ordinance's performance standards for noise at cultivation sites that now prohibit noise from cultivation and related activities (including generators) from increasing the ambient noise level at any property line by more than 3 dB. As identified on DEIR page 3.10-2, the human ear can begin to detect sound level increases at 3dB.

I31-20 The comment provides input on the proposed ordinance Section 55.4.12 (Performance Standards – Wells on Small Parcels and Soils Management).

As identified in Master Response 5, the proposed ordinance contains testing requirements for wells on parcels 10 acres or smaller located within 400 feet of property lines to determine if drawdown could occur on any adjacent wells. It is presumed that parcels larger than this contain sufficient buffer to prevent effects to wells on adjacent properties. Ten acres is also the smallest parcel size under the proposed ordinance that up to 43,560 square feet (1 acre) of cannabis cultivation may be allowed with a Special Permit in resource protection and residential zoning districts that would generate the greatest water demand in relation to parcel size (347,173 gallons per year, approximately the 3.17 times the equivalent demand of a single family residential dwelling unit that uses 300 gallons per day). Without a Special Permit, cannabis cultivation is limited to 5,000 square feet for parcels 5 to 10 acres in size, 10,000 square feet for parcels 10 acres or larger. Parcels 320 acres or larger would be allowed up to 43,560 square feet of cannabis cultivation per 100 acres with a Use Permit. Commercial and industrial zoned areas where commercial cannabis cultivation would be allowed on parcels at least 2 acres in size and would allow up to 1 acre of cultivation with a Zoning Clearance. Thus, the proposed ordinance requirements address the greatest potential for groundwater impacts.

The testing requirements further identify that use of a well for cannabis-related irrigation may be prohibited, limited or subject to provisional approval and monitoring, depending on the results of the testing. The well tests (in the ordinance) are designed to prevent drawdown on adjacent properties; however, it is not possible to assure that, over the long-term and in variable hydrologic conditions where wells are located closer than 400 feet from adjacent properties, that some isolated wells could be affected by adjacent cannabis operations. Implementation of Mitigation Measure 3.8.3 would modify the requirements of the proposed ordinance by requiring the reporting of annual monitoring of groundwater conditions to the County as part of the annual inspections required under the ordinance. This monitoring will identify if on-site well operations are resulting in groundwater drawdown impacts and what adaptive measures that will be implemented to recover groundwater levels and protect adjacent wells.

Because implementation of this mitigation measure would be required as part of annual commercial cannabis operations permit renewals, it would provide on-going protection of local groundwater resources. The State Water Board will also monitor instream flows during

the dry season for compliance with aquatic base flows established for each watershed and evaluate whether the number or location of groundwater diversions to determine whether imposition of a groundwater forbearance period or other measures. The State Water Board will notify cannabis cultivators the possibility of a groundwater forbearance period or other measures may be imposed to address low flow conditions.

The comment regarding concurrence with the proposed ordinance's soil management provisions is noted.

I31-21 The comment states that the proposed ordinance does not include odor control requirements for indoor cultivation.

The DEIR does also identify that indoor cultivation and processing facilities are not anticipated to result in a significant odor impact. As identified below, Section 55.4.4 (Definitions) of the proposed ordinance specifically requires that all enclosed cannabis facilities prevent odor from occurring outside of the structure:

> "Enclosed" means Commercial Cannabis Cultivation Activities conducted within an enclosed structure employing mechanical ventilation controls in concert with carbon filtration or other equivalent or superior method(s) minimizing the odor of cannabis outside of the structure.

While the proposed ordinance does not specify the exact method of odor control, it does establish a performance standard that all indoor processing facilities are required to demonstrate compliance with. This method of addressing and mitigating the odor impact is consistent with State CEQA Guidelines Section 15126.4(a)(1)(B) that in part states: "…However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way."

I31-22 The comment states that harvest assumptions in the DEIR be included as requirements in the proposed ordinance to avoid greater extent of harvest events.

The harvest assumptions identified in the DEIR are based on the length of the growing cycles for cannabis using outdoor, mixed-light, indoor cultivation methods review of current cannabis cultivation operations in the County. The DEIR impact analysis conservatively assumes that all new commercial cannabis cultivation operations (indoor, outdoor, and mixed-light) are harvesting at the same time (see Master Response 2). The County is considering this requested change as part of revisions to the proposed ordinance.

I31-23 The comment states that the proposed ordinance does not address all noise sources associated with commercial cannabis operations. The reader is referred to Master Response 3 for an analysis of noise sources of concern. The County has also updated the proposed ordinance's performance standards for noise at cultivation sites that now prohibit noise from cultivation and related activities from increasing the ambient noise level at any property line by more than 3 dB. As identified on DEIR page 3.10-2, the human ear can begin to detect sound level increases at 3dB.

I31-24 The comment questions the indoor cannabis cultivation limits of the proposed ordinance. The proposed ordinance would allow indoor cultivation area of up to 10,000 square feet in a new structure subject to a Special Permit in C-2, C-3, ML, MH, and U zones.

I31-25 The comment concurs with the DEIR impact conclusions and prohibitions on converting TPZ areas to cannabis operations. This comment is noted.

I31-26 The comment summarizes the impact conclusions of DEIR Impact 3.3-4 regarding odor and asserts that the proposed ordinance does not include odor control for indoor cultivation.

The reader is referred to Response to Comment I31-21.

I31-27 The comment states that the timing for special-status amphibian surveys is important and surveys should be conducted by a qualified biologist.

DEIR mitigation measures associated with special-status species and amphibians have been refined based on CDFW comments and now specify that preconstruction surveys be done by a qualified biologist that is familiar with amphibian life cycles. Mitigations to protect amphibians will be developed in consultation with CDFW. The reader is referred to Response to Comment S1-13 for further information on modifications to mitigation measures.

I31-28 The comment concurs with DEIR Mitigation Measure 3.4-3b regarding invasive plant species. This comment is noted.

I31-29 The comment concurs with DEIR Mitigation Measure 3.4-4 protective measures for sensitive natural communities, riparian habitat, and wetland vegetation. This comment is noted.

I31-30 The comment concurs with DEIR Mitigation Measure 3.4-5 protective measures for wetlands. This comment is noted.

I31-31 The comment questions the parcel size used in the well requirements and DEIR Mitigation Measure 3.8-3 to address groundwater impacts. The reader is referred to Response to Comment I31-20.

I31-32 The comment concurs with the groundwater standards set forth in DEIR Mitigation Measure 3.8-5. The reader is referred to Master Response 5 for further discussion of groundwater diversion restrictions associated with the recently adopted State Water Board Policy. The State Water Board will also monitor instream flows during the dry season for compliance with aquatic base flows established for each watershed and evaluate whether the number or location of groundwater diversions to determine whether imposition of a groundwater forbearance period or other measures. The State Water Board will notify cannabis cultivators the possibility of a groundwater forbearance period or other measures may be imposed to address low flow conditions. DEIR Mitigation Measure 3.8-5 has been modified to be consistent with the State Water Board Policy.

I31-33 The comment concurs with the DEIR's conclusions on emergency access evaluated on DEIR page 3.12-17. This comment is noted. Exceptions to the roadway standards would only be allowed where a functionally equivalent improvement is provided.

I31-34 The comment disagrees with the DEIR noise impact conclusions under DEIR Impact 3.10-2 regarding all sources of noise from cannabis operations. The reader is referred to Master Response 3 for a further discussion of noise impacts from commercial cannabis cultivation operations and recently updated County noise standards. The County has also updated the proposed ordinance's performance standards for noise at cultivation sites that now prohibit noise from cultivation and related activities from increasing the ambient noise level at any property line by more than 3 dB. As identified on DEIR page 3.10-2, the human ear can begin to detect sound level increases at 3dB.

I31-35 The comment questions why the DEIR evaluates traffic operation impacts to state highways and not local roadways. The comment asserts that local roadways would be significantly impacted.

As identified on DEIR page 3.12-13, the existing and new commercial cannabis operations under the proposed ordinance would be required to obtain access to a local roadway system that is equivalent or exceeds the County's Category 4 road standard. The Category 4 road standard provides 18 to 20-foot wide travel lanes, 2-foot wide bladed shoulders (as required by the County), 25 to 40-mile per hour design speed, and sight distance requirements for safe passage. The County has determined that the Category 4 road standard is adequate to accommodate commercial cannabis operation traffic volumes and vehicle types (e.g., passenger vehicles, small trucks, large service trucks). In addition, commercial cannabis operations would be required to join or establish road maintenance associations for the funding of on-going maintenance.

I31-36 The comment questions the DEIR assumptions for the number of trips a commercial cannabis employee would take per day.

The referenced 15-mile radius is used for estimating traffic generated by commercial cannabis cultivation sites during harvest. As described on DEIR page 3.12-12, the DEIR trip estimations were based on GIS mapping and travel time. Vehicle trips associated with shopping, banking, and other personal activities are not associated with commercial cannabis operations and would occur without commercial cannabis operations. Moreover, these trips would occur midday, during the time when there would not be peak roadway traffic typically occurring during commute times.

I31-37 The comment references the project objectives and questions why the proposed ordinance would allow new commercial cannabis support facilities in AE, AG, FR, and U inland zoning districts.

While it is acknowledged that the proposed ordinance would allow new commercial cannabis support facilities in these zoning districts, it would also allow these uses to occur in areas zoned Community Commercial, Industrial Commercial, Business Park, Light Industrial, and Heavy Industrial.

I31-38 The comment states that Alternative 1 is unacceptable. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

I31-39 The comment states that Alternative 2 is least acceptable alternative. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

I31-40 The comment states that Alternative 3 provides some benefits and questions why it only applies to city spheres of influence and community plan areas.

As identified on DEIR page 6-16, this alternative is intended to address environmental impacts associated with objectionable odors from cannabis cultivation, water supply impacts to service providers, and potential conflict with local groundwater sources and existing wells. These impacts primarily occur near the incorporated cities and unincorporated communities that are located with the County's community plan areas.

I31-41 The comment states that Alternative 4 is their preferred alternative. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

I31-42 The comment states that Alternative 5 is not likely to have political traction and questions how this would apply to permits approved. This alternative was intended to be complete prohibition of new commercial cannabis outdoor and mixed-light cultivation that did not exist on or before December 31, 2015. Should the County wish to further consider this alternative for adoption, adjustments for approved commercial cannabis operations would need to be made.

Letter I32

From: "%Name%"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 9:10:13 AM

Name:	Andrew Couturier
E-mail:	andy@theopening.org
Your Comments:	I am heartbroken at the destruction of nature I see every day in Humboldt County due to massive industrialized cannabis. The Central Valley is the appropriate place for this kind of industry, not the too dry, too mountainous area of Humboldt. More enforcement. Stronger enforcement. Please.

I32-1

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I32-2

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I32-3

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I32-4

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I32-5

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I32-6

Thank you,

Letter I32	Andrew Couturier 10/16/2017

I32-1 The comment includes opposition of the proposed ordinance and the need for more enforcement. This comment is noted. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I32-2 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I32-3 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I32-4 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I32-5 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I32-6 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I33

From: "Arcadia Ratcliff"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 2:45:24 PM

Name:	Arcadia Ratcliff
E-mail:	adratcliff2011@gmail.com

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I33-1

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I33-2

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I33-3

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I33-4

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I33-5

Thank you,

Letter I33	Arcadia Ratcliff 10/16/2017

I33-1 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I33-2 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I33-3 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I33-4 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I33-5 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I34

From: Barbara Shults
To: Lazar, Steve
Subject: Amendment to Draft EIR of Commercial Cannabis
Date: Monday, October 16, 2017 4:57:02 PM

Dear Steve;

Unable to download copy of Draft EIR for Amendments for Commercial Cannabis. I oppose the Draft EIR for Commercial Cannabis for the following reasons; I34-1

Having Commercial Cannabis grows in Humboldt County should have been a ballot issue. Most of us did not clearly understand that we had a CHOICE. Mendocino focused on family farmers. Both Amador and Tuolumne Counties only allow personal grows. Calaveras County allows Commercial grows and they are now experiencing the very same problems we have been dealing for sometime now. . I34-2

Public Safety-We do not have enough law enforcement to deal with the 1000s of illegal grows and all the baggage that goes with them. Humboldt County has forced the burden onto the community to protect ourselves and deal with the various problems that come along with non medicinal commercial growing. There has been a large exodus of residents because of this issue. I34-3

Quality of life-There has been a significant impact in our ability to care & sustain ourselves and our animals. The ability to spend time with our friends and the community has been extremely difficult. We are working too hard and not meeting our needs. This has significantly impacted our health. I34-4

Financial Impact-living an non diverse economy has made it extremely difficult to make a living outside the Cannabis industry and also decreased the value of our home. Not everyone wants to smell Cannabis 24/7. All you have to do is read Real-estate.com or Trulia and they clearly define what is desirable living and what people look for when moving to an area. There has been no analysis by this county which addresses these issues. I34-5

Our economy can not sustain 1000s of temporary compromised workers. Our food banks are tapped out. Local non profits primary focus is help our community not support worker for the Cannabis industry. I34-6

Emotional Distress and No Peace of Mind-the increase in violent crimes directly associated to commercial grows has been on the rise. There is a very large population of people coming here to grow or work in the Cannabis industry from all over the world. Most in the industry do not go through background checks. We are seeing an increase in animal cruelty, assaults, child abuse, hard drug use, human rights crimes,human trafficking,home invasions, labor violations, murders, rapes, thefts, and the lists goes on.We are also seeing an increase in road bullying on 101. Numerous times I have had vehicles attempting to force me to pull over when I am going the speed limit. I34-7

,
Barbara Shults
P.O. Box 311
Arcata, CA 95518

Letter I34	Barbara Shults 10/16/2017

I34-1 The comment expresses opposition with the Draft EIR and commercial cannabis. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

I34-2 The comment recommends that allowing commercial cannabis in the County should be on the ballot for a vote. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I34-3 The comment asserts that the County does not have the resources to address illegal grows and their issues. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I34-4 The comment includes concern with quality of life. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

I34-5 The comment asserts that the cannabis industry has decreased property values. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project. Economic and social effects are not treated as significant effects on the environment under CEQA (see CEQA Guidelines Section 15131[a]).

I34-6 The comment includes concern with the county's ability to accommodate new worker populations associated with the cannabis industry. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project. Economic and social effects are not treated as significant effects on the environment under CEQA (see CEQA Guidelines Section 15131[a]).

I34-7 The comment includes concerns with crime and individuals involved in the cannabis industry. DEIR Section 3.11, "Public Services," evaluates environmental impacts associated with increased demands on law enforcement services. The reader is also referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

TO: Humboldt County Building and Planning Director John Ford
DATE: October 16, 2017
From: Bonnie Blackberry
Civil Liberties Monitoring Project

Letter I35

RE: CANNABIS ORDINANCE Draft EIR COMMENTS

Dear Director Ford,

Here are comments regarding the Draft Environmental Report for the Commercial Cannabis Ordinance. I did not read the entire Report, but the parts I did read appeared to downplay and misrepresent the actual impacts. I35-1

1. "Impact 3.3-2: Long-term operational emissions of criteria pollutants and precursors." *(EIR pg152) "Operation of commercial cannabis cultivation operations and non-cultivation operations in the County would result in peak emissions of PM10 during the harvest season. Operation of a new single cultivation operation during the harvest season would exceed NCUAQMD-recommended maximum daily thresholds for PM10".*
COMMENT: Peak emissions of Pm10 during the "harvest season" is extended beyond 4-6 weeks when mixed light is used for multiple yearly crops compared to the regular Fall harvest season. I35-2

2. "*Because the NCAB is in nonattainment for PM10, operation of a single cannabis cultivation would contribute to an existing or projected air quality violation.* ***This impact would be significant.*** *New cultivation and non-cultivation sites established under the proposed ordinance would result in long-term operational emissions of PM10, for which the NCAB is in nonattainment."*
COMMENT: More traffic equals grater impacts I35-3

3. Mitigation Measures for Roads" *(EIR pg 153) "No feasible mitigation is available."*
"The following possible mitigation measures for the reduction of PM10 emissions from travel on unpaved roads were considered by the County and determined infeasible:… Routine Watering of Roadways…, Use of Dust Suppressants…, and Paving of Roadways…"
COMMENT: There are mitigations: less traffic, and heavy trucks, along with smaller operations with one harvest per year, instead of three or four harvests in inappropriate locations. Water quality impacts associated with stormwater runoff from the dust created by the increased traffic on unpaved roads is further increased with mixed light multiple harvests. I35-4

4. EIR pg 153 "It is important to note that harvest season lasts approximately four to six weeks, thus daily PM10 emissions would only exceed the NCUAQMD-recommended threshold during that time. Annual emissions of PM10 from an individual cultivation site remain below the recommended threshold. This impact would be significant and unavoidable."
COMMENT: With the combination of outdoor and mixed light, or just mixed-light, there are multiple "harvest seasons", with an increase of two to three times the annual emissions of PM10 from an individual cultivation site. (I noticed that a CUP applicant has July 1 thru July 15, for first harvest and then August 14 thru November 7th for the second harvest phase.) I35-5

DRAFT EIR INCORRECT ASSUMPTIONS

Noise IMPACT 3.10.2 Long-term non-transportation operational noise. (EIR Pg 371-372)

1. "the use of mechanized equipment would be temporary and periodic in nature"
COMMENT: Multiple mixed light harvests using lights, fans, heaters, dehumidifiers etc would not be periodic in nature. Happening all night long night after night for months is not periodic. I35-6

2. "Assuming that trimming activity would only occur between the hours 7:00 a.m. and 6:00 p.m.,"
COMMENT: Trimming activity occurs during the day and night. I35-7

3. "Assuming outdoor harvesting activity would occur during the daytime for outdoor and mixed-light cultivation I35-8

1

sites."
COMMENT: Most harvesting activity would occur during daytime, though it does not always happen during the daytime. I35-8 cont

4. 'Discrete harvests are assumed to occur over a four-week period, and would require up to 15 workers during that time.'
COMMENT: If a discrete harvest occurs over a four week period, then three harvests would occur over a twelve week period, or four harvest over a 16 weeks period NOT four weeks. I35-9

5. 'The largest harvest period is the fall harvest when outdoor, mixed-light, and indoor are harvesting in the same season.'
COMMENT; Operations with outdoor and mixed-light are NOT harvested at the same time. And with multiple mixed-light grows, every harvest occurs during different times of the year. Therefore one parcel with outdoor and mixed-light would have a minimum of two discrete harvests and more likely there would be three to four discrete harvests on the parcel. I35-10

6. **COMMENT: The above EIR assumptions are in the section about noise pollution. Noise is a big concern, especially when it's happening all night long. (closing windows and doors is not a feasible mitigation for noise. Permitting generator grows, AKA mixed light, has multiple impacts besides noise. There is an increased risk of fires and fuel spills.** I35-11

7. COMMENT: All of the above incorrect assumptions also relate to increased impacts on the roads, our neighborhoods, watersheds, and wildlife. I35-12

How big before impacts become noticeable? There is the square footage of the grow area, and then there is the number of crops grown in that area during the year. The impacts from one crop/harvest per year is very different from multiple crops, especially when multiple crops/harvest involve artificial light etc dependent on generator use, and in areas on unpaved roads where people have their homes that they live in. I35-13

Respectfully,

Bonnie Blackberry
Civil Liberties Monitoring Project Rep.

2

TO: Director Ford
Humboldt County Planning Commission
DATE: October 16, 2017
From: Bonnie Blackberry
Civil Liberties Monitoring Project

RE: Cannabis Ordinance Proposed Amendments

PROCESS COMMENT: Thank you for having the workshops in Garberville and Willow Creek. Better late than never. Amending the ordinance is of upmost importance, as it was done in such a rush that it doesn't adequately address the impacts. There needs to be a balance between accommodating growers and protecting the integrity of our watersheds and wildlife, and our neighborhoods and communities. I35-14

CANNABIS ORDINANCE COMMENTS

1. PROCESS EXISTIG GROWS BEFORE NEW GROWS. Deal with what is happening before adding more. I35-15

2 55.4.12.1.8 PERFORMANCE STANDARD ROAD SYSTEMS, d) Road maintenance Associations and Cost Sharing; It is essential that there be a requirement that the applicant is paying road maintenance dues when the operation is permitted and at yearly renewals. **(this absolutely needs to be retroactive)** Without this requirement, the RMAs will be burdened with the task of trying to collect the road maintenance dues from operations that the county has approved on our private roadways.

There should be requirement to check off a box that road maintenance dues have been paid, no delinquent dues. If in fact there were delinquent dues owed, the RMA would have an pathway to contact the county and put a hold on the process until proof of payment to the RMa is presented. The county would only be responsible for halting a permit after contact from a RMA. The applicant would then need to show a letter from the RMA verifying that the maintenance dues are not delinquent. (similar to notice used for Light Pollution Control 55.4.12.4 d). I35-16

3. 55.4.6.1.2 a) & b) LOWER SQUARE FOOTAGE FOR DISCRETIONARY PERMITS:
Lower a) from 5,000sq. ft . to 2, 000sq. ft. Lower b) from 10,000 sq ft. to 2,500 sq ft for operations in rural neighborhoods accessed by shared private roads, would enable neighbors to have input on impacts that the county may not have considered. This is very important for the people who live in these areas. Home Sweet Home or not. I35-17

4. 55.4.6.1.2 a) &b) PERMITING TOO LARGE OF GROWS in rural neighborhoods that have been and are primarily residential. Permitting large grows, over 5,000 sq.ft. in neighborhoods on roads not designed for commercial industrial use is a huge problem. Just because people have been growing large grows in inappropriate locations, should not be a reason to allow it to continue. I35-18

5. SUPPORT 55.4.12.5 Performance Standards for Energy Use and 55.4.12.6 Performance Standard for generator noise at per existing sites. <u>These standards need to include noise from fans and other machines as well that are running during the night.</u> I35-19

6. 55.4.6.5.1 SMALL CULTIVATION SITES items b) & c) : I support the removal of these requirement. There are no such requirements for larger grows. How would these support the small operations that aren't part of the Green Rush mentality? I35-20

7. RETROACTIVE STANDARDS; The first ordinance was done in a hurry. I35-21

New rules need to be retroactive in order to address problems that were overlooked in the current ordinance because of the rush to get it done. And now we are once again rushing forward to get it done. The county needs to recognize the need for retroactive standards for the current ordinance as well as future modifications or additions to the currently proposed ordinance amendments. Time could be given to come into compliance with any changes. I35-21 cont

8. **NO MIXED LIGHT WHICH REQUIRES GENERATORS**; Multiple crops with mixed light increase the impacts to the roads, the neighbors and the environment. On a quiet night, out in the mountains, 60 decibels of generator noise can carry a long distance, buzzing away all through the night. Maybe it won't kill the wildlife, but I can't believe it's not affecting them. I35-22
Marijuana grows very well in the sun without lights and generators. Let's promote a green economy.

ENFORCEMENT QUESTIONS

Currently water trucks and deliveries are happening during the day and night time. What is being done to enforce this provision?

How is the county planning on enforcing the amount of use from generators if restricted to 20% or whatever? I35-23

How is the county planning to enforce the provisions regarding the time of year and the amount of time for grow lights use in "mixed-light" grows?

Respectfully,

Bonnie Blackberry
Civil Liberties Monitoring Project Rep.

Letter I35	Bonnie Blackberry 10/16/2017

I35-1 The comment provides introductory statements for the comment letter and asserts that the DEIR appears to downplay and misrepresent the actual impacts.

The DEIR is an informational document that discloses the potential significant environmental impacts from the implementation of the proposed ordinance. Its analysis is based on the substantial evidence that includes technical studies, computer modeling, and technical review by environmental professionals. The comment letter provides no technical analysis or information demonstrating that the DEIR downplays or misrepresents impacts.

I35-2 The comment refers to DEIR Impact 3.3-2 that identifies significant air quality impacts from PM_{10} (particulate matter) emissions from commercial cannabis operations during harvest and asserts that peak emissions extend beyond the harvest season used in the DEIR.

The harvest assumptions identified in the DEIR are based on the length of the growing cycles for cannabis using outdoor, mixed-light, indoor cultivation methods from review of current cannabis cultivation operations in the County. The DEIR impact analysis conservatively assumes that all new commercial cannabis cultivation operations are harvesting at the same time (see Master Response 2). As identified on DEIR pages 3.3-18 through 3.3-20, daily operational conditions at harvest for a single site would generate the peak particulate matter emissions that exceed the NCUAQMD-recommended daily thresholds that would contribute to non-attainment status of the air basin for PM_{10}. This impact was identified as significant and unavoidable. Thus, the DEIR adequately discloses the extent of this impact.

I35-3 The comment appears to be referencing the impact discussion on DEIR page 3.3-19 associated with Impact 3.3-2 and notes that more traffic generates greater impacts.

DEIR Table 3.3-17 identifies that road dust from cultivation operations is the reason for this significant impact.

I35-4 The comment asserts that there are mitigations available associated with reduced traffic, smaller operations, one harvest per year. The comment also identifies water quality impacts from dust from unpaved road use.

As identified on DEIR pages 3.3-18 and 3.3-19, the impact analysis focuses on daily emissions that would occur from a single cultivation and non-cultivation operation during a harvest. As identified in DEIR Table 3.3-17, the dust emissions would be significant for a single operation at harvest. Thus, reduction of the number of harvests or cultivation sites would not mitigate the impact. The cause for the emission are the use of unpaved roads. DEIR pages 3.3-19 and 3.3-20 identifies that there are no feasible mitigation measures to mitigate the unpaved road conditions that exist county-wide. The reader is referred to DEIR Section 3.8, "Hydrology and Water Quality," and Master Response 5 for a detailed analysis of water quality impacts from roadways.

I35-5 The comment notes that there could be multiple harvests that can generate PM_{10} emissions. The reader is referred to Response to Comment I35-2 and I35-4.

I35-6 The comment asserts that mixed-light harvest operations would have other noise sources including lights, fans, heaters, and dehumidifiers that are not addressed in the DEIR.

The reader is referred to Master Response 3 for consideration of noise impacts from various noise sources. It is unclear what noise is generated by lighting beyond generator noise that was addressed on DEIR page 3.10-10. Heaters and dehumidifiers would be utilized indoor cultivation and nurseries that involve enclosed structures that would attenuate the noise source.

Since release of the DEIR, the County adopted the General Plan Update that consists of a new Noise Element. The new Noise Element retains the same land use/noise compatibility standards from the previous Noise Element cited in the DEIR, but now includes short-term peak noise standards for daytime (6:00 a.m. to 10:00 p.m.) and nighttime conditions (10:00 p.m. to 6:00 a.m.) (Standard N-S8). The new Noise Element also includes Implementation Measure N-IM3 that requires the County to investigate noise complaints and determine of a violation has occurred, and Implementation Measure N-IM7x that requires the County to adopt a noise control ordinance (Humboldt County 2017). Permitted commercial cannabis operations would be subject to these new short-term noise standards and enforcement actions by the County.

The County has also updated the proposed ordinance's performance standards for noise at cultivation sites that now prohibit noise from cultivation and related activities from increasing the ambient noise level at any property line by more than 3 dB. As identified on DEIR page 3.10-2, the human ear can begin to detect sound level increases at 3dB above existing noise levels.

