Resolution Certifying the Environmental Impact Report

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA**
Certified copy of portion of proceedings; meeting on May 8, 2018

**RESOLUTION NO. 18-40**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE AMENDMENTS TO THE ZONING REGULATIONS, KNOWN AS THE COMMERCIAL CANNABIS LAND USE ORDINANCE (CCLUO), HAS BEEN PREPARED IN COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, ADOPTING THE ASSOCIATED MITIGATION AND IMPLEMENTATION MEASURES, THE MITIGATION MONITORING AND REPORTING PLAN, ADOPTING FINDINGS FOR APPROVAL OF THE CCLUO, AND A STATEMENT OF OVERRIDING CONSIDERATIONS**
**CASE NUMBER OR-17-02**

WHEREAS, the County of Humboldt (County) determined that it would prepare an Environmental Impact Report (EIR) in conjunction with its comprehensive update of its land use and zoning regulations governing commercial cannabis activities in the CCLUO in order to comply with the California Environmental Quality Act (CEQA) and to provide environmental review documentation as part of its submission for certification of Coastal Zone land use regulations by the Coastal Commission; and,

WHEREAS, the County prepared separate draft ordinances of the CCLUO for the Coastal Zone of the County, and for the portion of the County inland of the Coastal Zone; and,

WHEREAS, the County contracted with and directly supervised Ascent Environmental, Inc., to assist the County Planning & Building Department with the preparation of the EIR; and,

WHEREAS, the County issued a Notice of Preparation (NOP) of an EIR for amendments to the Humboldt County Code regulating commercial cannabis activities on April 6, 2017 soliciting public input regarding scope of the EIR for the CCLUO (State Clearinghouse No. 2017042022) and posted the NOP on the County website. The NOP was circulated from April 6, 2017 through May 9, 2017 (a 34-day review period). The County conducted a public scoping meeting on May 12, 2017 to obtain public comments on the potential environmental impacts to be analyzed in the EIR; and,

WHEREAS, on June 23, 2017, the County gave written formal notice to the California Native American tribes traditionally and culturally affiliated with the area of Humboldt County listed in Table 3.5-2 of the Draft EIR that the County was undertaking the CCLUO ordinance update project, and of the opportunity to consult regarding the potential significant impacts to tribal cultural resources that may result from adoption of the CCLUO as part of the EIR, which consultation occurred and is ongoing; and,

WHEREAS, the County released a Draft EIR, posted it on the County's website, and published a Notice of Availability of the Draft EIR on September 1, 2017 and sent it by mail to organizations and individuals who requested such notice. The Notice of Availability provided for a public comment period on the Draft EIR commencing on September 1, 2017 and ending on October 16, 2017 (46 days); and,

WHEREAS, the Draft EIR describes the environmental impacts of the proposed project, identifying impacts that are less than significant and significant, identifies feasible mitigation measures to substantially lessen or avoid potentially significant impacts and concludes the project will have three significant and unavoidable impacts, as more particularly set forth in the findings attached hereto. The Draft EIR also includes a cumulative impact analysis and discussion of project alternatives; and,

WHEREAS, the County received written comments from the public and local and state agencies on the Draft EIR; and,

WHEREAS, the County prepared written responses to all comments received on the Draft EIR during the public comment period and included the comments and responses in a Final Environmental Impact Report (Final EIR) completed on January 8, 2018, and on that date posted to the County website; and,

WHEREAS, on January 11 and January 18, 2017, the Humboldt County Planning Commission held duly noticed public meetings at which it reviewed the Final EIR to make recommendations to the Board of Supervisors; and,

WHEREAS, on January 18, 2018, the Planning Commission voted to recommend that the Humboldt County Board of Supervisors certify the Final EIR for the CCLUO and approve the Ordinances; and,

WHEREAS, the County provided notice of the availability of the Final EIR to public agencies that commented on the Draft EIR on February 8, 2018; and,

WHEREAS, the Humboldt County Board of Supervisors received copies of the Draft and Final EIR for the CCLUO on March 16, 2018; and,

WHEREAS, the Humboldt County Board of Supervisors held a duly noticed public hearing to review and consider and receive testimony on the CCLUO Ordinances and the Final EIR on March 19, 2018, that was continued to April 10, 2018; and,

WHEREAS, the Board of Supervisors received public input prior to the close of the public hearing; and,

WHEREAS, the adoption of land use regulations for the area of the County within the Coastal Zone is subject to certification by the California Coastal Commission that is statutorily exempt from CEQA, pursuant to Public Resources Code Section 21080.5 and 14 Code of California Regulations Section 15265;

THEREFORE, BE IT RESOLVED that the Humboldt County Board of Supervisors hereby:

1. Certifies that the Final Environmental Impact Report for the CCLUO (consisting of the Draft EIR, Final EIR, and all appendices):

    a. has been completed in compliance with CEQA;

    b. was presented to the Humboldt County Board of Supervisors that reviewed and considered the information contained in the Final EIR prior to adoption of the CCLUO ordinances; and,

    c. reflects the independent judgment and analysis of the County of Humboldt.

2. Adopts the Findings and Statement of Overriding Considerations attached hereto as Exhibit A; and

3. Adopts the Mitigation Monitoring and Reporting Plan attached hereto as Exhibit B.

BE IT FURTHER RESOLVED that the individual parts of this resolution are severable, such that if one or more parts are determined to be invalid, all the other parts will remain in full force and effect.

BE IT FURTHER RESOLVED that the Director of Planning is directed to promptly file a Notice of Determination as provided in CEQA Guidelines Section 15094 after adoption of the CCLUO ordinance applicable to the inland area of the County of Humboldt.

BE IT FURTHER RESOLVED that the Director of Planning is directed to promptly file a Notice of Exemption as provided in CEQA Guidelines Section 15062 with regard to the adoption of the CCLUO ordinance applicable within the Coastal Zone.

[Continued on following page:]

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA**
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Adopted on motion by Supervisor Fennell, seconded by Supervisor Bass, and the following vote:

AYES: Supervisors: Bass, Fennell, Sundberg, Bohn

NOES: Supervisors: Wilson

ABSENT: Supervisors: --

Date: May 8, 2018

Ryan Sundberg, Chairperson
Board of Supervisors, County of Humboldt

Attest:

KATHY HAYES
Clerk of the Board of Supervisors

By: _____
Ryan Sharp, Deputy Clerk

STATE OF CALIFORNIA )
) SS.
County of Humboldt )

I, Kathy Hayes, Clerk of the Board of Supervisors of the County of Humboldt, State of California do hereby certify the foregoing to be a full, true, and correct copy of the original made in the above-titled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my office.

In Witness Whereof, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.

KATHY HAYES
Clerk of the Board of Supervisors of the County of Humboldt, State of California

By: _____
Ryan Sharp, Deputy Clerk

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA**
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**EXHIBIT A**

**FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS**

for Approval of the Commercial Cannabis Land Use Ordinance (CCLUO)

[Public Resources Code § 21081; CEQA Guidelines 14 C.C.R. §§ 15091 (a), 15092, 15093]

**1. INTRODUCTION:** **PROJECT DESCRIPTION** The project being analyzed by the programmatic EIR is the amendment of land use regulations in the Humboldt County Code governing the commercial cultivation, processing, manufacturing, distribution, testing, and sale of cannabis, known as the Commercial Cannabis Land Use Ordinance (CCLUO), to be consistent with and to facilitate state licensing under the California Medicinal and Adult Use Cannabis Regulation and Safety Act, Business & Professions Code Section 26000, *et seq.* ("the Act"). Separate sets of regulations will apply to the Coastal Zone from those applicable to the inland remainder of the County.

The EIR was prepared to evaluate impacts that may result from enactment and implementation of the CCLUO ordinance amendments which include accepting new applications for permitting of pre-existing cannabis cultivation operations not previously regulated, and new commercial cannabis activities now authorized by the Act. The EIR assumes that implementation of the ordinance could result in as many as 1,012 new cultivation sites and 108 new non-cultivation commercial cannabis activity sites, in addition to some impacts from reconfiguration of additional pre-existing unregulated cultivation sites that may be eligible for permitting under the amended ordinances. (Draft EIR pp. 2-28 - 2-29) Project-specific environmental review will be conducted for applications that require discretionary approval.

Through the incorporation of eligibility criteria and performance standards the ordinances as initially drafted were designed to reduce the potential environmental effects of cannabis activity sites that will be granted land use clearances or permits to a level less than significant. (See Section 2, below.) To the extent that the EIR identified potential impacts that were not eliminated or substantially lessened by the terms of the ordinances as originally proposed, feasible mitigation measures have been identified in the EIR that have now been incorporated in the ordinances prior to adoption, as enumerated in Section 3, below. The EIR also identifies three significant unavoidable adverse environmental effects for which adequate mitigation is not feasible due to specific economic, legal, social, technological, or other considerations, as discussed below in Section 4. The Board of Supervisors finds approval of the project is nevertheless considered acceptable because specific economic, legal, social, technological, or other benefits that outweigh those adverse environmental effects, as stated below in Section 5. Findings relating to additional comments received during the course of public hearings are set forth in Section 6.

Approximately 1,800 applications are currently still pending of the 2,337 submitted under the County's previously adopted Commercial Medical Marijuana Land Use

Ordinance (CMMLUO) that went into effect in early 2016. Approximately 500 have been withdrawn or denied. Approximately 175 clearances or permits have been issued. The application period under the CMMLUO closed December 31, 2016. The environmental impacts of the CMMLUO are included in the cumulative impact analysis in the EIR.

The EIR adopts as its baseline for analysis of impacts the existing environmental conditions that include the legacy of a half century of unregulated cannabis cultivation in remote and environmentally sensitive areas of Humboldt County that unquestionably caused harmful environmental impacts that are documented in the EIR to the extent adequate data is available. Because these conditions developed without any form of discretionary approval or permit from Humboldt County or other government agency, those illegal activities never received environmental review. As a result of being incorporated into the baseline, those impacts may never receive environmental review, except for those pre-existing cannabis activities that elect to participate in the new California legal marketplace through compliance with the CMMLUO or CCLUO. CEQA does not require that baseline illegal activities or other existing conditions be included in the cumulative impact analysis of an EIR, only impacts from past, present or probable future discretionary projects. 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. (14 C.C.R. §§ 15125, 15130; *Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 234 Cal.App.4th 214, 248-251 [see also cases cited therein].)

