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November 15, 2021

Chair Sabatier and Members of the Board of Supervisors
County of Lake
255 North Forbes Street
Lakeport, CA 95453

Re: Appeal (AB 21-04) of Early Activation/Major Use Permit (EA/UP 21-10) and Initial Study (IS 21-10)

Dear Chair Sabatier and Supervisors:

This firm represents the Appellant[1] in the above appeal. We appreciate the opportunity to seek redress from the Board of Supervisors on this matter.

The SourzHVR Inc. project (Major Use Permit UP 21-10) ("Project)" involves approximately 80 acres of cannabis cultivation, five acres of cannabis nursery, construction of 11 buildings totaling 111,000 square feet, and numerous ancillary and accessory uses such as employee housing, distribution areas, and chemical storage areas. By all measures, the Project is one of the largest cannabis cultivation projects in Lake County, and, taking into account the extent of new building construction, one of the most intensive, from a land use perspective.

Despite the Project's size and complexity, the County reviewed and approved the Project with extraordinary speed, catapulting the Project ahead of many other cannabis projects in the Planning Department's permit queue. The County issued an Early Activation Permit ("EA Permit") for the Project exactly five months after the Project application was submitted, and despite a litany of neighbor complaints and substantial opposition, the Planning Commission approved the Project Use Permit approximately six weeks later based on a defective Initial Study/Mitigated Negative Declaration ("IS/MND"). The Project stands alone in terms of the County's expeditious review and commitment to approval. Why was the Project given this preferential treatment?

During the short time between issuance of the EA Permit and the Planning Commission's final approval of the Use Permit, the Project proponents committed a number of serious violations of County regulations and state law. The County's own documents show that the Project applicant conducted illegal grading activities on the Project site in violation of County Code, the EA Permit, and state law, and contrary to the terms of the Project Property Management Plan ("PMP"). On June 18, 2021, the California Department of Fish and Wildlife ("CDFW") conducted a site inspection and issued a notice of violation for grading in drainages, unpermitted trenching activities, creation of unpermitted water crossings, and rerouting of a channel.

[1] The Appellant is Don and Margie Van Pelt, as identified on the July 28, 2021 County appeal form that was timely filed in this matter.

Yet, the County did not revoke the Project EA Permit for these violations, as the County had for numerous other cannabis projects involving less egregious violations. Instead, the County pressed the Project forward to hearings, and processed a corrective grading permit for the Project applicant and confirmed that the grading violations had been corrected just six days prior to final approval by the Planning Commission. The Planning Commission approved the Project despite the fact that the Project applicant has not fully cleared the Notices of Violation issued by CDFW. Again, why was the Project given this preferential treatment?

By operation of law, the Planning Commission's approval of the Use Permit automatically terminated the EA Permit. (See EA Permit Condition No. 32 ["This permit shall expire (6) months from the date of issuance or upon issuance or denial of use permit UP 21-10"].) Further, the Appellant's timely July 28, 2021 appeal of the Planning Commission approval automatically stayed the effect of the Use Permit. (See Lake County Zoning Code Sec. 21-58.32.) The Project, therefore, currently has no active land use approval. Nevertheless, the Project applicant has continued development and operation of the Project since July. In doing so, the Project applicant has violated the County noise ordinance, operated at night using massive, unshielded lighting systems, has produced dust clouds that have traveled to neighboring properties, has erected hoop houses and installed generators to dry cannabis, and has flooded High Valley Road with trucks, among other actions, all of which have been documented and reported repeatedly to the County by impacted neighbors. Yet the Project remains in operation, unabated.[2] Why?

The purpose of this appeal is twofold: (1) to bring to the Board's attention, and to the public's attention, that the County has unlawfully failed to enforce its own regulations against the Project; has knowingly allowed the Project applicants to develop and operate the Project in violation of County regulations; has facilitated the Project's operation in violation of County and state regulations; and has violated other cannabis project applicants' and operators' right to equal protection of the law; and (2) to demonstrate that the IS/MND adopted for the Project fails to satisfy the requirements of the California Environmental Quality Act ("CEQA"); that the IS/MND is unsupported by substantial evidence; and that substantial evidence indicates that the Project may have a significant impact on the environment; and that therefore the County must prepare an Environmental Impact Report ("EIR) for the Project. At its heart, however, this appeal is a plea to the Board to stop the very real, documented, and undisputed negative impacts that the Project is having on Appellant and other neighbors.

For the reasons set forth in this letter, its attachments and supporting documents, we request that the Board:

(1) Grant the appeal and deny the Project;

(2) Direct staff to immediately abate all current Project activities at the Project site; and

(3) Direct staff to prepare and circulate an EIR for the Project, consistent with CEQA.

[2] On Friday, November 12, we received an email from Marcus Beltramo, Code Enforcement Officer with the County Planning Department, stating, in relevant part, that "On November 10, 2021, the property owner Aviona, LLC was served with a Notice of Nuisance and Order to Abate for the unpermitted structures and electrical on the property. This type of violation goes against the property." We have not yet seen the official Notice and Order.

I. PROJECT BACKGROUND

According to the records made available to Appellant, the Project applicant submitted application materials for the Project on or about February 7, 2021.

The Project applicant's consultant, Kimley-Horn, subsequently prepared and submitted the IS/MND to the County in May 2021. The IS/MND Project Description describes the Project as follows:

- 80 acres of cannabis cultivation in four garden locations. (IS/MND, p. 7.)
- A five-acre nursery area. (*Ibid*.)
- Construction of eleven (11) structures including dry storage for the drying of cannabis. (*Ibid*.)
- The use of six onsite wells that currently exist, and one new well to be drilled. The six existing wells are not all productive so these wells could be reconditioned to provide more efficient water delivery. (*Ibid*.)
- All structures and cultivation areas would be secured with locks, cameras, alarms, as needed and all materials would be stored in accordance with County and state requirements. (*Ibid*.)
- Construction of ten (10) metal drying sheds for harvested cannabis and one (1) insulated metal cold storage shed for refrigerated storage of cannabis. (*Id*. at p. 11.)
- The number of employees would range between 30-40 employees for 22 weeks of the year, with up to 65 part-time employees during part of the year. (*Ibid*.)
- The vehicle trips per day are averaged at 40-80. (*Ibid*.)
- The use of grid power is proposed to be provided by Pacific Gas and Electric Company ("PG&E"). (*Ibid*; see also p. 14.)
- An existing on site residence to house manager(s). (*Id*. at p. 14.)
- The proposed cultivation areas would not require any earthwork for grading to prepare the ground surface for growing cannabis. (*Id*. at p. 12.)
- Downward directed and shielded lighting would be installed to prevent glare. (*Ibid*.)

Page 19 of the IS/MND identifies potentially significant impacts in four resource areas: (1) biological resources, (2) cultural resources, (3) tribal cultural resources, and (4) mandatory findings of significance. However, the IS/MND actually imposed mitigations to reduce potentially significant impacts in three other resource areas not identified on page 19: (1) air resources (eight mitigation measures imposed); (2) geology and soils (one mitigation measure imposed); and (3) noise (three mitigation measures imposed). The IS/MND imposed no mitigation measures for groundwater impacts or traffic impacts, among others. The IS/MND does not include a Mitigation Monitoring and Reporting Program to document implementation of each of the IS/MND mitigation measures, as required by CEQA Guidelines Section 15097.