I35-7 The comment asserts that trimming activities during the day and night. The reader is referred to Master Response 3 and Response to Comment I35-6 for discussion of the extent of harvest noise sources and recently adopted noise standards of the County.

I35-8 The comment asserts that most harvest activities would occur during the daytime, but not always. The reader is referred to Master Response 3 and Response to Comment I35-6 for discussion of the extent of harvest noise sources and recently adopted noise standards of the County.

I35-9 The comment identifies that the total harvest period in a year could be 16 weeks for four harvests. As identified in Master Response 2, the DEIR impact analysis focuses on peak conditions that happen during a harvest and conservatively assumes that all new commercial cannabis cultivation (outdoor, mixed-light, and indoor) are harvesting at the same time.

I35-10 The comment asserts that outdoor and mixed-light would not harvest at the same time and that mixed-light cultivation results in harvests in different times of the year.

It is possible for outdoor, mixed-light, and indoor cultivation to harvest in the same time period (assumed to be the fall harvest). The DEIR identifies that multiple harvests occur during the year in DEIR Chapter 2, "Project Description." The DEIR impact analysis conservatively assumes that the peak harvest condition is all new commercial cannabis cultivation operations are harvesting at the same time county-wide. The reader is referred to Master Response 2 for a further discussion of DEIR assumptions.

I35-11 The comment notes that assumptions on commercial cannabis operations are used in the DEIR noise analysis and noise (including nighttime noise) is a big concern. The comment also notes that commercial cannabis increases the risk for fires and fuel spills.

The reader is referred to Master Response 3 and Response to Comment I35-6 for discussion of the extent of harvest noise sources and recently adopted noise standards of the County. The County has also updated the proposed ordinance's performance standards for noise at

cultivation sites that now prohibit noise from cultivation and related activities from increasing the ambient noise level at any property line by more than 3 dB. As identified on DEIR page 3.10-2, the human ear can begin to detect sound level increases at 3dB.

The reader also referred to DEIR Section 3.7, "Hazards and Hazardous Materials," and Section 3.11, "Public Services," for analysis of accidental spills and fire hazards. As identified on DEIR page 3.7-17, commercial cannabis operation compliance with federal and state regulations would substantially reduce the risk of accidental spills and would require remediation for any contamination. Fire hazard impacts are addressed in the DEIR on pages 3.7-19 through 3.7-20 and pages 3.11-9 and 3.11-10. The DEIR identifies that commercial cannabis activities permitted by the proposed ordinance are also subject to the California Fire Code, which includes safety measures to minimize the threat of wildfire. Title 14 of the California Code of Regulations (CCR) sets forth the minimum development standards for emergency access, fuel modification, setback, signage, and water supply, which help prevent damage to structures or people by reducing wildfire hazards. In addition, Humboldt County applies standards to proposed development within the State Responsibility Areas (SRA) to reduce the risk of fire. These standards are a locally adopted alternative version of the state's SRA Fire Safe Regulations (Humboldt County Code Title III, Div 11) as authorized by Section 4290 of the Public Resources Code, and have been approved by CAL FIRE as meeting or exceeding state regulations. New development in the SRA is subject to Fire Safe regulations, and the appropriate clearance of vegetation around such development is inspected by CAL FIRE and potentially by Humboldt County with other improvements at the time of construction. Licensed facilities under the proposed ordinance would be required to have certification that they comply with building, electrical, and fire codes, which would require installation of fire suppression systems, where appropriate.

I35-12 The comment asserts that the use of incorrect assumptions relate the increased impacts on roads, neighborhood, watersheds, and wildlife.

The comments regarding assumptions are responded to above in Response to Comment I35-2 through I35-10. As described in Master Response 2, DEIR Chapter 3, "Project Description," includes Subsection 2.4.5, "Reasonably Foreseeable Compliance Responses." Subsection 2.4.5 describes anticipated compliance responses to the proposed ordinance that are based on assumptions developed by County staff based on review of cannabis applications received in response to the 2016 CMMLUO, field review and data associated with existing cannabis operations in the County, CalCannabis documentation, and published information regarding cannabis operations. This approach to the evaluation of impacts is consistent with State CEQA Guidelines Section 15144 which addresses the issue of forecasting: "Drafting an EIR or preparing a Negative Declaration necessarily involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can." The County can forecast a reasonable response to the ordinance, it is noted that individual applications that require approval of a Special Permit or Use Permit under the proposed ordinance would be subject to further environmental review under CEQA. The comment letter provides no technical analysis or information that counters DEIR supporting data on assumptions.

I35-13 The comment asserts that impacts from one crop/harvest per year is different from multiple cannabis operations. The DEIR impact analysis evaluates the environmental effects of the permitting of current cannabis operations that exists in the County and the development of new commercial cannabis operations in the County (assumed to consist of 1,012 new commercial cannabis cultivation operations and 108 new commercial cannabis non-cultivation operations.

I35-14 The comment thanks the County for workshops on the proposed held at Garberville and Willow Creek. The comment asserts that there needs to be a balance between

accommodating growers and integrity of our environment. This comment is noted. The DEIR discloses the significant environmental impacts that would occur from the implementation of the proposed ordinance.

I35-15 The comment recommends that the County address existing cultivation before permitting new cultivation. The County is considering this requested change as part of revisions to the proposed ordinance. The reader is referred to Master Response 6 for a detailed discussion of improvements to County code enforcement activities to address cannabis issues.

I35-16 The comment provides input on the proposed ordinance Section 55.4.12.1.8 (Performance Standards – road systems). The proposed ordinance reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I35-17 The comment provides input on the proposed ordinance Section 55.4.6.1.2 associated with cultivation sizes. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I35-18 The comment provides input on the proposed ordinance Section 55.4.6.1.2 associated with cultivation sizes in rural neighborhoods. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I35-19 The comment provides input on the proposed ordinance Section 55.4.12.5 and 55.4.12.6 (Performance Standards – energy use) associated with fan noise. The reader is referred to Master Response 3 for further discussion on noise. The County has also updated the proposed ordinance's performance standards for noise at cultivation sites that now prohibit noise from cultivation and related activities from increasing the ambient noise level at any property line by more than 3 dB. As identified on DEIR page 3.10-2, the human ear can begin to detect sound level increases at 3 dB.

I35-20 The comment provides input on the proposed ordinance Section 55.4.6.5.1. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I35-21 The comment provides input on the proposed ordinance provisions for retroactive standards. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I35-22 The comment provides input on the proposed ordinance to not allow mixed-light cultivation that uses generators. The reader is referred to Master Response 3 for further analysis of noise. The DEIR includes Mitigation Measure 3.4-1f (now 3.4-1h) that requires additional noise standards beyond the proposed ordinance noise standards that are based on the USFWS 2006 *Transmittal of Guidance: Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*. The County is considering this requested change as part of revisions to the proposed ordinance.

I35-23 The comment asks questions regarding enforcement measures. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

Letter I36

From: burdoc
To: Lazar, Steve
Subject: NO on marijuana cultivation expansion
Date: Monday, October 16, 2017 1:38:42 PM

To whom it may concern,
As a property owner, tax payer & resident of Humboldt County for the last 44 years, I am against marijuana cultivation already. To expand an industry that is already barely regulated & illegal by federal laws, would be a disservice to our county's resources. I could site lack of water, pollution of land & rivers.....but probably no one is reading this beyond that I do not support expansion.
Cathy Mathena

I36-1

Sent from my U.S. Cellular® Smartphone

Letter I36	Cathy Mathena 10/16/2017

I36-1 The comment expresses opposition of the proposed ordinance and existing lack of water resources and pollution within the county. DEIR Section 3.7, "Hazards and Hazardous Materials," address potential contamination impacts and Section 3.8, "Hydrology and Water Quality," address impacts to County water resources. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I37

From: Charles Compton
To: Lazar, Steve
Subject: Section 314-55.3 of Chapter 4 of Division 1 of Title III of the Humboldt County Code - Public Comment re Cannabis Ordinance Environmental Review
Date: Monday, October 16, 2017 12:31:06 PM

Dear Mr. Lazar:

Leslie G. McMurray, a neighbor of mine, wrote to you regarding the above referenced matter on October 13, 2017. I concur with all the points and concerns which she raised in her letter, and I incorporate her letter herein as though set forth in full. I37-1

My wife and I are retired and live next door to a neighbor who plans to grow and process a substantial marijuana crop. Our parcel has a long property line which abuts the City of Fortuna and contains a small segment which is within the city limits of Fortuna. We have two creeks on our parcel which are part of the Jameson Creek watershed. The proposed grow parcel next door is upslope from our parcel and drains into the aforementioned Jameson watershed creeks on our parcel. The negative impacts on Jameson Creek which flows into the Eel River could be enormous. I am also very concerned about the issues with our well as to the water table and toxicity impacts. Again please reference Ms. McMurray's letter for more detail. I37-2

Very truly yours,

Charles A. Compton

Letter I37	Charles Compton 10/16/2017

I37-1 The comment references correspondence from Comment Letter I26. The reader is referred to responses to comments in Comment Letter I26 provided above.

I37-2 The comment expresses concern with impacts to water resources, including Jameson Creek and the Eel River. DEIR Section 3.8, "Hydrology and Water Quality," address impacts to water resources from implementation of the proposed ordinance. The reader is referred to Master Response 5 for further discussion of water resource impacts.

Letter I38

From: "%Name%"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 7:51:01 AM

Name:	Claire Perricelli
E-mail:	ceperr@sbcglobal.net
Your Comments:	I am very concerned about whether or not we are sufficiently regulating the gree(d)n rush.

I38-1

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I38-2

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I38-3

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I38-4

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I38-5

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I38-6

Thank you,

Letter I38	Claire Perricelli 10/16/2017

I38-1 The comment expresses concern with adequate regulation of cannabis. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

I38-2 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I38-3 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I38-4 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I38-5 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I38-6 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I39

From: Amy Gustin
To: Planning Clerk
Subject: comments on cannabis EIR and new ordinance
Date: Monday, October 16, 2017 12:58:31 PM

Dear Director Ford and colleages:

It must be reiterated that allowing new grows is completely irresponsible. California already grows at least five times more marijuana than it consumes. Why would you sacrifice any more of Humboldt's forest habitat, when there is no market for any additional marijuana? The harm to wildlife and habitat cannot be mitigated, yet this is not reflected in the EIR and proposed changes. I39-1

HOW HUMBOLDT MARIJUANA HARMS WILDLIFE AND DEGRADES HABITAT QUALITY:

Land clearing in forest habitat, for marijuana cultivation, reduces animal populations and species diversity. It fundamentally degrades the quality of a significant portion of the remaining habitat. While some of the ecological impacts of marijuana cultivation have been addressed, the effects of land clearing on terrestrial animals has not yet received the attention it deserves. Wildlife biologists Scott Bauer and Mourad Gabriel both refer to the issue of land clearing in forest habitat, as part of the problem, but their main focus is on water use and rodenticides. It is time to look at the impacts of land clearing.

Humboldt County has some of the best wildlife habitat left on the coast of California, and gives refuge to many species that have dwindled in numbers elsewhere, due to habitat loss from development. The land where marijuana is being cultivated in Humboldt, has the same wildlife values that we find in our parks and National Forests. It is just as damaging to cultivate marijuana in Humboldt's forest habitat, as it is to cultivate in the National Forests. As of yet, California's marijuana regulations have ignored this damaging impact.

When a grower decides to cultivate marijuana in forest habitat, the first act is to clear the desired area of all the native vegetation. All of the trees are chopped down, and the shrubs and herbaceous plants removed. Then the land is bulldozed to remove the roots and level the steep ground. This is a very destructive act, in and of itself. For many animals, that area was the sum total of their home range. Animals that are too small or too slow to flee the onslaught are killed. Babies in the den or nest are also at risk. Land clearing also harms the soil ecology and destroys native earthworms. I39-2

These marijuana clearcuts were formerly an integrated part of the forest habitat. Now these scars on the land are holes in the habitat. To understand the impact, look at it from an animal's perspective. That hole is in the home range of a number of different animals. A home range is the area an animal travels to find what they need to survive and reproduce. It is where they find food, water, denning and resting spots, and potential mates. The clearcut held vegetation, insects and rodents, that were food for many other animals. It also held denning and nesting sites. Now there is a significant deficit in the home range of many animals. To compensate for the decline in food availability, many animals will need to enlarge their home range. Since all of the available land has been utilized prior to the marijuana clearcut, this enlargement has a ripple effect. Other animals have to enlarge their home range as well. With larger home ranges, only a smaller population can be sustained. Keep in mind that there has been a huge growth in the number and size of these clearcuts in the last decade, from around 4,000 to 12,000. Also keep in mind that enlarging a home range means that an animal has to expend more energy just to survive.

This reduction in food availability, is exacerbated by marijuana cultivators war on woodrats. Woodrats are native rodents that are an important prey species for many carnivores, including weasels, ringtails, foxes, bobcats, numerous owl species, and even mountain lions. Woodrats are attracted to marijuana plants that grow in their home range. Most cultivators try to kill woodrats

preemptively. Rodenticides are obviously the most damaging method, but traps and cats have a negative impact as well, by reducing the number of prey species available to native carnivores. A reduction in prey species leads to enlarged home ranges.

In addition to decreasing populations of animals, these marijuana clearcuts degrade the quality of a significant portion of the remaining forest habitat. This negatively impacts animal diversity. The area around the clearcut is impacted in every direction out for a hundred meters, or about the same distance as a football field. This area has been turned into edge habitat. Edge habitat is not as prime as forest interior habitat. It is sunnier, drier, warmer, and windier. Edge habitat experiences more dramatic environmental fluctuations than the forest interior. When wind and sun dry our the forest edge habitat, it reduces the abundance and diversity of insects and other invertebrates. These are important food species for many animals.

Forest interior habitat is sheltered from the influences at the edge. It is moister, and gives more protection from predators as it has more complex vegetation structure. Larger trees and snags provide food and denning sites for numerous species. Forest interior is important habitat for many species. Many songbirds, especially those that nest on or near the ground, need the protection found in forest interior habitat. Some of the species that are associated with forest interior habitat are douglas squirrels, Humboldt flying squirrels, townsend chipmunks, northern spotted owls, northern saw whet owls and pileated woodpeckers. The Pacific fisher and Humboldt marten depend on forest interior habitat. They need the canopy cover and brushy undergrowth that protects them from larger predators, while providing excellent habitat for the rodents that they hunt.

I39-2 cont

Why is this important? Because we are in the midst of the largest extinction event since the Cretaceous Extinction that wiped out the dinosaurs. Since 1970, the Earth lost 58% of its biodiversity, according to the Living Planet Report of 2016. Here in California, we rank #1 in the United States, for species diversity, but also #2 for species at risk, and #3 for extinctions. We must do better. Many species in California are in decline. It is a mistake to wait until a species is critically endangered before we act to protect them. Since habitat loss is the leading cause of extinctions, protecting quality wildlife habitat, such as the forest habitat of Humboldt County, needs to be a priority. Humboldt holds great promise as an area that fosters animal abundance and diversity, but only if we act to correct the harm of the greenrush, by shrinking the industry. Humboldt needs to show environmental leadership, and limit the size and number of grows that it will permit in Humboldt's forest habitat.

Additionally, noise is a major issue. Generators should not be allowed on off the grid grows. Also, grows on rural dirt roads should not be permitted. These are residential neighborhoods, yet they are treated as industrial.

I39-3

Amy Gustin, Habitat

Forever

October 16, 2017

Letter I39	Amy Gustin 10/16/2017

I39-1 The comment states opposition to allowing new cultivation and asserts that the DEIR does not address the impacts wildlife and habitat.

DEIR Section 3.4, "Biological Resources," provides a detailed description of current vegetation and natural habitat conditions in the County, as well as a description of wildlife species that are known to occur or have potential to occur in the County. This section identifies significant impacts to wildlife and habitat and includes 18 mitigation measures that would reduce wildlife and habitat impacts to a less than significant level. Mitigation measures have been refined based on CDFW input on the DEIR (see responses to Comment Letter S1). This section, beginning on page 3.4-1 of the DEIR, presents adequate research and data that was used to determine the level of significance, and provides reference to consulted resources.

I39-2 The comment discusses cannabis cultivation and operation impacts to wildlife and habitat. The commenter is referred to Section 3.4, "Biological Resources," of the DEIR, where impacts wildlife and habitat within the County from implementation of the proposed ordinance are fully analyzed. The proposed ordinance would prohibit new commercial cannabis operations from occurring on public land (e.g., state and national parks, Six Rivers National Forest), TPZ-zoned areas, and General Plan designated Timberland areas that contain a substantial portion of the County forest habitat areas. The DEIR does acknowledge the impacts of existing unpermitted cannabis cultivation on biological resources on DEIR page 3.4-59.

I39-3 The comment includes concerns with noise associated with cannabis cultivation activities from generators and recommends that cultivation not be allowed on rural dirt roads.

The commenter is referred to Master Response 3 for further discussion on noise impacts from generators. The majority of the County's rural roadway system is not paved, and the County considers such a restriction on cultivation sites to be infeasible.

Letter I40

From: "%Name%"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 9:19:38 AM

Name:	Craig Tucker
E-mail:	scraigtucker@gmail.com

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I40-1

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I40-2

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I40-3

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I40-4

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I40-5

Thank you,

Letter I40	Craig Tucker 10/16/2017

I40-1 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I40-2 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I40-3 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted.

I40-4 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I40-5 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I41

From: "%Name%"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 7:44:20 AM

Name:	Curtis Berrien
E-mail:	Curt@berrienobrien.com
Your Comments:	While legalizing cannabis may be good for the county, it continues to threaten our precious environment and our Eel river watershed unless stringent and scientific data based regulations are applied to growers. The transition period to legalization is our only chance to thoroughly study environmental requirements for "grows." Furthermore, new tax revenue from the cannabis industry should be sufficient to fund enforcement ranks From their current paltry level to one that is up to the enforcement task. Please take the opportunity to take these actions for the environment and the community while we still can.

I41-1

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I41-2

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I41-3

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I41-4

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I41-5

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I41-6

Thank you,

Letter I41	Curtis Berrien 10/16/2017

I41-1 The comment includes concern with watershed impacts and enforcement efforts by the County. The reader is referred to Master Response 5 for a detailed discussion of watershed impacts and Master Response 6 for description of the County's improvements to code enforcement activities.

I41-2 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I41-3 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I41-4 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I41-5 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I41-6 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I42

From: "Cynthia Hammond"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 6:01:11 PM

Name:	Cynthia Hammond
E-mail:	cynthiahammond118@gmail.com
Your Comments:	I am extremely concerned about the cumulative environmental impact of allowing 1000's of large marijuana grows in Humboldt. This does not appear to be adequately addressed in the DEIR. I support a maximum size of 10000 square feet and I share the skepticism of many who can't imagine effective code enforcement with such a small County staff. Thank you for listening.

I42-1

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I42-2

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I42-3

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I42-4

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I42-5

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I42-6

Thank you,

Letter I42	Cynthia Hammond 10/16/2017

I42-1 The comment asserts that cumulative impacts of cannabis operations were not adequately addressed in the Draft EIR. The comment also asserts that the cultivation areas should be limited to 10,000 square feet and questions the County's ability to conduct effective code enforcement.

As identified on DEIR page 2-29, the DEIR impact analysis is based on the consideration that 1,012 new commercial cannabis cultivation sites may be permitted under the proposed ordinance. This assumption is used in the project impact analysis in DEIR Sections 3.1 through 3.14 and the cumulative impact analysis in Chapter 4, "Cumulative Impacts." The comment letter provides no technical analysis or information that demonstrates that counters the analysis in the DEIR. The reader is referred to Master Response 6 for description of the County's improvements to code enforcement activities.

I42-2 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I42-3 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I42-4 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I42-5 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I42-6 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I43

From: dan kelley
To: Lazar, Steve
Subject: Halt Further Expansion of Marijuana Cultivation in Humboldt County
Date: Monday, October 16, 2017 1:21:58 PM

Please stop all further expansion of marijuana cultivation in Humboldt County until you are able to achieve adequate regulatory compliance and control of existing sites. I cannot imagine the purpose of county agencies who regulate and control land use, if it is not to prevent the exact problem we are facing: law-abiding, tax-paying citizens are being held hostage to outrageous increases in truck traffic, inequitable water grabs, soil contamination, noise and light pollution and horrible smells. Humboldt does not allow any industry (eg. dairy, logging, fisheries, health care, etc) or any other business to expand in such an unchecked manner. I43-1

Dan Kelley
1926 Quail Hill Rd. #92
Hydesville, CA 95547
206.550.1675

Letter I43	Dan Kelley 10/16/2017

I43-1 The comment includes opposition of expansion of the cannabis industry. The comment also includes concerns regarding traffic, water, soil contamination, noise, light pollution, and odor. Evaluation of impacts involving these topics can be found in the following DEIR sections, respectively: 3.12, "Transportation and Circulation," 3.8, "Hydrology and Water Quality," 3.7, "Hazards and Hazardous Materials,"3.10, "Noise," 3.1, "Aesthetics," and 3.3, "Air Quality and Greenhouse Gases." Additionally, Master Responses 5, 3, and 4, respectively provide further discussion of impacts related to water resources, noise and generator use, and odors associated with cannabis activities to be permitted under the proposed ordinance.

Letter I44

From: "%Name%"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 1:37:45 PM

Name:	Daniel Kowalski
E-mail:	dank8@me.com
Your Comments:	Steve Lazar, Senior Planner Humboldt County Planning & Building Department 3015 H Street Eureka, CA 95501 Via email Dear Mr. Lazar: Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. Thank you,

I44-1

I44-2

I44-3

I44-4

I44-5

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers.

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act.

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels.

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed.

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry.

I44-6

Thank you,

Letter I44	Daniel Kowalski 10/16/2017

I44-1 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I44-2 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I44-3 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I44-4 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I44-5 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

I44-6 The comment repeats the comments provided in I44-1 through I44-5. The reader is referred to Response to Comment I44-1 through I44-5.

Letter I45

From: "DAVID HERR"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 3:43:12 PM

Name:	DAVID HERR
E-mail:	dherr10@gmail.com

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I45-1

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I45-2

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I45-3

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I45-4

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I45-5

Thank you,

Letter I45	David Herr 10/16/2017

I45-1 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I45-2 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I45-3 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I45-4 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I45-5 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I46

From: "Eric Forsman"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 5:01:05 PM

Name:	Eric Forsman
E-mail:	Ericlforsman@gmail.com
Your Comments:	I stand with Friends of the Eel River.

I46-1

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I46-2

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I46-3

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I46-4

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I46-5

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I46-6

Thank you,

Letter I46	Eric Forsman 10/16/2017

I46-1 The comment expresses support with the Friends of Eel River Organization. The comment is noted. Response to comments from the Friends of the Eel River are provided for Comment Letter O4.

I46-2 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I46-3 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I46-4 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I46-5 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I46-6 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I47

From: "Frank Emerson"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 3:57:00 PM

Name:	Frank Emerson
E-mail:	fshfndr@comcast.net
Your Comments:	Industrial production of cannabis crops in the sensitive watersheds of Humboldt County is not sustainable nor "organic". Increasing water diversions from fish bearing streams is exactly what causes the listing of Salmonid species to the Endangered Species Act, and prevents recovery of said listed species. Valuable fisheries that support thousands of jobs are at risk from increased cannabis cultivation and Govt should be very cautious about permitting new industry that may be liable for ESA violations. Please limit this industry before it becomes too large to manage and destroys our rivers.

I47-1

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I47-2

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I47-3

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I47-4

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I47-5

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I47-6

Thank you,

Letter I47	Frank Emerson 10/16/2017

I47-1 The comment provides concern with water resources, including water diversions from fish bearing streams. The reader is referred to Master Response 5 for further evidence that water quality and surface water flow impacts would be mitigated through compliance with the State Water Board Policy in concert with DEIR Mitigation Measure 3.8-5. The State Water Board Policy's flow standards and diversion requirements were developed to protect fish spawning, migration, and rearing for endangered anadromous salmonids, and flows to needed to maintain natural flow variability within each watershed.

I47-2 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I47-3 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I47-4 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I47-5 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I47-6 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I48

From: "%Name%"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 8:48:21 AM

Name:	Hollie Hall
E-mail:	hollierhall@gmail.com
Your Comments:	Hello Steve, I believe that cumulative impacts of cannabis cultivation can be mitigated in manner's not addressed by the EIR. For example: 1. Create a permitting scheme that limits permitting of new cultivation to that square footage retired by existing cultivation, until existing cultivation is either permitted or restored. 2. Cease the allowance of generator operated, mixed-light 'diesel grows'. Just last week the planning commission voted to grant a permit to a mixed-light off the grid farm. The farm has 2-years to reduce use of the generator. Generator powered, mixed-light 'diesel grows' have no place in a sustainable cannabis community. Thank-you for taking on the difficult task of creating regulations that protect our environment, economy, and culture. Hollie Hall, PdD

I48-1

I48-2

I48-3

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I48-4

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I48-5

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I48-6

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I48-7

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I48-8

Thank you,

Letter I48	Hollie Hall 10/16/2017

I48-1 The comment includes suggested mitigation that commenter expresses was otherwise not presented within the DEIR that consists of would limit new cultivation to existing cultivation that would be retired and restored.

The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project. The DEIR does include mitigation measures that would mitigate significant environmental impacts except for project and cumulative particulate matter emissions, project and cumulative objectional odor impacts, and project and cumulative impacts to public water systems. While this suggested mitigation measure would have the potential to offset new operational particulate matter emissions from roadway dust, it would not eliminate the potential for significant objectionable odor and public water system impacts. The feasibility of this mitigation measure is unknown as it would require existing cannabis operations to be willing to retire and restore cultivation sites. No information is available to determine if enough existing cannabis operations would be willing to participate in such a program to offset the estimated 283.35 acres of new commercial cannabis cultivation anticipated under the proposed ordinance.

It should be noted that at the time of the preparation of this Final EIR the County was considering modifications to the proposed ordinance that would establish a cap to limit the extent of permitted commercial cannabis operations in the County.

I48-2 The comment suggests that generator-operated grows not be permitted within the County, further adding that these operations are not sustainable. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

I48-3 The comment includes conclusory remarks. The comment is noted.

I48-4 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I48-5 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I48-6 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I48-7 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I48-8 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I49

From: "%Name%"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 12:18:23 PM

Name:	Jeff Mckay
E-mail:	Beyourowncoach@sbcglobal.net

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I49-1

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I49-2

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I49-3

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I49-4

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I49-5

Thank you,

Letter I49	Jeff Mckay 10/16/2017

I49-1 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I49-2 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I49-3 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I49-4 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I49-5 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I50

From: "%Name%"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 8:55:39 AM

Name:	Jerry Martien
E-mail:	jerrymartien@gmail.com
Your Comments:	Humboldt County has so far favored the lax regulation of resources that has enriched and empowered a few individuals in ranching and timber and impoverished the land and people. Unless the planning department, its commissioners, and the board of supervisors get serious about the marijuana regulatory process, we are going to end up with more of the same environmental damage, depleted watersheds and diminished salmon runs, and a few more wealthy good old boys and girls.