The CCLUO is designed to reduce environmental impacts from those participants with pre-existing cultivation operations and from other new commercial cannabis activities to less than significant levels. The remaining pre-existing cannabis activities that do not elect to participate are now, for the first time since the enactment of Proposition 215 in 1996, clearly illegal and subject to enforcement. Civil and criminal enforcement of laws and ordinances pertaining to illegal cannabis are not a part of the CCLUO ordinance amendment project and are categorically exempt from CEQA. (14 C.C.R. § 15321.)

**2. FINDING:** **IMPACTS IDENTIFIED IN THE EIR AS LESS THAN SIGNIFICANT FOR WHICH NO FINDINGS ARE REQUIRED. (CEQA Guidelines, 14 C.C.R. § 15126.4 (a)(3).)**

The EIR identified impacts that are less than significant and do not require any additional mitigation. The Board of Supervisors finds that the characterizations in the EIR adequately describe the setting and that all impacts have been either correctly identified as mitigated by design due to ordinance requirements or the impact to that particular resource is less than significant related to the project. No mitigation measures are required for impacts that are less than significant.

**EVIDENCE:**

a) The EIR determined that approval of the CCLUO ordinances would have no impact on the physical environment with respect to Mineral Resources, Population and Housing, or Recreation (Section 1.2.1). No comments or other evidence has been submitted that disputes or contradicts this determination.

b) The EIR identifies the following impact areas as having a less than significant impact on the environment with supporting evidence and analysis in the EIR, summarized in the FEIR, Table ES-1, which is incorporated herein by reference as if set forth in full:

i. **Aesthetics** (scenic resources (3.1-1), visual character (3.1-2), and lighting/glare 3.1-3) This potential impact is mitigated by the requirements of the ordinance limiting the area of the property that can be used for cannabis cultivation, and the ordinance limitation on light pollution.

i. **Agriculture and Forest Resources** provisions of the CCLUO prohibit new or expanded cultivation in TPZ zones, and the conversion of timberland existing in any other zone district. Cannabis cultivation is an agricultural use, but is limited to no more than 20% of the prime farm land on any parcel, and cannabis cultivation is not required to be located on prime agricultural soils (conversion of or conflict farmland and conversion of forest land). The proposed ordinance does not allow new cultivation in TPZ property or the conversion of timberland. (Impacts 3.2-1 and 3.2-2)

ii. **Air Quality** (construction emissions) Short-term, construction-generated emissions would not exceed NCUAQMD recommended daily emission threshold for PM10 because construction of a single cultivation operation or non-cultivation operation would not contribute substantially to an existing or projected air quality violation, expose sensitive receptors to substantial pollutant concentrations, and/or conflict with air quality planning efforts in Humboldt County and the NCUAQMD. (Impact 3.3-1)

v. **Greenhouse Gases/Climate Change** (generation of greenhouse emissions (Impact 3.3-2) and impacts of climate change on the project (Impact 3.3-5)) Existing cultivation sites applying for licenses under the proposed ordinance, would be required to achieve at least 80 percent of their energy demand from renewable sources; this would be a substantial reduction from current operations. The energy-related GHG emissions associated with existing sites would be reduced through the renewable requirement of the proposed ordinance, and would offset the emissions generated by new cultivation operations. Climate change is expected to result in a variety of effects that would influence conditions in Humboldt County, with increased wildfire being the largest risk. However, the proposed ordinance includes various features that would reduce this wildfire risk.

v. **Cultural Resources** (human remains (Impact 3.5-3) and tribal cultural resources (Impact 3.5-4)) Ordinance requirements for compliance with California Health and Safety Code Sections 7050.5 and 7052 and California

Public Resources Code Section 5097 would make this impact less than significant.

vi. **Geology and Soils** (seismic hazards, geologic and soil stability, and septic system impacts). All new development that would be related to the proposed ordinance would comply with state and local regulatory requirements related to seismic or geologic hazards such that the exposure of people or structures to risk of loss, injury or death resulting from rupture of a known earthquake fault, strong seismic shaking, or exposure to expansive or unstable soils would be avoided or reduced. (Impacts 3.6-1, 3-6-2) The potential for substantial soil erosion or loss of topsoil from implementation of the ordinance would be reduced through implementation of performance standards related to water quality protection and existing grading ordinance requirements (Impact 3.6-3). Because the siting and design of wastewater disposal systems is governed by existing requirements, there would be a less-than-significant impact related to suitability of soils for septic tanks or alternative wastewater disposal systems. (Impact 3.6-4).

vii. **Hazards** (use and handling of hazardous materials (3.7-1), hazard due to upset or accident (3.7-3), proximity to schools (3.7-4), airport hazards (3.7-5), impaired emergency response or evacuation plans (3.7-6), and risk from wildfires (3.7-7)). Compliance with existing, applicable rules and regulations specifically designed to protect the public health would be sufficient to preclude significant hazardous materials impacts.

Existing regulations effectively reduce the potential for individual projects to create a hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials. Cultivation sites are not anticipated to use large quantities of hazardous materials. Materials used in processing and extraction would be used in accordance with applicable regulations to limit the potential for accident or upset conditions. Setbacks from school sites are required in the proposed ordinance.

Applications for new cannabis-related development near public airports would be required to comply with the applicable ALUCP. Future commercial cannabis facilities that would be allowed under the proposed ordinance would not impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan. The risk from wildfire hazard would not be substantially worse than that for other types of land uses in the same areas, and would be reduced compared to existing cannabis cultivation occurring under baseline conditions. Existing laws would be anticipated to reduce potential impacts.

viii. **Hydrology and Water Quality** (construction water quality impacts (3.8-1)) All cultivation activities are required by existing ordinance (H.C.C. § 314-61.1 Streamside Management Area Ordinance) to be setback and located outside of Streamside Management Areas and other wet areas such as natural ponds, springs, vernal pools, and wet meadows. Grading Permits required under

existing H.C.C. § 331-12 (Grading Ordinance) mandate sediment control using Best Management Practices where involving the manipulation of 50 or more cubic yards of material or exceed certain slope and cutslope height restrictions . In addition, construction related to commercial cannabis operations would be subject to compliance with North Coast Regional Water Quality Control Board. Based upon these requirements, the impact hydrology and water quality would be less than significant for construction related impacts.

ix. **Land Use and Planning** (division of an established community (3.9-1), conflicts with land use plans and regulations (3.9-2)). The proposed ordinance contains permitting requirements that would manage conditions that create public nuisances by enacting restrictions on the location, type, and size of cannabis cultivation sites and commercial activities in Humboldt County, as well as other permitting requirements such as setbacks, security, and other protective measures. Because the project would include the above permitting requirements, land use conflicts that could result in the division of established communities would not occur.

The proposed ordinance would amend the Humboldt County Code that implements the General Plan land use policy direction and would be consistent with General Plan land use provisions. Further, the proposed ordinance contains permitting requirements that provides a mechanism for the County to ensure compliance with relevant plans and policies adopted for the purpose of avoiding or mitigating an environmental effect

x. **Noise** (stationary and traffic noise impacts (Impacts 3.10-2, 3.10-3)). The ordinance establishes performance standards for minimizing noise impacts. These standards set a threshold of not more than a three decibel increase over the ambient, prohibits generators in the Timberland Production Zone, and sets noise standards within the habitat of marbled Murrelet and Northern Spotted Owl. Future applicants will be required to submit information demonstrating compliance with these standards. The use of mechanized equipment would be temporary and periodic in nature and adjacent land uses would not be exposed to noise levels that exceed noise standards in the Humboldt County General Plan land use/noise compatibility standards. Additionally, the setback requirements in the proposed ordinance would prevent sensitive uses from being exposed to excessive noise levels during each harvest. increased traffic volumes would not result in a noticeable increase in traffic noise (i.e., 3 dB or greater).

xi. **Public Services** (fire protection and law enforcement services (Impacts 3.11-1, 3.11-2)). 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 access for fire prevention and emergency response. Commercial cannabis production and operation under the proposed ordinance would not require increased law enforcement services resulting in the need for new or altered facilities.

xii. **Transportation and Circulation** (construction traffic and emergency access (Impacts 3.12-1, 3.12-2, 3.12-3)). The increase in trips associated with construction at commercial cannabis operations would be minimal, dispersed throughout the larger roadway network serving the County, and staggered over an extended period of time. 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. Commercial cannabis operations in the County that may occur under the proposed ordinance would be required to be in compliance of Chapter 10 – Fire Safe Regulations of the Humboldt County Code and performance standards designed to ensure the road system maintains a safe functional capacity for the assemblage of land uses. Mitigation Measure 3.12-2 was included in the Final EIR and the ordinance in response to Caltrans comments on the Draft EIR. The adoption of this mitigation measure would reduce this potential significant impact to a level of insignificance and would not require recirculation pursuant to State CEQA Guidelines Section 15088.5(a)(2). (Final EIR pages 2-80 and 2-81)

xiii. **Energy** (inefficient and unnecessary use of energy (3.14-1) and demand for services services/facilities (3.14-2)). The energy needs for construction of commercial cannabis cultivation sites and non-cultivation sites would be temporary and would not require additional capacity or increase peak or base period demands for electricity or other forms of energy. Further, the proposed ordinance would require all new cultivation and non-cultivation sites to derive its energy from up to 100 percent renewable energy sources. Existing outdoor or mixed-light cultivation operations that are not on the grid would be required to obtain at least 80 percent of their energy demand from renewable sources.

Adequate infrastructure and capacity for energy services and facilities exist within portions of the County for future commercial cannabis activities resulting from the ordinance. The proposed ordinance requires all sites conducting cultivation or supportive activities to be supplied from on-grid power from either 100 percent renewable sources, on-grid power with purchase of carbon offset from an accredited source, or on-site zero net energy provided by a renewable source. Existing outdoor and mixed-light cannabis cultivation operations not on the grid that apply for a permit under the proposed ordinance would be required to obtain at least 80 percent of their energy demand from renewable sources. These requirements within the ordinance would reduce new energy demand beyond the existing capacity of energy services or facilities in the County.

iv. The Board of Supervisors agrees with the characterization in the Draft and Final EIRs with respect to all impacts identified as "no impact," "less than significant," "not cumulatively considerable," or "less than cumulatively considerable" and finds that those impacts have been described accurately and are less than significant as so described in the EIR.