On May 12, 2021, the County issued a "Notice of Intent For The Issuance Of 'Early Activation' For The Cultivation Of Commercial Cannabis", indicating that the Planning Department would issue the EA Permit on May 22, 2021 for the Project. County staff reports indicate that the EA Permit was not issued until June 7, 2021. Among other provisions, the EA Permit conditions of approval state:

- The EA Permit requires substantial conformance with the Site Plan, dated May 25, 2021 and the Property Management Plan, cover letter dated March 2021. (EA Permit Condition No. 1.)
- The EA Permit requires conformance with the Odor Control Plan as identified in the PMP. (EA Condition No. 10.)
- The EA Permit requires compliance with state registration and operation requirements for mobile diesel equipment. (EA Permit Condition No. 12.)
- The EA Permit requires that all outdoor lighting shall be directed downward and not onto adjacent properties. (EA Permit Condition No. 14.)
- The EA Permit states: "[t]his early activation permit shall not allow any construction, excavation or removal of mature trees on the property…" (EA Permit Condition No. 18.)
- The EA Permit requires the minimization of fugitive dust and does not allow **any** grading. (EA Permit Condition No. 20.)
- The EA Permit mandates that non-construction related noise is limited to 55 dBA between 7:00 AM and 10:00 PM at the property lines. (EA Permit Condition No. 26.)

Between mid-May, 2021 and June 18, 2021, the Project applicant performed illegal grading activities on the Project site, in violation of the County Code, the EA Permit, and State law, and contrary to the terms of its approved Property Management Plan ("PMP"). (See Comment Letter from Lori Correia, November 16, 2021 (included as **Attachment 1**.) On June 18, 2021, CDFW conducted site inspections and issued notices of violation due to grading in drainages, unpermitted trenching activities, creation of unpermitted water crossings, and rerouting of a channel.

On July 8, 2021, the Planning Commission held a public hearing to consider approval of the Project and adoption of the IS/MND, but continued the hearing until July 22 in order for the Project applicant to respond to questions relating to the lack of required biological surveys, cultural surveys, traffic analysis, and hydrology studies as well as to answer questions relating to CDFW violations and illegal grading activities.

Sometime in June 2021, the Project applicant entered into a contract with a neighboring landowner, Brassfield Estates, to pipe water from a surface water pond to the Project site. According to the Project applicant, this water was for use for sunflowers and stock watering, however, the system is connected to the main water supply system used to cultivate cannabis on the Project site. This water use was not analyzed in the IS/MND nor was it included in any hydrology studies for the Project.

On July 22, 2021, the Planning Commission resumed its hearing of the Project, and voted to approve the Project and adopt the IS/MND over numerous objections by neighboring landowners and members of the community. On July 28, 2021, Appellant submitted an appeal to the Board of Supervisors raising concerns with numerous Project components and the adequacy of the IS/MND.

In September and October 2021, the Project applicant requested permission from the County to construct temporary hoop houses and use generators to dry harvested cannabis. The County did not approve the use of these structures. Nevertheless, in October 2021, the Project applicant proceeded to construct the hoop houses and installed generators to dry harvested cannabis in violation of its EA Permit, the County Zoning Ordinance, and state law.



II. CEQA DEFECTS

A. The IS/MND Project Description Is Inadequate, In Violation Of CEQA.

The Project Description set forth in the IS/MND does not accurately describe the whole of the Project, and therefore deprives the public and responsible agencies of the ability to fully review and comment on the Project.

The underlying purpose of an initial study is to determine whether a project may have a significant effect on the environment. (CEQA Guidelines, § 15063.) An initial study/mitigated negative declaration must contain (1) "[a] description of the project including the location of the project;" and (2) "[a]n identification of the environmental setting." (*Id*., subd. (d).) "An accurate and complete project description is necessary for an intelligent evaluation of the potential environmental impacts of the agency's action." (*City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 406.)

"Where an agency fails to provide an accurate project description or fails to gather information and undertake an adequate environmental analysis in its initial study, a negative declaration is inappropriate." (*Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 27 1170, 1202 [quoting *El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (2004) 122 Cal.App.4th 1591, 1597].) A project description that conceals important project ramifications "frustrates one of the core goals of CEQA." (*Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 830.)

The IS/MND Project Description is deficient in several ways. A number of Project components are not included in the Project Description, and accordingly, were not analyzed in the IS/MND. These omissions include, but are not limited to: (1) a lack of discussion of water availability and the use of surface water from a neighboring property; (2) no discussion or analysis of the use of hoop houses and generators to dry harvested cannabis; (3) no discussion or analysis of the intent to develop lodging (including tourist or resort-type lodging) at the Project site, including an undercounted and inconsistent description of the number of employees; (4) an undercounted and inconsistent description of potential traffic impacts; and (5) an incorrect and false discussion of grading activities.

Each of these deficiencies is discussed in more detail below.

Offsite Water Source: the Project Description does not discuss the use of a neighboring property's surface water pond for Project irrigation water. As summarized above, sometime in June 2021, the Project applicants entered into an agreement with a neighboring landowner to use water from the neighboring landowner's pond. The Project applicants claimed that this water use was intended for stock watering and sunflower growth to mitigate visual and odor impacts from the Project. However, the Project applicant also stated that this water was being directed into the same water system used for Project irrigation water. This water use agreement and correspondence relating to it are included as **Attachment 2**.

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This claimed use of water makes no sense on several fronts. First, if the Project site groundwater wells are more than adequate to serve the Project, why is an external water source, accompanied by an expensive conveyance system, necessary to irrigate a small quantity of sunflowers? Second, why would the conveyance system be tied into the main cannabis cultivation system? Third, why would the Project applicant undertake this expense and trouble to implement a "mitigation" that is not required by the IS/MND? Common sense dictates that the surface water is necessary to supplement poor groundwater production from the Project groundwater wells in order to irrigate Project cannabis crops. The Project Description must be amended to include use of off-site surface water for the Project.

Hoop Houses and Generators: The Project applicant has installed and currently utilizes approximately 25 hoop houses and an unknown number of generators to dry and cure harvested cannabis. These hoop houses and generators were not included in the Project Description or analyzed in the IS/MND. The Project Description only discussed the use of eleven "clustered" metal structures for drying, as well as the use of power from PG&E for operations. (IS/MND at pp. 11, 14.) The Project Description must be amended to describe hoop houses and generator use.

Lodging: The Project Description states in separate sections that on-site residences will be used to house "manager(s)". (See e.g., IS/MND, p. 14.) However, the IS/MND does not discuss the number of staff that will live on site, where they will live, whether there are adequate services for residents living on site, and other relevant information. Moreover, the Project Description, the remainder of the IS/MND, and other Project documents all use different numbers for the number of total employees and the number of employees that will live on site. For instance, the Project Description states that 30-40 employees will work on site 22 weeks of the year, but during October, there is a potential for 65 part-time employees, and approximately ten employees would live on site. (*Id*. at p. 11.) However, the Project Traffic Memorandum (described more fully below) states that there would be 20-30 employees from May 1 to October 31, but half the employees would live on site. (Kimley-Horn, Traffic Memorandum at pp. 4-5.) Then, the Staff Report for the July 22 Planning Commission hearing (prepared in part by the Project applicant) states that the Project will require 30-40 employees daily with "many" living on site. (See Lake County Community Development Department, Staff Report Addendum, RE: SourzHVR Inc; Major Use Permit (UP 21-10), Initial Study (IS 21-10), Mitigated Negative Declaration, July 22, 2021 at p. 8 ("July 22 Staff Report").) Accordingly, the Project description is insufficient because it fails to discuss important Project aspects relating to onsite staff, where they will live, how many will live on site, and related information. Moreover, we understand that the Project applicant has discussed with the County the proposed development of "resort" type lodging and development in connection with the Project. Obviously, if that is correct, the present environmental review must address the "whole of the action", including the proposed resort development.

Traffic: The Project Description fails to discuss important details relating to traffic. The Project Description and associated materials use inconsistent counts for the number of employees at the Project site, the number of vehicle trips, and the number of employees that will remain on site (and therefore allegedly make no trips). Additionally, the Project Description does not account for additional trips, such as truck traffic, traffic by licensed distributors or suppliers, trips by Project site guests, or other related vehicle trips. In describing Project components, the Project Description states:



- Between 30-40 employees for 22 weeks of the year.
    - During October, there is the potential for up to 65 part-time employees during the peak season.
- Approximately 10 employees are anticipated to reside on-site.
- Trips per day are conservatively estimated at 40-80 Average Daily Trips (ADT).

(IS/MND at p. 11.)