I50-1

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I50-2

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I50-3

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I50-4

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I50-5

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I50-6

Thank you,

Letter I50	Jerry Martien 10/16/2017

I50-1 The comment states that lax regulation of cannabis have impacted the County and that the County should get serious about regulating cannabis to avoid more environmental impacts to watersheds.

The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds and fishery resources. The reader is also referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I50-2 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I50-3 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I50-4 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I50-5 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I50-6 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I51

From: "%Name%"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 11:48:24 AM

Name:	Jim and Francene Rizza
E-mail:	jrizza@suddenlink.net
Your Comments:	It's time that we really look at the impact that grows are doing; be they legal or otherwise. We have property out on Highway 36 and could go on for quite awhile about the changes that have been brought about by cultivation of marijuana: light, sound, space, water, garbage, and vibes.....just overall presence has been a negative. Only to get worse....

I51-1

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I51-2

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I51-3

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I51-4

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I51-5

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I51-6

Thank you,

Letter I51	Jim and Francene Rizza 10/16/2017

I51-1 The comment expresses concern with negative impacts associated with cannabis operations, including, light, sound, space, water, garbage, and vibes. Further evaluation and analysis of these impacts can be found in the following DEIR Sections, respectively: 3.1, "Aesthetics," 3.10, "Noise," 3.9, "Land Use and Planning," 3.8, "Hydrology and Water Quality," and 3.13, "Utilities and Service Systems." For additional discussion regarding noise and water resource impacts, the reader is referred to Master Responses 3 and 5.

I51-2 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I51-3 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I51-4 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I51-5 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I51-6 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I52

From: Jim Ferguson
To: Lazar, Steve
Subject: DEIR comments
Date: Monday, October 16, 2017 3:10:26 PM

Steve:

I have been trying to download the PDF of the DEIR, etc. from the County website since Saturday to no avail. Since my browser can get everything else on the web, I have to assume it is a problem on your end. The header says: "Waiting for ..." I52-1

Since I can not quote chapter and verse because of this lack of a copy, I will limit myself to more general terms based on what I have heard on KMUD and/or read in the papers or online websites.

1. There is a real lack of rules and guidelines for the protection of wildlife in the permitting of grows much less legal remedies or financial consequences. I52-2
2. Ditto in relation to impact on quality of life - i.e. lights visible at night, generator noise, traffic on rural/residential roads, etc. and what there is does not begin to address the problems. I52-3
3. The requirements in relation to fire danger and issues like water storage solely for fire fighting and suppression. I52-4
4. The fines that do exist in the document are grossly less than they need to be. I52-5
5. There is no real attempt to address the grows that do not come into compliance with the ordinance and what will be done to address that issue. I52-6

I am sure there were more issues but this will have to suffice.

Sincerely,

Jim Ferguson
707-223-4475.

Letter I52	Jim Ferguson 10/16/2017

I52-1 The comment states technical trouble accessing the DEIR and advises that comments are based on topics from other media outlets. The comment is noted. The Notice of Availability for the DEIR identified that the DEIR was also available for review at the County Planning and Building Department and at the County Main Library.

I52-2 The comment asserts that there is a real lack of rules and guidelines for the protection of wildlife or identification of remedies.

DEIR Section 3.4, "Biological Resources," provides a detailed description of current vegetation and natural habitat conditions in the County, as well as a description of wildlife species that are known to occur or have potential to occur in the County. This section identifies significant impacts to wildlife and habitat and includes 18 mitigation measures that would reduce wildlife and habitat impacts to a less than significant level. Mitigation measures have been refined based on CDFW input on the DEIR (see responses to Comment Letter S1). The proposed ordinance includes annual inspections for permit renewals that may require corrective actions, permit suspension, or financial penalties for noncompliance.

I52-3 The comment includes concern with lighting, generator noise, and traffic. The reader is referred to the analysis provided in DEIR Sections 3.1, "Aesthetics," 3.10, "Noise," and 3.12, "Transportation and Circulation," of the Draft EIR where these issues are addressed. The proposed ordinance requires that artificial lighting used for mixed-light cultivation or nurseries in a greenhouse be prohibited from allowing any light from escaping the structure between sunset and sunrise as well as shielding for a security lighting (see DEIR page 3.1-18). Generator noise is addressed on DEIR page 3.10-10 that identifies compliance with proposed ordinance requires that generator noise be attenuated to not increase existing ambient noise levels at the parcel boundaries beyond 3dB. The reader is also referred to Master Response 3 for a discussion of issues concerning generator noise and the modifications to the proposed ordinance's noise standards since release of the DEIR.

As identified on DEIR page 3.12-13, the existing and new commercial cannabis operations under the proposed ordinance would be required to obtain access to a roadway system that is equivalent or exceeds the County's Category 4 road standard. The Category 4 road standard provides 18 to 20-foot wide travel lanes, 2-foot wide bladed shoulders (as required by the County), 25 to 40-mile per hour design speed, and sight distance requirements for safe passage. The County has determined that the Category 4 road standard is adequate to accommodate commercial cannabis operation traffic volumes and vehicle types (e.g., passenger vehicles, small trucks, large service trucks). In addition, commercial cannabis operations would be required to join or establish road maintenance associations for the funding of on-going maintenance.

I52-4 The comment includes concern with fire danger and adequate water supply fire suppression. Fire hazard impacts are addressed in the DEIR on pages 3.7-19 through 3.7-20 and pages 3.11-9 and 3.11-10. The DEIR identifies that commercial cannabis activities permitted by the proposed ordinance are also subject to the California Fire Code, which includes safety measures to minimize the threat of wildfire. Title 14 of the California Code of Regulations (CCR) sets forth the minimum development standards for emergency access, fuel modification, setback, signage, and water supply, which help prevent damage to structures or people by reducing wildfire hazards. In addition, Humboldt County applies standards to proposed development within the State Responsibility Areas (SRA) to reduce the risk of fire.

These standards are a locally adopted alternative version of the state's SRA Fire Safe Regulations (Humboldt County Code Title III, Div 11) as authorized by Section 4290 of the Public Resources Code, and have been approved by CAL FIRE as meeting or exceeding state regulations. New development in the SRA is subject to Fire Safe regulations, and the appropriate clearance of vegetation around such development is inspected by CAL FIRE and potentially by Humboldt County with other improvements at the time of construction. Licensed facilities under the proposed ordinance would be required to have certification that they comply with building, electrical, and fire codes, which would require installation of fire suppression systems, where appropriate.

I52-5 The comment asserts that fines are grossly less than they need to be. The reader is referred to Master Response 6 for a discussion of increases to County fines for code violations.

I52-6 The comment asserts that there is no attempt to address cannabis operations that do not come into compliance.

This concern is noted. While these existing environmental conditions of unpermitted cannabis cultivation operations were disclosed as part of the baseline condition in the DEIR, CEQA is not intended to conduct environmental review and mitigate these conditions. State CEQA Guidelines Section 15125(a) identifies that the baseline physical conditions are the basis by which a lead agency determines whether an impact of the project is significant. Published case law has identified that baseline conditions include unpermitted and/or harmful activities that have occurred prior to the project. In *Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 234 Cal.App.4th 214 (183 Cal.Rptr.3d 736], the Fourth Appellate District upheld the baseline conditions and ruled that the baseline condition must reflect the physical conditions at the time the environmental analysis begins even if the current conditions includes unauthorized and even environmental harmful conditions that never received environmental review.

The County believes that regulating cannabis operations will result in permitting of "good" operations—ones that comply with regulations—and the eventual eradication of illegal operators who choose to avoid or ignore the permitting process. The County has addressed enhanced enforcement as a separate project with amendments to its Code Enforcement program. (Ordinance No. 2576, June 27, 2017 and Ordinance No. 2585, November 7, 2017) designed to eliminate delays that hindered effective enforcement, and substantially increase administrative civil penalties. The Code Enforcement Unit is engaged in the initial implementation of the enhanced enforcement program (see Master Response 6).

Letter I53

From: "%Name%"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 7:13:20 AM

Name:	John Pielaszczyk
E-mail:	john.p@sonic.net

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I53-1

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I53-2

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I53-3

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I53-4

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I53-5

Thank you,

Letter I53	John Pielaszczyk 10/16/2017

I53-1 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I53-2 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I53-3 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I53-4 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I53-5 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I54

From: "john stokes"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 5:50:55 PM

Name:	john stokes
E-mail:	gadumma@msn.com
Your Comments:	the lack of enforcement is a huge problem here, folks-- your regulations mean nothing to 90% of the (illegal and unpermitted) growers.

I54-1

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I54-2

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I54-3

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I54-4

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I54-5

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I54-6

Thank you,

Letter I54	John Stokes 10/16/2017

I54-1 The comment expresses concern with enforcement and unpermitted/illegal grows. The reader is referred to Master Response 6 a detailed discussion of improvements to the County's code enforcement activities.

I54-2 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I54-3 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I54-4 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I54-5 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I54-6 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I55

From: Kate
To: Lazar, Steve
Subject: marijuana cultivation meeting
Date: Monday, October 16, 2017 5:37:39 PM

I encourage the Humboldt County Planning and Building Department to stop all further expansion regarding marijuana cultivation until they achieve adequate regulatory compliance and control of existing sites. I sincerely cannot imagine the purpose of county agencies who regulate and control land use, if it is not to prevent the exact problem we are facing: law-abiding, tax-paying citizens are being held hostage to outrageous increases in truck traffic, inequitable water grabs, soil contamination, noise and light pollution and horrible smells. The county does not allow the dairy industry, the logging industry, fisheries, health care or any other business to expand in an unchecked manner, and marijuana should not be allowed to do so either. I55-1

Thank you for your consideration.
-Kate Estlin, MD

Letter I55	Kate Estlin 10/16/2017

I55-1 The comment includes opposition of expansion of the cannabis industry. The comment also includes concerns regarding truck traffic, water, soil contamination, noise, light pollution, and odor. Evaluation of impacts involving these topics can be found in the following DEIR sections, respectively: 3.12, "Transportation and Circulation," 3.8, "Hydrology and Water Quality," 3.7, "Hazards and Hazardous Materials,"3.10, "Noise," 3.1, "Aesthetics," and 3.3, "Air Quality and Greenhouse Gases." Additionally, Master Responses 5, 3, and 4, respectively provide further discussion of impacts related to water resources, noise and generator use, and odors associated with cannabis activities to be permitted under the proposed ordinance.

Letter I56

From: Ruth Hoke
To: Lazar, Steve; Ruth Hoke
Subject: Marijuana operation moratorium
Date: Monday, October 16, 2017 12:12:41 PM

Dear Mr Lazar:

We are writing to encourage the Department to put on hold all further permitting of marijuana grows until appropriate regulations are drafted and enforceable regarding the preservation of our water resources as well as natural lands and wildlife and reduction/elimination of noise and odor pollution. We are also concerned about the safety of our roads and trails. I56-1

Sincerely,
Kathryn R. Hoke
George L. Hurlburt
6447 Highway 36
Carlotta CA 95528
(707)851-3052

Letter I56	Kathryn Hoke and George Hurlburt 10/16/2017

I56-1 The comment expresses concern with impacts to water resources, natural lands, wildlife and reduction/elimination of noise and odor pollution. The commenter is referred to DEIR Sections, 3.8 "Hydrology and Water Quality," 3.2, "Agricultural and Forest Resources," 3.3, "Biological Resources," 3.10, "Noise," and 3.3, "Air Quality and Greenhouse Gas Emissions," respectively, where these impacts are evaluated. Additionally, impacts to water resources, noise, and odor, are further discussed in Master Responses 5, 3, and 4, respectively.

Letter
I57

Comments on Draft Environmental Impact Report
SCH# 2017042022

October 15, 2017

To: Steve Lazar
Humboldt County Planning and Building Department

From: Kim Cabrera

RE: Comments on Draft Environmental Impact Report - SCH# 2017042022

Having read the draft EIR I have some issues that I hope will be addressed in future updates to this document.

1. **Arborimus pomo (Sonoma tree vole)**

The EIR mentions the Sonoma tree vole (pages 27, 227 etc.). I am pleased to see that this species, as well as *Arborimus albipes*, is mentioned and is being considered in this process. I do have concerns about the wording in the EIR though. The document mentions that *Arborimus pomo* is found in old-growth habitats and outlines measures to protect said habitats. (Mitigation measure 3.4-1j in Table ES-1) However, I have documented *Arborimus pomo* presence in second-growth habitats many times (See my local observations for this species recorded on iNaturalist.) Since the species does appear to occur quite commonly in second-growth habitat, I think that this should be added to the protection measures outlined in the EIR. The locations where I have found active and old nests are all in southern Humboldt County, and all in second-growth habitat. In Oregon, the related red tree vole is very important in the diet of the spotted owl. Thus, this habitat needs to be protected from disturbance so that this species can continue to thrive in the area. This leads into my second comment. I57-1

2. **Ambient Noise Levels**

Some of us have had the experience of camping in a campground next to a behemoth RV whose occupants insist on running their generator all day and most of the night. The equivalent experience is happening to our local wildlife who are being exposed to continuous noise levels from generators being run at grow sites in the hills. Noise pollution also has documented adverse effects on human beings. The increased stress caused by high decibel noise needs to be mitigated. No noise from generators should be allowed to extend beyond the site at all. In Mitigation Measure 3.4-1f, the level given is no more than 90 decibels above ambient conditions. I believe human hearing is permanently damaged by exposure to 90 decibels or more. But, many wildlife species have way more sensitive hearing than humans. This level should be lowered to significantly less than 90 decibels, perhaps on the order of 50 decibels or less. We need to prevent noise impacts to humans, but also to the wildlife whose home humans are invading with these agricultural operations. This leads into my next comment. I57-2

3. Ambient Light Levels

Another issue faced by wildlife is light pollution from mixed light growing operations. The increase in nighttime light in the local hills has been documented by several long-time residents. Light pollution negatively affects wildlife including bats, insects, and migratory animals, to name a few. There really should be no light emitted at night above ambient levels by these mixed-light grow operations. There is no need for it and it's costly to other species. Not to mention that it has an effect on other residents of those locations, as well as native plants. No lighting should be allowed to emit from these grow operations at night. I57-3

4. Water Resources

It is well-documented that the watersheds in the area are being negatively affected by water that is being diverted to these grow operations. This affects us all. But, the main ones who lose are the wildlife and fish. There needs to be more enforcement of this so that the rivers will not dry up by the end of summer, leaving them stagnant and algae-filled. I have personally documented (on video) numerous wildlife species using a tiny seep on the side of a trail as a water source at the end of summer, because there is no other water available to them. It is heartbreaking to watch flying squirrels digging into the mud in order to obtain a little water from a wet spot on a trail. The diversion of surface water means that much less water percolates down and refreshes the aquifers, which means less water in springs and streams. We need to very seriously work on stopping the diversion of water to these massive grow operations so that the rivers, streams, springs and seeps will all flow again with life-giving water for the wildlife. I57-4

The other noticeable effect of the lower water levels is the presence in the water of "swimmer's itch" and other things that make swimming in the river near the end of summer a risky business. I have stopped swimming in the Eel River after I noticed that my skin was burning after being in the water during the summer of 2015. No one knows what chemicals are running off into the water from these illegal grow sites. Fertilizers, pesticides, motor oil, and more, are probably found in the water. Nor do we fully understand the impact of such on the fish and other wildlife that live in the river. I have noticed a lack of egg masses of the foothill yellow-legged frog (*Rana boylii)* in the stretch of river near my home since about 2011. That was the last time I saw egg masses in spring on this part of the river. No EIR is perfect, but water quality is one of the single most important issues that this one can address.

5. Poisons and Wildlife

The poisons used at these grow sites have a documented negative effect on wildlife. The poisons themselves kill uncountable wildlife, and the litter left behind in the form of packaging is also detrimental to wildlife. Anticoagulant rodenticides, even the second generation ones, should be banned completely due to their propensity to bioaccumulate up the food chain. Yet, the EIR states that proper licensed use of these poisons would be allowed and would have a less than significant impact. I think we really need to readdress this issue. Those poisons are not safe to use in any quantity. Nor should they be applied in these grow sites. What about using rodent traps instead? There are boxes designed to admit the rodents without allowing them to escape. These would be more effective and less costly to the I57-5

wildlife in the long run. Allowing untrained personnel at a grow site to apply rodenticide is not appropriate. How will this be enforced? Who will determine if those applying these rodenticides are licensed and are using the material in a legal manner? I57-5 cont

6. **Effects on Wildlife Movement Corridors**

Fragmentation of habitat is occurring in the area due to the growth of these large growing operations in habitats inappropriate for such activities. Assessment of wildlife movement on the landscape should be part of this planning process to prevent these new agricultural operations from causing further habitat fragmentation for our native species, some of which are already threatened due to habitat loss and other factors. Any cannabis growing operations that are permitted should only be placed in locations that will not adversely affect the wildlife already present on the land. We need to particularly pay attention to any identified sensitive species, such as fishers, martens, badgers, and many others. Any activities that produce noise should be limited during the nesting season of sensitive bird species to prevent nest failure. Roads built should not cut off any heavily-use wildlife passageways. I am pleased to see that Mitigation 3.4-4 does address this. But, there needs to be very close monitoring of this. I57-6

- - -

In my opinion, the hills of Humboldt are not an appropriate location to allow large cannabis grows. This activity would be more appropriate, and less damaging to the environment, if it was done in an already-developed agricultural location, such as the Central Valley of California, which has infrastructure in place and is on a major transportation corridor. If this activity must be allowed to continue in Humboldt County, first and foremost the wildlife and environment needs to be protected. I57-7

Thank you for your consideration,

Kim Cabrera

Redway, CA

Letter I57	Kim Carbrera 10/16/2017

I57-1 The comment provides input on the Sonoma tree vole and identifies that the species does occur in second-growth forest habitats and that second-growth forest habitats should be protected.

DEIR page 3.4-40 identifies that this species occurs in forest conditions throughout the County and is not exclusive to old growth forest habitats. The proposed ordinance would prohibit new commercial cannabis operations from occurring on public land (e.g., state and national parks, Six Rivers National Forest), TPZ-zoned areas, and General Plan designated Timberland areas that contain a substantial portion of the County forest habitat areas. These restrictions and the protection of sensitive habitat communities under DEIR Mitigation Measure 3.4-4 would provide adequate habitat protection for this species. No additional mitigation measures are recommended.

I57-2 The comment expresses concern regarding wildlife noise exposure from generator noise and recommends additional noise standards beyond DEIR Mitigation Measure 3.4-1f.

Under the proposed ordinance cultivation sites using generators would be required to submit documentation demonstrating compliance with the noise standards (no increase in existing ambient noise levels at the property line of the site beyond 3dB), including: a site plan detailing the location of the generator, property lines, and nearby forested areas, existing ambient noise levels at the property line using current noise measurements (excluding generators) during typical periods of use, details on the design of any structure(s) or equipment used to attenuate noise, as well as details on the location and characteristics of any landscaping, natural features, or other measures that serve to attenuate generator noise levels at nearby property lines or habitat.

DEIR Mitigation Measure 3.4-1f (now 3.4-1h) noise standards are based on the USFWS 2006 *Transmittal of Guidance: Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*. These noise standards are restrictions on increases to existing ambient noise conditions. This mitigation measure would be applied in combination with the requirements of the proposed ordinance. As identified on DEIR page 3.4-65, the maximum noise level from a generator is estimated at 84 decibels and would be further attenuated through compliance with the proposed ordinance's noise standards.

I57-3 The comment expresses concern regarding the impact of nighttime lighting on wildlife. The proposed ordinance requires that artificial lighting used for mixed-light cultivation or nurseries in a greenhouse be prohibited from allowing any light from escaping the structure between sunset and sunrise as well as shielding for a security lighting (see DEIR page 3.1-18). Implementation of this standard would avoid adverse lighting impacts on wildlife species (see DEIR page 3.4-66).

I57-4 The comment states that watersheds are being negatively impacted by water diversions from cannabis operations and pollution in runoff.

The DEIR analysis acknowledges that cannabis irrigation could result in a significant decrease in watershed flows during low flow conditions (see DEIR pages 3.8-44 and 3.8-45). Implementation of Mitigation Measure 3.8-5 in compliance with State Water Board Policy would require that all cannabis cultivation surface water and groundwater diversions comply

with the numeric flows and aquatic base flows that have been established by watershed under the Policy in consultation with CDFW. The proposed ordinance would prohibit new commercial cannabis cultivation in the forested areas of the upper watersheds and limit it to non-forested areas generally in the lower portions of the watersheds where the USGS gages used in the implementation of the State Water Board Policy exist. The State Water Board Policy's flow standards and diversion requirements were developed to protect fish spawning, migration, and rearing for endangered anadromous salmonids, and flows to needed to maintain natural flow variability within each watershed for aquatic resources. The State Water Board Policy also includes water quality requirements for mitigate runoff from cannabis cultivation operations. The reader is referred to Master Response 5 for further details on water diversion restriction and water quality requirements of the State Water Board Policy.

I57-5 The comment identifies the existing wildlife impact of the use of poisons on cannabis cultivation sites and recommends that use of poisons (specifically anticoagulant rodenticides) be readdressed in the EIR.

The existing impacts of pesticide use on wildlife from illegal cannabis cultivation is identified on DEIR page 3.4-59. Attachment A of the State Water Board Policy identifies that the use of agricultural chemicals inconsistently with product labeling, storage instructions, or Department of Pesticide Regulation (DPR) requirements for pesticide applications is prohibited (Standard 10 under "Fertilizers, Pesticides, and Petroleum Products"). This requirement would apply to all permitted commercial cannabis operations. In 2014, DPR banned purchase, possession, and use of rodenticide baits that contain the active ingredients brodifacoum, bromodialone, difenacoum, and difethialone (DPR 2017). These are second generation anticoagulant rodenticides.

I57-6 The comment expresses concern regarding impacts to wildlife movement and does identify that DEIR Mitigation 3.4-4 addresses this. The comment requests monitoring of this issue.

The DEIR describes wildlife movement in the County on DEIR page 3.4-54 and identifies essential connectivity areas in DEIR Exhibit 3.4-7. The DEIR identifies potential impacts to aquatic and terrestrial corridors on DEIR pages 3.4-75 through 3.4-77. Implementation of Mitigation Measure 3.8-5 in concert with the State Water Policy (water diversion restrictions), Mitigation Measure 3.4-5 (wetland protection measures), and Mitigation Measure 3.4-6b (retention of fisher and Humboldt marten habitat features) would mitigate this impact to a less-than-significant level. The proposed ordinance would also prohibit new commercial cannabis operations from occurring on public land (e.g., state and national parks, Six Rivers National Forest), TPZ-zoned areas, and General Plan designated Timberland areas that contain a substantial portion of the County forest habitat areas. These restrictions and the protection of sensitive habitat communities under DEIR Mitigation Measure 3.4-4 would provide adequate habitat for wildlife movement.

Should the proposed ordinance be adopted, the County would be required to adopt a mitigation monitoring and reporting program that would identify how the mitigation measures would be implemented by the ordinance with each commercial cannabis application request.

I57-7 The comment states that cannabis cultivation is not appropriate for the hills of Humboldt and that wildlife and the environment needs to be protected.

This comment is noted. The DEIR discloses the significant environmental impacts of the implementation of the proposed ordinance and identifies mitigation measures to reduce these impacts in DEIR Sections 3.1 through 3.14 and Chapter 4, "Cumulative Impacts."

Letter I58

From: "%Name%"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 10:24:22 AM

Name:	Kyle Haines
E-mail:	kyleghaines@gmail.com

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I58-1

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I58-2

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I58-3

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I58-4

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I58-5

Thank you,

Letter I58	Kyle Haines 10/16/2017

I58-1 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I58-2 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I58-3 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I58-4 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I58-5 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I59

From: Jeff and Marisa St John
To: Lazar, Steve
Cc: Ford, John; Fennell, Estelle; Wilson, Mike; Bohn, Rex; Sundberg, Ryan; Bass, Virginia
Subject: Public Comment: EIR, Ordinance, and Zoning Change
Date: Monday, October 16, 2017 1:03:29 PM

Humboldt County Planning and Building Department

Attention: Steve Lazar, Senior Planner, 3015 H Street, Eureka, CA 95501

Telephone: (707) 268-3741 Fax: (707) 268-3792

Email: slazar@co.humboldt.ca.us

RE: Public Comment Related to Proposed Marijuana Cultivation Ordnance Change (http://www.humboldtgov.org/DocumentCenter/Home/View/60896), Humboldt EIR Final Version (http://www.humboldtgov.org/DocumentCenter/Home/View/60897), and Titlow Hill Area Proposed Zoning Change and its Upcoming EIR (BoS 9/5/17 Agenda Item 17-2308 https://humboldt.legistar.com/LegislationDetail.aspx?ID=3144489&GUID=6334D69D-5539-49B2-8FF6-32878CCEEF6E&Options=&Search=)

There are three inter-related documents that can significantly and negatively impact the property rights of non-marijuana industry residents and visitors, as well as the environment . It seems to be difficult to impossible to adequately comment on them when all three are in process (none finalized, nor approved by the County, and highly contested by those not in the marijuana industry). I59-1

The County has had a long history of claiming mitigations (see General Plan from 1984) and writing laws, yet not funding, staffing, or otherwise following through to make them happen. At this time, it appears that this General Plan Update, Proposed Marijuana Ordinance, and proposed Titlow Hill Area Zoning Changes and EIR will be no different. I59-2

I echo the comments and concerns of EPIC, California Native Plant Society, The Buckeye, and other pro-environment organizations, as well as others concerned with their quality of life, and submit additional comments (some expressed over the last decade in other public comment arenas). I59-3

The "project" being the entire Humboldt County doesn't seem reasonable, especially since there are areas of with dense marijuana operations (ex. Titlow Hill, Eel River, etc.) that do not fall into the general statements made in this EIR. Also, there are proposed zoning changes in the Titlow Hill area where environmental impacts have yet to be determined and the proposed marijuana ordinance changes appear to favor the marijuana operators and their agent. I59-4

The quantity and size of marijuana operations (including illegal: buildings, grading, lighting, etc.) in the Titlow Hill area has only increased since 2002 (especially in the last few years). The number of year-round residents seems to have stayed steady (maybe no more than five families over the over 5,000+ acres – the people whose property rights are most impacted, including results of fires, road erosion, thefts, and other events that the marijuana operators cause by their actions or inactions) and the daily / seasonal people (parcel owners/leasers and their employees/contractors) going home (somewhere else) each night and no way for them to monitor what happens on their properties, nor help in emergency situations, nor concern for their neighbors' or environment's wellbeing. I59-5

ORDINANCE AMENDING PROVISIONS OF TITLE III OF THE HUMBOLDT COUNTY

CODE RELATING TO THE COMMERCIAL CULTIVATION, PROCESSING,

MANUFACTURING, DISTRIBUTION, TESTING, AND SALE OF CANNABIS FOR

MEDICINAL OR ADULT USE

1. "These regulations are intended to ensure the public health, safety and welfare of residents…" – We can't enjoy our property due to: odors, packs of dogs attacking our pets and livestock, threats to harm us, thefts, property damage, fear of robbery / murder due by those looking for drugs/money, etc. These regulations and proposed changes do not seem to meet its basic intentions. I59-6

2. 55.4.3.9 "…not permitted on General Agriculture use type" – How many parcels, in what areas, and how much acreage is impacted? Why are other land use types excluded? I59-7

3. 55.4.4.4 existing cultivations sites are defined by the timeframe of "January 1, 2006 – December 31, 2015." How are cultivations prior to "January 1, 2006" and after "December 31, 2015" defined? What regulations do they need to follow? I59-8

4. 55.4.5.3.3 There appears to be no penalty for "starting and expanding sites " when there are no applications – "resolve the violations and proceed with processing of the I59-9

applications." I59-9 cont

5. 55.4.5.4 – Why is a "Cannabis Cooperative Association" excluded from the maximum of four allotted permits? Why are they different from any other business designation? What is the impact? I59-10

6. 55.4.5.4.2 – Why are multiple types excluded from the maximum of four allotted permits? What is the impact? I59-11

7. 55.4.5.4.4 – Why are Cannabis Support Facilities excluded from the maximum of four allotted permits? What is the impact? I59-12

8. 55.4.6.4 Slope should be only for naturally occurring sites, not due to grading or other man-made changes. Also, 15% should is already high and there should be no exceptions for increasing the slope for any reason. I59-13

9. 55.4.12.18 – Why do the Road Performance Standards seem to deviate from the SRA? Why aren't SRA or already existing standards for roads or anything else not just referenced here? I59-14

10. 55.4.12.18 – The cost of improvement and maintenance to the Road Performance Standards shall be solely the responsibility of the marijuana operators. Also, individual existing property owners shall not be required to meet those Road Performance Standards and shall not be negatively impacted by that refusal (new owners after January 1, 2000 shall adhere to those standards). I59-15

11. 55.4.12.4d – There appears to be two different timeframes "within fourteen (10) calendar days." Is it ten (10) days? I59-16

12. 5.5.4.13 – Why is the County singling out marijuana production for "Humboldt Artisanal Branding?" Other businesses appear to have had to create, pay for, and maintain their own marketing efforts. I59-17

13. Where is a matrix / grid that links the EIR mitigations to these regulations? I59-18

EIR

1. If the EIR states that there are items that can't be or are difficult to be mitigated, why isn't the County recommending fewer marijuana operations, over fewer acres, in fewer areas (estimated now to be up to 15,000 in the EIR, up from 10,000+)? I59-19

To be even more transparent and easier to comment for those not paid to review and comment, it is suggested that the County: I59-20

1. State the County's response in the Summary of Impacts and Mitigation Measures in the Draft EIR for the Amendments to Humboldt County Code Regulating Commercial Cannabis Activities (State Clearinghouse # 2017042009) Summary of NOP Comments grid (not just point someone to the section)

I59-20 cont

2. Cross-reference the Summary of Impacts and Mitigation Measures in the Draft EIR for the Amendments to Humboldt County Code Regulating Commercial Cannabis Activities (State Clearinghouse # 2017042009) to the ORDINANCE AMENDING PROVISIONS OF TITLE III OF THE HUMBOLDT COUNTY CODE RELATING TO THE COMMERCIAL CULTIVATION, PROCESSING, MANUFACTURING, DISTRIBUTION, TESTING, AND SALE OF CANNABIS FOR MEDICINAL OR ADULT USE

I59-21

3. Clearly state the positive and negative impacts to residents, as well as marijuana operators, for each of the proposed changes and mitigations.