**3. FINDING:** **CHANGES TO THE CCLUO HAVE INCORPORATED MITIGATION MEASURES PROPOSED IN THE EIR WHICH AVOID OR SUBSTANTIALLY LESSEN THE POTENTIALLY SIGNIFICANT ENVIRONMENTAL EFFECTS IDENTIFIED IN THE EIR (14 C.C.R. § 15091 (a)(1)-(2).)** The EIR identified potentially significant impacts from adoption of the CCLUO as originally proposed that will be avoided or substantially lessened with the adoption of recommended mitigation measures by incorporation in the ordinance of additional or clarified eligibility and siting criteria, application requirements, performance standards and conditions of approval.

The Humboldt County Board of Supervisors finds that the recommended mitigation measures identified in the EIR and additional trustee agency comments are feasible, in that they are capable of being accomplished in a successful manner within a reasonable time, taking into account economic, environmental, legal, social and technological factors.

The Humboldt County Board of Supervisors finds that changes have been made in the CCLUO ordinance eligibility and siting criteria, application requirements, performance standards, and conditions for approval of clearances or permits for commercial cannabis activities under the ordinance, that fully incorporate each the recommended mitigation measures identified in the EIR, and subsequent comments and recommendations by the California Department of Fish and Wildlife (CDFW), except as noted. The mitigation measures for each potentially significantly impacted resource identified in the EIR, and the sections of the CCLUO that incorporate the measures are as follows:

**EVIDENCE:** a) **Disturbance or Loss of Special Status Fisheries** (Mitigation Measure 3.4-2). Potentially significant impacts on special status fisheries are substantially lessened by ordinance requirements for water storage and forbearance that limit the extraction of surface water for cultivation to wet periods of the year in sections 313-55.4.12.7.2 and 314-55.4.12.7.2 (Forbearance Period and Storage Requirements) which have been bolstered by55.4.12.2.1 the requirement for compliance with the State Water Resources Control Board Cannabis Cultivation Policy and associated regulatory programs in sections . Impacts on fisheries may be further reduced by limits on cannabis by section 55.4.5.10 which allows the County to require a reduction in cultivation area and associated water use when needed to protect water flows and fisheries. This will provide minimum flow requirements to protect fisheries thus reducing this impact to a less than significant level. Sections 313-55.4.12.1.8 (c) and 314-55.4.12.1.8 (c) - Protections for Water Quality and Biological Resources, establish road design, construction and maintenance standards for private access road to cannabis cultivation sites to reduce sediment delivery to streams and rivers.

i). At the request of the Department of Fish and Wildlife, the County is prohibiting the expansion of existing baseline cannabis cultivation operations or the establishment of new cannabis cultivation operations in subwatersheds identified as impacted by the extent of pre-existing cannabis cultivation within

those areas, or as strongholds for the restoration of fisheries for threatened or endangered salmonid species (Section 314-55.4.6.8, Resolution No. 18 -___.) The Ordinance limits the number of Cultivation permits within each Planning Watershed, and prohibits any permits for new or expanded cultivation in the subwatersheds identified by CDFW as "Impacted" or "Stronghold" watersheds. The Ordinance requires annual review of the permit limits, and based on substantial evidence documenting the relative health of the subwatersheds in terms of supporting fisheries, the Board will consider adjusting the permit limits to protect fisheries into the future.

ii) Water Code Section 13149 (Stats. 2016, Ch. 32, Sec. 104 (SB 837) eff. June 27, 2016) grants the responsibility and jurisdiction to the State Water Resources Control Board, in consultation with the Department of Fish and Wildlife, to adopt principles and guidelines for the diversion and use of water for cannabis cultivation in areas where cannabis cultivation may have the potential to substantially affect instream flows. These are to include instream flow objectives, limits on diversions, and requirements for screening of diversions and elimination of barriers to fish passage, and measures to protect springs, wetlands, and aquatic habitats from negative impacts of cannabis cultivation. On October 17, 2017, the State Water Resources Board adopted Order WQ 2017-0023-DWQ, General Waste Discharge Requirements And Waiver Of Waste Discharge Requirements For Discharges Of Waste Associated With Cannabis Cultivation Activities, and Attachment A, Cannabis Cultivation Policy, with 81 pages of regulations. All licenses for cannabis cultivation issued by the Department of Food and Agriculture (CDFA) are to include conditions including the principles, guidelines and requirements established pursuant to Water Code Section 13149. (Bus. & Prof. Code § 26060.1 (b).) If the State Water Resources Control Board or the Department of Fish and Wildlife finds, based on substantial evidence, that cannabis cultivation is causing significant adverse impacts on the environment in a watershed or other geographic area, the CDFA shall not issue new licenses or increase the total number of plant identifiers within that watershed or area. (Bus. & Prof. Code § 26069 (c)(1).) With Sections 313-55.4.12.2.1 and 314-55.4.12.2.1 of the CCLUO the County of Humboldt also requires compliance with the State Water Resources Control Board regulations as a performance standard.

iii) Taken together, the requirements of the CCLUO and the regulations of the State Water Resources Board, as implemented by licensing requirements for cannabis cultivation by the California Department of Food and Agriculture, substantially lessen or avoid impacts of commercial cannabis activities on special status fisheries.

b) **Biological Resources.** Potentially significant impacts on biological resources including waters of the United States, wildlife and plant species and habitat, riparian habitat, old growth habitat, and other sensitive natural communities, and resident or migratory wildlife corridors or native wildlife nursery sites are reduced to less than significant levels by ordinance requirements which require preparation and submittal of the following technical studies as part of the application for a

certificate or permit (Sections 313-55.4.12.1.10 and 314-55.4.12.1.10 - Performance Standard – Biological Resource Protections):

- Biological reconnaissance surveys - Mitigation Measure (MM) #3.4-1a
- Special-status amphibian surveys and relocation/buffers - MM #3.4-1b
- Western pond turtle surveys and relocation/buffers- MM #3.4-1c
- Nesting raptor surveys and relocation/buffers- MM #3.4-1d
- Northern spotted owl surveys- MM #3.4-1e
- Special-status nesting bird surveys/buffers- MM #3.4-1f
- Marbled murrelet habitat suitability surveys/buffers- MM #3.4-1g
- Generator Noise Reduction- MM #3.4-1h
- American badger surveys and buffers- MM #3.4-1i
- Fisher and Humboldt marten surveys and den site preservation/buffers- MM #3.4-1j
- Bat Survey and Buffers- MM #3.4-1k
- Vole Survey and relocation/buffers- MM #3.4-1l
- Special-status plants surveys- MM #3.4-3a
- Invasive plant species removal and management- MM #3.4-3b
- Protection of sensitive natural communities, riparian habitat, wetland vegetation- MM #3.4-4
- Protection of Waters of the United States. - MM #3.4-5
- Retention of Fisher and Humboldt marten habitat features- MM #3.4-6b

Submittal of these technical studies will allow preparation of subsequent environmental documents and project analysis consistent with CEQA. The Hearing Officer for those subsequent actions will need to consider the environmental documentation prior to taking action on an application. The CEQA obligation to mitigate impacts will be fulfilled during the specific project review, approval and implementation which will mitigate this potential impact to a less than significant level.

c) **Historic Resources**. Potentially significant impacts on cultural resources that involve disturbance or destruction to historic resources from land conversion and new development will be mitigated to a less than significant level through ordinance requirements requiring technical analysis of potentially historic buildings to determine if they are eligible for listing on a state or national registry. Eligible buildings will require further analysis to determine how to avoid or mitigate impacts to these buildings (Sections 313-55.4.12.1.14 and 314-55.4.12.1.14 (Performance Standard – Protection of Historical Resources - MM #3.5-1).

d) **Cultural Resources**. Potentially significant impacts on cultural resources that involve disturbance or destruction to archaeological resources from land conversion and new development will be mitigated to a less than significant level

through ordinance requirements to conduct a survey of the site and for submittal of associated technical reports documenting, assessing and avoiding impacts on archaeological resources in Sections 313-55.4.11 and 314-55.4.11 (Application Submittal Requirements), 313-55.4.5.1.5 and 313-55.4.5.1.5 (Areas of Traditional Tribal Cultural Affiliation). Technical studies are reviewed by the applicable tribal historic preservation officer and recommendations are made to mitigate impacts. Also, Sections 313-55.4.5.1.5 and 314-55.4.5.1.5 (Inadvertent Discovery of Archaeological and Paleontological Resources - MM #3.5-2) requires all projects include as conditions of approval measures to protect archaeological resources discovered inadvertently.

e) **Paleontological Resources.** Potentially significant impacts on paleontological resources from disturbance or destruction to undiscovered paleontological resources associated with land conversion and new development have been mitigated to a less than significant level through ordinance requirements for all projects to include as conditions of approval measures to protect paleontological resources discovered inadvertently in Sections 313-55.4.5.1.5 and 314-55.4.5.1.5 (Inadvertent Discovery of Archaeological and Paleontological Resources - MM #3.6-5).

f) **Hazards/Hazardous Materials.** Potential significant impacts involving use of hazards/hazardous materials, specifically hazards to humans from exposure to existing on-site hazardous materials, have been mitigated to a less than significant level through ordinance requirements requiring submittal of technical studies documenting and assessing the potential for these materials to exist and identifying methods of mitigating exposure to humans(Sections 313-55.4.12.1.11 and 314-55.4.12.1.11 (Hazardous Material Site Assessments and Contingency Plans - MM #3.7-2a and b).