However, other documents use different counts of employees and trips. The associated Traffic Study states the Project will have 20 to 30 employees during peak cultivation season, 10 to 15 during non-peak season with half of employees expected to live onsite. (See Kimley-Horn, Traffic Memorandum July 14, 2021 at p. 5.) The Traffic Study asserts, on this basis, that the Project will generate an average 30 trips per day, peak 60 trips per day, and maintenance and delivery trips are not quantified. (*Ibid*.) The Staff Report for the July 22 Planning Commission hearing states that the Project will utilize 30-40 employees post-construction with 20 trips per day, and asserts that most workers will live onsite. (See July 22 Staff Report at p. 8.) Maintenance and delivery trips are not discussed. (*Ibid*.) The Property Management Plan, likewise, asserts that the Project will require 30 to 40 fulltime employees with a maximum of 65 employees present during peak harvesting. (PMP at p. 38.) Maintenance and delivery trips are not discussed. (See *ibid*.)

The short analysis in the Project Description, taken together, with the inconsistent numbers in the associated documents fails to accurately describe traffic operations and capture traffic impacts. Moreover, there is no discussion of how traffic flow will function, whether the roads are adequate for the Project vehicles, or how any potential impacts may be avoided. Taken together, the Project Description lacks adequate discussion of traffic impacts.

Grading: Finally, the Project Description contains nearly no discussion of grading activities. The Project Description states that grading will be required for the building sites, but that no grading will be conducted on the cultivation areas. Specifically, the Project Description states: "The proposed cultivation areas would <u>not require any earthwork or grading</u> to prepare the surface for growing cannabis" (*Id*. at p. 12 [emphasis added]), that "15,000 cubic yards of topsoil would be moved during building foundation", and that project operations would not require "extensive ground disturbance." (*Id*. at p. 13.) However, the Project applicant did in fact conduct large-scale grading and earthwork in connection with cultivation, contrary to the Project Description. In lengthy correspondence with County staff, the Project applicant requested permission to till and grade the cultivation sites to prepare for cultivation. (See Email Correspondence RE: Grading Permit UP21-10 SourzHVR included as **Attachment 3**.) Neighboring landowners also submitted complaints regarding large-scale grading in early June 2021, which prompted County and CDFW enforcement actions. These complaints and photographs of the grading are included as **Attachment 4**. Moreover, additional grading was required to remediate the illegal grading conducted on the cultivation sites to comply with the required CDFW violation resolution. (See e.g. Final Lake or Streambed Alteration Agreement, Notification No. EPIMS-LAK-21213-R2 SourzHVR.) None of these activities were described in the Project Description nor analyzed in the IS/MND.

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B. Substantial Evidence Supports A Fair Argument That The Project May Have A Significant Impact On The Environment.

A mitigated negative declaration ("MND") is permissible only when an initial study demonstrates with substantial evidence that, after incorporating mitigation measures, a proposed project will "clearly" not cause "any significant effect on the environment." (See Pub. Resources Code, §§ 21064.5; 21080(c)(2); CEQA Guidelines, §§ 15070; 15369.5.) By contrast, an EIR is required when there is a fair argument, based on substantial evidence, that a project "may" cause one or more potentially significant impacts. (See, e.g., *Communities For A Better Environment v. South Coast Air Quality Mgmt. Dist*. (2010) 48 Cal.4th 310, 319-320, citing *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75 and *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491,504-505; see *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1112.)

In other words, when an MND is prepared, the burden is on the lead agency to demonstrate with substantial evidence and transparent analysis that, with incorporated mitigation measures and project design changes, there is no possibility that the proposed project may cause significant impacts. If commenters present **any** substantial evidence supporting a fair argument that the project may cause significant impacts, then an EIR is required - even if there is also substantial evidence that the project may not cause significant impacts. (See CEQA Guidelines, § 15064(a)(1), (f), (g).) An agency's decision not to require an EIR can be upheld only when there is no credible evidence to the contrary. (*Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th, 1307, 1318; see also *Save Agoura Cornell Knoll v. City of Agoura Hills* (2020) 46 Cal.App.5th 665, 689-690 [to the extent there is a conflict in the substantial evidence concerning the possibility of a significant impact, "neither the lead agency nor a court may 'weigh' conflicting substantial evidence to determine whether an EIR must be prepared in the first instance"], citing *Citizens for Responsible & Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1340 and CEQA Guidelines § 15064(1)(1).) It is also important to note that commenters need not necessarily be experts to provide substantial evidence of a potential significant impact. Cases have held that while the presence of a public controversy or unsubstantiated opinion do not constitute substantial evidence supporting a fair argument, relevant personal observations of area residents on nontechnical subjects can qualify as substantial evidence supporting a fair argument. (*Protect Niles v. City of Fremont* (2018) 25 Cal. App. 5th 1129, 1139; see also *Georgetown Pres. Soc'y v. Cty. of El Dorado* (2018) 30 Cal. App. 5th 358, 376.)

"The fair argument standard is a 'low threshold' test for requiring the preparation of an EIR." (See *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928 ["It is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency's determination. Review is de novo, with a preference for resolving doubts in favor of environmental review"]; see also *Sierra Club v. California Dept. of Forestry & Fire Protection* (2007) 150 Cal.App.4th 370, 381; see also *County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1579.) "The lead agency's determination is thus largely legal rather than factual; it does not resolve conflicts in the evidence but determines only whether substantial evidence exists in the record to support the prescribed fair argument." (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1400.)

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Summarizing the foregoing, and relevant here, an MND is inadequate if, first, the MND lacks substantial evidence supporting its conclusion that, after incorporating mitigation measures, a proposed project will "clearly" not cause "any significant effect on the environment." Second, an MND is inadequate if substantial evidence in the record supports a fair argument that the project may have a significant impact on the environment, even if competing evidence suggests it may not.

The Project IS/MND is inadequate in both ways, as discussed below.

1. The IS/MND Fails To Adequately Analyze Air Impacts, And Substantial Evidence Supports A Fair Argument That The Project May Have Significant Air Impacts.

The Project IS/MND, without substantial evidence, concludes that the Project will not have significant impacts on air emissions, particularly related to dust, greenhouse gas ("GHG") emissions, and odor impacts. At the same time, substantial evidence indicates that the Project may have significant impacts in each of these areas.

Dust Impacts: The IS/MND's failure to analyze and mitigate Project dust impacts is derived from its failure to accurately describe the true extent of grading to be undertaken. As described above, the IS/MND states that "the proposed cultivation areas would not require any earthwork or grading to prepare the surface for growing cannabis" (IS/MND, p. 12 [emphasis added]), that "15,000 cubic yards of topsoil would be moved during building foundation", and that project operations would not require "extensive ground disturbance." (*Id*. at pp. 13, 25.) In fact, the Project applicants performed extensive grading at the Project site in preparation for cultivation and installation of illegal hoop houses.

Neighbors have submitted multiple complaints and photos documenting the Project's dust impacts to their properties. Examples of these photographs and complaints can also be found in **Attachment 4**. It is undisputable that the Project is generating dust impacts that were not analyzed at all in the IS/MND, and which expose sensitive receptors (neighbors) to substantial pollutant (dust) concentrations, and which adversely affect these neighbors. This evidence clearly constitutes "substantial evidence" that the Project may have significant impacts relating to dust.

GHG Impacts: The IS/MND also fails to adequately analyze Project GHG emissions. The IS/MND contains two tables that indicate Project construction emissions and long-term operational emissions, both of which provide cursory, conclusory information. (See IS/MND at p. 26.) However, it is clear that the GHG analysis did not take into account extensive grading for cultivation activities; failed to analyze an accurate number of vehicle trips (incorrectly asserting that the project would generate "60 vehicle trips during the peak cultivation season"), and, importantly, failed to account for the extensive use of gas-powered generators for drying.