I59-22

The cost of application, licenses, taxes, and compliance should be irrelevant to the marijuana operators since they have demonstrated that they can afford properties whose costs have been hyper-inflated and haven't been paying taxes and other costs of doing business. They may also be hiding their marijuana operations behind long-time legitimate businesses like local wineries that are licensed by the US government, state, and local governments.

I59-23

Lastly, the References section seems to have no citations from states who have already legalized the cultivation, production, and use of recreational marijuana. Wouldn't it be reasonable to understand what actually happens in addition to possible and probable impacts before making decisions for Humboldt County?

I59-24

Sincerely,

Marisa St John

22522 State Hwy 299

Blue Lake, CA 95525

Cc:

Board of Supervisors

Building and Planning Director

Letter I59	Marisa St John 10/16/2017

I59-1 The comment includes the opinion that the cannabis industry bring negative property rights impacts to non-cannabis industry citizens, visitors, and the environment.

The DEIR discloses the significant environmental impacts of the implementation of the proposed ordinance and identifies mitigation measures to reduce these impacts in DEIR Sections 3.1 through 3.14 and Chapter 4, "Cumulative Impacts." Economic and social effects are not treated as significant effects on the environment under CEQA (see CEQA Guidelines Section 15131[a]).

This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

I59-2 The comment asserts that the County does not enforce mitigations and other requirements. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I59-3 The comment includes support for other organizations, such as EPIC, California Native Plant Society, and The Buckeye, and the concerns/comments that they have submitted. The comment is noted. Responses to DEIR comments submitted by EPIC are responded to under Comment Letter O8 and DEIR comments submitted by the Buckeye are responded to under Comment Letter O9.

I59-4 The comment expresses concern with the proposed ordinance, encompassing the entire county and appears to assert that the EIR does not address Titlow Hill, Eel River, and other areas. The comment also asserts that the environmental impacts of the proposed zoning changes in the Titlow Hill area have not been determined.

The DEIR provides a programmatic environmental impact analysis of the implementation of the proposed ordinance county-wide. Existing environmental conditions and impacts to the Eel River water resources are documented in DEIR Section 3.8, "Hydrology and Water Quality." The DEIR does not evaluate the environmental impacts of any change in zoning designations in the Titlow Hill area because the proposed ordinance would not alter any zoning designations.

I59-5 The comment includes concerns with grading, lighting, fire, crime, and erosion resulting from existing cannabis operations. This comment is noted. The reader is referred to Master Response 1 for a further discussion of the DEIR disclosure of the environmental effects of existing unpermitted cannabis operations.

I59-6 The comment asserts that the proposed ordinance does not meet its basic intentions. This comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

I59-7 The comment questions the provisions of the proposed ordinance Section 55.4.3.9. DEIR Chapter 2, "Project Description," assumes that the County could have 1,012 new commercial cannabis cultivation sites from implementation of the proposed ordinance. It is not known what the typical size of the individual cultivation sites would occur. As identified in this section of the proposed ordinance cannabis is considered a specialty crop and an agricultural product.

I59-8 The comment questions the provisions of the proposed ordinance Section 55.4.4.4. Cultivation sites created before 2006 and after 2015 treated as new cultivation sites under the proposed ordinance.

I59-9 The comment questions the provisions of the proposed ordinance Section 55.4.5.3.3. Cannabis cultivation sites that do not have a permit application would be treated similar to illegal cannabis operations and would be subject to code enforcement activities and fines. The reader is referred to Master Response 6 for a further discussion on improvements to County code enforcement activities.

I59-10 The comment questions the provisions of the proposed ordinance Section 55.4.5.4. The proposed ordinance no longer excludes those cannabis cooperative associations from permit requirements. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I59-11 The comment questions the provisions of the proposed ordinance Section 55.4.5.4.2. The proposed ordinance no longer limits permits. It now includes limits for cultivation area (maximum of four acres). This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I59-12 The comment questions the provisions of the proposed ordinance Section 55.4.5.4.4. The proposed ordinance no longer limits permits. It now includes limits for cultivation area (maximum of four acres). This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I59-13 The comment questions the provisions of the proposed ordinance Section 55.4.6.4. The County is considering this requested change as part of revisions to the proposed ordinance. The reader is referred to DEIR Section 3.6, “Geology and Soils,” for a discussion of applicable grading and geologic stability requirements of the County,

I59-14 The comment questions the provisions of the proposed ordinance Section 55.4.12.18 regarding its consistency with SRA requirements. The proposed ordinance “Road Performance Standards” are consistent with SRA requirements where required by state law. They are tailored to better fit the context of permitting cannabis activities which is beyond the scope of the SRA requirements. The reader is referred to DEIR Section 3.7, “Hazards and Hazardous Materials,” and 3.11, “Public Services,” for a further discussion of fire hazards and SRA provisions.

I59-15 The comment questions the provisions of the proposed ordinance Section 55.4.12.18 regarding the cost of improvements and maintenance of roads. The proposed ordinance reflects this requested change. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I59-16 The comment questions the provisions of the proposed ordinance Section 55.4.12.4d. The proposed ordinance has been revised to reflect a timeframe of ten working days under this section. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I59-17 The comment questions the provisions of the proposed ordinance Section 55.4.13. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I59-18 The comment asks why there is no matrix/grid that links the EIR mitigation measures to the regulations. Each DEIR mitigation measure identifies how it would be incorporated into the proposed ordinance or its implementation. Should the proposed ordinance be adopted, the DEIR mitigation measures will be incorporated in the ordinance or incorporated in implementation programs associated with the ordinance.

I59-19 The comment asks why the County is not recommending reductions in commercial cannabis operations based on the impact conclusions of the DEIR.

The DEIR does identify alternatives 1, 3, 4, and 5 that each would restrict the extent of new commercial cannabis operations in the County (see DEIR Chapter 6, "Alternatives").

I59-20 The comment appears suggest that the County should identify the response to NOP comments that were received.

State CEQA Guidelines Sections 15082, 15083, and 15084 identify that the purpose of receiving NOP comments are to help define the appropriate scope and content of the DEIR. State CEQA Guidelines Section 15084 specifically requires lead agencies to consider all information comment received in the preparation of a DEIR. Thus, the intent of the NOP comments to provide input on the scope of the analysis in the DEIR and is not intended to be a comment-response dialogue that occurs at the Final EIR stage of the CEQA EIR process. DEIR Table 1-1 provides a summary of the NOP comments (complete copies of the NOP comments are provided in Appendix A of the DEIR) and identification of where the environmental issues are addressed in the DEIR consistent with CEQA.

I59-21 The comment requests a cross-reference of the DEIR impacts and mitigation measures to the proposed ordinance.

Each DEIR mitigation measure identifies how it would be incorporated into the proposed ordinance or its implementation. Should the proposed ordinance be adopted, the DEIR mitigation measures will be incorporated in the ordinance or incorporated in implementation programs associated with the ordinance.

I59-22 The comment requests identification of positive and negative impacts to residents and cannabis operations for each proposed change and mitigations.

The DEIR Table ES-1 discloses each significant environmental impact from implementation of the proposed ordinance and whether implementation of the mitigation measure would reduce the impact to a less-than-significant level. CEQA does not require an EIR define whether the impact conclusions are positive or negative for residents or cannabis operators.

I59-23 The comment states that the costs of compliance with the proposed ordinance should be irrelevant to operators. This comment is noted.

I59-24 The comment states that the DEIR provides no citations to studies of cannabis programs from other states to determine probable impacts.

The DEIR is focused on the environmental impacts that would occur in the County and uses technical studies and information on the environment that is specific to the County. The DEIR also uses technical information from the state that has been developed as part of the state regulations for commercial cannabis operations. No other state uses an environmental compliance law that is comparable to CEQA. Thus, other state reports on cannabis operations was not useful in the preparation of this DEIR.

Letter I60

From: "%Name%"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 9:59:24 AM

Name:	Monica Balwinski
E-mail:	monicatsndogs@gmail.com
Your Comments:	Dear Mr. Lazar: Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I also recommend that the size of permitted operations be limited to 10,000 square feet for the

I60-1

I60-2

I60-3

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I60-4

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I60-5

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I60-6

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I60-7

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full I60-8

legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I60-8 cont

Thank you,

Letter I60	Monica Baldwinski 10/16/2017

I60-1 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I60-2 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I60-3 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I60-4 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I60-5 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I60-6 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I60-7 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I60-8 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I61

From: Noel J. Krahforst
To: Lazar, Steve; Sundberg, Ryan
Subject: Black market loophole and delayed code enforcement
Date: Monday, October 16, 2017 11:29:05 AM

Steve Lazar
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501

Please remove the loophole that allows code enforcement to ignore illegal grows if a complaint is withdrawn. My neighbors correctly suspected me of reporting their illegal grow this spring, pressured me for weeks to drop my complaint, and persuaded code enforcement officer Jeff Conner to offer me that option.

I declined to drop my complaint, but this and other delays initiated by the grower and their attorney, and a lack of timely follow-through by code enforcement, effectively prevented any enforcement action before harvest.

Please fix this complaint withdrawal loophole that can potentially subject citizens to threats, bribes, or worse, and only benefits black market growers.

Please ask Jeff Conner why an investigation once begun can't be completed in a timely manner using existing enforcement tools. The message sent to the growers (why go legal?) and to the surrounding neighborhood (why bother complaining?) has been clear.

I61-1

Noel Krahforst
Willow Creek

Letter I61	Noel Krahforst 10/16/2017

I61-1 The comment requests that the loophole that allows code enforcement to ignore illegal grows if a compliant is withdrawn. The County is considering this requested change as part of revisions to the proposed ordinance. The reader is referred to Master Response 6 for a discussion of County code enforcement activities addressed cannabis issues.

Letter I62

From: Pat Farmer
To: Lazar, Steve
Subject: Cannabis ordinance comments
Date: Monday, October 16, 2017 11:36:09 AM

As a property owner in a rural residential area of Humboldt county I implore the county Planning and Building Department to **stop expansion of cannabis cultivation sites until adequate compliance and control of existing grows can be achieved.** The environmental impact of existing cultivation sites has resulted in substantial degradation of watersheds, and clear but un-quantified contamination of land with pesticides, rodenticides, and fungicides. The inability to adequately control the marijuana industry has resulted in enormous damage to our beautiful county, threatens our health, and puts our tourist industry in jeopardy. I62-1

I sincerely cannot imagine the purpose of county agencies who regulate and control land use, if it is not to prevent the exact problem we are facing: law-abiding, tax-paying citizens are being held hostage to outrageous increases in truck traffic, inequitable water grabs, soil contamination, noise and light pollution and horrible smells. The county does not allow the dairy industry, the logging industry, the hospitals, or any other business to expand in an unchecked manner. I62-2

Decisions made now have critical repercussions for Humboldt's future. Stop expansion. Control existing. Re-visit the need for additional cannabis grow sites after those more fundamental concerns are addressed. I62-3

Sincerely,

Pat Farmer, RN, DNP
Family Nurse Practitioner

Letter I62	Pat Farmer 10/16/2017

I62-1 The comment requests that the County stop expansion of cannabis cultivation sites until existing cannabis cultivation sites can be controlled. The comment identifies concerns with impacts to watersheds and contamination of lands from existing cannabis cultivation.

The reader is referred to Master Response 1 for a further discussion of the DEIR's disclosure of the environmental effects of existing unpermitted cannabis operations and Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities. The DEIR does programmatically evaluate the environmental impacts of existing commercial cannabis operations that intend to comply with County standards under the proposed ordinance and/or propose to retire existing cultivation sites, remediate existing cultivation site, or relocate to new properties. While these operations are existing and part of the environmental baseline condition, compliance with the proposed ordinance may involve new actions that would modify their operations, which may include restoration of habitat, roadway improvements, expansion or reconfiguration of their operations, installation of water quality controls, and modification to water supply facilities. This EIR programmatically evaluates the environmental impacts of these possible actions. (see DEIR page 2-28)

I62-2 The comment states that the purpose of the County is to prevent impacts from cannabis activities that include truck traffic, water, soil contamination, noise, light pollution, and odor.

Evaluation of impacts involving these topics can be found in the following DEIR sections, respectively: 3.12, "Transportation and Circulation," 3.8, "Hydrology and Water Quality," 3.7, "Hazards and Hazardous Materials,"3.10, "Noise," 3.1, "Aesthetics," and 3.3, "Air Quality and Greenhouse Gases." Additionally, Master Responses 5, 3, and 4, respectively provide further discussion of impacts related to water resources, noise and generator use, and odors associated with cannabis activities to be permitted under the proposed ordinance.

I62-3 The comment requests that the County stop expansion of cannabis cultivation sites until existing cannabis cultivation sites can be controlled and re-visit the need for cannabis.

The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project. The reader is referred to Master Response 6 for a discussion of County code enforcement activities addressed cannabis issues.

Letter I63

From: "%Name%"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 7:40:06 AM

Name:	Robert Torre
E-mail:	R.torre@comcast.net
Your Comments:	There needs regulation of cannibus farming in humboldt county

I63-1

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I63-2

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I63-3

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I63-4

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I63-5

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I63-6

Thank you,

Letter I63	Robert Torre 10/16/2017

I63-1 The comment states the need for cannabis regulation within the County. The comment is noted

I63-2 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I63-3 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I63-4 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I63-5 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I63-6 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I64

From: "%Name%"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 9:33:24 AM

Name:	Rudy Ramp
E-mail:	rampturn@tidepool.com
Your Comments:	I see limiting the size of permitted operations for the largest parcels to 10,000 sqft as the highest priority.

I64-1

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I64-2

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I64-3

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I64-4

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I64-5

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I64-6

Thank you,

Letter I64	Rudy Ramp 10/16/2017

I64-1 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I64-2 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I64-3 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I64-4 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I64-5 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I64-6 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I65

From: "%Name%"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 9:07:45 AM

Name:	Sandra Tilles
E-mail:	sandyt@wildblue.net
Your Comments:	I think the largest grows should be 5,000 sq. feet or less. I agree that only former existing grows should be permitted at this time. Please include a cottage industry option with fewer regulations and fees. We need to keep our families in Humboldt.

I65-1

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I65-2

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I65-3

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I65-4

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I65-5

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I65-6

Thank you,

Letter I65	Sandra Tilles 10/16/2017

I65-1 The comment recommends that permitted cultivation be limited to 5,000 square feet and that only former existing grows be permitted at this time. The comment also suggests that the cottage industry option be included with fewer regulations and fees. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

I65-2 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I65-3 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I65-4 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I65-5 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I65-6 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I66

From: "Seth Zuckerman"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 2:36:23 PM

Name:	Seth Zuckerman
E-mail:	szuckerman@igc.org
Your Comments:	As a landowner in rural Humboldt County and someone who has been active in watershed restoration and management there since the early 1990s, I am keenly aware that there is only so much impact -- particularly in terms of sediment input and water withdrawal -- that our watersheds can withstand. In an environment where enforcement resources are apt to be stretched thin, it is essential to take a conservative approach to allowing the impacts from this, as much as from any large-scale industrial enterprise. I urge the board to restrict permitted cannabis grows to no more than 10,000 square feet per parcel, a limitation that will be easy to verify with the limited regulatory staff available to the county. We are counting on you to protect the public trust values of our county! Thank you, Seth Zuckerman, Petrolia landowner

I66-1

I66-2

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I66-3

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I66-4

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I66-5

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I66-6

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I66-7
Thank you,

Letter I66	Seth Zuckerman 10/16/2017

I66-1 The comment identifies concerns with impacts to watersheds and proper enforcement. The reader is referred to Master Response 5 for a detailed discussion of the DEIR evaluation of watershed impacts and the recent adoption of the State Water Board Policy that provides additional watershed protections. The reader is also referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I66-2 The comment recommends that permitted cultivation be limited to 10,000 square feet per parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I66-3 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I66-4 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I66-5 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I66-6 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I66-7 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I67

From: "%Name%"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 1:33:22 PM

Name:	Thomas Wheeler
E-mail:	tom@wildcalifornia.org

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I67-1

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I67-2

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I67-3

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I67-4

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I67-5

Thank you,

Letter I67	Thomas Wheeler 10/16/2017

I67-1 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I67-2 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I67-3 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I67-4 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I67-5 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I68

From: Tim Talbert
To: Lazar, Steve
Subject: Marijuana Grow Permits
Date: Monday, October 16, 2017 9:16:37 AM

Hello, my wife and I would like to express our desire that marijuana grow permits include provisions that the grow does not adversely affect neighbors and the community, including environmental degradation, increased traffic, water supply overuse, and smell. I68-1

Tim Talbert
Pat Farmer

Letter I68	Pat Farmer 10/16/2017

I68-1 The comment recommends that cannabis activities only be permitted where they will not adversely affect neighbors and the community through environmental degradation, increased traffic, water supply overuse, and odors.

This comment is noted. The reader is referred to the following DEIR Sections where these topics are evaluated: Section 3.12, "Transportation and Circulation," 3.13, "Utilities and Service Systems," and 3.3, "Air Quality and Greenhouse Gas Emissions." Additionally, Master Response 4 includes further discussion regarding cannabis-related odors.

Letter I69

From: "Tory Starr"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Monday, October 16, 2017 9:20:55 PM

Name:	Tory Starr
E-mail:	Torystarr59@gmail.com
Your Comments:	We appreciate your thoughtful consideration of the management of our most precious resource, our water. Thank you

I69-1

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I69-2

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I69-3

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I69-4

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I69-5

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I69-6

Thank you,

Letter I69	Tory Starr 10/16/2017

I69-1 The comment requests that the County consider management of the County's water. This comment is noted. Water resource impacts are addressed in DEIR Section 3.8, "Hydrology and Water Quality." The reader is referred to Master Response 5 for a detailed discussion of the recent adoption of the State Water Board Policy that provides additional water resource protections.

I69-2 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I69-3 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I69-4 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I69-5 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I69-6 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter
I70

From: Uri Driscoll
To: Lazar, Steve
Subject: Marijuana
Date: Monday, October 16, 2017 1:26:06 PM

Steve
Please consider this comment in support of NOT permitting additional marijuana grows until sufficient enforcement capabilities are identified and fully funded I70-1

Thank you
Uri

Sent from my iPhone

Letter I70	Uri Driscoll 10/16/2017

I70-1 The comment identifies opposition to the proposed ordinance until sufficient enforcement is provided. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities. The County is considering this requested change as part of revisions to the proposed ordinance.

Letter
I71

From: Thomas Grover [mailto:grovert58@yahoo.com]
Sent: Tuesday, October 17, 2017 9:18 AM
To: Ford, John
Subject: rainwater definition for cann ord

I tried to send this to planning commission but my printer is not working.
Please forward.

Dear Commissioners:
I made reference to the state Rainwater Capture Act of 2010.
This is a summary of the definition of rainwater as defined by the State of California. The act also specifies "from any structure" is allowed without a permit.
Please change the definition you are using to be compliant with state regulations .

Summary of the Act

Prior to enactment of the Act, the SWRCB required all would-be appropriators to apply for and obtain a permit to appropriate water from any source, including water falling in the form of precipitation. Under the Act, however, the use of rainwater - defined as "precipitation on any public or private parcel that has not entered an offsite storm drain system or channel, a flood channel, or any other stream channel, and has not been previously been put to beneficial use" - is not subject to the California Water Code's SWRCB permit requirement [California Water Code §§ 1200 et seq.]

I71-1

Letter I71	Thomas Grover 10/16/2017

I71-1 The comment requests a text change to the proposed ordinance's definition of rainwater capture. The County is considering this requested change as part of revisions to the proposed ordinance. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

Letter I72

From: "Gary Falxa"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Tuesday, October 17, 2017 6:56:20 AM

Name:	Gary Falxa
E-mail:	garyfalxa@gmail.com
Your Comments:	I have lived and worked in Humboldt County for almost 20 years, as a wildlife biologist. During this time I have witnessed first-hand the many negative impacts of the marijuana "gold-rush" that has descended upon our county and adjacent counties. I am concerned both about the severe environmental impacts and the societal impacts of marijuana growing. The environmental impacts include those associated with unregulated and rampant land-clearing, grading, roads, light and fuel-pollution, water diversions and chemical use by marijuana grows. Societal impacts include the attraction to our region of criminal individuals and groups looking to make quick and easy money growing marijuana on private and public lands. Despite any good intentions, our local regulatory and law enforcement agencies are clearly unable to effectively enforce laws and regulations relevant to the thousands of grow operations scattered throughout the county. I believe that the only reasonable solution to address these impacts and are the recommendations in this letter. In truth I recommend that permitted operations be limited to less than 10,000 square feet, except on lowland, flat lands already in use for intensive agriculture, such as those in valleys including the lower Eel River and Arcata Bottoms.

I72-1

I72-2

I72-3

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I72-4

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I72-5

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I72-6

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources I72-7

dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I72-7 cont

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I72-8

Thank you,

Letter I72	Gary Falxa 10/16/2017

I72-1 The comment states that existing cannabis activities have resulted in severe impacts including land-clearing, grading, roads, light and fuel-pollution, water diversions, and chemical use by marijuana grows.

The reader is referred to Master Response 1 for a further discussion of the DEIR's disclosure of the environmental effects of existing unpermitted cannabis operations. The DEIR does programmatically evaluate the environmental impacts of existing commercial cannabis operations that intend to comply with County standards under the proposed ordinance and/or propose to retire existing cultivation sites, remediate existing cultivation site, or relocate to new properties. While these operations are existing and part of the environmental baseline condition, compliance with the proposed ordinance may involve new actions that would modify their operations, which may include restoration of habitat, roadway improvements, expansion or reconfiguration of their operations, installation of water quality controls, and modification to water supply facilities. This EIR programmatically evaluates the environmental impacts of these possible actions. (see DEIR page 2-28)

The reader is referred to the following sections of the DEIR where these topics are evaluated, respectively: 3.2, "Agriculture and Forest Resources," 3.6, "Geology and Soils," 3.1, "Aesthetics," 3.3, "Air Quality and Greenhouse Gas Emissions," 3.8, "Hydrology and Water Quality," 3.4, "Biological Resources," and 3.7, "Hazards and Hazardous Materials." Additionally, Master Response 5 includes further discussion of impacts to water resources.

I72-2 The comment identifies concerns with enforcement of law and regulations. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I72-3 The comment recommends that cannabis cultivation be limited to less than 10,000 square feet in size, except in the lowland/flat lands already used for intensive agriculture. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

I72-4 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I72-5 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I72-6 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I72-7 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I72-8 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I73

From: "Norm an Dyche"
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Tuesday, October 17, 2017 2:03:24 AM

Name:	Norm an Dyche
E-mail:	3711nd@suddenlink.net
Your Comments:	It is difficult to believe that the cannabis and its taxes and revenue is above us and our families. Big Buck speaks again, while we at the same time destroy our environment.

I73-1

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I73-2

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I73-3

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I73-4

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I73-5

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I73-6

Thank you,

Letter I73	Norm an Dyche 10/16/2017

I73-1 The comment identifies concerns regarding the proposed ordinance and its impact on the environment.

This comment is noted. The DEIR discloses the significant environmental impacts of the implementation of the proposed ordinance and identifies mitigation measures to reduce these impacts in DEIR Sections 3.1 through 3.14 and Chapter 4, "Cumulative Impacts."

I73-2 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I73-3 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I73-4 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I73-5 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I73-6 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I74

From: "Paul Henninger "
To: Lazar, Steve
Subject: Comments for Cannabis Cultivation DEIR
Date: Tuesday, October 17, 2017 7:21:24 AM

Name:	Paul Henninger
E-mail:	pauli@asis.com
Your Comments:	Don't let the industrial pot industry deplete our water supply, we need to represent the fish that are floundering in the shallow pools in the lower Eel as well as the profiteers of the pot industry .