g) **Water Quality.** Potentially significant impacts on water quality from cannabis cultivation operations, are mitigated to a less than significant level through ordinance requirements requiring applicants demonstrate compliance with section 55.4.12.1.8.c) requiring roads to be maintained to protect water quality, section 314-61.1 (Streamside Management Area Ordinance) establishing setbacks from streams and regulating activity within those setbacks through a discretionary permit process and compliance with the State Water Resources Control Board Cannabis Cultivation Policy and associated regulatory programs or any subsequent water quality standards in Sections 313-55.4.12.2 and 314-55.4.12.2. The FEIR noted the conditional exemption and waiver of waste discharge requirements applicable to commercial cannabis cultivation operations with a disturbed area of less than 2,000 sq. ft., however SWRCB staff has verified that all requirements of the Cannabis Cultivation Policy, including restrictions on surface water diversion for irrigation of cannabis and dry season forbearance still apply to such cultivators. (Email correspondence dated April 25, 2018). CCLUO Sections 313-55.4.12,7 and 314-55.4.12.7 have been amended to specify that performance standards for cannabis irrigation apply regardless of cultivation area. (Performance Standards for Commercial Cannabis Cultivation Activities - MM #3.8-2).

h) **Hydrology (Groundwater).** Potential significant impacts on hydrology specifically impacts to groundwater supplies from cannabis cultivation operations, are mitigated to a less than significant level through ordinance requirements that require permittees to annually provide the County with groundwater monitoring data for on-site wells 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, are required to develop adaptive management measures to allow for recovery of groundwater levels in Sections 313-55.4.12.9 and 314-55.4.12.9 and amendments to 313-55.4.12.7.7 and 314-55.4.12.7.7 (Performance Standards for Wells on Small Parcels - MM #3.8-3).

i) **Hydrology (Drainage).** Potential significant impacts on hydrology specifically impacts to surface drainage including on-site and offsite flooding from cannabis operations, have been mitigated to a less than significant level through ordinance requirements that require all applications include a plan detailing how stormwater will be addressed for the property, including the location, capacity, and operation of all existing and proposed drainage facilities and features to ensure discharge from the property remains at pre-project levels (Sections 313-55.4.12.1.12 and 314-55.4.12.1.12 (Stormwater Management - MM #3.8-4).

j) **Hydrology (Surface Water).** Potential significant impacts on hydrology, resulting from diversion of surface water from cannabis cultivation operations, have been mitigated to a less than significant level through ordinance requirements that require cannabis cultivation operations to obtain a discretionary permit for all diversions and implementation of the requirement to forbear from diversions of Surface Water for Irrigation during periods of low or reduced stream flows, in accordance with requirements of the State Water Resources Control Board in Sections 313-55.4.12.7 and 314-55.4.12.7 (Performance Standards for Cannabis Irrigation - MM #3.8-5). (See also discussion of MM#3.4-2, above.)

k) **Noise.** Potential significant impacts from short-term construction-related noise associated with heavy equipment used during development of new or modified cannabis operations, is mitigated to a less than significant level through ordinance requirements that all construction activity and use of heavy equipment 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 in Sections 313-55.4.12.2 and 314-55.4.12.2 (Performance Standards for Commercial Cannabis Cultivation Activities - MM #3.10-1).

l) **Public Utilities (Public Wastewater Systems).** Potential significant impacts to public wastewater systems that may not have adequate capacity and may not have the ability to treat effluent with certain components, have been mitigated to a less than significant level through ordinance requirements for submittal of Materials Management Plans which requires the applicant to identify the constituent of their discharge and allows the utility provider to determine whether they can

accommodate the discharge (Sections 313-55.4.11 and 314-55.4.11 (Application Requirements for Clearances or Permits - MM #3.13-1a).

m) **Public Utilities (Landfills).** Potential significant impacts on landfills that may not have adequate capacity is mitigated to a less than significant level through ordinance requirements for submittal of Waste Management Plans in Sections 313-55.4.12.1.13 and 314-55.4.12.1.13 (Management of Waste and Hazardous Materials - MM #3.13-1b) allowing the landfill operator to determine if they have the capacity to serve the cannabis activity.

**4. FINDING:** **MITIGATION MEASURES TO SUBSTANTIALLY REDUCE OR AVOID ODOR, PM10 NON-ATTAINMENT, AND WATER UTILITY DISTRICT IMPACTS ARE NOT FEASIBLE. (14 C.C.R. § 15091 (a)(3).)** – The project would result in three significant impacts (Long Term Operational Emissions of Criteria Pollutants and Precursors ($PM^{10}$ from unpaved road dust ), Exposure of People to Objectionable Odors, and Provision of Sufficient Water Supplies and Infrastructure Needs) that cannot be avoided or substantially lessened through feasible mitigation. Mitigation Measures have been incorporated into the EIR which mitigate these impacts to the extent feasible, but not to a point where they can be considered substantially lessened so as not to have significant impacts.

**EVIDENCE:**

a) **Odor**: The EIR finds that new cultivation allowed by the proposed ordinance could lead to generation of localized odors in such quantities as to be a detriment, nuisance, or annoyance to a substantial number of people. This impact is reduced through ordinance requirements that:

1. Prohibit burning of excess plant material associated with the cultivation and processing of commercial cannabis in Sections 313-55.4.12.1.9 and 314-55.4.12.1.9 (Performance Standards for All Commercial Cannabis Activities - MM #3.3-4).

2. Ordinance zoning and minimum parcel size requirements and limitations on development in the vicinity of certain residential areas through implementation of increased permitting requirements, increased setback requirements and air filtration requirements for cannabis cultivation in Sections 313-55.4.6.4.4 and 314-55.4.6.4.4 (Special Area Setbacks for Odor Mitigation).

While odor impacts are mitigated to the maximum extent feasible, the EIR concludes the mitigation measures identified in the EIR are not sufficient to successfully reduce the odor emissions impacts of the ordinance to less than significant levels, and no additional feasible mitigation has been identified that would reduce these impacts to a less than significant level.

Restricting cannabis cultivation to indoor or fully enclosed mixed-light cultivation with extensive odor controls, as has been the case in some other jurisdictions (e.g. Monterey and Santa Barbara Counties), could in theory substantially lessen odor impacts of cannabis cultivation. Adopting this limitation in Humboldt County, which has long-established cannabis cultural practice of artisanal outdoor and mixed-light cultivation, chiefly reliant on natural sunlight in relatively small

cultivation areas that have lower costs, energy demand, and other resource requirements, would necessitate a complete transformation of cannabis cultivation practice in Humboldt County. In large part, this legacy distinguishes Humboldt County cannabis from high volume, industrial scale cultivation practices common in other jurisdictions. Due to Humboldt County's isolation and distance to markets, imposition of the additional costs of fully-enclosed odor controlled cultivation would both eliminate the distinctive character of cannabis originating in Humboldt County that may add value to product originating here, and would increase cultivation costs placing Humboldt cannabis cultivators at a competitive disadvantage to other cannabis producing regions of California. The objective of the CCLUO to maximize participation of existing cannabis cultivators in the legal regulated commercial cannabis program in order to reduce adverse environmental impacts would be frustrated. Flexible regulations that provide for enclosed odor controlled cultivation as one option to reduce odor impacts, in addition alternatives for increased setbacks, or relocation to a different location, as in the CCLUO provides options to reduce odor impacts, and would conditionally allow for cultivation in areas near residential communities where there is no objection to cannabis odor impacts. These social and economic considerations make full odor control of cannabis cultivation sites infeasible. Therefore, the impact is considered to be a significant unavoidable impact.

b) **Emission of Criteria Pollutants**: The DEIR finds the new ordinance will allow commercial cannabis activities in the County on unpaved roads resulting in emission of particulate matter ($PM^{10}$) which would exceed maximum daily thresholds for $PM^{10}$. Any additional emission of $PM^{10}$ is a significant impact because the North Coast Air Basin already exceeds maximum thresholds. The following mitigation measures for the reduction of $PM^{10}$ emissions associated with travel on unpaved roads were considered in the DEIR and determined infeasible:

*Routine Watering of Roadways*: The routine watering of the unpaved roads (two times a day) can reduce particulate matter emissions by as much as 55 percent based on modeling data provided in CalEEMod. Most of the roadway system in the County is private and unpaved. Water truck usage is determined infeasible as it would require routine water twice a day during the harvest on unpaved roadways that range one mile to over 15 miles in length. A single 4,000-gallon water truck used twice a day for 4 weeks would generate a water demand of 224,000 gallons, to water approximately 1.6 miles of road. To water the approximate 735 miles of unpaved private roads in Humboldt County providing access to cannabis cultivation sites, would require 455 4,000-gallon water trucks the operation of which generate emissions that include significant $PM^{10}$ (*Supporting Documentation for the 5-8-18 CCLUO staff report,* Planning and Building Department, 2018) The daily water additional demand is considered excessive as 224,000 gallons for each water truck operating over 4 weeks would be the equivalent of irrigating approximately 12,800 square feet of cannabis (based on water demand factors used in the DEIR on page 3.8-34) or over 2 years of water demand of a single-family residential unit (assuming a water demand of 100 gallons per day per

resident for three residents). The cost of a 4,000-gallon water truck ranges from $53,500 (used) to $113,563 (new) and may exceed the operating budgets of some commercial cannabis cultivation operations (PavementGroup.com 2018) (Commercial Truck Trader 2018).

*Use of Dust Suppressants*: Dust suppressants work by binding the particles together that form a protective layer that resists wind movement. As noted above, several of the current applications for new commercial cannabis operation sites are located on unpaved roads that range from one mile to over 15 miles in length. The cost of applying dust suppressant is approximately $2,202 per mile per year (www.dustoutus.com/dust-control-costs/ *accessed 3/12/18)* and may exceed the operating budgets of some commercial cannabis cultivation operations. In addition, dust suppressants can result in water quality impacts due to leaching into streams and rivers the chemicals used for dust suppression. Thus, the use of dust suppressants is considered infeasible.

*Paving of Roadways*: Paving of roadways utilized by commercial cannabis cultivation sites would substantially reduce $PM^{10}$ emissions from roadway dust. Analysis of data from over half of the current cultivation applications reveals that existing sites are often located within Roadsheds that are primarily composed of unpaved private road systems averaging over 7 miles in length. Within 48 Roadsheds studied, the extent of roadways that would require paving was found to be proportionally 0.34 miles per site on average. Depending on the condition of the road network, paving of these Roadsheds would result in minimum financial burdens ranging from $139,000 to $349,000 per application, based upon the ratio of applications to Roadshed and local per mile cost estimates (General Plan Update | 2007 – Community Infrastructure and Services Technical Report - Road and Bridge Capital Improvement Plan [CIP]). Given that these paving costs would initially be borne exclusively by new applications submitted, which in number are projected to be slightly less than half of those already received, the cost of paving improvements (per application) may likely be double the earlier estimates ($278,000 to $698,000). Expenses of this sort exceed the current operating budgets of many commercial cannabis farms, and would likely discourage or curtail program participation by a large percentage of existing sites, contrary to one of the primary project objectives: "maximizing program participation by existing operators". Given these factors, paving of roadways is considered infeasible.