As noted above, the IS/MND GHG analysis was based on a Project that was not designed or intended to use generators to provide electric power. The use of the generators requires an analysis of the diesel and gasoline used to power the generators, the vehicle trips used for refueling, and other related factors. Without analyzing these numerous generators, the IS/MND, as a matter of law, is flawed.



Odors: Finally, the IS/MND fails to properly analyze odor impacts. In relation to odor, the IS/MND states:

> Odors directly related to outdoor cannabis cultivation are more likely to be noticed in the general area of the project. It should be noted that the odor from the cultivation of cannabis primarily occurs during the flowering period of the plant. In an outdoor full season growing situation, the odor emanating from the growing operations will occur primarily during September and October and will cease once the plants are harvested. **To manage potential odor-related concerns, the applicant will be required to submit an Odor Control Plan as a condition of approval and will need to mitigate the outdoor cultivation areas through the use of distance (passive) and/or odor-masking means (active) such as fragrant plants around the perimeter of the outdoor growing area. In accordance with Odor Control Plan the proposed project would not propagate objectionable odors which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or the public, or that endanger the comfort, repose, health, or safety of any person or the public**. Additionally, the Odor Control Plan would provide property owners and residents within a 1000-foot radius of the proposed project with contact information of a Community Liaison/Emergency Contact to resolve any odor-related concerns prior to contacting the County.

(*Id*. at p. 28 [emphasis added].) However, the IS/MND does not include a mitigation measure requiring the Project applicant to mitigate odor impacts through either distance or odor-masking means. Apart from this failure, the IS/MND actually contains no analysis of why the Project odor will not impact neighbors. Instead of performing an analysis, the Project Proponent relies on vague future mitigations to claim the odor impacts will be reduced. This analysis does not comply with the requirements of CEQA.

Neighboring property owners have submitted written complaints and comments discussing the significant odor impacts from the Project which constitute substantial evidence supporting a fair argument of substantial impacts. For example, the Appellant and other neighboring landowners submitted comments indicating that they live downwind of the Project, and that the setbacks and odor control plans will not mitigate the Project odors. (See e.g. Appeal to Board of Supervisors, SourzHVR Inc., July 28, 2021 at p. 2 ("Project Appeal").)

2. The IS/MND Fails To Adequately Analyze Groundwater Impacts And Use Of Surface Water, And Substantial Evidence Supports A Fair Argument That The Project May Have Significant Air Impacts.

The IS/MND fails to accurately discuss groundwater availability. As discussed briefly above, the Project Description states that all Project water will be sourced from on-site groundwater wells, in particular, an existing well (Well #4) and a newly drilled well (Well #7). The IS/MND does not, however, include data indicating that these two wells are capable of providing the water necessary to irrigate the Project, nor does the IS/MND adequately analyze whether the Project's groundwater use will significantly impact the groundwater basin and water availability for neighbors. These defects are not remedied in the



Revised Hydrology Technical Memorandum dated July 14, 2021 ("Hydrology Memorandum") that was submitted prior to the July 22 Planning Commission hearing on the Project.

The Hydrology Memorandum asserts the following:

- The groundwater aquifer is approximately 27,799-acre feet
- The groundwater recharge for this aquifer is approximately 2,321-acre feet
- A step-drawdown test concluded that one of the Project wells indicated that the maximum drawdown was measured at 11.02 feet while pumping 380 gallons per minute, and that the "estimate" transmissivity of the aquifer is approximately 564,467 ft^2/day.

(Hydrology Memorandum, at pp. 2-3.) The Hydrology Memorandum is based almost entirely on a 2016 hydrology report conducted for the Brassfield Winery analyzing groundwater availability for that Project.

The analysis in the Hydrology Memorandum is flawed. First, the Hydrology Memorandum does not adequately explain the conclusions regarding the volume of the aquifers located below the Project. As stated in the Hydrology Memorandum there are two underlying groundwater aquifers, the Quaternary alluvium and the Holocene volcanics aquifers. (Hydrology Memorandum, p. 1.) The Hydrology Memorandum combines these two aquifers, and reaches the conclusion that there is approximately 27,799 acre feet of ground water available. This conclusion overlooks some critical considerations relating to groundwater in the area. The Hydrology Memorandum does not discuss certain geological factors in relation to its water availability, such as whether Well #4 or Well #7 may have been drilled in pocket aquifers, or whether the cited recharge rate affects the groundwater availability in the event the wells are located in a pocket aquifer. (See Review of SourzHVR, Inc. Evaluation of Impacts to Groundwater Resources- Lake County UP 21-10 and IS 21-10, November 11, 2021, at p. 4 ("Review of Hydrology Memorandum") (included as **Attachment 5**).) Another important note is that the Hydrology Memorandum only cites to the maximum acre feet of the underlying groundwater aquifer, but does not discuss the *usable storage capacity* which is the amount of groundwater that can be withdrawn from the aquifer. (*Ibid*.) Finally, the Hydrology Memorandum fails to discuss groundwater monitoring in the area indicates that groundwater depth has been declining over the last ten to twenty years. (*Id*. at pp. 5-6.). As concluded in the Hydrology Memorandum Review, this contradicts the conclusions that there is ample groundwater recharge. (*Ibid*.)

Moreover, neither the IS/MND nor the Hydrology Memorandum discussed well yields and irrigation needs accurately. The Hydrology Memorandum describes the use of Well #4, with a yield of approximately 200 gpm. (Hydrology Memorandum at p. 2.) There is no information about the yield of Well #7. The IS/MND further states that Project cultivation would require 2.2 million gallons per week for 22 weeks of the year. (IS/MND at p. 48.) The Review of the Hydrology Memorandum indicates that Well #4, at 200 gpm yield, is only sufficient to irrigate approximately 25 acres of cannabis at 8,640 gallons per acre. (Review of Hydrology Memorandum at pp. 8-9.) Without the data regarding the yield of Well #7, therefore, it is impossible to determine if Well #4 and Well #7 in tandem can provide sufficient Project water. (*Ibid*.)

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Additionally, there are other conflicting studies, namely a California Department of Water Resource study, that concluded that the underlying groundwater aquifer only contained approximately 9,000-acre feet, and that the aquifer had a "low recharge rate." (See CDM in Cooperation with the California Department of Water Resources, Lake County Water Inventory and Analysis, March 2006, at p. 2-22 ("DWR Study").) The Hydrology Memorandum, by contrast, concludes that the total groundwater availability is much higher at 27,799 acre feet for both underlying groundwater aquifers. (Hydrology Memorandum at p. 1.) However, this number accounts for both aquifers underlying High Valley in their entirety and does not account for specific geology, the nature of the specific aquifers underlying Well #4 (and potentially Well #7) and other factors, and therefore does not correlate to groundwater availability for the Project.

Another defect in the IS/MND is that it fails to analyze, or even mention, the use of the neighboring Brassfield Winery's water ("Brassfield Water"). Based on information provided by the Project applicant, the Brassfield Water is used only to grow sunflowers and as stock watering.[3] However, other documents submitted by the Project applicant indicate that the Brassfield water enters the same water system as other Project water, and then is redirected to "Blocks 1-2" which are planned cannabis cultivation areas. (See July 22 Planning Commission Materials, Exhibit 14 Brassfield Pipeline Water Usage Site Map.) Put in other words, areas in which the Project applicant plans to grow cannabis currently receive water from a neighboring property via a pipeline that runs several hundred yards. This pipeline, and the use of the neighboring property's water, is never contemplated in the IS/MND, because the IS/MND's analysis is based solely on the use of groundwater from on-site wells. Without including this water infrastructure and use, the IS/MND is inadequate.

Not only has the IS/MND failed to discuss and analyze critical Project water components, but neighboring landowners have already submitted comments discussing the significant impacts of the Project's water use, and the effect on their wells. (See e.g., Email correspondence from Candace Ponds re Sourzhvr High Valley Clearlake Oaks, August 7, 2021 (included in **Attachment 4**); see also email correspondence from Don and Margie Van Pelt included as **Attachment 6**.) Other commentors that are experts in the field also submitted comments raising concerns with the groundwater analysis. (See e.g. **Attachment 6**.) These comments, together with the studies, such as the DWR Study, that show the aquifer may not support a project of this size, indicate that there are, and will continue to be significant water and hydrology impacts. Taken together, these various comments are substantial evidence supporting a fair argument that the Project will have significant impacts on groundwater resources.