I74-1

Steve Lazar, Senior Planner
Humboldt County Planning & Building Department
3015 H Street
Eureka, CA 95501
Via email

Dear Mr. Lazar:

Humboldt County has an important opportunity before it to establish meaningful regulations to protect our watersheds from the significant impacts of the commercial cannabis industry. I support using science and reality-based evidence to inform regulations that maintain and protect healthy rivers. I74-2

I request that Humboldt County analyze and disclose the cumulative impacts of cannabis cultivation on a watershed level. Un-permitted operations, which currently far outnumber permitted ones, must be included in this analysis, as required by the California Environmental Quality Act. I74-3

I also recommend that the size of permitted operations be limited to 10,000 square feet for the largest parcels. I74-4

With only three staff members assigned to code enforcement, Humboldt County does not have the resources to enforce the ordinance, let alone enforce penalties for violators. The lack of resources dedicated to this issue sends a strong message that the county has little interest in actually protecting our watershed. I74-5

Humboldt County has long been the leader of the, until now, illicit marijuana industry. With full legalization on the horizon, we must rise to the occasion and also become a leader in the transition to a more transparent and sustainable cannabis industry. I74-6

Thank you,

Letter I74	Paul Henninger 10/16/2017

I74-1 The comment expresses concern with water supply and fishery impacts to the Eel River. As discussed in Master Response 5, the DEIR analysis acknowledges that cannabis irrigation could result in a significant decrease in watershed flows during low flow conditions (see DEIR pages 3.8-44 and 3.8-45). Implementation of Mitigation Measure 3.8-5 in compliance with State Water Board Policy would require that all cannabis cultivation surface water and groundwater diversions comply with the numeric flows and aquatic base flows that have been established by watershed under the Policy in consultation with CDFW. The proposed ordinance would prohibit new commercial cannabis cultivation in the forested areas of the upper watersheds and limit it to non-forested areas generally in the lower portions of the watersheds where the USGS gages used in the implementation of the State Water Board Policy exist. The State Water Board Policy's flow standards and diversion requirements were developed to protect fish spawning, migration, and rearing for endangered anadromous salmonids, and flows to needed to maintain natural flow variability within each watershed.

I74-2 The comment request the County establish regulations that includes protection of watersheds from impacts resulting from cannabis operations. The reader is referred to Master Response 5 for a detailed discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I74-3 The comment requests a cumulative environmental analysis that includes unpermitted operations and the impacts to watersheds. The reader is referred to Master Response 1 for a detailed discussion of DEIR's consideration of unpermitted cannabis operations and Master Response 5 for further discussion of the DEIR's evaluation of water resource impacts to the County's watersheds.

I74-4 The comment recommends that permitted cultivation be limited to 10,000 square feet for the largest parcel. This comment is noted. This comment reflects a proposed change to the ordinance and does not address environmental issues evaluated in the EIR.

I74-5 The comment includes concern with enforcement. The reader is referred to Master Response 6 for a detailed discussion of improvements to the County's code enforcement activities.

I74-6 The comment includes conclusory remarks. The comment is noted and will be provided to the Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

3 REVISIONS TO THE DEIR

3.1 INTRODUCTION

This chapter presents specific text changes made to the DEIR since its publication and public review. These changes are the result of responses to comments on the DEIR identified in Chapter 2, "Responses to Comments." The changes are presented in the order in which they appear in the original DEIR and are identified by the DEIR page number. Text deletions are shown in ~~strikethrough~~, and text additions are shown in double underline.

The information contained within this chapter clarifies and expands on information in the DEIR and does not constitute "significant new information" requiring recirculation. (See Public Resources Code Section 21092.1; CEQA Guidelines Section 15088.5.).

SECTION 3.4, "BIOLOGICAL RESOURCES"

On DEIR page 3.4-34, the third row of the third column in table 3.4-2 is corrected to read:

SC ~~SSC~~

On DEIR page 3.4-61, under the heading "Special-Status Amphibians," the text is corrected to read:

Foothill yellow-legged frog is a candidate for listing under the CESA. ~~Foothill yellow-legged frog;~~ N~~n~~orthern red-legged frog, Pacific tailed frog, red-bellied newt, and southern torrent salamander are all CDFW species of special concern.

On DEIR page 3.4-61, the following text was added:

Mitigation 3.4-1a: Pre-approval biological reconnaissance surveys.

The following shall be included as performance standards in the proposed ordinance for the protection of special-status wildlife species and habitat from new development related to cannabis activities.

- Prior to approval of any application for commercial cannabis operations, a biological reconnaissance survey shall be conducted within the proposed development area by a qualified biologist. The qualified biologist shall assess the habitat suitability of the proposed development area for all 35 special-status wildlife species identified as having potential to occur in the County consistent with General Requirement and Prohibition 10 of the Attachment A of the State Water Board Policy.

- The biologist shall provide a letter report to the project applicant and the County with evidence to support a conclusion as to whether special-status species and sensitive habitats are present or are likely to occur within the proposed development area. If special-status species or sensitive habitats are present, the appropriate mitigation measures from this EIR shall be identified. The County shall require implementation of the mitigation measures as part of the application approval.

On page 3.4-61, the text within "Mitigation 3.4-1a: Special-status amphibian preconstruction surveys" (now Mitigation 3.4-1b) is modified to read:

Mitigation 3.4-1b~~a~~: Special-status amphibian preconstruction surveys ~~and relocation~~.

The following shall be included as performance standards in the proposed ordinance for the protection of special-status amphibian species from new development related to cannabis activities.

~~Forty eight hours prior to proposed new development activities within 200 feet of any SMA or Other Wet Area, a preconstruction survey for special status amphibians shall be conducted by a qualified biologist. The biologist shall be familiar with the life cycle of foothill yellow-legged frog, northern red-legged frog, Pacific tailed frog, red bellied newt, and southern torrent salamander, and will conduct appropriate surveys for the applicable life stages (i.e., eggs, larvae, adults).~~

~~Preconstruction surveys for special status amphibian species shall be conducted throughout the proposed construction area and a 400-foot buffer around the proposed development area. Surveys shall consist of "walk and turn" surveys of areas beneath surface objects (e.g., rocks, leaf litter, moss mats, coarse woody debris) for newts and salamanders, and visual searches for frogs.~~

~~If red bellied newt or southern torrent salamander or special status frogs are detected during the preconstruction survey, the proposed development area shall be relocated to be no closer than 200 feet from the occurrence(s) measured as a horizontal line perpendicular to, and moving away from, the SMA.~~

- If special-status amphibians are detected during the initial biological reconnaissance survey (see Mitigation 3.4-1a) or are determined to be likely to occur, consultation with CDFW shall be initiated to determine whether mitigation measures, such as project design modifications, relocation of the site, relocation of individual animals, or installation of exclusionary fencing, will be necessary and appropriate.

- Regardless of detection during the initial biological reconnaissance survey, if suitable habitat for special-status amphibians is present within the proposed development area, a qualified biologist familiar with the life cycle of foothill yellow-legged frog, northern red-legged frog, Pacific tailed-frog, red-bellied newt, and southern torrent salamander shall conduct preconstruction surveys of proposed new development activities 48 hours prior to new development activities. Preconstruction surveys for special-status amphibian species shall be conducted throughout the proposed construction area and a 400-foot buffer around the proposed development area. Surveys shall consist of "walk and turn" surveys of areas beneath surface objects (e.g., rocks, leaf litter, moss mats, coarse woody debris) for newts and salamanders, and visual searches for frogs. Preconstruction surveys shall be conducted within the appropriate season to maximize potential for observation for each species, and appropriate surveys will be conducted for the applicable life stages (i.e., eggs, larvae, adults).

- If special-status amphibians are not detected during the preconstruction survey, then further mitigation is not required.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1a and 3.4-1b would reduce potential impacts on special-status amphibians to a **less-than-significant** level by requiring preconstruction surveys and the protection of special-status frogs, newts, and salamanders from construction-related injury, mortality, or other disturbance when new cannabis facilities are developed near aquatic habitat consistent with General Requirement and Prohibition 10 of the Attachment A of the State Water Board Policy.

On page 3.4-62, the text within "Mitigation 3.4-1b: Western pond turtle preconstruction surveys" (now Mitigation 3.4-1c) is modified to read:

Mitigation 3.4-1c~~b~~: Western pond turtle preconstruction surveys and relocation.

The following shall be included as a performance standard in the proposed ordinance for the protection of western pond turtle from new development related to cannabis activities.

~~Within 24 hours before beginning proposed new development activities within 200 feet of SMA or Other Wet Area, a qualified biologist shall survey areas of anticipated disturbance for the presence of western pond turtle. If pond turtles are found during the survey the proposed development area shall~~

~~be relocated to be no closer than 200 feet from the occurrence(s) measured as a horizontal line perpendicular to, and moving away from, the SMA.~~

- If pond turtles are detected during the initial biological reconnaissance survey (see Mitigation 3.4-1a), preconstruction surveys, or are determined to be likely to occur, consultation with CDFW shall be initiated to determine whether additional measures, such as project design modifications, relocation of the site, relocation of individual animals, or installation of exclusionary fencing, will be necessary and appropriate.

- Regardless of detection during the initial biological reconnaissance survey, if suitable aquatic habitat for western pond turtle is present within the proposed development area, a qualified biologist familiar with the life history of western pond turtle shall conduct preconstruction surveys of proposed new development activities within 200 feet of any SMA or Other Wet Area 24 hours prior to such development activities.

- If pond turtles are not detected during the preconstruction survey, then further mitigation is not required.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1c~~b~~ would reduce potential impacts on western pond turtle to a **less-than-significant** level by requiring preconstruction surveys and the protection of western pond turtles from cannabis development-related injury, mortality, or other disturbance.

On DEIR page 3.4-62, the following text change is made to the first paragraph under "Nesting Raptors:"

The County contains suitable nesting habitat and many known nesting occurrences for several raptor species, including American peregrine falcon, bald eagle, golden eagle, northern goshawk, northern spotted owl, and white-tailed kite. Peregrine falcon, bald eagle, golden eagle, and white-tailed kite are fully protected under California Fish and Game Code. Bald eagle is also listed as endangered under CESA. Bald and golden eagles are also protected under the Bald and Golden Eagle Protection Act. Northern spotted owl is listed as threatened under ESA and CESA, and is also a CDFW species of special concern. Northern goshawk is a CDFW species of special concern. Suitable nesting habitat for these species includes trees, snags, cliffs, and human-made structures (e.g., utility poles). Critical habitat for northern spotted owl is present within the County (Exhibit 3.4-5). Large portions of this habitat area are in land areas (public lands and areas designated for timber uses) where new commercial cannabis operations would be prohibited under the proposed ordinance.

On page 3.4-63, the text within "Mitigation 3.4-1c" (now Mitigation 3.4-1d) is modified to read:

Mitigation 3.4-1d~~c~~: Nesting raptor preconstruction survey and establishment of protective buffers.

The following shall be included as performance standards in the proposed ordinance for the protection of nesting raptors from new development related to cannabis activities.

- To minimize the potential for loss of nesting raptors, tree removal activities shall only occur during the nonbreeding season (September 1-January 31).

- Prior to removal of any trees, or ground-disturbing activities between February 1 and August 31, a qualified biologist shall conduct preconstruction surveys for nesting raptors, and shall identify active nests within 500 feet of the proposed development area. The surveys shall be conducted between February 1 and August 31.

- Impacts to nesting raptors, including direct impacts and indirect impacts (e.g., noise, presence of construction crews) shall be avoided by establishing appropriate buffers around active nest sites

identified during preconstruction raptor surveys. The buffer areas shall be protected with construction fencing, and no activity shall occur within the buffer areas until a qualified biologist has determined, in coordination with CDFW, that the young have fledged, the nest is no longer active, or reducing the buffer would not likely result in nest abandonment. CDFW guidelines recommend implementation of a 500-foot buffer for raptors, but the size of the buffer may be adjusted if a qualified biologist and the applicant, in consultation with CDFW, determine that such an adjustment would not be likely to adversely affect the nest. Monitoring of the nest by a qualified biologist during and after construction activities will be required if the activity has potential to adversely affect the nest.

- Removal of bald and golden eagle nests are prohibited regardless of the occupancy status under the federal Bald and Golden Eagle Protection Act. If bald or golden eagle nests are found during pre-construction surveys, then the nest tree shall not be removed.

- Trees shall not be removed during the breeding season for nesting raptors unless a survey by a qualified biologist verifies that there is not an active nest in the tree.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1c would reduce significant impacts on nesting raptors a **less-than-significant** level because active raptor nests would be avoided and protected from construction activities.

On pages 3.4-64 to 3.4-65, the following text was added:

Northern spotted owl

Northern spotted owl is listed as threatened under ESA and CESA. Northern spotted owl is known to occur throughout Humboldt County coniferous forests (CNDDB 2017, eBird 2017). Critical habitat for this species is present within the County (Exhibit 3.4-5). Large portions of this critical habitat area are in land areas (public lands and areas designated for timber uses) where new commercial cannabis operations would be prohibited under the proposed ordinance.

Exhibit 3.4-9 presents the distribution of known occurrences of spotted owls throughout Humboldt County and shows that the majority of occurrences are within areas where new cultivation is prohibited, including public land and land not zoned for cultivation. However, there are some known occurrences located within land zoned for cultivation (Exhibit 3.4-9).

Project implementation associated with potential impacts to habitat and vegetation removal could disturb nesting northern spotted owls if they are present, potentially resulting in nest abandonment, nest failure, or mortality of chicks or eggs. Additionally, human presence associated with construction of cultivation sites, roads, and cultivation activities could result in increased noise and visual disturbance to nesting raptors. CDFW conducted a spatial analysis of existing cannabis cultivation sites and County cannabis permit application data to determine proximity of known and historic northern spotted owl occurrences that could be impacted by noise and visibility of the cultivation. Based on the CDFW's analysis, 53 cannabis projects (sites) have activities within 40 meters of a northern spotted owl activity center, 525 cannabis projects occur within 0.7 mile, and 1184 occur within 1.3 miles (CDFW 2017). The potential loss of northern spotted owls and their nests would be a **potentially significant** impact.

In addition to direct impacts to the species, new cannabis-related development under the proposed ordinance result in the loss or fragmentation of northern spotted owl habitat. This would also be a **potentially significant** impact.

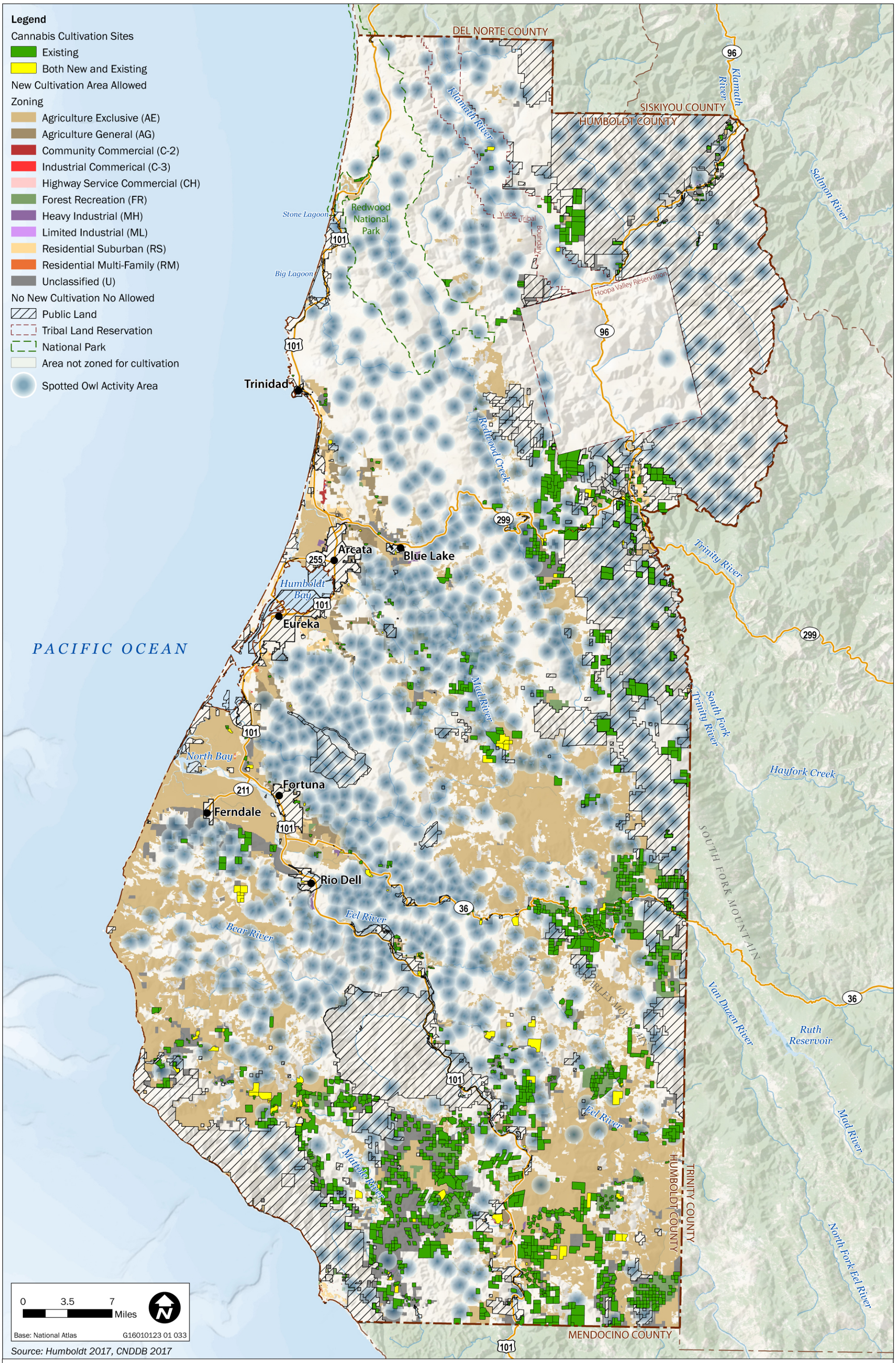


Exhibit 3.4-9

Cultivation Areas and Northern Spotted Owl Observation and Activity Areas

Mitigation 3.4-1e: Northern spotted owl preconstruction habitat suitability surveys and determination of presence or absence.

The following shall be included as performance standards in the proposed ordinance for the protection of northern spotted owl from new development related to cannabis activities.

- To avoid the potential for loss of northern spotted owl and their nests, or loss or fragmentation of occupied or suitable habitat for northern spotted owl, removal of old growth habitat shall be prohibited, as outlined in Mitigation Measure 3.4-3, Sensitive natural communities, riparian habitat, old growth habitat, and wetland vegetation.

- If the area of proposed new development activities is within suitable habitat for northern spotted owl (e.g., coniferous forest), and is within 1.3 miles (average species home range) of a known occurrence of northern spotted owl, as determined by a qualified biologist, the following measures shall be followed.

  - Prior to removal of any trees, or ground-disturbing activities adjacent or within suitable nesting, roosting, or foraging habitat (e.g. forest clearings) for spotted owl, a qualified biologist, familiar with the life history of the northern spotted owl, shall conduct preconstruction surveys for nests within a 1.3-mile buffer around the site as described in *Protocol for Surveying Proposed Management Activities that May Impact Northern Spotted Owls* (USFWS 2012). Surveys shall take place between March 1 and August 31. Three complete surveys spaced at least 7 days apart must be completed by June 30. Six complete surveys over the course of 2 years must be completed to determine presence or absence of northern spotted owl.

    - If northern spotted owls are determined to be absent 1.3 miles from the site, then further mitigation is not required.

    - If northern spotted owls are determined to be present within 1.3 miles of the site, then it is presumed that habitat removal could cause harm to northern spotted owl populations in the area, and could result in direct take of northern spotted owls. If northern spotted owls are determined to be present within 1.3 miles of the site, proposed cultivation activities will not be permitted consistent with the General Requirement and Prohibition 4 of the Attachment A of the State Water Board Policy.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1e would reduce significant impacts to a **less-than-significant** level because direct take of northern spotted owls and disturbance or fragmentation of northern spotted owl habitat would be avoided through preconstruction surveys and, if found, prohibition of proposed cultivation activities consistent with the State Water Board Policy.

On DEIR pages 3.4-65 through 3.4-68, the mitigation measures are re-numbered as follows:

Mitigation 3.4-1f~~d~~: Special-status nesting bird surveys and establishment of protective buffers.

The following shall be included as performance standards in the proposed ordinance for the protection of bank swallow, little willow flycatcher, tricolored blackbird, and western yellow-billed cuckoo from new development related to cannabis activities. This will apply to any commercial cannabis activity that would result in the disturbance or loss of riparian, riverine, mudflat, or grassland habitats.

- To minimize the potential for disturbance or loss of bank swallow, little willow flycatcher, tricolored blackbird, western snowy plover, western yellow-billed cuckoo, or other bird nests, vegetation removal

activities shall only occur during the nonbreeding season (September 1-January 31). Alteration of or disturbance to suitable river bank habitat (i.e., for bank swallow nests) and mudflat habitat (i.e., for western snowy plover) is prohibited because of limited habitat availability for this species.

- Prior to removal of any vegetation or any ground disturbance between February 1 and August 31, a qualified biologist shall conduct preconstruction surveys for nests on any structure or vegetation slated for removal, as well as for potential tricolored blackbird nesting habitat. The surveys shall be conducted no more than 14 days before construction commences. If no active nests or bank swallow colonies are found during focused surveys, no further action under this measure will be required. If active nests are located during the preconstruction surveys, the biologist shall notify the Planning Director and CDFW. If deemed necessary by the Planning Director in consultation with CDFW, modifications to the project design to avoid removal of occupied habitat while still achieving project objectives may be required. If the Planning Director determines in consultation with CDFW that avoidance is not feasible or conflicts with project objectives, construction shall be prohibited within a minimum of 100 feet of the nest to avoid disturbance until the nest or colony is no longer active.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1f~~d~~ would reduce significant impacts to a **less-than-significant** level because bank swallow, little willow flycatcher, tricolored blackbird, western snowy plover, western yellow-billed cuckoo, and other bird nests would be avoided and protected from new development related to cannabis activities.

Mitigation 3.4-1g~~e~~: Marbled murrelet preconstruction habitat suitability surveys and establishment of protective buffers.

The following shall be included as performance standards in the proposed ordinance for the protection of marbled murrelet from new development related to cannabis activities.

- To avoid the potential for loss of or disturbance to marbled murrelet nests and habitat, removal of old growth habitat shall be prohibited, as outlined in Mitigation Measure 3.4-3, Sensitive natural communities, riparian habitat, old growth habitat, and wetland vegetation.

- Prior to removal of any trees, or ground-disturbing activities adjacent or within suitable habitat for marbled murrelet between April 15 and August 5, a qualified biologist, familiar with the life history of the marbled murrelet, shall conduct preconstruction surveys for nests within a 0.25-mile buffer around the site as described in *Methods for Surveying Marbled Murrelets in Forests: A Revised Protocol for Land Management and Research* (Evans Mack et. al 2003).

- If marbled murrelets are determined to be absent from the site, then no further mitigation is required.

- If marbled murrelets are determined to be present within the site, a 0.25-mile buffer will be established around occupied nest sites. No project activity may occur within the 0.25-mile buffer areas until the end of marbled murrelet breeding season (August 6).

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1g~~e~~ would reduce significant impacts to a **less-than-significant** level because disturbance of marbled murrelet would be avoided through preconstruction surveys and, if found, establishment of a protective buffer.

Mitigation 3.4-1h~~f~~: Generator noise reduction.

The ordinance requires generators not to increase existing ambient noise levels at the property line of the site beyond 3 dB. In addition, the noise standards shall include the following standards to protect wildlife (USFWS 2006).

- Project-generated sound must not exceed ambient nesting conditions by 20-25 decibels.
- Project-generated sound, when added to existing ambient conditions, must not exceed 90 decibels.
- Time of day adjustment: Marbled murrelet and northern spotted owl are most active during dawn and dusk. Within approximately 2 hours of sunrise and sunset, ambient sound levels are lower than during the middle of the day (by approximately 5-10 decibels). This will be accounted for when determining impacts of project-generated sound.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1h~~f~~ would reduce significant impacts to a **less-than-significant** level because project-generated sound would not exceed levels known to result in disturbance to avian forest species, such as marbled murrelet and northern spotted owl. Disturbance to these species would be avoided.

Mitigation Measure 3.4-1ig: American badger preconstruction survey and establishment of protective buffers.

The following shall be included as performance standards in the proposed ordinance for the protection of the American badger from new development related to cannabis activities.

- Prior to the commencement of construction activities, a qualified wildlife biologist shall conduct surveys of the suitable grassland or agricultural habitats slated for conversion within the site to identify any American badger burrows/dens. These surveys shall be conducted not more than 30 days prior to the start of construction. If occupied burrows are not found, further mitigation shall not be required. If occupied burrows are found, impacts to active badger dens shall be avoided by establishing exclusion zones around all active badger dens, within which construction related activities shall be prohibited until denning activities are complete or the den is abandoned. A qualified biologist shall monitor each den once per week to track the status of the den and to determine when a den area has been cleared for construction.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1ig would reduce impacts on American badger to a **less-than-significant** level because preconstruction surveys would be conducted and active badger dens would be protected from construction activities.

Mitigation Measure 3.4-1jh: Fisher and Humboldt marten preconstruction survey and preservation of active den sites.

The following shall be included as performance standards in the proposed ordinance for the protection of the fisher and Humboldt marten from new development related to cannabis activities.

- To minimize the potential for loss of or disturbance to fisher and Humboldt marten habitat and dens, removal of old growth habitat shall be prohibited, as outlined in Mitigation Measure 3.4-3, Sensitive natural communities, riparian habitat, old growth habitat, and wetland vegetation.
- Prior to commencement of from new development related to cannabis activities occurring within the fisher and Humboldt marten denning season (March 1 to July 31), including tree removal (non-old growth), a qualified wildlife biologist will conduct preconstruction surveys of all suitable habitat within the site, and will identify sightings of individual fishers or martens, as well as potential dens.
- If individuals or potential or occupied dens are not found, further mitigation will not be required.

- If fisher or Humboldt marten are identified or if potential dens of these species are located, an appropriate method shall be used by a qualified wildlife biologist to confirm whether a fisher or marten is occupying the den. This may involve use of remote field cameras, track plates, or hair snares. Other devices such as fiber optic scope may be utilized to determine occupancy. If no fisher or marten occupies the potential den, the entrance will be temporarily blocked so that no other animals occupy the area during the construction period but only after it has been fully inspected. The blockage will be removed once construction activities have been completed.

- If a den is found to be occupied by a fisher or marten, a no-disturbance buffer will be placed around the occupied den location. The no-disturbance buffer will include the den tree (or other structure) plus a suitable buffer as determined by the biologist in coordination with USFWS and CDFW. Construction activities in the no-disturbance buffer will be avoided until the nest is unoccupied as determined by a qualified wildlife biologist in coordination with USFWS and CDFW.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1j~~h~~ would reduce impacts on fisher and Humboldt marten to a **less-than-significant** level because preconstruction surveys would be conducted and active dens would be protected from construction activities.

Mitigation Measure 3.4-1k~~i~~: Preconstruction bat survey and exclusion.