Thus, no feasible mitigation has been identified that would reduce these impacts to a less than significant level. Therefore, the impact is considered to be a significant an unavoidable impact.

c) **Public Water System Impacts:** The DEIR found that the proposed ordinance will lead to commercial cannabis cultivation that would result in increased water demand for cannabis irrigation from public water systems that could exceed supply and related infrastructure, particularly to Community Service Districts who are already at their service capacity. This impact is reduced somewhat through

ordinance requirements that require applicants to identify how much water they will use and how much water they have available including documentation of their water source in 313-55.4.11 and 314-55.4.11 (Application Requirements for Clearances or Permits) and controls on the source of water for irrigation that strongly incentivize rainwater catchment and storage. However, this mitigation is not sufficient to reduce the impacts of the ordinance on public water systems to less than significant levels. The County does not have the authority over public water providers to require they limit their water use through water conservation measures or other means. No additional feasible mitigation has been identified that would reduce these impacts to a less than significant level. Therefore, the impact is considered to be a significant an unavoidable impact.

5. **FINDING:** **ALTERNATIVES TO THE PROPOSED PROJECT DO NOT SUCCESSFULLY AVOID OR SUBSTANTIALLY REDUCE ODOR, $PM^{10}$ ROAD DUST AIR QUALITY IMPACTS, OR IMPACTS ON COMMUNITY SERVICE DISTRICT WATER PROVIDER CAPACITY IN A FEASIBLE MANNER.** (14 C.C.R. § 15091 (a)(3).)- The EIR considered several alternatives to the proposed project in compliance with CEQA Guidelines section 15126.6. The EIR considered a range of alternatives which could feasibly attain most of the basic project objectives and could avoid or substantially lessen many of the significant effects of the ordinance, but which to not focus on the three impacts that are otherwise mitigated through the incorporation of feasible mitigation measures in the requirements of the ordinance. The Board has considered the project alternatives included in the EIR, has evaluated the comparative merits of the alternatives and finds that they are not feasible because they will not successfully accomplish substantial reduction or avoidance of these three impacts within a reasonable period of time taking into account specific economic, social, technological, and/or legal factors and/or other considerations, more particularly discussed below. The economic, social, technological and legal factors being taken into account include the Project Objectives identified in the DEIR (p. 6-2):

- expand the scope of the Ordinance 2554 and 2559 to include commercial marijuana operations for adult recreational uses now authorized by Adult Use of Marijuana Act (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;

- repeal the current application deadline (12/31/16), and continue to accept applications (of all types, including new cultivation sites)
- expand the areas where new cultivation or expansion of existing sites will be permitted
- 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;
- relocating existing non-permitted cannabis related activities into more centralized locations with better infrastructure (e.g. nurseries, community propagation centers, processing centers).

**EVIDENCE:** a) Alternative 1: 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).

i) Non-attainment of $PM^{10}$ emission standard: The fact that Alternative 1 would not provide for permitting of additional commercial cannabis activity would not reduce traffic on unpaved roads in the county, that is already occurring, therefore this alternative would not avoid or substantially reduce non-attainment of the $PM^{10}$ emissions that already exists under baseline conditions. The CMMLUO does not include any access road network condition standards, that are included in the proposed ordinance that could help reduce the extent of road dust from traffic on unpaved private roads. Alternative 1 would not successfully substantially reduce or avoid the impact of permitted cannabis cultivation operations on PM10 emissions from dust generated from use of unpaved roads.

ii) Cannabis odors impacting residential property. The proposed ordinance would establish increased setbacks for outdoor or mixed light cultivation from residences on nearby properties within the spheres of influence of incorporated cities, or 1,000 ft. of the community plan area boundaries in specified areas in Section 55.4.5.1.4. The proposed ordinance requires a discretionary permit for outdoor or mixed-light commercial cannabis cultivation within those same areas which can provide for project specific conditions of approval related to odor impacts on nearby residential areas where appropriate, but allow cultivation to occur on eligible parcels where no impacts are reasonably anticipated. The proposed ordinance includes mitigation measures that would apply to reduce odor impacts from commercial cannabis cultivation operations that received zoning clearance certificates under the CMMLUO, which can be located as close as 30' from the property line of adjacent residentially developed parcels. Alternative 1 would not adopt any of these measures. The impacts of cannabis odors on residential property would therefore not be substantially reduced or avoided by Alternative 1 from baseline conditions or new commercial cannabis that might be permitted under the existing or proposed ordinance.

iii) Demand for service on public water districts without adequate capacity. Local special districts established in a number of unincorporated areas of the county may experience increased demand for water services for irrigation of cannabis cultivation being permitted under the existing CMMLUO ordinance due to the adoption of state regulations discouraging or limiting diversion of surface water, or use of hydrologically connected wells for irrigation of cannabis, regardless of additional permits that may be authorized under the proposed ordinance.

This alternative would not achieve the project objectives of supporting the local cannabis industry through encouraging participation in the County's permitting program. This would serve to perpetuate the illegal cannabis cultivation practices that cause environmental degradation, and place greater demand for enforcement. A regulated legal industry will have less harmful environmental effects than an illegal, non-regulated industry. The illegal diversion of surface water, water pollution the use of illegal pesticides and rodenticides are all associated with illegal cannabis cultivation practices. These impacts are all considered as part of the existing baseline condition. In order to address the large unregulated portion of the cannabis industry there must be an avenue for regulatory compliance. This alternative would not create any potential for existing cultivators currently outside the permit system to enter into the regulated industry which would serve to continue to encourage the illegal cannabis industry as a preferred path of business operation. This alternative would thus make enforcement more difficult because there is no incentive financially to achieve compliance. This could result in sites being abandoned without being cleaned and restored. Thus, the Board of Supervisors rejects this alternative as infeasible.

b) Alternative 2: No Project, New Permits Issued. In this alternative, 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. This alternative would cause greater impacts on aesthetics than the proposed project because the existing ordinance does not control light from greenhouses as effectively as the new ordinance.

Alternative 2 would also result in greater Greenhouse Gas Emissions impacts because the proposed ordinance requires the use of renewable energy on existing and new mixed-light cultivation and non-cultivation operations that would reduce GHG emissions. This renewable energy requirement is not required under the existing ordinance.

Hydrology and water quality impact under Alternative 2 would be greater than what would occur under the proposed ordinance because the existing ordinance contains no performance standards to protect local groundwater resources and wells from the development of new wells associated with commercial cannabis cultivation operations.

The noise provisions for generators in the existing ordinance are not as protective of existing ambient noise conditions as the proposed ordinance. Thus, relative to the proposed ordinance, noise impacts would be of greater magnitude under Alternative 2.

This alternative does not provide the same level of review for roadway capacity resulting in emergency access impacts being greater than those that would occur for the proposed ordinance.

This alternative would not implement the proposed ordinance's renewable energy efficiency requirements that apply to existing and new mixed-light cultivation, indoor cultivation, and other non-cultivation activities providing energy efficiency. Thus, this alternative's energy impacts would be of greater magnitude than the proposed ordinance.

In the three impact areas that are not feasible to mitigate (PM10 from unpaved road dust, odor, or increased demand for water on public water systems at or near capacity), Alternative 2 would have similar impacts as the proposed ordinance, but would only be exacerbated by additional permitted operations, without the protective measures incorporated in the CCLUO (Ordinance 2.0), discussed above. This alternative would achieve some of the project objectives, but it would not maximize support of the local cannabis industry because there are cannabis related uses allowed by the proposed ordinance amendments (the project) and allowed by the state that are not included in the CMMLUO [specify - microbusiness? cannabis special events?] . Permitting these new types of uses would not be more available under the CMMLUO. Thus, the Board of Supervisors rejects this alternative as infeasible.

c) <u>Alternative 3: Prohibition of New Outdoor and Mixed-Light Cultivation Operations in City Spheres of Influence and Community Plan Areas.</u> This alternative modifies the proposed ordinance, to 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, instead of requiring discretionary permits that allow for conditional approval that account for specific site conditions as proposed in the CCLUO. Alternative 3 would create greater operational air quality impacts than the proposed ordinance because new outdoor and mixed-light cultivation operations would be located in the more remote rural and agricultural areas of the County, which would increase vehicle miles traveled on paved and unpaved private roads, and would exacerbate energy use and $PM^{10}$ emissions over that reasonably expected from the proposed CCLUO.

Alternative 3's hydrology/water quality impacts would be less than what would occur under the proposed ordinance because of the prohibition of new outdoor and mixed-light cannabis cultivation within the cities' spheres of influence and County community plan areas where conflicts with multiple domestic wells may occur.

This alternative's utility service impacts would be less than under the proposed ordinance because it would prohibit new outdoor and mixed-use cannabis cultivation within the cities' spheres of influence and County community plan areas where public wastewater and water services are provided.

In all the other impact areas; this alternative would have similar impacts as the proposed project.

The Board of Supervisors rejects this alternative because it categorically rejects applications in areas where it could be determined that cultivation is appropriate. This approach does not take into account the size of the Sphere of Influence, the size of the properties involved and other natural and manmade features that could mitigate impacts from cannabis activities. The proposed ordinance addresses the objectives of this alternative by increasing the amount of discretion within City Spheres of Influence and around Community Plan areas to protect the more developed areas from the impacts associated with cannabis activities, while not precluding locations that could be feasible.

d) Alternative 4: Prohibition of New Outdoor and Mixed-Light Cultivation Operations. This alternative not allow applications for new cultivation and would thus only apply new indoor commercial cannabis cultivation. Compared to the proposed ordinance, there would be a smaller number of commercial cannabis activities that could occur throughout the County and, consequently, less potential for adverse effects on scenic resources and visual character and less potential to generate road dust and thus relative to the proposed ordinance, PM10 air quality impacts would be of lesser magnitude. The reduction in sites would result in less traffic with fewer GHG emissions,

Alternative 4 would also have a potential for reduced odor impacts because all applications for cannabis cultivation would be either indoor with odor control or part of the existing and would not constitute a new impact. With no new cultivation activities, there would be no new land disturbance and thus the potential impacts to biological resources, cultural resources, geology and soils, hazards and hazardous materials, groundwater resources, construction and operational noise impacts, public service impacts, traffic impacts, operational water quality, drainage, and surface water impact, energy use would be substantially reduced.