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[3]/ As we noted above, the Project applicant and IS/MND asserts that there is adequate groundwater and well capability to serve 85 acres of cannabis cultivation and ancillary operations, begging the question of why the Project applicant needs to pipe water several hundred yards in order to cultivate a relatively less water-demanding sunflower crop.



3. The IS/MND Fails To Adequately Analyze Biological Impacts, And Substantial Evidence Supports A Fair Argument That The Project May Have Significant Biological Impacts.

The IS/MND analysis of Project impacts to biological resources is inadequate in several respects. First, no wetlands delineation was prepared for the Project. Rather than actually delineate jurisdictional waters, the Biological Report and IS/MND state only that all waters under federal jurisdiction would be avoided, eliminating the need to examine the potential impacts to these resources. (Biological Report at p. 7.) Such a statement is not substantial evidence, and therefore no substantial evidence exists supporting the IS/MND conclusion that the Project will not impact state or federally-protected wetlands. On the other hand, the documented CDFW violations on the Project site show that the Project has, in fact, impacted state or federally-protected wetlands.

Second, the IS/MND is unsupported by substantial evidence regarding Project impacts to protected species. In this regard, the Biological Report states that there is potential for several species on the Project site, including several species of bats, western pond turtles, and potentially other species. (Biological Report at pp. 38-39.) Despite the potential for species habitation based on the singular survey, no follow up "protocol level" survey for these species was conducted. In fact, no secondary surveys were conducted at all.

Third, in regard to special-status plants, the Biological Report notes that the Project site has some level of potential for occurrence. Despite this, the Biological Report seems to rely only on generic habitat requirements in order to dismiss the possibility of any occurrence. Moreover, no special status plant survey (i.e., a "floristics survey") was ever conducted separately during times of the year when these plants are more likely to occur or be visible. There are a variety of guidelines, both at the state and federal level, that recommend surveys conducted at various times of the year, and even on adjacent properties in order to maximize potential for detecting these species. (See e.g., Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants (September 23, 1996); see also Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities, California Natural Resource Agency Department of Fish and Wildlife (March 20, 2018).)

The County has routinely required other projects to perform such floristics surveys, so the absence of a floristics survey for this Project is particularly interesting. We note that floristics surveys for other projects in similar settings have resulted in the positive identification of special-status plants, and thus it is likely that special-status plants are present on the Project site as well.

Neighbors and commentors made various comments on the potential for impacts to special status species. Several commentors indicated that they had concerns about potential impacts to species. For instance, Annje Dodd sent email correspondence to County staff discussing the lack of floristic surveys, and the presence of wetlands on the Project site this email is included as **Attachment 7**. Other concerned citizens made comments regarding the inadequacy of the biological surveys, included as **Attachment 8**.

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4. The IS/MND Fails To Adequately Analyze Traffic Impacts, And Substantial Evidence Supports A Fair Argument That The Project May Have Significant Traffic Impacts.

The IS/MND inadequately analyzes the Project's potential transportation impacts. As described below, the IS/MND fails to include a description of the methodology used to determine a less than significant impact and the conclusions are therefore unsubstantiated.

As background, Senate Bill 743 (Steinberg 2013) was codified in Public Resources Code section 21099 required the development of guidelines to analyze the transportation impacts of projects in terms of "vehicle miles traveled" ("VMT") instead of a traffic-based level of service analysis. Lead agencies were required to begin analyzing project-related impacts using VMT by July 1, 2020 and develop methodologies to determine thresholds of significance. Important here, the County does not appear to have developed or implemented a methodology for VMT analysis.

The Governor's Office of Planning and Research ("OPR") published a technical advisory for the implementation of VMT analysis. (See Governor's Office of Planning and Research, Technical Advisory on Evaluating Transportation Impacts in CEQA, December 2018) ("OPR Technical Advisory".) The OPR Technical Advisory contains recommendations for lead agencies to consider when developing VMT methodologies and thresholds.

The IS/MND makes several generalizations about Project transportation impacts, without supporting analysis or substantial evidence. First, the IS/MND relies on the OPR Technical Advisory to determine there is less than a significant impact, without fully describing the methodology used to reach that conclusion. The IS/MND states in relevant part:

> The proposed project would not conflict with the OPR technical advisory on evaluating transportation impacts. OPR set forth the standard that if a project would not exceed 110 trips per day, it would not exceed the threshold or require a formal traffic study to evaluate VMT, and generally indicates impacts would be less than significant…
> …
> The proposed project would use High Valley Road as its primary access point. High Valley Road is a paved and County maintained roadway. The proposed project would result in between 60-65 average trips during the peak cultivation and harvest season (approximately 7 months per year) using High Valley Road. Outside of that seven-month time frame the number of employees would be significantly reduced. This would reduce the yearly average daily trips to less than 50 trips per day. Therefore, because the proposed project is below the OPR guidance, this would ensure that the proposed project would comply with local County standards in conformance with state CEQA guidelines…

(IS/MND at pp. 54-55.)

Regarding the 110 daily trip threshold, the OPR Technical Advisory only *recommends* (i.e., does not mandate) that for small projects, projects with fewer than 110 daily trips *may be* determined to have a less than significant effect on transportation, and may not require a VMT analysis. (See OPR Technical



Advisory at p. 12.) The IS/MND and Traffic Memorandum are careful, in light of the OPR Technical Advisory, to show that the Project will not generate more than 110 daily vehicle trips. First, the IS/MND simply states that there will be 20-30 average daily trips without any support. (See IS/MND at p. 54.) The Traffic Memorandum that the Project consultant[4] submitted after the IS/MND was circulated states that the Project would typically have 20-30 employees from May 1 to October 31 each year, and that as such, maximum daily trips would be 60 (although not described it is assumed this is from every employee making two trips daily.) (See Kimley-Horn Traffic Memorandum, July 14, 2021, at p. 5 ("Traffic Memorandum".) It then states that only 10-15 employees would be present the remainder of the year, and therefore the "daily average vehicle trips" would be 45. (*Ibid*.) Finally, the Traffic Memorandum concludes that nearly fifty percent of the employees on site will live on site, and therefore, will not contribute to any daily trips. (*Ibid*.)[5]

These numbers are flawed for several reasons. First, the IS/MND, PMP and Traffic Memorandum provide different numbers of employees traveling daily and staying at the Project site. This inconsistency makes it impossible to accurately determine the potential number of daily trips attributable to the Project. Further, 20-30 employees for a project of this magnitude is far fewer than the typical employee count for outdoor cultivation activities, which generally report employee demand of between 2 and 3 individuals per acre of cultivation. (See e.g. Comments of Annje Dodd (**Attachment 7**).) The reported vehicle trip numbers fail to account for other types of transportation impacts, including trips taken at lunch for employees that commute to nearby stores or restaurant, the number of cannabis distribution vehicles that must travel to the Project site to transport finished cannabis products, the number of trips for agricultural supplies or the diesel and gas used on the unpermitted generators on site, and the number of trips from guests of those employees that do live on site. In short, the IS/MND and the Traffic Memorandum inconsistently cite the number of employees and fail to properly quantify and account for the number of daily trips. Finally, these flaws are compounded by use of a new data category, namely the "average daily trip" which does not exist in the OPR Technical Advisory.

The IS/MND also improperly concludes, without supporting analysis or substantial evidence, that Project operations will not result in hazardous conditions or impede emergency access. The IS/MND states that agencies reviewed and approved of Project components, and that there would be no impact to emergency access. (IS/MND at p. 55.) However, this is not entirely accurate. The California Highway Patrol submitted a comment stating:

> The increase in potential commercial traffic and daily employee traffic traveling to a 3.5 million canopy feet commercial cannabis operation every day will have an impact on traffic flow on High Valley Road and when entering/ exiting State Route 20, especially in the narrow portions of the roadway. A significant increase in traffic will generate more traffic complaints and potentially more traffic collisions. I would imagine traffic congestion never experienced before by the small community of Clear Lake Oaks would occur.