The following shall be included as performance standards in the proposed ordinance for the protection of the pallid bat and Townsend's big-eared bat from new development related to cannabis activities.

- Before commencing any new development related to cannabis activities, a qualified biologist shall conduct surveys for roosting bats. If evidence of bat use is observed, the species and number of bats using the roost shall be determined. Bat detectors may be used to supplement survey efforts. If no evidence of bat roosts is found, then no further study will be required.

- If pallid bats or Townsend's big-eared bats are found in the surveys, a mitigation program addressing mitigation for the specific occurrence shall be submitted to the Planning Director and CDFW by a qualified biologist subject to the review and approval of the Planning Director in consultation with CDFW. Implementation of the mitigation plan shall be a condition of project approval. At a minimum, the mitigation plan shall establish a 400-foot buffer area around the nest during hibernation or while females in maternity colonies are nursing young.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1k~~i~~ would reduce impacts on special-status bats to a **less-than-significant** level because preconstruction surveys would be conducted and active bat roosts would be protected from new development related to cannabis activities.

Mitigation Measure 3.4-1l~~j~~: Preconstruction vole survey and relocation.

The following shall be included as performance standards in the proposed ordinance for the protection of the Sonoma tree vole and white-footed vole from new development related to cannabis activities.

- To minimize the potential for loss of or disturbance to vole habitat and nests, removal of old growth habitat shall be prohibited, as outlined in Mitigation Measure 3.4-3 Sensitive natural communities, riparian habitat, old growth habitat, and wetland vegetation.

- Before commencing any tree or other vegetation removal activities, or ground-disturbance, a qualified biologist shall conduct surveys for vole nests (e.g., nest searching within trees on the site, and confirming that nests belong to voles rather than squirrels or birds). If no evidence of vole nests is found, then no further study shall be required. A report summarizing the results of the surveys shall be prepared and submitted to the Planning Director and shall be subject to his review and approval in consultation with CDFW.

- If occupied trees or nests are identified within 100 feet of the site, the biologist shall determine whether project development activities will adversely affect the voles, based on factors such as noise level of development activities, or line of sight between the tree and the disturbance source. If it is determined that development activities would not affect the voles, then development can proceed without protective measures.

- If the biologist determines that development activities would likely disturb voles, the proposed area of disturbance shall be relocated a minimum of 200 feet from the nest.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1~~j~~l would reduce impacts on special-status voles to a **less-than-significant** level because preconstruction surveys would be conducted and active vole nests would be protected from new development related to cannabis activities.

On DEIR page 3.4-71, the following text changes are made to Mitigation 3.4-3a:

Mitigation 3.4-3a: Special-status plants.

The following shall be included as performance standards in the proposed ordinance for the protection of special-status plant species from new development related to cannabis activities.

- Prior to commencement of new development related to cannabis activities and during the blooming period for the special-status plant species with potential to occur in the site, a qualified botanist will conduct protocol-level surveys for special-status plants in all proposed disturbance areas following survey methods from CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW 2009).

- If special-status plants are not found, the botanist will document the findings in a letter report to USFWS, CDFW, and the applicant and no further mitigation will be required.

- If special-status plant species are found, a qualified biologist shall consult with CDFW to designate a no-disturbance buffer that will be reflected in the application to the County consistent with General Requirement and Prohibition 10 of the Attachment A of the State Water Board Policy. If the special-status plant species ~~that~~ cannot be avoided, the application will be denied. ~~applicant, as part of its application to the County, shall retain a qualified botanist to consult with CDFW and/or USFWS (as appropriate, depending on species status) to determine the appropriate mitigation measures for direct and indirect impacts through a Mitigation and Monitoring Plan. The applicant shall be responsible for implementing the approved Mitigation and Monitoring Plan to the satisfaction of the Planning Director in consultation with, CDFW, and/or USFWS to achieve a 2:1 replacement ratio of habitat and individuals. Mitigation measures may include preserving and enhancing existing populations, creation of off site populations on project mitigation sites through seed collection or transplantation, and/or restoring or creating suitable habitat in sufficient quantities to achieve a 2:1 replacement ratio of habitat and individuals.~~

- ~~If relocation efforts are part of the Mitigation and Monitoring Plan, the plan shall include details on the methods to be used, including collection, storage, propagation, receptor site preparation, installation, long-term protection, and management, monitoring and reporting requirements, success criteria, and remedial action responsibilities should the initial effort fail to meet long term monitoring requirements.~~

- ~~Success criteria for preserved and compensatory populations shall include:~~

  - ~~The extent of occupied area and plant density (number of plants per unit area) in compensatory populations will be equal to or greater than the affected occupied habitat.~~

- ~~Compensatory and preserved populations will be self-producing. Populations will be considered self-producing when:~~
  - ~~plants reestablish annually for a minimum of five years with no human intervention such as supplemental seeding; and~~
  - ~~reestablished and preserved habitats contain an occupied area and flower density comparable to existing occupied habitat areas in similar habitat types in the project vicinity.~~

~~If off-site mitigation includes dedication of conservation easements, purchase of mitigation credits, or other off-site conservation measures, the details of these measures shall be included in the mitigation plan, including information on responsible parties for long-term management, conservation easement holders, long-term management requirements, success criteria such as those listed above and other details, as appropriate to target the preservation of long-term viable populations~~.

DEIR pages 3.4-71 and 3.4-72, the following text changes are made to Mitigation Measure 3.4-3b:

Mitigation 3.4-3b: Invasive plant species.

The following shall be included as performance standards in the proposed ordinance to avoid the introduction or spread of plants classified as invasive plant species by the California Invasive Plant Council.

- The application will include identification of invasive plant species that occur on the site and where they are located. The application will identify specific measures to be employed for the removal invasive species and on-site management practices. As part of the County's annual inspection areas where invasive plant species were removed will be checked to verify removal. Corrective actions may be required as part of the annual permit renewal if invasive species remain or have returned.

- All invasive plant species shall be removed from the site using measures appropriate to the species. For example, species that cannot easily re-root, re-sprout, or disperse seeds may be left on site in a debris pile. Species that re-sprout readily (e.g., English ivy) or disperse seeds (e.g., Pampas grass) should be hauled off-site and disposed of appropriately at a landfill site.

Heavy equipment and other machinery shall be inspected for the presence of invasive species prior to on-site use, and shall be cleaned prior to entering the site, to reduce the risk of introducing invasive plant species.

On DEIR page 3.4-72, the following text is added after the third paragraph under Impact 3.4-4:

Approximately 22,175 acres of coastal oak woodland habitat occurs within the County. Oak woodlands are considered under the state Oak Woodlands Conservation Act, which requires the County to determine whether proposed development would result in conversion of oak woodlands that would have a significant adverse effect on the environment. Development of cannabis-related uses under the proposed ordinance could result in removal of oak woodlands if present in a proposed development area.

On page 3.4-73, Mitigation 3.4-4: Sensitive natural communities, riparian habitat, and wetland vegetation was modified to read:

Mitigation 3.4-4: Sensitive natural communities, riparian habitat, and wetland vegetation.

The following shall be included as performance standards in the proposed ordinance for the protection of sensitive natural communities and riparian habitat.

- For projects that could disturb sensitive natural communities or riparian habitat, the application shall include a report prepared by a qualified biologist that surveys the site for these sensitive resources, including riparian habitat associated with aquatic features; old growth Sitka spruce, Douglas fir, and redwood forests; coastal oak woodlands; special-status fish stream habitats; marsh habitats; and northern foredune grassland near Humboldt Bay and the Mattole River; and coastal terrace prairie within Table Bluff Ecological Reserve.

- The report shall include requirements that before development activities commence, all sensitive areas identified above shall be flagged or fenced with brightly visible construction flagging and/or fencing under the direction of the qualified biologist to require that grading, excavation, other ground-disturbing activities, and vegetation removal will not occur within these areas. Foot traffic by construction personnel shall also be limited in these areas to prevent the introduction of invasive or weedy species. Periodic inspections during construction shall be conducted by the monitoring biologist to maintain the integrity of exclusion fencing/flagging throughout the period of construction involving ground disturbance.

- If the report documents that site development would affect the bed, bank, channel, or associated riparian habitat subject to CDFW jurisdiction under Fish and Game Code Section 1602, a Streambed Alteration Notification shall be submitted to CDFW, pursuant to Section 1600 et seq. of the California Fish and Game Code. If proposed activities are determined to be subject to CDFW jurisdiction, the project proponent shall abide by the conditions of any executed agreement prior to the issuance of a grading permit by Humboldt County.

- Subject to the review and approval of the Planning Director in consultation with CDFW applicants shall compensate for permanent loss of riparian habitat at a minimum of a 2:1 ratio through contributions to a CDFW approved wetland mitigation bank or through the development and implementation of a Compensatory Stream and Riparian Mitigation and Monitoring Plan for creating or restoring in-kind habitat in the surrounding area (such as the proposed ordinance site reconfiguration criteria for existing cultivation sites). If mitigation credits are not available, stream and riparian habitat compensation shall include establishment of riparian vegetation on currently unvegetated bank portions of streams affected by the project and enhancement of existing riparian habitat through removal of nonnative species, where appropriate, and planting additional native riparian plants to increase cover, continuity, and width of the existing riparian corridor along streams in the site and surrounding areas. Construction activities and compensatory mitigation shall be conducted in accordance with the terms of a streambed alteration agreement as required under Section 1602 of the Fish and Game Code as well as the State Water Board Cannabis Cultivation Policy~~the Regional Water Quality Control Board North Coast Region Order R1-2015-0023~~.

The Compensatory Stream and Riparian Mitigation and Monitoring Plan shall include the following:

- identification of compensatory mitigation sites and criteria for selecting these mitigation sites;

- in kind reference habitats for comparison with compensatory riparian habitats (using performance and success criteria) to document success;

- monitoring protocol, including schedule and annual report requirements (Compensatory habitat will be monitored for a minimum of 5 years from completion of mitigation, or human intervention [including recontouring and grading], or until the success criteria identified in the approved mitigation plan have been met, whichever is longer.);

- ecological performance standards, based on the best available science and including specifications for native riparian plant densities, species composition, amount of dead woody vegetation gaps and bare ground, and survivorship; at a minimum, compensatory mitigation planting sites must achieve 80 percent survival of planted riparian trees and shrubs by the end

of the five-year maintenance and monitoring period or dead and dying trees will be replaced and monitoring continued until 80 percent survivorship is achieved;

- corrective measures if performance standards are not met;
- responsible parties for monitoring and preparing reports; and
- responsible parties for receiving and reviewing reports and for verifying success or prescribing implementation or corrective actions.

SECTION 3.7, "HAZARDS AND HAZARDOUS MATERIALS"

On DEIR page 3.7-3, the following text change is made to the second paragraph:

> Under Chapter 6.95, Article 2, operators of stationary sources of hazardous materials are required (if they are deemed an accident risk) to prepare risk management plans, detailing strategies to reduce the risk of accidental hazardous material release, and submit them to the California Environmental Protection Agency and/or the Administrative agency, as per Chapter 6.95, Article 2, Section 25535.1 (b and c). ~~Emergency Management Agency.~~ Cannabis cultivators that store hazardous materials (e.g., pesticides, fuel) exceeding the threshold quantity would be required to prepare an HMBP (California Department of Food and Agriculture 2017).

On DEIR page 3.7-8, the following text change is made to the third paragraph:

> Depending on their specific cultivation practices and processes, commercial cannabis cultivators could be considered hazardous waste generators that would be subject to the requirements of the Hazardous Waste Generator Program or other above CUPA programs.

On DEIR page 3.7-8, the following text change is made to the title: "County Health Hazardous Materials Program Local Oversight Program:"

COUNTY ~~HEALTH HAZARDOUS MATERIALS PROGRAM~~ LOCAL OVERSIGHT PROGRAM

On DEIR page 3.7-14, the following text change is made to the fifth paragraph:

> The County ~~Environmental Management Agency~~ Division of Environmental Health conducts inspections of every cultivation site for hazardous materials storage, as well as any hazardous waste disposal. This is done through delegation by CalEPA to the County as the CUPA. The County is responsible through the CUPA program for inspection of all facilities that store hazardous materials or handle hazardous wastes. Regulation of commercial cannabis cultivation and commerce sites provides for fees to support the CUPA program.

SECTION 3.8, "HYDROLOGY AND WATER QUALITY"

DEIR page 3.8-9 through 3.8-10, the following text changes are made to the discussion titled "State Water Resources Control Board Principles and Guidelines for Cannabis Cultivation." These changes do not result in any new significant impacts, and in fact provide greater certainty over the control of water quality effects. Recirculation of the DEIR is not warranted.

State Water Resources Control Board Principles and Guidelines for Cannabis Cultivation

On October 17, 2017, t~~T~~he State Water Resources Control Board (State Water Board) adopted the *Cannabis Cultivation Policy – Guidelines for Cannabis Cultivation* (Policy). This Policy establishes new requirements for cannabis cultivation activities (including commercial cannabis cultivation in the County) to protect water quality, instream flows, and supercedes the regulations under the North

Coast Regional Water Quality Control Board Order No. 2015-0023. The requirements under this Policy will be incorporated into, and implemented through, the state's permitting process for commercial cannabis under the following regulatory programs:

- CDFA's CalCannabis Cultivation licensing program;
- State Water Board's Cannabis General Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (Cannabis General Order) or any Waste Discharge Requirements addressing cannabis cultivation activities adopted by a RWQCB;
- State Water Board's General Water Quality Certification for Cannabis Cultivation Activities;
- State Water Board's Cannabis Small Irrigation Use Registration; and
- State Water Board's Water Rights Permitting and Licensing Program.

~~is developing a policy for water quality control (policy) to establish interim principles and guidelines for cannabis cultivation. The principles and guidelines shall include measures to protect springs, wetlands, and aquatic habitats from negative impacts of cannabis cultivation. Principles and guidelines may include instream flow objectives, limits on diversions, and requirements for screening of diversions and elimination of barriers to fish passage. The principles and guidelines may include requirements that apply to groundwater extractions.~~

Attachment A of the Policy includes requirements for cannabis cultivation. It establishes that two conditional exemptions under the Cannabis General Order for indoor commercial cultivation activities and outdoor commercial cultivation activities that disturb less than 2,000 square feet. For outdoor commercial cannabis cultivation area greater than 2,000 square feet, the Policy establishes Tier 1 (2,000 square feet to less than one acre) and Tier 2 (equal to or greater than one acre). All outdoor commercial cannabis operations (conditionally exempt, Tier 1, and Tier 2) must comply with applicable water quality requirements set forth in Attachment A of the Policy. Indoor commercial cannabis operations are required to obtain separate waste discharge approvals for any on-site discharge of wastewater (such as to a septic tank and leach field).

The Policy also establishes requirements for water diversion, storage, and use for both surface water and groundwater resources. These requirements include design requirements for fish screens, diversion structures, off-stream storage reservoirs, and storage bladders.

Diversion provisions of the Policy are based on three types of requirements to ensure sufficient instream flows:

- Dry season forbearance period and limitations on the wet season diversions;
- Narrative instream flow requirements; and
- Numeric instream flow requirements during the wet season.

~~Principles and guidelines in the draft policy include minimum instream flows, forbearance periods, off stream storage requirements, riparian buffers, maximum diversion rates, irrigation conservation measures, and other best management practices. Minimum instream flows and the forbearance periods help maintain natural flow variability and minimize the effects of cannabis cultivation on fisheries and wildlife by protecting water quantity during critical life stages. The riparian buffers, best management practices, and other operational guidelines help maintain healthy riparian corridors and minimize the water quality impacts resulting from cannabis cultivation.~~

Instream flow requirements during the wet season were established by the State Water Board in consultation with California Department of Fish and Wildlife for the protection of aquatic species life history needs, including endangered anadromous salmonids. Numeric instream flow requirements

(minimum instream flows required to protect aquatic species) are established for each region in the state in Attachment A of the Policy. Aquatic base flows have also been established to address instream flow impacts from groundwater diversions. The aquatic base flow is the set of chemical, physical, and biological conditions that represent limiting conditions for aquatic life in stream environments. Table 3.8-1 provides representative gage stream flow requirements for watersheds in Humboldt County.

Surface water and groundwater diversions for cannabis cultivation operations will be limited in the following manner:

- Surface water diversions will be prohibited from April 1 to October 31 each year (forbearance period).
- Surface water diversions may occur from November 1 to March 31 each year subject to the following requirements:
  - Surface water diversions will not occur until the real-time daily average flow is greater than the minimum monthly instream flow requirement at a compliance gage for seven consecutive days or after December 15 when flows are greater than the numeric flow requirement.
  - Surface water diversions must bypass a minimum of 50 percent of the streamflow past the point of diversion as estimated based on the cultivator's visual observation.
- The State Water Board will monitor instream flows during the dry season and evaluate whether the number or location of groundwater diversions to determine whether imposition of a groundwater forbearance period or other measures. The State Water Board will notify cannabis cultivators the possibility of a groundwater forbearance period or other measures may be imposed to address the low flow condition.

~~The State Water Board policy provides compliance gage instream flow requirements by region. These requirements would require that cannabis cultivators check an online mapping tool to determine if water is available to divert from the parcel's assigned gage (i.e., the real-time daily average flow is greater than the Numeric Flow Requirement at the assigned compliance gage). The gage Numeric Instream Flow Requirements provide a threshold for flow rate in cubic feet per second (cfs) for surface water flows and groundwater low flow thresholds (see Appendix E). Table 3.8-1 provides representative gage instream flow requirements for watersheds in Humboldt County included in the Draft Cannabis Cultivation Policy. These numbers are representative of flows from one location within the major watersheds of Humboldt County and are provided as an example. There are two types of flow thresholds, described below.~~

~~**Numeric Instream Flow Requirements:** The Numeric Instream Flow Requirements (minimum instream flow requirements) ensure that individual and cumulative effects of water diversion and discharge associated with cannabis cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability.~~

~~**Groundwater Low Flow Thresholds**: The low flow threshold represents the minimum flow that should be in streams during all water type years to support aquatic ecosystems, including juvenile salmonid migration and rearing and water quality.~~

Table 3.8-1 Draft Gage Numeric Instream Flow Requirements

USGS Gage Number	Surface Water						Aquatic Base Flow~~Groundwater Low Flow Threshold~~ (cfs)
	Watershed	November (cfs)	December (cfs)	January (cfs)	February (cfs)	March (cfs)	
11469000	Mattole	406	942	1,118	960	769	27
11476500	South Fork Eel	749	1,708	2,125	1,857	1,424	54
11477000	Lower Eel	3,293	7,218	9,280	8,443	6,013	145
11481000	Mad Redwood	641	1,406	1,555	1,453	1,245	57
11530000	Trinity	2,349	3,440	4,712	5,165	4,772	423
11530500	Lower Klamath	9,785	10,162	14,400	13,657	16,450	4,789

Source: SWRCB 2017a

~~The draft policy was released for public comment in June 2017, and the final policy is anticipated to be brought to the State Water Board for adoption in October 2017. Upon approval, the North Coast RWQCB Order R1 2015 0023, described below, would sunset and cannabis operations would be subject to the State Water Board's policy.~~

DEIR page 3.8-11 and 3.8-12, the discussion of the North Coast Regional Water Quality Control Board Cannabis Waste Discharge Regulatory Program is deleted:

~~North Coast Regional Water Quality Control Board Cannabis Cultivation Waste Discharge Regulatory Program~~

~~The North Coast RWQCB's Order R1 2015 0023: The Cannabis Cultivation Waste Discharge Regulatory Program (Order R1 2015 0023 or Order) addresses water quality impacts from cannabis cultivation and associated activities or other operations with similar environmental effects on private property in the North Coast Region. The Water Boards are the principal state agencies with primary responsibility for the coordination and control of water quality. Nonpoint source pollution, also known as polluted runoff, is the leading cause of water quality impairments in the North Coast. The majority of the streams in the North Coast are impacted by excess sediment, nutrients, and elevated temperatures. The problems are often associated with poorly planned forest clearing, earth moving activities, and other land use management practices, resulting in polluted stormwater runoff to streams. Dry season surface water diversions intensify these water quality impacts. The regulatory program has several components: A Waiver of Waste Discharge Requirements, Third Party Programs, Inspections, Enforcement, and Education and Outreach.~~

~~The Order includes enforceable requirements which cultivators need to become familiar with to ensure their operations do not impact water resources. Below is a summary of primary elements of the Order:~~

1. ~~A tiered enrollment structure relative to the potential threat to water quality. Tier 1 is a low threat tier based on compliance with defined standard conditions and site characteristics. Tier 2 is a management tier, which requires the development and implementation of a water resource protection plan. Tier 3 is a cleanup tier, which requires the development and implementation of a cleanup and restoration plan.~~

2. ~~Standard conditions to protect water quality, in conjunction with a list of Best Management Practice (BMP), provide a framework for cultivators to assess their sites for appropriate tiers and determine what management measures are necessary to protect water quality. All BMPs in the~~

~~order are considered enforceable conditions under the Order as applicable to a given site. The draft Order includes standard conditions regarding:~~

~~a. Site maintenance, erosion control and drainage features~~
~~b. Stream crossing maintenance and improvement~~
~~c. Stream and wetland buffers~~
~~d. Spoils management~~
~~e. Water storage and use~~
~~f. Irrigation runoff~~
~~g. Fertilizers and soil amendments~~
~~h. Pesticides~~
~~i. Petroleum products and other chemicals~~
~~j. Cultivation related wastes~~
~~k. Refuse and human waste, and~~
~~l. Remediation, cleanup, and restoration activities.~~

~~3. Associated procedural forms including a notice of intent of enrollment, a monitoring and reporting form, and a checklist for remediation and restoration work in streams or wetlands.~~

~~4. General Prohibitions including discharges or threatened discharges to surface waters.~~

~~5. A framework for non-governmental third-party programs to assist cultivators with enrollment, compliance activities, and monitoring and reporting.~~

~~6. A framework for development and implementation of water resource protection and cleanup and restoration plans.~~

DEIR page 3.8-35, the following text changes are made to Impact 3.8-1:

Impact 3.8-1: Construction water quality impacts.

New and modifications to existing commercial cannabis operations in the County that may occur under the proposed ordinance would require ground-disturbing activities that could result in erosion and sedimentation, leading to degradation of water quality. Construction related to commercial cannabis operations would be subject to compliance with State Water Board ~~North Coast Regional Water Quality Control Board~~ and County regulations that require water quality controls for construction to prevent impacts to water quality. Thus, potential water quality impacts may occur during construction and would be considered **less than significant**.

DEIR page 3.8-36, the following text changes are made to the fourth full paragraph:

The proposed ordinance would require demonstration of compliance with the State Water Board *Cannabis Policy – Principles and Guidelines for Cannabis Cultivation (Policy)* ~~North Coast RWQCB Order No. 2015-0023 or any subsequent water quality standards established (e.g., State Water Board interim principles and guidelines)~~. This Policy establishes new requirements for cannabis cultivation activities to protect water quality and instream flows. As noted above, the Policy ~~Order No. 2015-0023~~ requires measures to protect water quality that includes water quality controls such as runoff and erosion control, standard setbacks from riparian areas and headwater streams and springs, roadway and drainage design requirements, and winterization requirements ~~and includes standard conditions for site maintenance, erosion control, stream and wetland buffers, spoils management, remediation, and restoration activities~~. The proposed ordinance also includes water quality protection requirements for roadways servicing commercial cannabis operations that identifies use of BMPs to address point and non-point sources of sediment and other pollutants (see Chapter 2, "Project Description," for a detailed description of these performance standards).

DEIR page 3.8-37 and 3.8-38, the following text changes are made to the third and fourth paragraphs and Mitigation Measure 3.8-2 under Impact 3.8-2:

> The proposed ordinance contains requirements associated with the design of ponds that reduces the risk of leaks or systems failures. The proposed ordinance also includes performance standards that require proper storage and use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide, and provisions for annual on-site inspections to ensure those standards are being met. The proposed ordinance also requires demonstration of compliance with the State Water Board Policy ~~North Coast RWQCB Order No. 2015-0023 or any subsequent water quality standards established (e.g., State Water Board interim principles and guidelines)~~ for existing and new commercial cannabis operations. As noted above, the Policy ~~Order No. 2015-0023~~ requires measures to protect water quality that include clean-up and restoration of existing cannabis cultivation sites, water quality controls for construction and operation, standard setbacks from riparian area and headwater streams and springs, roadway and drainage design requirements, soil disposal and storage, and winterization of sites ~~and includes standard conditions for site maintenance, erosion control, stream and wetland buffers, spoils management, and the proper use and storage of regulated fertilizers, pesticides, and other chemicals to avoid impacts to water quality~~. The reader is referred to Section 3.7, "Hazards and Hazardous Materials," for a further discussion of pesticide and other chemical usage impacts. However, the State Water Board Policy conditionally exempts cultivation sites less than 2,000 square feet in size from the Cannabis General Order (though they are still required to comply with the water quality standards in Attachment A of the Policy). ~~this applies only to cultivation sites of 2,000 square feet or greater, thus some sites may not be required to follow practices to prevent, minimize, control, and reduce the discharges to waterways.~~
>
> Compliance with laws and regulations controlling on-site pollutants would ensure that the threat of pollution from improperly constructed sites would not result in water quality degradation. However, as noted above, any cannabis cultivation activities under 2,000 square feet in disturbance area would be conditionally exempt under the Cannabis General Order and may not be checked for compliance with the Policy. ~~not be required to comply with the North Coast RWQCB Order 2015-0023 and its specific requirements pertinent to the control and minimization of erosion, sedimentation, and chemical transport.~~ As a result, impacts would be **significant**.
>
> ## Mitigation Measure 3.8-2: Minimum Size of Commercial Cultivation Activities
>
> The County shall amend the proposed ordinance to demonstrate ~~require~~ compliance with the requirements of the State Water Board *Cannabis Cultivation Policy – Guidelines for Cannabis Cultivation* ~~North Coast RWQCB Order 2015-0023 or any subsequent water quality standards to apply to~~ for all new commercial cannabis cultivation operations and not limited by a minimum cultivation area size.
>
> ### Significance after Mitigation
>
> Mitigation Measure 3.3-1 would require all new commercial cannabis activities in the County to comply with the State Water Board Policy requirements ~~conditions of North Coast RWQCB Order 2015-0023 or any subsequent water quality standards~~. Coupled with the County's 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. Implementation of the proposed ordinance for existing cannabis operations that intend to comply with the performance standards of the ordinance would result in water quality benefits over existing conditions. Consequently, with implementation of Mitigation Measure 3.8-2 in combination with the performance standards of the proposed ordinance, impacts to surface and groundwater quality would be **less than significant**.

DEIR page 3.8-46 and 3.8-47, the following text changes are made associated with Mitigation Measure 3.8-5:

Mitigation 3.8-5: Implement water diversion restrictions and monitoring and reporting requirements.