This alternative's impacts on light and glare, land use planning and energy infrastructure impacts would all be similar to the proposed project.

The performance standards applied to sites for new cultivation are more stringent than for existing cultivation sites, and thus the locations of new cultivation sites have the potential to result in less environmental damage than existing sites. The approach of this ordinance is to move cannabis cultivation to locations that are

more environmentally appropriate. The Board of Supervisors has determined that the economic viability of the cannabis industry needs a combination of new cultivation sites balanced with existing cultivation sites.

The Board of Supervisors rejects this alternative because it allows only indoor applications and existing applications while precluding applications for new cultivation. While not allowing new cultivation sites has the benefit of restricting the expansion of the cultivation footprint on the environment, it creates an artificial limit on property which can support cannabis cultivation. In this scenario, properties which have been cultivated illegally are not eligible for permitting; only indoor cultivation would be eligible for permitting. Part of the objectives of the ordinance is to encourage illegal cultivators to become legal. To prohibit their ability to become part of the permitted industry will relegate them to operating in an illegal manner which will complicate the code enforcement task, thus this alternative is not feasible.

e) 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. Permitting existing previously unpermitted sites would have a beneficial environmental effect over the baseline condition because these sites would be required to comply with the performance standards contained in the ordinance and other state laws. Restricting new indoor cultivation and cannabis support facilities to developed areas will reduce vehicle miles traveled, remove traffic from outlying unpaved roads and promote development in areas with developed infrastructure. Impacts to aesthetics, air quality and greenhouse gases, biological resources, cultural resources, geology and soils, hydrology and water quality, noise, public services, traffic, utilities, and energy would be reduced, when compared to the project.

Each of the alternatives were designed to either avoid or minimize the potentially significant impacts associated with the proposed project. Alternative 5 is considered the Environmentally Superior Alternative because it meets most of the project objectives and results in incrementally less environmental impacts than the proposed project. The impacts associated with odors, PM10 emissions and public water supply would remain significant and unavoidable under Alternative 5.

The Board of Supervisors rejects the Environmentally Superior Alternative because it allows only existing cultivation sites while precluding applications for new cultivation. Precluding new cultivation sites has the benefit of restricting the expansion of the cultivation footprint on the environment, but it creates an

artificial limit on property which can support cannabis cultivation. In this scenario, properties which have been cultivated illegally are eligible for permitting while sites that may be more appropriate for cultivation and do not have a history of illegal activity are precluded from entering into the permit process.

One of the objectives of the ordinance is to enable and encourage the local cannabis industry to embrace legalization and comply with reasonable and relevant local and state regulatory requirements. To prohibit some existing operators from being able to become a part of the permitted industry could lead to them continuing to operate in an illegal manner, complicating and adding to an already significant code enforcement burden. Also, under this scenario the only locations eligible for permitting under the ordinance are properties where the owner or former owners established cultivation operations during an era where commercial cultivation was largely unregulated and arguably illegal under state law. Regardless of the legal question, cultivation on the majority of these sites involved violations of state and local regulations including: grading without permits, construction of buildings without permits, installation of unauthorized stream crossings and water diversions, and performing illegal conversions of timberland. To limit permitting eligibility to owners/tenants of properties where past violations of state and local law have occurred would be unfair to a significant population of persons now interested in participating in the lawful cultivation of cannabis for the legal California marketplace. For these reasons, providing pathways for the permitting of new cultivation sites was and continues to be a core objective of both the current regulations and proposed amendments.

The performance standards and eligibility/siting requirements applied to sites for new cultivation are more stringent than for existing cultivation sites, and thus the locations of new cultivation sites have the potential to result in less environmental damage than existing sites. The approach of this ordinance is to move cannabis cultivation to locations that are more environmentally appropriate. The Board of Supervisors has determined that, to remain economically viable, the cannabis industry requires local permitting opportunities which provide for a combination of new cultivation sites balanced with existing cultivation sites. In all the above described ways, Alternative 5 is not feasible.

**6. FINDING** **STATEMENT OF OVERRIDING CONSIDERATIONS** (14 C.C.R. §§ 15092 (b)(2)(B), 15093.)- The County has evaluated the economic, legal, social, technological, or other benefits of the project against its unavoidable significant environmental impacts in determining whether to approve the project, and has determined that the benefits of the project outweigh its unavoidable, adverse environmental impacts so that the identified significant unavoidable impact(s) may be considered acceptable. The Board makes the following Statement of Overriding Considerations:

**EVIDENCE** a) The CCLUO EIR found the following significant and unavoidable impacts, as discussed in the Findings, above: (1) the project will lead to generation of odorous

emissions in such quantities to cause detriment, nuisance, or annoyance to as substantial number of people; (2) commercial cannabis operations (cultivation and non-cultivation) that would result in peak emissions of particulate matter (PM10) during the harvest season which would exceed maximum daily thresholds for PM10 because the North Coast Air Basin already exceeds the maximum thresholds; and (3) the project will lead to commercial cannabis cultivation operations and non-cultivation operations that would result in increased water demand from public water systems that could exceed supply and infrastructure.

In accordance with Section 15093 of the CEQA Guidelines, the County has evaluated the economic, legal, social, technological, or other benefits of the project against its unavoidable significant environmental impacts in determining whether to approve the project, and has determined that the benefits of the project outweigh its unavoidable, adverse environmental impacts so that the identified significant unavoidable impact(s) may be considered acceptable. The Board has balanced the economic, legal, social, technological, or other benefits of the project against these effects and makes this Statement of Overriding Considerations, which warrants approval of the project (as modified by incorporation of EIR mitigation measures) notwithstanding that all identified adverse environmental effects are not fully avoided or substantially lessened (CEQA Guidelines Section 15093(a).] The Board finds that the benefits of the "proposed project outweigh the unavoidable adverse environmental effects," and therefore, "the adverse environmental effects may be considered 'acceptable'" [CEQA Guidelines Section 15093(a)].

Each of the reasons for approval cited below is a separate and independent basis that justifies approval of the CCLUO. Thus, even if a court were to set aside any particular reason or reasons, the Board finds that it would stand by its determination that each reason, or any combination of reasons, is a sufficient basis for approving the project (as modified by incorporation of EIR mitigation measures) notwithstanding the significant and unavoidable impacts that may occur. The substantial evidence supporting the various benefits can be found in the Findings set forth in this document and in this Statement of Overriding Considerations, the EIR, and in the Record of Proceedings, including, but not limited to, public comment received at the public hearings held and referenced in the Board letter for the hearing commencing on March 19, 2018, and concluding April 10, 2018.

Pursuant to Public Resources Code Section 21081(b) and CEQA Guidelines Sections 15043, 15092, and 15093, any unavoidable adverse environmental effects of the project (as modified by incorporation of EIR mitigation measures) are acceptable due to the following environmental benefits and overriding considerations which outweigh the significant effects on the environment:

a) Economic Benefits:
   i) A significant portion of Humboldt County's economy has been related to illegal cannabis cultivation. With State legalization of cannabis, the County desires to create a regulated cannabis industry which will continue be a significant factor of the local economy. The cannabis industry is a source of local jobs, purchases supplies, vehicles, and equipment from local businesses, supports local restaurants and, as regulated, has the potential to increase the tourist industry within Humboldt County. The cannabis industry has direct and indirect economic benefits to the local economy which are central to maintaining the countywide economy.

ii) The County's General Plan recognizes the importance of the cannabis industry to the local economy. Page 9-7 of the 2017 Humboldt County General Plan states, "The production and sale of medicinal and illicit cannabis contribute significantly to Humboldt County's economy. The impact is difficult to measure but its effects are unmistakable. For example, the size of the retail and restaurant sector is out of proportion to official income levels. While the production and sale of medicinal cannabis is legal and local jurisdictions are collecting data that can be used to measure the size of this industry, the size of the illegal industry cannot be measured directly. Many assume it is the largest single industry in Humboldt County... If statewide efforts to legalize cannabis are successful, the County may enjoy a legal and economically viable industry based on the expertise, quality and market reputation that Humboldt County gained in the production of illicit cannabis. While there are practical and legal limitations on the County's ability to support illicit cultivation, support for legal cultivation should be a part of the County's overall economic policy." Humboldt County. 2017 Humboldt County General Plan. Eureka, CA.

iii) The economic impact of cannabis in the Humboldt County economy is estimated by Jennifer Budwig in her unpublished paper for the Pacific Coast Banking School graduate program at the University of Washington, in which by conservative estimates, concludes that at least $415 million in money generated by the marijuana industry circulates through Humboldt County annually -- a number roughly equal to 26 percent of the county's entire $1.6 billion economy. Greenson, Thadeus. "Humboldt's $400 million question; banking thesis quantifies impact of pot on local economy." Times Standard, Dec. 4, 2011. http://www.times-standard.com/article/zz/20111204/NEWS/111209445. Accessed March 12, 2018.

iv) State licenses for cannabis businesses require a local permit. Permitting cannabis businesses through the CCLUO will help ensure the profitability and sustainability of the local economy from the cannabis industry by enabling local cannabis businesses to participate in the state's regulated cannabis marketplace and will allow the County to retain local land use control. The project provides for a robust and economically viable legal cannabis industry to ensure production and availability of high quality cannabis products to help meet local and statewide demand.

v) The CCLUO provides opportunities for local testing labs that protect the public by ensuring that local cannabis supplies meet product safety standards established by the State of California.

b) Public Health and Safety Benefits (legal and social benefits):

i) The Board finds that a primary objective of the project is to "establish local land use regulations that ensure the health and safety of residents, employees, County visitors, neighboring property owners, and end

users of cannabis." CCLUO sections 55.4.2. The project allows for orderly development and oversight of commercial cannabis activities by applying standards that require appropriate siting, setbacks, security, resource consumption limitations, and nuisance avoidance measures, thereby protecting public health, safety, and welfare.

ii) The Board finds that by allowing local cannabis businesses to participate in the state regulatory scheme through the CCLUO, the residents of Humboldt County will benefit from the benefits listed in the Findings and Declarations and Purpose and Intent sections of Proposition 64: Control, Regulate and Tax Adult Use of Marijuana Act (AUMA). Cal. Proposition 64 (2016). The benefits include, but are not limited to:

(1) AUMA will incapacitate the cannabis black market and move cannabis purchases into a legal structure with strict safeguards against children accessing it.