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[4]/ The Project applicant's consultant that prepared the Traffic Memorandum is not identified as being a traffic engineer or other type of expert qualified to draft the report and make the conclusions therein.

[5] / As discussed above, the number of employees and daily trips varies between the IS/MND, PMP and the Traffic Memorandum.



(See Email Correspondence from Daniel Fansler included as **Attachment 9**.) This email correspondence indicates that emergency services did in fact express concerns about the safety related to the Project's transportation impacts.

In addition to the above email from the CHP officer, several other commentors have submitted comments amounting to a fair argument that the Project's transportation impacts may have a significant impact on the environment. These comments include comments from lay persons as well as experts. These include comments from Annje Dodd in **Attachment 7** and comments from neighbors noting existing traffic impacts from the Project. (See e.g. **Attachment 1** and **Attachment 4**.) Moreover, as evidence of the above points, neighbors submitted photographs of a Project vehicle dangerously stuck on the main access road, which caused both dangerous conditions, as well as blocked emergency access, in addition to several photographs of traffic on High Valley Road. These photographs are included as **Attachment 10**.

Finally, PHA Transportation Consultants prepared a "Peer Review of Sourz HVR Traffic Memorandum and Project IS/MND", dated November 11, 2021, and attached as **Attachment 11**, which concludes that the IS/MND and Traffic Memorandum did not properly analyze the Project's traffic impacts, and which determined that substantial evidence supports a fair argument that the Project may have significant traffic impacts.

For the reasons stated above, the IS/MND improperly analyzed the transportation impacts. The analysis provided was vague, not based on applicable legal authorities, and conclusory. Moreover, neighbors and other concerned parties have submitted substantial evidence supporting a fair argument that there may be, and already has been, significant transportation impacts associated with the Project.

5. The IS/MND Fails To Adequately Analyze Energy Impacts, And Substantial Evidence Supports A Fair Argument That The Project May Have Significant Energy Impacts.

The IS/MND improperly analyzes energy impacts because it fails to account for the use of Project generators to dry harvested cannabis. As discussed above, the Project Description only discusses the use of ten (10) drying sheds and one (1) refrigerated drying unit. (IS/MND at p. 11.) Additionally, the Project Description and IS/MND state that the fans required for drying will be powered by PG&E line power with two (2) backup generators to be used only in emergencies or blackouts. (*Ibid*.) The IS/MND then discusses Project energy use based partially on this background information making several conclusions summarized below:

- All power supplied to the project would be provided by Pacific Gas & Electric (PG&E).
- PG&E is above the Renewable Portfolio Standard requirement with approximately 29 percent of delivered electricity generated by renewable sources
- Gas and/or diesel fuel would be used to power two backup generators; however, these units would only be used in case of emergency and for a limited duration.
- While diesel fuel would be used to power backup generators in case of an emergency, day-to-day operations would not require the use of significant diesel resources.



- The project would comply with existing State regulations or would be directly affected by the outcomes (vehicle trips and energy consumption would be less carbon intensive due to statewide compliance with future low carbon fuel standard amendments and increasingly stringent Renewable Portfolio Standards).

(*Id*. at pp. 35-37.)

The flaw in the IS/MND is that the majority of the power, if not all, currently is provided by numerous generators. As described above, the Project applicant opted to install a number of hoop houses with generators to power fans in order to dry harvested cannabis. These generators were never discussed or analyzed in the IS/MND.

The Project applicant installed these generators after the July 22, 2021 Planning Commission hearing and after the Appellant filed the appeal, so neighboring property owners, Project opponents, interested parties, and responsible government agencies were unable to comment on the generator use during public hearings. However, subsequent to the public hearings, neighboring property owners have made several comments regarding the use of the generators. Specifically on November 2, 2021 the neighboring property owners submitted a formal complaint regarding the generators, which is included as **Attachment 12**. This complaint outlined the various impacts from the generators, including violations from the applicable air quality districts relating to unpermitted generator use. As such, the neighbors have submitted substantial evidence supporting a fair argument that there are substantial impacts associated with the use of these generators.

6. The IS/MND Fails To Adequately Analyze Noise Impacts, And Substantial Evidence Supports A Fair Argument That The Project May Have Significant Noise Impacts.

The IS/MND fails to adequately analyze Project noise impacts. In relation to noise impacts, the IS/MND states, in relevant part:

> Project operations within the dry storage and cold storage would occur indoors within structures. **No significant noise sources are predicted or planned for this use.** The sheds include emergency backup generators during power outages. Other noises associated with the sheds and storage include mechanical equipment and noise associated with the parking lot. Other noise sources would include increased vehicle traffic to the site. However, **with approximately 65 employees on site at one time and associated traffic, this represents a minimal increase in an environment that has existing agricultural noise from adjacent uses**. Additionally, a majority of the employees would remain on-site for the 22-week operational period.

(IS/MND at pp. 51-52 (emphasis added).)

The IS/MND predicates its analysis of noise impacts on the use of PG&E grid power, and also the drying of cannabis within eleven permanent structures. However, the drying of Project cannabis currently occurs in hoop houses using numerous generators to power the fans.

In addition to the noise from the generators, the Project Proponent currently has more than 65 employees on site. As is clear from the highlighted portion of the IS/MND cited above, the IS/MND bases it analysis on 65 employees maximum. Neighboring landowners have repeatedly made comments that it appears that more than 65 employees are present, and at the July 22 Planning Commission hearing, a Project proponent stated that at times more than 65 employees would be present. (See e.g. **Attachment 13** comments of Don Van Pelt.)

Numerous neighbor complaints have been submitted to the County outlining noise violations and impacts from the generator and operational noise. (See **Attachment 14**.) Complaints show that the Project noise exceeds County noise standards. (*Ibid*; see also Lake County Code 21-41.11.) These complaints, and other comments from neighboring properties show that there is substantial evidence supporting a fair argument of potential and existing noise impacts.

7. The IS/MND Fails to Adequately Analyze Land Use Impacts, And Substantial Evidence Supports A Fair Argument That The Project May Have Significant Land Use Impacts.

Under CEQA, a project may have a significant environmental impact, thus requiring the preparation of an environmental impact report, where the project conflicts "with any applicable land use plan, policy, or regulation . . . adopted for the purpose of mitigating an environmental effect." (Guidelines Appendix G, § XI, subd. (b); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 934 ["Because the land use policies at issue were adopted at least in part to avoid or mitigate environmental effects, [the court will] consider their applicability under the fair argument test with no presumption in favor of the [respondent]".)

The County Code requires all projects for which a Use Permit is required to comply with the criteria found in Article 51 of the Zoning Ordinance, and the Planning Commission must make findings that support that determination of compliance. The IS/MND contains no required land use consistency analysis, but instead asserts without reasoning or analysis that the Project would not have a significant environmental impact due to a conflict with the Article 51 of the Zoning Ordinance. (See IS/MND at p. 50.)

Community Development Department staff and the Planning Commission had an obligation to review this Project in an impartial way. There is no information, detail, facts, or analysis set forth in the staff report regarding how the establishment, maintenance, or operation of this large cannabis cultivation Project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in High Valley, detrimental to property and improvements in the neighborhood, or to the general welfare of the County, as required by Article 51. Article 51 of the Lake County Zoning Ordinance indicates that the Lake County Planning Commission may only approve or conditionally approve a Major Use Permit if all the Article 51 findings are satisfied, and without any depth of analysis, it is impossible to determine whether the article 51 findings are satisfied.