The text of the proposed ordinance shall be modified to align with the State Water Resources Control Board Cannabis Cultivation Policy ~~when it is approved~~, which ~~may~~ includes ~~the~~ following measures ~~that are in the draft policy as of July 1, 2017~~:

- The period of forbearance shall extend from April 1 through October 31 of each year, and be subject to the following additional restrictions:
  - From November 1 through December 14 of each year, the surface water diversion period shall not begin until after seven consecutive days in which the surface waterbody's real-time Numeric Flow Requirement are met (see Appendix E).
  - From December 15 through March 31 of each surface water diversion period, surface water diversion may occur on any day in which the surface waterbody's real-time daily average flow is greater than the Numeric Flow Requirement (see Appendix E).
  - The State Water Board will monitor instream flows during the dry season and evaluate whether the number or location of groundwater diversions to determine whether imposition of a groundwater forbearance period or other measures. The State Water Board will notify cannabis cultivators the possibility of a groundwater forbearance period or other measures may be imposed to address the low flow condition. ~~Groundwater users will be required to demonstrate that the groundwater source is not hydrologically connected to an adjacent surface water feature and is not subject to the forbearance requirements through the establishment of a flow gage in the stream or river and groundwater pumping tests to monitor and verify no connection to the satisfaction of the County and/or State Water Resources Control Board. The monitoring and testing protocol shall be reviewed and approved by the County and/or State Water Resources Control Board prior installation of the well and flow gage.~~
  - Cannabis cultivators shall bypass a minimum of 50 percent of the surface water flow past their point of diversion, as estimated based on visually observing surface water flow at least daily.
  - Water diversion rates may be further restricted in a manner to provide minimum instream flow requirements needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability by the State Water Resources Control Board and/or California Department of Fish and Wildlife as part of state surface water diversion approvals in circumstances where multiple diversions existing along a single waterway.
  - The cannabis cultivator shall not divert more than a maximum instantaneous diversion rate of 10 gallons per minute, unless authorized under an existing appropriative water right.
- Cannabis cultivators shall plug, block, cap, disconnect, or remove diversion intake structures associated with cannabis cultivation activities during the source water forbearance period, unless the diversion intake is used for other beneficial uses.
- Diverted water storage systems for cannabis cultivation shall be separated from storage systems used for other beneficial uses within a cultivation site.
- Cannabis cultivation shall inspect for leaks in mainlines, laterals, in-irrigation connections, sprinkler headers, and/or the ends of drop tape and feeder lines on a monthly basis. Any leaks discovered shall be immediately repaired upon detection. Worn, outdated, or inefficient irrigation system components and equipment shall be regulatory replaced to ensure a properly function, leak-free

irrigation system at all times. Records of the date of inspections, repairs, and replacements shall be maintained.

- Cannabis cultivators shall retain irrigation, inspection, and repair records at the cannabis cultivation site and shall make all records available for review by the Water Boards, CDFW, and the County upon request for a period of 10 years.

Significance after Mitigation

~~When State Water Board Policy is adopted,~~ Implementation of Mitigation Measure 3.8-5 and State Water Board Policy will require cannabis-related surface water diversions to meet flow rate standards during a limited period of time through the year, which correlates to the greater level of water availability within watersheds in Humboldt County that protect aquatic species life history needs, including endangered anadromous salmonids. Monitoring of flow and inspection and repair of leaks and old equipment will ensure that cannabis cultivation activities are consistent with permitted diversion rates established by legal water rights. Because implementation of this mitigation measure would ensure that Numeric Flow Requirements and aquatic base flow requirements are met throughout Humboldt County, this impact would be **less than significant**. ~~Even if the State Water Board's policy on water diversion is not yet approved prior to adoption of this ordinance, this mitigation is reasonably protective of surface water resources because it would restrict diversions to ensure that Numeric Flow Requirements are met and beneficial uses are protected that are based on information from the State Water Board.~~

SECTION 3.10, "NOISE"

On DEIR page 3.10-6, the following text change is made to the first paragraph:

The predominant sources of noise in Humboldt County include highway and roadway traffic; aircraft in the vicinity of airports; ~~railroad traffic along the Northwestern Pacific right-of-way;~~ noise from industrial activities such as lumber mills; and power plants in Blue Lake, Fairhaven, and Scotia (Humboldt County 2017). Noise levels along County roads that provide access to the more sparsely populated areas are generally low because these roads do not carry high volumes of traffic.

SECTION 3.12, "TRANSPORTATION AND CIRCULATION"

DEIR page 3.12-14, the following text change is made to Impact 3.12-2:

Impact 3.12-2: Long-term increase in traffic.

New commercial cannabis operations in the County that may occur under the proposed ordinance would result in the addition of vehicle trips to existing traffic levels on the state highway system within Humboldt County. This increase would be greatest during the fall harvest, but would not result in the LOS degrading below LOS C along any of the State highway segments analyzed. Therefore, LOS would not exceed existing LOS standards. However, roadway access points to state highway could result in operational safety issues. This impact is considered ~~less than~~ **significant**.

DEIR page 3.12-17, the following text changes are made to the impact discussion and mitigation for Impact 3.12-2:

In addition, where access to a site is provided by roads not meeting the Category 4 standard, the commercial cannabis operation would be subject to a Special Permit and preparation of a report prepared by a licensed engineer evaluating whether the design, condition, and performance of all necessary road segments are currently capable of supporting increases in traffic volume created by the site, in addition to the existing traffic using the road(s). The report would detail all substandard conditions and prescribe measures that would be taken to achieve compliance with the relevant

road standards and objectives, or the same practical effect. A cost estimate and schedule would be required to be provided. The report would be required to also include a recommendation, or formula for cost sharing among all parcels served by the road system. Thus, the proposed ordinance would not contribute to increased congestion, and therefore would not conflict with an applicable plan, policy, or ordinance establishing measures of effectiveness for the performance of the circulation system. ~~This impact is considered **less than significant**.~~

However, commercial cannabis operation traffic could result in significant operation safety issues at existing and new roadway access points to a state highway (e.g., inadequate roadway access point width and sight distance). This impact is considered **significant**.

Mitigation Measure 3.12-2: Proper design of highway access points

The proposed ordinance's roadway design standards shall be modified to include the following requirement:

- An evaluation of the existing or proposed new roadway access point to a state highway shall be provided. The evaluation will identify the required improvements to ensure proper function of the access based on anticipated traffic volumes. Improvements may include widening of the throat of the driveway to a minimum of 20 feet, provision of adequate sight distances, and other improvements determined necessary to comply with County and Caltrans standards. This improvement shall be in place prior to construction of the commercial cannabis operation. A copy of the approved Caltrans encroachment permit (if required) will be provided to the County.

Significance after Mitigation

Implementation of Mitigation Measure 3.12-2 would ensure roadway access points to state highways are designed to meet operational safety needs. Thus, this impact would be reduced to a **less-than-significant** level.

~~Mitigation Measures~~

~~No mitigation is required.~~

CHAPTER 4, "CUMULATIVE IMPACTS"

On DEIR page 4-7, the following text change is made to the first paragraph:

Implementation of the proposed ordinance would result in impacts related to the disturbance or loss of special-status wildlife species and habitat (see Section 3.4, "Biological Resources"). This would contribute to significant cumulative impacts, because they would include ground disturbance, vegetation removal, and overall conversion of wildlife habitat in Humboldt County where adverse effects on special status wildlife species and habitat are significant. Mitigation Measures 3.4-1a through 3.4-1~~j~~ and 3.8-5 would address impacts because actions including preconstruction surveys, establishment of protective buffers, limits on surface water diversion, and avoidance of individual animals would reduce the potential impacts of injury, mortality or other disturbance on individual animals and habitat. These mitigation measures would offset the project's contribution to cumulative special-status wildlife species and habitat impacts. Thus, after implementation of these mitigation measures, the project's contribution to significant cumulative impacts to sensitive natural communities **would not be cumulatively considerable**.

DEIR page 4-10 and 4-11, the following text changes are made to reflect the State Water Board Policy:

…cannabis operations that may occur under the proposed ordinance 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 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. Compliance with County Code Section 331-14 (detailed rules and regulations regarding grading, excavation, erosion, and sedimentation control) and State Water Board Policy ~~North Coast RWQCB Order 2015-0023~~ (requirements for discharges of waste from cannabis cultivation) would generally minimize the potential for erosion, sedimentation, and chemical transportation. Implementation of Mitigation Measure 3.8-2 would ensure that compliance with the State Water Board Policy's water quality requirements is verified for ~~extend the requirements of North Coast RWQCB Order 2015-0023 to~~ all cannabis operations, thereby offsetting impacts from construction and operation of commercial cannabis operations to water quality. Thus, after implementation of Mitigation Measure 3.8-2, the project's contribution to cumulative impacts to surface water quality **would not be cumulatively considerable**.

The project could result in an increase in demand for local groundwater resources that could contribute to cumulative groundwater supply and impacts in areas of the County with limited groundwater resources (e.g., fractured bedrock conditions). The proposed ordinance contains testing requirements for new wells on parcels 10 acres or smaller located within 400 feet of property lines to determine if drawdown would occur on any adjacent wells. These requirements further identify that use of a well for cannabis related irrigation may be prohibited, limited or subject to provisional approval and monitoring. These requirements would address groundwater impacts of the initial installation of a new well, but may not necessarily identify later operational impacts that could result in unanticipated reductions in local groundwater levels that could adversely impact adjacent wells. Mitigation Measure 3.8-3 will require the reporting of annual monitoring of groundwater conditions to the County as part of the annual inspections of commercial cannabis operations. This monitoring will identify if on-site well operations are resulting in groundwater drawdown impacts and what adaptive measures that will be implemented to recover groundwater levels and protect adjacent wells. Because implementation of this mitigation measure would be required as part of annual commercial cannabis operations permit renewals, it would provide on-going protection of local groundwater resources and would offset contribution to cumulative impacts to local groundwater conditions. Thus, after implementation of Mitigation Measure 3.8-3, the project's contribution to cumulative impacts to groundwater **would not be cumulatively considerable**.

Implementation of proposed ordinance could alter drainage patterns that may contribute to cumulatively significant drainage and flooding impacts within the County watersheds. As shown in Exhibit 3.8-9, the 100-year floodplain is currently located near existing populated areas of the County that could be worsen from cumulative development activities in the watersheds. Implementation of Mitigation Measure 3.8-4 would offset the project contributions to cumulative drainage and flood impacts by requiring site drainage facilities to retain pre-development flow conditions. Thus, after implementation of Mitigation Measure 3.8-4, the proposed ordinance's contribution to cumulative impacts to drainage and flooding **would not be cumulatively considerable**.

Surface water diversion for future cannabis irrigation under the proposed ordinance could substantially reduce or eliminate surface water flows on individual tributaries that are already affected by existing illegal cannabis cultivation operations. Low flows are associated with increased temperature. In addition, low flows also aggravate the effects of water pollution (see Impact 3.8-5 for more information regarding the effects of low flow conditions on water quality). As noted in Section 3.8, "Hydrology and Water Quality," several watersheds in the County are currently impaired by historic land use activities (e.g., timber production). Dilution is the primary mechanism by which the concentrations of contaminants (e.g., copper, lead) discharged from industrial facilities and other point and some non-point sources are reduced. However, during a low flow event, there is less water available to dilute effluent loadings, resulting in higher in-stream concentration of pollutants. This could occur along waterways listed as impaired under Section 303(d) of the federal Clean Water Act, thereby resulting in a considerable contribution to an existing cumulative impact. Mitigation Measure 3.8-5 would require cannabis-related surface water diversions to meet instream flow and aquatic base flow requirements ~~future flow rate standards~~ set forth in the State Water Board Policy for the protection of aquatic species life history needs, including endangered anadromous salmonids ~~by the~~

~~State Water Resources Control Board during a limited period of time through the year, which correlates to the greater level of water availability within watersheds in Humboldt County~~. This mitigation measure would offset project impacts to surface water resources because it would restrict diversions to ensure that Numeric Flow Requirements and requirements for groundwater diversions associated with the aquatic base flow during the dry season are met and beneficial uses are protected that are based on information from the State Water Board. Thus, after implementation of Mitigation Measure 3.8-5, the proposed ordinance's contribution to cumulative impacts to surface water **would not be cumulatively considerable**.

4 MITIGATION MONITORING AND REPORTING PROGRAM

CEQA and the State CEQA Guidelines (PRC Section 21081.6 and State CEQA Guidelines Sections 15091[d] and 15097) require public agencies "to adopt a reporting and 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." A Mitigation Monitoring and Reporting Program (MMRP) is required for the proposed project because the EIR identifies potential significant adverse impacts related to the project implementation, and mitigation measure have been identified to reduce those impacts. Adoption of the MMRP would occur along with approval of the proposed amendments to Humboldt County Code regulating commercial cannabis activities (proposed ordinance or project).

4.1 PURPOSE OF MITIGATION MONITORING AND REPORTING PROGRAM

This MMRP has been prepared to ensure that all required mitigation measures are implemented and completed in a satisfactory manner prior to implementation of the proposed ordinance. The attached table has been prepared to assist the responsible parties in implementing the mitigation measures. The table identifies the impact, mitigation measures (as amended through the Final EIR), 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 DEIR are not duplicated in the MMRP table.

4.2 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:

> Humboldt County Planning and Building Department
> Attention: Steve Lazar, Senior Planner, 3015 H Street, Eureka, CA 95501
> Telephone: (707) 268-3741 Fax: (707) 268-3792
> Email: slazar@co.humboldt.ca.us

The location of this information is:

- Humboldt County Planning and Building Department at 3015 H Street, Eureka, CA 95501

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

4.3 REPORTING

The County shall document and describing the compliance of the activity with the required mitigation measures either within the attached table or a separate monitoring documentation as part of processing applications under the proposed ordinance.

4.4 MITIGATION MONITORING AND REPORTING PROGRAM TABLE

The categories identified in the attached MMRP table are described below.

- Impact – This column provides the verbatim text of the identified impact.
- Mitigation Measure – This column provides the verbatim text of the adopted mitigation measure
- Implementation Responsibility – This column identifies the party responsible for implementing the mitigation measure.
- Timing – This column identifies the time frame in which the mitigation will be implemented.
- Verification – This column is to be dated and signed by the person (either project manager or his/her designee) responsible for verifying compliance with the requirements of the mitigation measure.

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
3.3 Air Quality/Greenhouse Gas Emissions				
Impact 3.3-4: Exposure of people to objectionable odors.	**Mitigation Measure 3.3-4: Prohibit burning of cannabis and other vegetative material** The County shall amend the proposed ordinance to reflect the following requirements: ◢ The burning of excess plant material associated with the cultivation and processing of commercial cannabis is prohibited.	Humboldt County	This mitigation measure will be incorporated into the ordinance and will be applied to commercial cannabis operations that receive permits.	
3.3 Biological Resources				
Impact 3.4-1: Disturbance to or loss of special-status wildlife species and habitat.	**Mitigation Measure 3.4-1a: Pre-approval biological reconnaissance surveys.** The following shall be included as performance standards in the proposed ordinance for the protection of special-status wildlife species and habitat from new development related to cannabis activities. ◢ Prior to approval of any application for commercial cannabis operations, a biological reconnaissance survey shall be conducted within the proposed development area by a qualified biologist. The qualified biologist shall assess the habitat suitability of the proposed development area for all 35 special-status wildlife species identified as having potential to occur in the County consistent with General Requirement and Prohibition 10 of the Attachment A of the State Water Board Policy. ◢ The biologist shall provide a letter report to the project applicant and the County with evidence to support a conclusion as to whether special-status species and sensitive habitats are present or are likely to occur within the proposed development area. If special-status species or sensitive habitats are present, the appropriate mitigation measures from this EIR shall be identified. The County shall require implementation of the mitigation measures as part of the application approval. **Mitigation Measure 3.4-1b: Special-status amphibian preconstruction surveys.** The following shall be included as performance standards in the proposed ordinance for the protection of special-status amphibian species from new development related to cannabis activities. ◢ If special-status amphibians are detected during the initial biological reconnaissance survey (see Mitigation 3.4-1a), preconstruction surveys, or are determined to be likely to occur, consultation with CDFW shall be initiated to determine whether additional measures, such as project design modifications, relocation of the site, relocation of individual animals, or installation of	Humboldt County	These mitigation measures will be incorporated into the performance standards and application requirements of the proposed ordinance.	

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
	exclusionary fencing, will be necessary and appropriate. ◢ Regardless of detection during the initial biological reconnaissance survey, if suitable habitat for special-status amphibians is present within the proposed development area, a qualified biologist familiar with the life cycle of foothill yellow-legged frog, northern red-legged frog, Pacific tailed-frog, red-bellied newt, and southern torrent salamander shall conduct preconstruction surveys of proposed new development activities 48 hours prior to such development activities. Preconstruction surveys for special-status amphibian species shall be conducted throughout the proposed construction area and a 400-foot buffer around the proposed development area. Surveys shall consist of "walk and turn" surveys of areas beneath surface objects (e.g., rocks, leaf litter, moss mats, coarse woody debris) for newts and salamanders, and visual searches for frogs. Preconstruction surveys shall be conducted within the appropriate season to maximize potential for observation for each species, and appropriate surveys will be conducted for the applicable life stages (i.e., eggs, larvae, adults). ◢ If special-status amphibians are not detected during the preconstruction survey, then further mitigation is not required. **Mitigation Measure 3.4-1c: Western pond turtle preconstruction surveys and relocation.** The following shall be included as a performance standard in the proposed ordinance for the protection of western pond turtle from new development related to cannabis activities. ◢ If pond turtles are detected during the initial biological reconnaissance survey (see Mitigation 3.4-1a), preconstruction surveys, or are determined to be likely to occur, consultation with CDFW shall be initiated to determine whether mitigation measures, such as project design modifications, relocation of the site, relocation of individual animals, or installation of exclusionary fencing, will be necessary and appropriate. ◢ Regardless of detection during the initial biological reconnaissance survey, if suitable aquatic habitat for western pond turtle is present within the proposed development area, a qualified biologist familiar with the life history of western pond turtle shall conduct preconstruction surveys of proposed new development activities within 200 feet of any SMA or Other Wet Area 24 hours prior to new development activities. ◢ If pond turtles are not detected during the preconstruction survey, then further mitigation is not required.			

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
	Mitigation Measure 3.4-1d: Nesting raptor preconstruction survey and establishment of protective buffers. The following shall be included as performance standards in the proposed ordinance for the protection of nesting raptors from new development related to cannabis activities. ◢ To minimize the potential for loss of nesting raptors, tree removal activities shall only occur during the nonbreeding season (September 1-January 31. ◢ Prior to removal of any trees, or ground-disturbing activities between February 1 and August 31, a qualified biologist shall conduct preconstruction surveys for nesting raptors, and shall identify active nests within 500 feet of the proposed development area. The surveys shall be conducted between February 1 and August 31. ◢ Impacts to nesting raptors, including direct impacts and indirect impacts (e.g., noise, presence of construction crews) shall be avoided by establishing appropriate buffers around active nest sites identified during preconstruction raptor surveys. The buffer areas shall be protected with construction fencing, and no activity shall occur within the buffer areas until a qualified biologist has determined, in coordination with CDFW, that the young have fledged, the nest is no longer active, or reducing the buffer would not likely result in nest abandonment. CDFW guidelines recommend implementation of a 500-foot buffer for raptors, but the size of the buffer may be adjusted if a qualified biologist and the applicant, in consultation with CDFW, determine that such an adjustment would not be likely to adversely affect the nest. Monitoring of the nest by a qualified biologist during and after construction activities will be required if the activity has potential to adversely affect the nest. ◢ Removal of bald and golden eagle nests are prohibited regardless of the occupancy status under the federal Bald and Golden Eagle Protection Act. If bald or golden eagle nests are found during pre-construction surveys, then the nest tree shall not be removed. ◢ Trees shall not be removed during the breeding season for nesting raptors unless a survey by a qualified biologist verifies that there is not an active nest in the tree. **Mitigation Measure 3.4-1e: Northern spotted owl preconstruction habitat suitability surveys and determination of presence or absence.** The following shall be included as performance standards in the proposed ordinance for the protection of northern spotted owl from new development related to cannabis activities. ◢ To avoid the potential for loss of northern spotted owl and their nests, or loss or			

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
	fragmentation of occupied or suitable habitat for northern spotted owl, removal of old growth habitat shall be prohibited, as outlined in Mitigation Measure 3.4-3, Sensitive natural communities, riparian habitat, old growth habitat, and wetland vegetation. ◢ If the area of proposed new development activities is within suitable habitat for northern spotted owl (e.g., coniferous forest), and is within 1.3 miles (average species home range) of a known occurrence of northern spotted owl, as determined by a qualified biologist, the following measures shall be followed. ◢ Prior to removal of any trees, or ground-disturbing activities adjacent or within suitable nesting, roosting, or foraging habitat (e.g. forest clearings) for spotted owl, a qualified biologist, familiar with the life history of the northern spotted owl, shall conduct preconstruction surveys for nests within a 1.3-mile buffer around the site as described in *Protocol for Surveying Proposed Management Activities that May Impact Northern Spotted Owls* (USFWS 2012). Surveys shall take place between March 1 and August 31. Three complete surveys spaced at least 7 days apart must be completed by June 30. Six complete surveys over the course of 2 years must be completed to determine presence or absence of northern spotted owl. ◢ If northern spotted owls are determined to be absent 1,3 miles from the site, then further mitigation is not required. ◢ If northern spotted owls are determined to be present within 1.3 miles of the site, then it is presumed that habitat removal could cause harm to northern spotted owl populations in the area, and could result in direct take of northern spotted owls. If northern spotted owls are determined to be present within 1.3 miles of the site, proposed cultivation activities will not be permitted consistent with the General Requirement and Prohibition 4 of the Attachment A of the State Water Board Policy. **Mitigation Measure 3.4-1f: Special-status nesting bird surveys and establishment of protective buffers.** The following shall be included as performance standards in the proposed ordinance for the protection of bank swallow, little willow flycatcher, tricolored blackbird, and western yellow-billed cuckoo from new development related to cannabis activities. This will apply to any commercial cannabis activity that would result in the disturbance or loss of riparian, riverine, mudflat, or grassland habitats. ◢ To minimize the potential for disturbance or loss of bank swallow, little willow flycatcher, tricolored blackbird, western snowy plover, western yellow-billed			

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
	cuckoo, or other bird nests, vegetation removal activities shall only occur during the nonbreeding season (September 1-January 31). Alteration of or disturbance to suitable river bank habitat (i.e., for bank swallow nests) and mudflat habitat (i.e., for western snowy plover) is prohibited because of limited habitat availability for this species. ◢ Prior to removal of any vegetation or any ground disturbance between February 1 and August 31, a qualified biologist shall conduct preconstruction surveys for nests on any structure or vegetation slated for removal, as well as for potential tricolored blackbird nesting habitat. The surveys shall be conducted no more than 14 days before construction commences. If no active nests or bank swallow colonies are found during focused surveys, no further action under this measure will be required. If active nests are located during the preconstruction surveys, the biologist shall notify the Planning Director and CDFW. If deemed necessary by the Planning Director in consultation with CDFW, modifications to the project design to avoid removal of occupied habitat while still achieving project objectives may be required. If the Planning Director determines in consultation with CDFW that avoidance is not feasible or conflicts with project objectives, construction shall be prohibited within a minimum of 100 feet of the nest to avoid disturbance until the nest or colony is no longer active. **Mitigation Measure 3.4-1g: Marbled murrelet preconstruction habitat suitability surveys and establishment of protective buffers.** The following shall be included as performance standards in the proposed ordinance for the protection of marbled murrelet from new development related to cannabis activities. ◢ To avoid the potential for loss of or disturbance to marbled murrelet nests and habitat, removal of old growth habitat shall be prohibited, as outlined in Mitigation Measure 3.4-3, Sensitive natural communities, riparian habitat, old growth habitat, and wetland vegetation. ◢ Prior to removal of any trees, or ground-disturbing activities adjacent or within suitable habitat for marbled murrelet between April 15 and August 5, a qualified biologist, familiar with the life history of the marbled murrelet, shall conduct preconstruction surveys for nests within a 0.25-mile buffer around the site as described in *Methods for Surveying Marbled Murrelets in Forests: A Revised Protocol for Land Management and Research* (Evans Mack et. al 2003). ◢ If marbled murrelets are determined to be absent from the site, then no further mitigation is required. ◢ If marbled murrelets are determined to be present within the site, a 0.25-mile buffer will be established around occupied nest sites. No project activity may			

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
	occur within the 0.25-mile buffer areas until the end of marbled murrelet breeding season (August 6). **Mitigation Measure 3.4-1h: Generator noise reduction.** The ordinance requires generators not to increase existing ambient noise levels at the property line of the site beyond 3 dB. In addition, the noise standards shall include the following standards to protect wildlife (USFWS 2006). ◢ Project-generated sound must not exceed ambient nesting conditions by 20-25 decibels. ◢ Project-generated sound, when added to existing ambient conditions, must not exceed 90 decibels. ◢ Time of day adjustment: Marbled murrelet and northern spotted owl are most active during dawn and dusk. Within approximately 2 hours of sunrise and sunset, ambient sound levels are lower than during the middle of the day (by approximately 5-10 decibels). This will be accounted for when determining impacts of project-generated sound. **Mitigation Measure 3.4-1i: American badger preconstruction survey and establishment of protective buffers.** The following shall be included as performance standards in the proposed ordinance for the protection of the American badger from new development related to cannabis activities. ◢ Prior to the commencement of construction activities, a qualified wildlife biologist shall conduct surveys of the suitable grassland or agricultural habitats slated for conversion within the site to identify any American badger burrows/dens. These surveys shall be conducted not more than 30 days prior to the start of construction. If occupied burrows are not found, further mitigation shall not be required. If occupied burrows are found, impacts to active badger dens shall be avoided by establishing exclusion zones around all active badger dens, within which construction related activities shall be prohibited until denning activities are complete or the den is abandoned. A qualified biologist shall monitor each den once per week to track the status of the den and to determine when a den area has been cleared for construction. **Mitigation Measure 3.4-1j: Fisher and Humboldt marten preconstruction survey and preservation of active den sites.** The following shall be included as performance standards in the proposed ordinance for the protection of the fisher and Humboldt marten from new development related to cannabis activities.			