(2) AUMA prohibits the sale of non-medical nonmedical cannabis to those under 21 years old, and bars cannabis businesses from being located within 600 feet of schools and other areas where children congregate. It also establishes mandatory and strict packaging and labeling requirements for cannabis and cannabis products.

(3) Cannabis and cannabis products cannot be advertised or marketed towards children. AUMA requires nonmedical cannabis sold by licensed businesses to be packaged in child-resistant containers and be labeled so that consumers are fully informed about potency and the effects of ingesting nonmedical cannabis.

(4) By bringing cannabis into a regulated and legitimate market, AUMA creates a transparent and accountable system. This will help police crackdown on the underground black market that currently benefits violent drug cartels and transnational gangs, which are making billions from marijuana trafficking and jeopardizing public safety.

(5) AUMA calls for implementation of a statewide track and trace management procedures to track nonmedical marijuana from cultivation to sale and requires nonmedical cannabis to be comprehensively tested by independent testing services for the presence of contaminants, including mold and pesticides, before it can be sold by licensed businesses.

(6) AUMA requires licensed nonmedical cannabis businesses to follow strict environmental and product safety standards as a condition of maintaining their license.

(7) Sections 55.4.12.1 of the project requires all commercial cannabis activities maintain compliance with all applicable state laws, so all

of the public health benefits cited in Proposition 64 also apply to the project.

iii) The 2017 Humboldt County General Plan includes policy UL-P19, which states, "Cultivation of medical cannabis shall be regulated by ordinance to provide for the health, safety, and welfare of the community, but shall not interfere with a patient's right to medical cannabis." Also, General Plan Implementation Measure UL-IM12 requires the County, "Develop an ordinance for medical cannabis cultivation and dispensing that protects health, safety and welfare and ensures the cultivation and dispensing sites are compatible with neighboring uses." Humboldt County. 2017 Humboldt County General Plan. Eureka, CA.

iv) The creation of a statewide regulatory program and a corresponding local program at the County level will provide increased certainty in an area that has been unclear for enforcement purposes since the passage of California Proposition 215 in 1996. See e.g. Office of the Attorney General. Press Release: "Atty. General Brown Issues Medical Marijuana Guidelines for Law Enforcement and Patients." August 25, 2008. https://oag.ca.gov/news/press-releases/atty-general-brown-issues-medical-marijuana-guidelines-law-enforcement-and/. Accessed March 12, 2018. Law enforcement agencies assert that the cover of 215 allowed for a marked increase in illegal cannabis cultivation and sales. (Id.)

v) The legalization scheme allows for both medical and nonmedical cannabis business to obtain state licenses and local permits which will streamline identification of operations that are not participating in the legal marketplace, thereby making them a target for enforcement.

c) Environmental Benefits (legal and social benefits):

i) Sections 55.4.2 of the CCLUO state the intent of the CCLUO is to protect the environment from harm resulting from cannabis activities, including but not limited to streams, fish, and wildlife.

ii) The project will improve baseline environmental conditions in the County by removing existing cannabis cultivation operations from environmentally sensitive locations and relocating them to areas less environmentally sensitive. (CCLUO sections 313-44.5.6.5.6 and 314-44.5.6.5.6.)

iii) Implementation of a local regulatory program will allow the County to participate in and benefit from the State's regulatory program which includes provision of revenue from state taxes to be used for cleanup, remediation, and restoration of environmental damage in watersheds affected by cannabis cultivation and related activities.

By participating in the regulatory system, cannabis permit sites benefit from the involvement of other regulatory agencies such as the California Department of Fish and Wildlife, the Water Resources Control Board, CalFIRE, as well as local

Native American Tribes. This allows coordination among resource agencies and for the County to benefit from coordinated permitting and cleanup efforts on the whole.

7. **FINDING:** **BASELINE CONDITION** The EIR has appropriately identified the Baseline Condition which is distinct from Cumulative impacts. 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 EIR established the environmental baseline for the proposed ordinance amendments consistent with this guidance.

**EVIDENCE:**

a) 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 estimates of the current extent of cannabis cultivation. Prior surveys of cultivation sites performed (Butsic and Brenner, 2016) using 2012 satellite imagery revealed the presence of approximately 8,400 cultivation sites within the County. Accounting for industry growth, it was estimated that there were between 10,000 to 15,000 sites in the County, as of January 1, 2016.

b) 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).

c) Recent new survey work and analysis performed by Van Butsic using 2016 satellite imagery reveals that between 2012 and 2016 there was an approximately 75% increase in the number of discrete cultivation sites and an 40% increase in the number of plants per site. Between these years, the number of parcels with cultivation sites increased by 54%. The new data supports the conclusion that approximately 6,000 parcels were used for cultivation activities within the County in 2016. Based on this data and the applications received, roughly one third of all existing operators have made application for permits under the current regulations. Data from the newest survey work by Butsic shows that in some subwatersheds, over half of all sites are seeking permits.

d) 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.)

e) The environmental conditions of existing unpermitted cannabis cultivation operations are specifically discussed in the following areas of the EIR:
- 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
- Master Response 1: FEIR pages 2-4 through 2-8

f) These existing environmental conditions of unpermitted cannabis cultivation operations were disclosed as part of the baseline condition in the EIR 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].

**8. FINDING:** **EIR 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. The EIR has adequately addressed the potential cumulative impacts associated with implementation of the Commercial Cannabis Land Use Ordinance. Cumulative impacts are the individual projects which would be allowed under the CCLUO, those permitted under the CMMLUO, and other new projects which can be foreseen. Existing cannabis cultivation is not a part of the cumulative impact analysis. 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.

**EVIDENCE:**

a) For Findings and Evidence related to Baseline see Finding and Evidence 8 above.

b) 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. 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.

c) DEIR pages 4-1 through 4-3 describe 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. Comments on the DEIR regarding this issue were addressed in Master Response 1 of the FEIR (FEIR pages 2-4 through 2-8)

**9. FINDING** **Review of FEIR.** The FEIR was provided to all agencies providing comments on the DEIR on January 8, 2018, which is more than 10 days prior to the start of the Board of Supervisor's consideration on March 19, 2018. A letter was received from California Department of Fish and Wildlife on March 1, 2018 commenting on the FEIR. The letter resulted in revisions being made to the proposed cultivation cap and also to requiring mitigation of Northern Spotted Owl associated with existing cultivation site

**EVIDENCE**

a) **Impacts to Northern Spotted Owl:** "Existing cannabis cultivation operations within 0.7 mile of a known northern spotted owl activity center in Humboldt County, should be subject to retirement, remediation, and relocation (RRR) under

the County's Ordinance, unless adequate surveys and a disturbance and habitat modification assessment are provided and conclude, with concurrence from the Department, the project is avoiding significant impacts and complying with CESA. The comment is made where there is absence of a survey, presence of Northern Spotted Owl should be assumed and that the biological reconnaissance surveys should extend out beyond the development area.

The Final EIR Exhibit 3.4-9 and associated discussion describes the activity centers as "known" occurrences and does not state that these are the only potential occurrences of the species. Pre-existing cannabis cultivation is part of the existing baseline conditions but potential modification of pre-existing cannabis operations to comply with the proposed ordinance could trigger new impacts to this species. As suggested by CDFW, the following changes are made to Mitigation Measure 3.4-1e:

**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 permitted cannabis activities ~~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.

- For pre-existing cultivation sites that submitted for permitting prior to December 31, 2019 within 0.7 miles of a known northern spotted owl activity center, a qualified biologist, familiar with the life history of the northern spotted owl, shall conduct a disturbance and habitat modification assessment to determine the presence of the species and whether the cultivation site can operate or have its operation modified to avoid take of the species. If it is determined that take of the species could occur, the cultivation site will be required to participate in the Retirement, Remediation, and Relocation provisions of the proposed ordinance to relocate the cannabis cultivation to outside of the northern spotted owl activity area. Pre-existing cultivation sites that submit for permitting after December 31, 2019 will be subject the new development provisions of this mitigation measure.

**10. FINDING** **REGULATORY APPROACH.** The County's approach to bringing an unregulated illegal industry into an environmentally protective and regulated condition involves two actions. First is setting and maintaining standards implemented through a land use permitting system. Second is to curtail illegal cannabis cultivation activity through code enforcement action. The County is committed to both actions.

**EVIDENCE** a) The County was among the first jurisdictions in the State of California to adopt comprehensive regulations addressing the cultivation, processing, distribution and manufacturing of Medical Marijuana. The ordinance was first adopted in February of 2016 and modified in October 2016.(Ordinance 2559)

b) The County modified the code enforcement and civil penalty provisions of the County Code to make enforcement actions more efficient and to allow imposition of larger fines on illegal cannabis grows. See Ordinance 2576 adopted June 27, 2017. Code enforcement provisions are contained in a separate section of the code from the permitting of cannabis activities.

c) The Board of Supervisors has allocated 6 additional staff to code enforcement, and additional resources to make enforcement of illegal cannabis cultivation more effective. Code enforcement is currently allocated 8.5 full time positions. In addition, the Code enforcement function was relocated into the Planning and Building Department to make for greater efficiency.

d) The Board of Supervisors has given direction to pursue enforcement of illegal cultivation sites on a proactive basis. This has resulted in the identification and citing of over 100 illegal grow sites since July 2017.

e) The County has prepared a comprehensive update to the original ordinance and prepared an EIR describing the environmental effects of implementing said ordinance. The updated ordinance will be more effective at protecting the environment.