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In addition to the dearth of analysis relating to land use compatibility, numerous neighbors and members of the community have already submitted comments and provided testimony that this Project affects their safety, comfort, general welfare and property values in violation of Article 51. Examples already discussed within this document include:

- Numerous concerns about noise, dust, night lighting, and odor. (See **Attachments 1; 4 ; 12**.)
- Numerous concerns about the effect of groundwater use on neighboring properties. (See **Attachment 1,4**.)
- Numerous concerns relating to traffic, security and biological impacts. (*Ibid*.).

In addition to these concerns and comments raised prior to and during the Project's July Planning Commission hearings, nearby property owners have been submitting complaints relating to noise and odor since Project operations began. As discussed above, formal complaints definitively indicate that the Project already negatively impacts neighboring landowners. These complaints constitute substantial evidence supporting a fair argument that the Project may, and already does have, substantial land use compatibility impacts.

III. EXISTING VIOLATIONS

A. The Project Applicant Has Violated County Code And The Early Activation Permit.

Project violations to date include unpermitted illegal grading activities, the use of unpermitted hoop houses and generators, and multiple instances of activities not included in the PMP or EA Permit. These are discussed in more detail below.

1. The Project Applicant Illegally Graded In Violation Of The Early Activation Permit And County Code.

As discussed above, the Project Proponents conducted extensive grading activity on the Project site in violation of the EA Permit, the PMP, the environmental review, and the County Zoning Ordinance.

There are several different provisions of the EA Permit and the County Zoning Ordinance that prohibit grading. First, the EA Permit states that the cultivation of cannabis will be in accordance with the PMP. (EA Permit, Condition No. 1.) The Property Management Plan in turn states that there is no proposed grading for the cannabis cultivation operation. (PMP at p. 42.) Secondly, the EA Permit states: "The Early activation permit shall not allow any construction, excavation or removal of mature trees on the property. No alterations of the project site are allowed that cannot be reversed in the event that use permit UP 21-10 is denied." (EA Permit, Condition No. 18.) Finally, and most definitively, the EA Permit states: "[n]o grading is authorized. (*Id*. Condition No. 20.) Put simply, the EA Permit does not allow for grading.

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Likewise, the County Zoning Code does not allow grading pursuant to an EA Permit. The County Zoning Ordinance, in relevant part, states: "The early activation permit shall not allow any construction, grading, or removal of mature trees on the property." (Lake County Zoning Ordinance Article 27, Sec 21-27.4, see also Sec 21-27.13(at)(2)(i)(c).)

The Project Proponent obtained its EA Permit on June 7, 2021. On June 8, one day later, County staff received neighbor complaints relating to grading. County staff inspected the Project site as did CDFW staff. CDFW staff, in turn, issued a number of Notices of Violation ("NOV") related to the grading activities. These NOVs and the subsequent Lake and Streambed Alteration Agreement are described by CDFW staff which also outlined the violative grading as follows:

- Grading within 50-foot setbacks and in some cases within the watercourses
- Trenching within the bank and channel of Schindler Creek and tributaries to Schindler Creek
- Grading and deep ripping of the cultivation site up to the edge of the tributaries to Schindler Creek.

(Final Lake or Streambed Alteration Agreement, Notification No. EPIMS-LAK-21213-R2 SourzHVR.)

As is clear from the LSAA from CDFW, the Project applicant conducted widespread grading on the cultivation sites, extending into watercourses. This is obviously contrary to every submittal from the Project applicant to the County. This grading is in obvious violation of the EA Permit conditions and the County Zoning Ordinance cited above. Moreover, as a result of this illegal grading, the Project Proponent violated CDFW regulations, and had to perform even more grading to remediate. Everything considered, this egregious violation by itself should constitute grounds for revoking the EA Permit and preventing the Project Proponent from obtaining a Use Permit.

2. The Project Applicant Utilized Offsite Surface Water In Violation Of The Early Activation Permit.

The Project applicant proposed to use two wells to provide all Project water demands. However, in June 2021, the Project applicant entered into an agreement with a neighboring property owner, Brassfield Estates, to supply water for the Project site ("Brassfield Water"). The agreement for the Brassfield Water is included as **Attachment 2**.

Use of Brassfield Water for cannabis cultivation is prohibited in various ways by the EA Permit and County Code:

- The EA Permit conditions permit approval on substantial compliance with the PMP, dated March 2021. (EA Permit Condition No. 1.) In regard to groundwater use, the PMP only discusses the use of two on-site wells, and at no point discusses the use of the Brassfield Water. (See PMP at pp. 53-54.)
- The County's Cannabis Ordinance requires that the permit applicant has a legal on-site source of water. (See Lake County Zoning Code Sec. 21-27.13(at)(2)(b)(4)(iv).)
- The IS/MND at no point analyzes the use of Brassfield Water for Project components, or for Project mitigations. (See generally, IS/MND.)



3. The Project Applicant Constructed Hoop Houses And Installed Generators In Violation Of The Early Activation Permit And County Code.

The County's cannabis ordinance requires the preparation and submittal of a PMP. (County Code Sec 21-27(at) (3).) The PMP is meant to determine how the project will be managed and must demonstrate "…how the operation of the commercial cannabis cultivation site will not harm the public health, safety, and welfare or the natural environment of Lake County." (*Ibid*.) One of the required sections relates to air quality. This section states that the permittees must identify equipment or activity that may cause, or potentially cause, the issuance of air contaminants and shall identify measures to reduce the air contaminant. (*Id*. subd. (at)(3)(i)(b).) Moreover, in order to operate any "article, machine, equipment or other contrivance" which may cause the issuance of an air contaminant, the permittee must obtain an authority to construct or permit to operate the equipment from the Lake County Air Quality Management District. (*Id*. subd. (at)(3)(i)(c-e).)

Here, the Project applicant built hoop houses and added generators in September or early October. The PMP for the Project contains no discussion of either. To the extent the PMP discusses generators it states: "Additionally, energy resources would be required for drying purposes on site. Gasoline and/or diesel fuel will be used to power backup generators for use in the proposed drying sheds." (PMP at p. 15.) As is clear, the PMP only contemplated the use of generators as backup power, and only in the designated drying sheds. As such, the Project applicant deviated substantially from the PMP and is in violation of the County Zoning Ordinance and potentially the Lake County Air Quality Management District regulations. This action also violates the EA Permit, which states, in relevant part, that "the early activation for the commercial outdoor cultivation …shall be in substantial conformance with: a. Site plan, dated May 25, 2021, b. Property Management Plan, cover letter dated March 2021."

4. The Project Applicant Violated The Early Activation Permit By Utilizing Unshielded Lights.

The PMP and associated documents all indicate that Project lighting would be shielded to prevent lighting on nearby properties. (PMP at pp. 6, 15.). During Project construction and now during operation, however, several neighbors have complained that Project lighting is affecting their properties. These complaints and photographs of Project lighting are included as **Attachment 15**. These complaints and photographs illustrate the amount of Project light spilling onto neighboring properties.

This condition violates the EA Permit and County Code, as follows:

- The EA Permit conditions approval on substantial compliance with the PMP, dated March 2021. (EA Permit Condition No. 1.) The PMP states that all artificial light will be shielded from sunset to sunrise (PMP at p. 6.)
- The EA Permit states: "[a]ll outdoor lighting shall be directed downward onto the project site and not onto adjacent properties. All lighting equipment will need to comply with the recommendations of darksky.org and provisions of Section 21.48 of the Zoning Ordinance. (EA Permit Condition No. 14.)



- The County Zoning Ordinance states:

  All lights used for cannabis related permits including indoor or mixed light cultivation of cannabis shall be fully contained within structures or otherwise shielded to fully contain any light or glare involved in the cultivation process. Artificial light shall be completely shielded between sunset and sunrise. Security lighting shall be motion activated and all outdoor lighting shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the lot of record upon which they are placed.

  (Lake County Zoning Ordinance 21-27(at)(1)(iii)(e).)

As shown in the complaints and photographs included as **Attachment 15**, there have been numerous incidents, over many months, in which Project lighting has negatively impacted neighboring landowners. This is a clear violation of the EA Permit which requires shielded and downward facing lights. This is also a clear violation of the County Zoning Ordinance, which mandates that lighting is shielded during the night, and will not exceed the boundaries of the parcel on which they are placed. Taken together, these legal authorities and Project complaints clearly indicate ongoing violations at the Project.