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
	◢ To minimize the potential for loss of or disturbance to fisher and Humboldt marten habitat and dens, removal of old growth habitat shall be prohibited, as outlined in Mitigation Measure 3.4-3, Sensitive natural communities, riparian habitat, old growth habitat, and wetland vegetation. ◢ Prior to commencement of from new development related to cannabis activities occurring within the fisher and Humboldt marten denning season (March 1 to July 31), including tree removal (non-old growth), a qualified wildlife biologist will conduct preconstruction surveys of all suitable habitat within the site, and will identify sightings of individual fishers or martens, as well as potential dens. ◢ If individuals or potential or occupied dens are not found, further mitigation will not be required. ◢ If fisher or Humboldt marten are identified or if potential dens of these species are located, an appropriate method shall be used by a qualified wildlife biologist to confirm whether a fisher or marten is occupying the den. This may involve use of remote field cameras, track plates, or hair snares. Other devices such as fiber optic scope may be utilized to determine occupancy. If no fisher or marten occupies the potential den, the entrance will be temporarily blocked so that no other animals occupy the area during the construction period but only after it has been fully inspected. The blockage will be removed once construction activities have been completed. ◢ If a den is found to be occupied by a fisher or marten, a no-disturbance buffer will be placed around the occupied den location. The no-disturbance buffer will include the den tree (or other structure) plus a suitable buffer as determined by the biologist in coordination with USFWS and CDFW. Construction activities in the no-disturbance buffer will be avoided until the nest is unoccupied as determined by a qualified wildlife biologist in coordination with USFWS and CDFW. **Mitigation Measure 3.4-1k: Preconstruction bat survey and exclusion.** The following shall be included as performance standards in the proposed ordinance for the protection of the pallid bat and Townsend's big-eared bat from new development related to cannabis activities. ◢ Before commencing any new development related to cannabis activities, a qualified biologist shall conduct surveys for roosting bats. If evidence of bat use is observed, the species and number of bats using the roost shall be determined. Bat detectors may be used to supplement survey efforts. If no evidence of bat roosts is found, then no further study will be required. ◢ If pallid bats or Townsend's big-eared bats are found in the surveys, a mitigation			

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
	program addressing mitigation for the specific occurrence shall be submitted to the Planning Director and CDFW by a qualified biologist subject to the review and approval of the Planning Director in consultation with CDFW. Implementation of the mitigation plan shall be a condition of project approval. At a minimum, the mitigation plan shall establish a 400-foot buffer area around the nest during hibernation or while females in maternity colonies are nursing young. **Mitigation Measure 3.4-1l: Preconstruction vole survey and relocation.** The following shall be included as performance standards in the proposed ordinance for the protection of the Sonoma tree vole and white-footed vole from new development related to cannabis activities. ◢ To minimize the potential for loss of or disturbance to vole habitat and nests, removal of old growth habitat shall be prohibited, as outlined in Mitigation Measure 3.4-3 Sensitive natural communities, riparian habitat, old growth habitat, and wetland vegetation. ◢ Before commencing any tree or other vegetation removal activities, or ground-disturbance, a qualified biologist shall conduct surveys for vole nests (e.g., nest searching within trees on the site, and confirming that nests belong to voles rather than squirrels or birds). If no evidence of vole nests is found, then no further study shall be required. A report summarizing the results of the surveys shall be prepared and submitted to the Planning Director and shall be subject to his review and approval in consultation with CDFW. ◢ If occupied trees or nests are identified within 100 feet of the site, the biologist shall determine whether project development activities will adversely affect the voles, based on factors such as noise level of development activities, or line of sight between the tree and the disturbance source. If it is determined that development activities would not affect the voles, then development can proceed without protective measures. ◢ If the biologist determines that development activities would likely disturb voles, the proposed area of disturbance shall be relocated a minimum of 200 feet from the nest.			
Impact 3.4-2: Disturbance to or loss of special-status fisheries.	**Mitigation Measure 3.4-2: Implement Mitigation Measure 3.8-5.**	See Impact 3.8-5	See Impact 3.8-5	
Impact 3.4-3: Disturbance to or loss of special-status plant species and habitat.	**Mitigation Measure 3.4-3a: Special-status plants.** The following shall be included as performance standards in the proposed ordinance for the protection of special-status plant species from new development related to cannabis	Humboldt County	These mitigation measures will be incorporated into the performance standards and	

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
	activities. ◢ Prior to commencement of new development related to cannabis activities and during the blooming period for the special-status plant species with potential to occur in the site, a qualified botanist will conduct protocol-level surveys for special-status plants in all proposed disturbance areas following survey methods from CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW 2009). ◢ If special-status plants are not found, the botanist will document the findings in a letter report to USFWS, CDFW, and the applicant and no further mitigation will be required. ◢ If special-status plant species are found, a qualified biologist shall consult with CDFW to designate a no-disturbance buffer that will be reflected in the application to the County consistent with General Requirement and Prohibition 10 of the Attachment A of the State Water Board Policy. If the special-status plant species cannot be avoided, the application will be denied. **Mitigation 3.4-3b: Invasive plant species.** The following shall be included as performance standards in the proposed ordinance to avoid the introduction or spread of plants classified as invasive plant species by the California Invasive Plant Council. ◢ The application will include identification of invasive plant species that occur on the site and where they are located. The application will identify specific measures to be employed for the removal invasive species and on-site management practices. As part of the County's annual inspection areas where invasive plant species were removed will be checked to verify removal. Corrective actions may be required as part of the annual permit renewal if invasive species remain or have returned. ◢ All invasive plant species shall be removed from the site using measures appropriate to the species. For example, species that cannot easily re-root, re-sprout, or disperse seeds may be left on site in a debris pile. Species that re-sprout readily (e.g., English ivy) or disperse seeds (e.g., Pampas grass) should be hauled off-site and disposed of appropriately at a landfill site. Heavy equipment and other machinery shall be inspected for the presence of invasive species prior to on-site use, and shall be cleaned prior to entering the site, to reduce the risk of introducing invasive plant species.		application requirements of the proposed ordinance.	

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
Impact 3.4-4: Disturbance to or loss of riparian habitat, old growth habitat, or other sensitive natural communities.	**Mitigation 3.4-4: Sensitive natural communities, riparian habitat, and wetland vegetation.** The following shall be included as performance standards in the proposed ordinance for the protection of sensitive natural communities and riparian habitat. ◢ For projects that could disturb sensitive natural communities or riparian habitat, the application shall include a report prepared by a qualified biologist that surveys the site for these sensitive resources, including riparian habitat associated with aquatic features; old growth Sitka spruce, Douglas fir, and redwood forests; coastal oak woodlands; special-status fish stream habitats; marsh habitats; and northern foredune grassland near Humboldt Bay and the Mattole River; and coastal terrace prairie within Table Bluff Ecological Reserve. ◢ The report shall include requirements that before development activities commence, all sensitive areas identified above shall be flagged or fenced with brightly visible construction flagging and/or fencing under the direction of the qualified biologist to require that grading, excavation, other ground-disturbing activities, and vegetation removal will not occur within these areas. Foot traffic by construction personnel shall also be limited in these areas to prevent the introduction of invasive or weedy species. Periodic inspections during construction shall be conducted by the monitoring biologist to maintain the integrity of exclusion fencing/flagging throughout the period of construction involving ground disturbance. ◢ If the report documents that site development would affect the bed, bank, channel, or associated riparian habitat subject to CDFW jurisdiction under Fish and Game Code Section 1602, a Streambed Alteration Notification shall be submitted to CDFW, pursuant to Section 1600 et seq. of the California Fish and Game Code. If proposed activities are determined to be subject to CDFW jurisdiction, the project proponent shall abide by the conditions of any executed agreement prior to the issuance of a grading permit by Humboldt County. ◢ Subject to the review and approval of the Planning Director in consultation with CDFW applicants shall compensate for permanent loss of riparian habitat at a minimum of a 2:1 ratio through contributions to a CDFW approved wetland mitigation bank or through the development and implementation of a Compensatory Stream and Riparian Mitigation and Monitoring Plan for creating or restoring in-kind habitat in the surrounding area (such as the proposed ordinance site reconfiguration criteria for existing cultivation sites). If mitigation credits are not available, stream and riparian habitat compensation shall include establishment of riparian vegetation on currently unvegetated bank portions of streams affected by the project and enhancement of existing riparian habitat through removal of nonnative species, where appropriate, and planting	Humboldt County	This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance.	

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
	additional native riparian plants to increase cover, continuity, and width of the existing riparian corridor along streams in the site and surrounding areas. Construction activities and compensatory mitigation shall be conducted in accordance with the terms of a streambed alteration agreement as required under Section 1602 of the Fish and Game Code as well as the State Water Board Cannabis Cultivation Policy. The Compensatory Stream and Riparian Mitigation and Monitoring Plan shall include the following: ◢ identification of compensatory mitigation sites and criteria for selecting these mitigation sites; ◢ in kind reference habitats for comparison with compensatory riparian habitats (using performance and success criteria) to document success; ◢ monitoring protocol, including schedule and annual report requirements (Compensatory habitat will be monitored for a minimum of 5 years from completion of mitigation, or human intervention [including recontouring and grading], or until the success criteria identified in the approved mitigation plan have been met, whichever is longer.); ◢ ecological performance standards, based on the best available science and including specifications for native riparian plant densities, species composition, amount of dead woody vegetation gaps and bare ground, and survivorship; at a minimum, compensatory mitigation planting sites must achieve 80 percent survival of planted riparian trees and shrubs by the end of the five-year maintenance and monitoring period or dead and dying trees will be replaced and monitoring continued until 80 percent survivorship is achieved; ◢ corrective measures if performance standards are not met; ◢ responsible parties for monitoring and preparing reports; and ◢ responsible parties for receiving and reviewing reports and for verifying success or prescribing implementation or corrective actions.			
Impact 3.4-5: Disturbance to or loss of waters of the United States.	**Mitigation 3.4-5: Waters of the United States.** The following shall be included as performance standards in the proposed ordinance for the protection of waters of the United States from new development related to cannabis activities. ◢ The application shall include a report prepared by a qualified biologist that surveys the site for sensitive resources, including wetlands, streams, and rivers. Wetlands and other waters of the United States are of special concern to	Humboldt County	This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance.	

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
	resource agencies and are afforded specific consideration, based on Section 404 of the Clean Water Act and other applicable regulations. ◢ If the report documents waters of the United States to be present, a delineation of waters of the United States, including wetlands that would be affected by the project, shall be prepared by a qualified biologist through the formal Section 404 wetland delineation process. The delineation shall be submitted to and verified by USACE. ◢ If, based on the verified delineation, it is determined that fill of waters of the United States would result from implementation of the project, authorization for such fill will be secured from USACE through the Section 404 permitting process. ◢ Any waters of the United States that would be affected by site development shall be replaced or restored on a "no-net-loss" basis in accordance with USACE mitigation guidelines (or the applicable USACE guidelines in place at the time of construction). In association with the Section 404 permit (if applicable) and prior to the issuance of any grading permit, Section 401 Water Quality Certification from the RWQCB will be obtained. ◢ USACE may not issue a Section 404 permit for activities associated with cannabis cultivation. If a Section 404 permit cannot be obtained, then the applicant shall modify the proposed project to avoid any wetlands or other waters of the United States by providing a buffer of at least 50 feet around these features.			
Impact 3.4-6: Interference with resident or migratory wildlife corridors or native wildlife nursery sites.	**Mitigation 3.4-6a: Implement Mitigation Measure 3.4-5: Waters of the United States.** **Mitigation 3.4-6b: Retention of fisher and Humboldt marten habitat features** The following shall be included as performance standards in the proposed ordinance for the protection of the habitat for fisher and Humboldt marten. ◢ To minimize the potential for loss of or disturbance to fisher and Humboldt marten habitat, removal of old growth habitat shall be prohibited, as outlined in Mitigation Measure 3.4-3, Sensitive natural communities, riparian habitat, and wetland vegetation. ◢ Habitat features within non-old growth habitat, such as large trees, large snags, coarse woody debris, and understory vegetation (e.g., shrubs) shall be retained within the site to the extent feasible, to maintain connectivity of fisher and marten habitat.	Humboldt County	This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance.	

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
3.5 Cultural Resources				
Impact 3.5-1: Change in the significance of a historic resource.	**Mitigation 3.5-1: Protection of historic resources.** The following shall be included as performance standards in the proposed ordinance for the protection of historic resources. ◢ Applicants shall identify and evaluate all historic-age (over 45-years in age) buildings and structures that are proposed to be removed and modified as part of cannabis operations. This will include preparation of an historic structure report and evaluation of resources to determine their eligibility for recognition under State, federal, or County Local Official Register of Historic Resources criteria. The evaluation shall be prepared by an architectural historian, or historical architect meeting the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, Professional Qualification Standards. The evaluation shall comply with CEQA Guidelines Section 15064.5(b), and, if federal funding or permits are required, with Section 106 of the National Historic Preservation Act (NHPA) of 1966 (16 U.S.C. § 470 et seq.). ◢ If resources eligible for inclusion in the NRHP, CRHR, or Local Official Register of Historic Resources are identified, an assessment of impacts on these resources shall be included in the report, as well as detailed measures to avoid impacts. If avoidance of a significant architectural/built environment resource is not feasible, additional mitigation options include, but are not limited to, specific design plans for historic districts, or plans for alteration or adaptive re-use of a historical resource that follows the Secretary of the Interior's *Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitation, Restoring, and Reconstructing Historic Buildings*.	Humboldt County	This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance.	
Impact 3.5-2: Disturb unique archaeological resources.	**Mitigation 3.5-2: Avoid potential effects on unique archaeological resources.** The following shall be included as performance standards in the proposed ordinance for the protection of archaeological resources. ◢ Applicants for projects that include any ground disturbance shall retain a qualified archaeologist to conduct archaeological surveys of the site. The applicant shall follow recommendations identified in the survey, which may include activities such as subsurface testing, designing, and implementing a Worker Environmental Awareness Program, construction monitoring by a qualified archaeologist, avoidance of sites, or preservation in place. ◢ All projects shall include the following requirements as a condition of approval: If evidence of any prehistoric or historic-era subsurface archaeological features or deposits are discovered during construction-related earth-moving activities (e.g.,	Humboldt County	This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance.	

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
	ceramic shard, trash scatters, lithic scatters), all ground-disturbing activity in the area of the discovery shall be halted and the County shall be notified immediately. A qualified archaeologist shall be retained to assess the significance of the find. If the find is a prehistoric archeological site, the appropriate Native American group shall be notified. If the archaeologist determines that the find does not meet NRHP or CRHR standards of significance for cultural resources, construction may proceed. If the archaeologist determines that further information is needed to evaluate significance, a data recovery plan shall be prepared. If the find is determined to be significant by the qualified archaeologist (i.e., because the find is determined to constitute either an historical resource or a unique archaeological resource), the archaeologist shall work with the project applicant to avoid disturbance to the resources, and if complete avoidance is not feasible in light of project design, economics, logistics, and other factors, follow accepted professional standards in recording any find including submittal of the standard DPR Primary Record forms (Form DPR 523) and location information to NCIC.			
3.6 Geology and Soils				
Impact 3.6-5: Damage to or destruction of undiscovered paleontological resources.	**Mitigation Measure 3.6-5 Protection of discovered paleontological resources.** The following shall be included as performance standards in the proposed ordinance for the protection of paleontological resources. ◢ If a paleontological discovery is made during construction, the contractor shall immediately cease all work activities in the vicinity (within approximately 100 feet) of the discovery and shall immediately contact the County. ◢ A qualified paleontologist shall be retained to observe all subsequent grading and excavation activities in the area of the find and shall salvage fossils as necessary. The paleontologist shall establish procedures for paleontological resource surveillance and shall establish, in cooperation with the project developer, procedures for temporarily halting or redirecting work to permit sampling, identification, and evaluation of fossils. If major paleontological resources are discovered that require temporarily halting or redirecting of grading, the paleontologist shall report such findings to the County. The paleontologist shall determine appropriate actions, in cooperation with the applicant and the County, that ensure proper exploration and/or salvage. Excavated finds shall first be offered to a State-designated repository such as the Museum of Paleontology, University of California, Berkeley, or the California Academy of Sciences. Otherwise, the finds shall be offered to the County for purposes of public education and interpretive displays. The paleontologist shall	Humboldt County	This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance.	

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
	submit a follow-up report to the County that shall include the period of inspection, an analysis of the fossils found, and the present repository of fossils.			
3.7 Hazards and Hazardous Materials				
Impact 3.7-2: Create potential human hazards from exposure to on-site hazardous materials.	**Mitigation Measure 3.7-2a: Prepare Environmental Site Assessments** The following shall be included as performance standards in the proposed ordinance for proposed development of commercial cannabis facilities on existing commercial, business park, or industrial sites: ◢ Applications for new cannabis activities in commercial, business park, or industrial sites shall include a site assessment for the presence of potential hazardous materials, including an updated review of environmental risk databases. If this assessment indicates the presence or likely presence of contamination, the applicant shall prepare a Phase I ESA in accordance with the American Society for Testing and Materials' E-1527-05 standard. For work requiring any demolition, the Phase I ESA shall make recommendations for any hazardous building materials survey work that shall be done. All recommendations included in a Phase I ESA prepared for a site shall be implemented. If a Phase I ESA indicates the presence or likely presence of contamination, the applicant shall prepare a Phase II ESA, and recommendations of the Phase II ESA shall be fully implemented prior to ground disturbance, which will be made a condition of approval for the project. **Mitigation Measure 3.7-2b: Prepare a Hazardous Materials Contingency Plan for Construction Activities** The following shall be included as performance standards in the proposed ordinance for proposed development of commercial cannabis facilities on existing commercial, business park, or industrial sites: ◢ Applications for new cannabis activities in commercial, business park, or industrial sites shall include f a hazardous materials contingency plan for review and approval by Humboldt County Division of Environmental Health. The plan shall describe the necessary actions that would be taken if evidence of contaminated soil or groundwater is encountered during construction. The contingency plan shall identify conditions that could indicate potential hazardous materials contamination, including soil discoloration, petroleum or chemical odors, and presence of USTs or buried building material. The plan shall include the provision that, if at any time during constructing the project, evidence of soil and/or groundwater contamination with hazardous material is encountered, the project applicant shall immediately halt construction and contact Humboldt	Humboldt County	This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance.	

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
	County Division of Environmental Health. Work shall not recommence until the discovery has been assessed/treated appropriately (through such mechanisms as soil or groundwater sampling and remediation if potentially hazardous materials are detected above threshold levels) to the satisfaction of Humboldt County Division of Environmental Health, RWQCB, and DTSC (as applicable). The plan, and obligations to abide by and implement the plan, shall be incorporated into the conditions of approval for the project.			
3.8 Hydrology and Water Quality				
Impact 3.8-2: Operational water quality impacts.	**Mitigation Measure 3.8-2: Minimum Size of Commercial Cultivation Activities** The County shall amend the proposed ordinance to demonstrate compliance with the requirements of the State Water Board *Cannabis Cultivation Policy – Guidelines for Cannabis Cultivation* for all new commercial cannabis cultivation operations and not limited by a minimum cultivation area size.	Humboldt County	This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance. Annual inspections as part of permit renewals will verify continued compliance with this mitigation measure.	
Impact 3.8-3: Groundwater supply impacts.	**Mitigation Measure 3.8-3: Annual groundwater monitoring and adaptive management.** The following requirement will be included as an additional performance standard of the ordinance associated wells on small parcels: ◢ As part of the ordinance's annual inspection process, cultivation operators shall provide the County with groundwater monitoring data for on-site well facilities that documents well production and changes in groundwater levels during each month of the year. Should this monitoring data identify potential drawdown impacts to adjacent well(s) and indicate a connection to operation of the on-site wells, the cultivation operators, in conjunction with the County, shall develop adaptive management measures to allow for recovery of groundwater levels. Adaptive management measures may include forbearance (e.g., prohibition of groundwater extraction from the months of May to October), water conservation measures, reductions in on-site cannabis cultivation, alteration of the groundwater pumping schedule, or other measures determined appropriate. Adaptive management measures will remain in place until groundwater levels have recovered based on annual monitoring data provided to the County as part of subsequent annual inspections.	Humboldt County	This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance. Annual inspections and review of water records as part of permit renewals will verify continued compliance with this mitigation measure.	

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
Impact 3.8-4: Surface drainage impacts on on-site and offsite flooding.	**Mitigation Measure 3.8-4: Provision of drainage facilities to attenuate increases in drainage flows.** The County shall include the following drainage requirement in the proposed ordinance application requirements: ◢ Applications will provide details of drainage facilities and stormwater management. This will include a drainage analysis of increases or alteration of on-site and off-site drainage flows from project facilities and identification of drainage swales, detention basins, or other facilities that will ensure that the project will retain pre-project drainage conditions.	Humboldt County	This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance.	
Impact 3.8-5: Effects of diversion of surface water.	**Mitigation 3.8-5: Implement water diversion restrictions and monitoring and reporting requirements.** The text of the proposed ordinance shall be modified to align with the State Water Resources Control Board Cannabis Cultivation Policy, which includes the following measures: ◢ The period of forbearance shall extend from April 1 through October 31 of each year, and be subject to the following additional restrictions: ◢ From November 1 through December 14 of each year, the surface water diversion period shall not begin until after seven consecutive days in which the surface waterbody's real-time Numeric Flow Requirement are met (see Appendix E). ◢ From December 15 through March 31 of each surface water diversion period, surface water diversion may occur on any day in which the surface waterbody's real-time daily average flow is greater than the Numeric Flow Requirement (see Appendix E). ◢ The State Water Board will monitor instream flows during the dry season and evaluate whether the number or location of groundwater diversions to determine whether imposition of a groundwater forbearance period or other measures. The State Water Board will notify cannabis cultivators the possibility of a groundwater forbearance period or other measures may be imposed to address the low flow condition. ◢ Cannabis cultivators shall bypass a minimum of 50 percent of the surface water flow past their point of diversion, as estimated based on visually observing surface water flow at least daily. ◢ Water diversion rates may be further restricted in a manner to provide minimum instream flow requirements needed for fish spawning, migration, and rearing,	Humboldt County	This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance. Annual inspections and review of water records as part of permit renewals will verify continued compliance with this mitigation measure. The County will also notify water users (surface and groundwater) of any diversion restrictions based on water conditions and compliance with the State Water Board.	

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
	and the flows needed to maintain natural flow variability by the State Water Resources Control Board and/or California Department of Fish and Wildlife as part of state surface water diversion approvals in circumstances where multiple diversions existing along a single waterway. ◢ The cannabis cultivator shall not divert more than a maximum instantaneous diversion rate of 10 gallons per minute, unless authorized under an existing appropriative water right. ◢ Cannabis cultivators shall plug, block, cap, disconnect, or remove diversion intake structures associated with cannabis cultivation activities during the source water forbearance period, unless the diversion intake is used for other beneficial uses. ◢ Diverted water storage systems for cannabis cultivation shall be separated from storage systems used for other beneficial uses within a cultivation site. ◢ Cannabis cultivation shall inspect for leaks in mainlines, laterals, in-irrigation connections, sprinkler headers, and/or the ends of drop tape and feeder lines on a monthly basis. Any leaks discovered shall be immediately repaired upon detection. Worn, outdated, or inefficient irrigation system components and equipment shall be regulatory replaced to ensure a properly function, leak-free irrigation system at all times. Records of the date of inspections, repairs, and replacements shall be maintained. ◢ Cannabis cultivators shall retain irrigation, inspection, and repair records at the cannabis cultivation site and shall make all records available for review by the Water Boards, CDFW, and the County upon request for a period of 10 years.			
3.10 Noise				
Impact 3.10-1: Short-term, construction-related noise.	**Mitigation Measure 3.10-1: Implement construction-noise reduction measures.** The County shall include the following construction noise requirement for new commercial cannabis operations and modifications to existing commercial cannabis operations in the ordinance: ◢ All outdoor construction activity and use of heavy equipment outdoors shall take place between 7:00 a.m. and 6:00 p.m., Monday through Friday, and between 9:00 a.m. and 6:00 p.m. on Saturday and Sunday.	Humboldt County	This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance.	
3.12 Transportation and Circulation				
Impact 3.12-2: Long-term increase in traffic.	**Mitigation Measure 3.12-2: Proper design of highway access points.** The proposed ordinance's roadway design standards shall be modified to include the	Humboldt County	This mitigation measure will be incorporated into the performance standards and	

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
	following requirement: ◢ An evaluation of the existing or proposed new roadway access point to a state highway shall be provided. The evaluation will identify the required improvements to ensure proper function of the access based on anticipated traffic volumes. Improvements may include widening of the throat of the driveway to a minimum of 20 feet, provision of adequate sight distances, and other improvements determined necessary to comply with County and Caltrans standards. This improvement shall be in place prior to construction of the commercial cannabis operation. A copy of the approved Caltrans encroachment permit (if required) will be provided to the County.		application requirements of the proposed ordinance.	
3.13 Utilities and Service Systems				
Impact 3.13-1: Exceed wastewater treatment requirements or wastewater treatment capacity and related infrastructure.	**Mitigation Measure 3.13-1a: Prepare a treatment program for all new indoor cultivation and non-cultivation activities.** Applicants for new commercial indoor cultivation and non-cultivation cannabis operations shall prepare a materials management program that will address each permit type sought within a site. The program shall include: ◢ a detailed description of activities and processes occurring on site, including: ◤ equipment type and number; ◤ detailed standard operating procures for processes; ◤ chemical requirements and reactions; ◤ cleaning procedures for equipment; and ◤ disposal methods for all materials (e.g., plant materials, solvents, empty containers), and ◢ type and quantity of items produced: ◤ Material Safety Data Sheets for all chemical substances occurring on site; ◤ manifests for each chemical describing quantities purchased, date used, and quantities disposed; ◤ facility site plan with storage map, showing where hazardous materials will be stored; ◤ an inventory of all emergency equipment with the location and description of items, including: ▪ personal protective equipment; ▪ fire extinguishing systems;	Humboldt County	These mitigation measures will be incorporated into the performance standards and application requirements of the proposed ordinance.	

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
	▪ spill control equipment and decontamination equipment, and ▪ communication and alarm systems. ▪ an employee training plan that includes: ▪ emergency response procedures and incident reporting, and ▪ chemical handling procedures. The materials management program shall be submitted to Humboldt County Division of Environmental Health and public agencies or private enterprises accepting waste materials, including CSDs and waste transfer stations. Commercial cannabis permits shall not be granted without approval of the materials management program relevant agencies. **Mitigation Measure 3.13-1b: Verification of adequate wastewater service and necessary improvements for public wastewater systems.** Applicants shall determine whether sufficient wastewater treatment capacity exists for a proposed project. These determinations must ensure that the proposed development can be served by its existing or planned treatment capacity and wastewater conveyance through approval of the relevant service provider. If adequate capacity does not exist, applicants shall coordinate with the relevant service provider to ensure that adequate improvements are made accommodate the increased demand, and if not, infrastructure improvements for the appropriate public service or utility shall be identified. The relevant public service provider or utility shall be responsible for undertaking project-level review as necessary to provide CEQA clearance and implementation of adopted mitigation measures for new facilities.			
Impact 3.13-2: Provision of sufficient water supplies and infrastructure needs.	**Mitigation Measure 3.13-2: Verification of adequate water supply and service for municipal water service.** The County shall include the following additional water supply verification requirements in the ordinance for all new commercial cannabis operations that plan to obtain municipal water service: ◢ Applicants for new commercial cannabis operations that plan to obtain water from CSD or other entities will obtain, and provide to the County, written verification from the water service provider that adequate water supply is available to serve the site. If adequate capacity does not exist, applicants shall coordinate with the relevant service provider to ensure that adequate improvements are made to accommodate the increased demand, and if not, infrastructure improvements for the appropriate public service or utility shall be identified. The relevant public service provider or utility shall be responsible for undertaking project-level review as necessary to provide CEQA clearance for new facilities.	Humboldt County	This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance.	

Table 4-1 Mitigation Monitoring and Reporting Program – Proposed Amendments to Humboldt County Code Regulating Commercial Cannabis Activities

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
Impact 3.13-3: Potential to be served by a landfill with insufficient capacity or violate existing statues related to solid waste.	Mitigation Measure 3.13-3: Implement Mitigation Measure 3.13-1a.	See Impact 3.13-1	See Impact 3.13-1	

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