**11. FINDING** **RECIRCULATION OF THE EIR.** No new information was presented which would indicate the FEIR should not be certified, or that would require recirculation of the EIR prior to certification.

**EVIDENCE** a) No significant new information has been added to the EIR after public notice was given of the availability of the draft EIR for public review but before certification.

(1) No new significant environmental impacts were identified that would result from the project or from a new mitigation measure proposed to be implemented.

(2) No substantial increase in the severity of an environmental impact described in the EIR would result from the proposed ordinance.

(3) No feasible project alternative or mitigation measure considerably different from others previously analyzed have been identified that would clearly lessen the environmental impacts of the project that have not been adopted.

(4) There is no information the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

# EXHIBIT B

# 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).

## 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.

## 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).

## 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.

## 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**<br>The County shall amend the proposed ordinance to reflect the following requirements:<br>◢ 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.**<br>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.<br>◢ 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.<br>◢ 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.<br>**Mitigation Measure 3.4-1b: Special-status amphibian preconstruction surveys.**<br>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 | 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 |
|---|---|---|---|---|
| | cannabis activities.<br>◢ 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.<br>◢ 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).<br>◢ If special-status amphibians are not detected during the preconstruction survey, then further mitigation is not required.<br>**Mitigation Measure 3.4-1c: Western pond turtle preconstruction surveys and relocation.**<br>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.<br>◢ 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 | | | |

**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 appropriate.<br>◢ 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.<br>◢ If pond turtles are not detected during the preconstruction survey, then further mitigation is not required.<br><br>**Mitigation Measure 3.4-1d: Nesting raptor preconstruction survey and establishment of protective buffers.**<br>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.<br>◢ To minimize the potential for loss of nesting raptors, tree removal activities shall only occur during the nonbreeding season (September 1-January 31.<br>◢ 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.<br>◢ 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 | | | |

**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 |
|---|---|---|---|---|
| | 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.<br>◢ 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.<br>◢ 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.<br>**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 permitted cannabis activities.<br>◢ 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.<br>◢ 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.<br>◢ 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. | | | |

**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 |
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| | ◢ If northern spotted owls are determined to be absent 1,3 miles from the site, then further mitigation is not required.<br>◢ 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.<br>◢ For pre-existing cultivation sites that submitted for permitting prior to December 31, 2019 within 0.7 miles of a known northern spotted owl activity center, a qualified biologist, familiar with the life history of the northern spotted owl, shall conduct a disturbance and habitat modification assessment to determine the presence of the species and whether the cultivation site can operate or have its operation modified to avoid take of the species. If it is determined that take of the species could occur, the cultivation site will be required to participate in the Retirement, Remediation, and Relocation provisions of the proposed ordinance to relocate the cannabis cultivation to outside of the northern spotted owl activity area. Pre-existing cultivation sites that submit for permitting after December 31, 2019 will be subject the new development provisions of this mitigation measure.<br>**Mitigation Measure 3.4-1f: Special-status nesting bird surveys and establishment of protective buffers.**<br>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.<br>◢ 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 | | | |

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| | availability for this species.<br>◢ 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.<br>**Mitigation Measure 3.4-1g: Marbled murrelet preconstruction habitat suitability surveys and establishment of protective buffers.**<br>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.<br>◢ 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.<br>◢ 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).<br>◢ If marbled murrelets are determined to be absent from the site, then no further mitigation is required.<br>◢ 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 | | | |

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| | occur within the 0.25-mile buffer areas until the end of marbled murrelet breeding season (August 6).<br><br>**Mitigation Measure 3.4-1h: Noise reduction.**<br>The ordinance requires generators and other cannabis operations 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).<br>◢ Project-generated sound must not exceed ambient nesting conditions by 20-25 decibels.<br>◢ Project-generated sound, when added to existing ambient conditions, must not exceed 90 decibels.<br>◢ 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.<br><br>**Mitigation Measure 3.4-1i: American badger preconstruction survey and establishment of protective buffers.**<br>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.<br>◢ 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.<br><br>**Mitigation Measure 3.4-1j: Fisher and Humboldt marten** | | | |

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| | **preconstruction survey and preservation of active den sites.**<br>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.<br>◢ 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.<br>◢ 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.<br>◢ If individuals or potential or occupied dens are not found, further mitigation will not be required.<br>◢ 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.<br>◢ 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.<br>**Mitigation Measure 3.4-1k: Preconstruction bat survey and exclusion.**<br>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 | | | |

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| | related to cannabis activities.<br>◢ 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.<br>◢ 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.<br>**Mitigation Measure 3.4-1l: Preconstruction vole survey and relocation.**<br>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.<br>◢ 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.<br>◢ 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.<br>◢ 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 | | | |

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| | development activities would not affect the voles, then development can proceed without protective measures.<br>◢ 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.**<br>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.<br>◢ 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).<br>◢ 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.<br>◢ 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.<br>**Mitigation 3.4-3b: Invasive plant species.**<br>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.<br>◢ The application will include identification of invasive plant species that occur on | Humboldt County | These mitigation measures will be incorporated into the performance standards and application requirements of the proposed ordinance. | |

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| | 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.<br>◢ 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.<br>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. | | | |

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| **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.**<br>The following shall be included as performance standards in the proposed ordinance for the protection of sensitive natural communities and riparian habitat.<br>◢ 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; coastal terrace prairie within Table Bluff Ecological Reserve; and any designated environmentally sensitive habitat area (ESHA).<br>◢ 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.<br>◢ 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.<br>◢ 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 | Humboldt County | This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance. | |

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| | 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.<br>The Compensatory Stream and Riparian Mitigation and Monitoring Plan shall include the following:<br>◢ identification of compensatory mitigation sites and criteria for selecting these mitigation sites;<br>◢ in kind reference habitats for comparison with compensatory riparian habitats (using performance and success criteria) to document success;<br>◢ 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.);<br>◢ 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;<br>◢ corrective measures if performance standards are not met;<br>◢ responsible parties for monitoring and preparing reports; and<br>◢ responsible parties for receiving and reviewing reports and for verifying success | | | |

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| | 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.**<br>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.<br>◢ 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 resource agencies and are afforded specific consideration, based on Section 404 of the Clean Water Act and other applicable regulations.<br>◢ 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.<br>◢ 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.<br>◢ 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.<br>◢ 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. | Humboldt County | This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance. | |
| **Impact 3.4-6: Interference with resident or migratory wildlife corridors or native** | **Mitigation 3.4-6a: Implement Mitigation Measure 3.4-5: Waters of the United States.**<br>**Mitigation 3.4-6b: Retention of fisher and Humboldt marten habitat** | Humboldt County | This mitigation measure will be incorporated into the performance standards and | |

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| **wildlife nursery sites.** | **features**<br>The following shall be included as performance standards in the proposed ordinance for the protection of the habitat for fisher and Humboldt marten.<br>◢ 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.<br>◢ 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. | | application requirements of the proposed ordinance. | |
| 3.5 Cultural Resources | | | | |
| **Impact 3.5-1: Change in the significance of a historic resource.** | **Mitigation 3.5-1: Protection of historic resources.**<br>The following shall be included as performance standards in the proposed ordinance for the protection of historic resources.<br>◢ 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.).<br>◢ 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 | Humboldt County | This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance. | |

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| | 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*. | | | |
| **Impact 3.5-2: Disturb unique archaeological resources.** | **Mitigation 3.5-2: Avoid potential effects on unique archaeological resources.**<br>The following shall be included as performance standards in the proposed ordinance for the protection of archaeological resources.<br>◢ 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.<br>◢ 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., 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. | Humboldt County | This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance. | |

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| 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.**<br>The following shall be included as performance standards in the proposed ordinance for the protection of paleontological resources.<br>◢ 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.<br>◢ 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 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. | Humboldt County | This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance. | |
| 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**<br>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:<br>◢ 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 | Humboldt County | This mitigation measure will be incorporated into the performance standards and application requirements of the proposed ordinance. | |

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| | 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.<br><br>**Mitigation Measure 3.7-2b: Prepare a Hazardous Materials Contingency Plan for Construction Activities**<br>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:<br><br>◢ 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 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. | | | |

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| 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**<br>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.**<br>The following requirement will be included as an additional performance standard of the ordinance associated wells on small parcels:<br>◢ 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. | |

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| **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.**<br>The County shall include the following drainage requirement in the proposed ordinance application requirements:<br>◢ 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.**<br>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:<br>◢ The period of forbearance shall extend from April 1 through October 31 of each year, and be subject to the following additional restrictions:<br>◢ 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).<br>◢ 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).<br>◢ 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.<br>◢ 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 | 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 |
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| | surface water flow at least daily.<br>◢ 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.<br>◢ 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.<br>◢ 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.<br>◢ Diverted water storage systems for cannabis cultivation shall be separated from storage systems used for other beneficial uses within a cultivation site.<br>◢ 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.<br>◢ 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.**<br>The County shall include the following construction noise requirement for new commercial cannabis operations and modifications to existing commercial cannabis operations in the ordinance: | 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 |
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| | ◢ 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. | | | |
| **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 following requirement:<br>◢ 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. | Humboldt County | This mitigation measure will be incorporated into the performance standards and 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:<br>◢ a detailed description of activities and processes occurring on site, including:<br>◤ equipment type and number;<br>◤ detailed standard operating procures for processes;<br>◤ chemical requirements and reactions;<br>◤ cleaning procedures for equipment; and<br>◤ disposal methods for all materials (e.g., plant materials, solvents, empty containers), and<br>◢ type and quantity of items produced: | 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 |
|---|---|---|---|---|
| | ◤ Material Safety Data Sheets for all chemical substances occurring on site;<br>◤ manifests for each chemical describing quantities purchased, date used, and quantities disposed;<br>◤ facility site plan with storage map, showing where hazardous materials will be stored;<br>◤ an inventory of all emergency equipment with the location and description of items, including:<br>▪ personal protective equipment;<br>▪ fire extinguishing systems;<br>▪ spill control equipment and decontamination equipment, and<br>▪ communication and alarm systems.<br>▪ an employee training plan that includes:<br>▪ emergency response procedures and incident reporting, and<br>▪ chemical handling procedures.<br>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.<br>**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. | | | |