5. The Project Applicant Violated The Early Activation Permit By Exceeding County Noise Standards.

Beginning in October, when the Project applicant installed hoop houses and generators, the Project began producing large amounts of noise. Neighboring landowners submitted several complaints regarding the noise, and these complaints and associated materials are included as **Attachment 16**.

This condition violates the EA Permit and County Code, as follows:

- The EA Permit states: "Maximum non-construction related sounds levels shall not exceed levels of 55dBA between the hours of 7:00 A.M. to 10:00 P.M and 10:00 P.M. to 7:00 A.M. within residential areas as specified within Zoning Ordinance Section 21-41.11.12 at the property lines. (EA Permit Condition No. 26.)
- The County Zoning Ordinance (cited above) generally prohibits noises exceeding 55dBA at property lines. (See Lake County Zoning Ordinance Section 21-41.11.12.)

As is clear from the various complaints included as **Attachment 16**, and the associated noise readings provided by nearby landowners, the Project consistently exceeds applicable noise standards. The Project noise also has consistently caused detrimental impacts to the neighboring landowners. This consistent noise violates the EA Permit, in addition to the County noise ordinance.

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IV. CONCLUSION

The scale of this Project and proximity to neighbors demanded that the County perform more and better analysis of its potential impacts. Instead, the County accepted a deficient analysis and post-hoc reports from the Project applicant and its consultants. The IS/MND does not meet the standards imposed by CEQA, and does not meet the standards the County has demanded of other similar projects in the County. Had the County heeded the complaints and comments from neighbors regarding the Project prior to its approval in July, the County may have been able to revise and recirculate the IS/MND. At this point, however, substantial evidence has been submitted in the record that supports a fair argument that the Project may have a significant environmental impact. The County is now required to prepare an EIR for the Project, as a matter of law.

The County is also required by law to abate Project operations until the County prepares and certifies an EIR for the Project and reapproves the Project Use Permit.

Based on the foregoing, we respectfully request that the Board take the following actions:

(1) Grant the appeal and deny the Project;

(2) Direct staff to immediately abate all current Project activities at the Project site; and

(3) Direct staff to prepare and circulate an EIR for the Project, consistent with CEQA.

* * *

If you have any questions or would like clarification with respect to this correspondence, please do not hesitate to contact me at bjohnson@everviewlaw.com.

Sincerely,



Bradley B. Johnson, Esq.
Everview Ltd.

cc: Anita Grant, Esq., County Counsel
Client

Encl.

ATTACHMENTS

ATTACHMENT NO.	DESCRIPTION
1.	Comment Letter from Lori Correia, November 16, 2021
2.	Brassfields Water Use Agreement and Correspondence
3.	Email Correspondence RE: Grading Permit UP21-10 SourzHVR
4.	Complaints and Photographs Regarding Illegal Grading and Dust
5.	Review of SourzHVR, Inc. Evaluation of Impacts to Groundwater Resources- Lake County UP 21-10 and IS 21-10, November 11, 2021
6.	Email correspondence from Don and Margie Van Pelt
7.	A. Dodd Comments Regarding Floristics and Wetland Impacts
8.	Neighbor Comments Regarding Biological Impacts
9.	Email Correspondence from Daniel Fansler, CHP
10.	Neighbor Photographs of Unsafe Traffic Conditions
11.	PHA Transportation Consultants, "Peer Review of Sourz HVR Traffic Memorandum and Project IS/MND", dated November 11, 2021
12.	Neighbor Complaints Regarding Generator Use
13.	Comments from Don Van Pelt
14.	Neighbor Complaints Regarding Noise
15.	Neighbor Complaints and Photographs Regarding Light
16.	Additional Neighbor Complaints Regarding Noise
17.	Biological Resources – Sourz HVR, Inc., Lake County UP 21-10 and IS 21-10, November 15, 2021

ATTACHMENT 1

To Appeal (AB 21-04) of Early Activation/Major Use Permit (EA/UP 21-10) and Initial Study (IS 21-10), Dated November 15, 2021

November 16, 2021

Lake County Board of Supervisors
Lake County Courthouse
255 North Forbes St.
Lakeport, CA 95453

Dear Supervisors,

I am writing this to express health and other concerns with the Sourz HVR project and how our lives have been affected since this project began in May. We live less than a half mile to the east of the Sourz HVR property.

Dust...

Both my son and I have asthma which has been under great control for the past years, only requiring an in-hailer once in a while, however beginning this past May that changed due to the dust created by Sourz, they began grading on May 13 and from that day forward my son and I had to constantly depend on our in-hailers to breath. Even requiring medical assistant and breathing treatments. They were grading nonstop, 24 hours a day, 7 days a week. When the weather began to warm up it was even worse. It was hot in my house, at times well over a hundred. We could not have our windows open or use our cooler as it brought in dust from the outside, even making it even harder to breath. We could not be outside. I mentioned this to Sourz a few times, but they explained that they were on a time frame and simply apologized and told me that it would be like this for several more weeks. This became unbearable and I sent Sourz a request to at least stop at night so we could have some fresh air to breath, open the doors and turn on the coolers. They stated that they would change the times but they continued the 24 hours. Please research asthma and dust, as it can lead to severe asthmas attacks as well as severe anxiety from the struggle to breath. **It can also take months for asthmatics lungs to heal from breathing the dust.** This can become life threatening.

Bright lights...

On June 4th the project started to use bright lights that lit up my yard and house creating a situation that was hard to sleep through. Once again, I sent a message to Sourz explaining the issue and asking to please stop with the lights. My first few messages were ignored and we continued to have sleepiness nights due to the dust, unable to use the cooler and now the lights lighting up the house. I again reached out and shared my complaints with Sourzs, this time they responded, apologized, and changed the times of the lights. Stating that it was way too hot for the workers to plant in the day. In August the lights were back, causing my place to once again be lit up.

Holidays...

In July, we were having a planned get together at my place with family and friends to celebrate the Fourth of July, we had to cancel due to the dust and health issues. We normally have barbeques all through the spring and summer with friends and family, however this year due to the dust we could not use our outdoor areas.

Animals...
We have lots of animals here and we were left treating our animals for health issues as well due to the continuing dust. Respiratory issues.

Loud fans...
Next came the fans from Sourz, these fans sound louder than a jet engine. It sounds like we are living at an airport. They began using them nightly in October, and then during the day as well. I asked Sourz about them and was finally told that we would have to deal with them for a while longer. We could not sleep due to the loudness of the fans, and I finally had to go to the doctor and get a prescription for sleeping pills.

Music...
They play music a lot of the time, so loud in the day that it feels as if we are at a concert. At times they play this at night well in the am hours. We have complained several times. However, they usually do not respond for a few days thus forcing us to listen to it whenever they play it.

Wind direction...
The wind in this valley generally blows from west to east and we live directly east of this project. We get the blunt of this project. The dust they create blows our direction, generally filling the entire valley with dust. We can hear them when they are talking, driving around, playing the loud music, the machines beeping, the fans and all of their nightly activities and traffic.

I wish I could give you a week in our lives so you can see how bad it is. This project has truly affected our health, comfort, and general welfare. To watch your child struggle to breath is a nightmare and when you yourself fight to breath, it is a very scary.

We should be free from these health hazards and not be forced too just accept them.

The County has a responsibility to protect existing property owners from these types of detrimental impacts caused by proposed land development projects, the Board needs to fulfill its obligations and deny this project.

Lori Correia

12240 High Valley Road
Clearlake Oaks, California 95423
APN 006-011-29

ATTACHMENT 2

To Appeal (AB 21-04) of Early Activation/Major Use Permit (EA/UP 21-10) and Initial Study (IS 21-10), Dated November 15, 2021

Water Purchase Agreement

Associated Parties and Properties:

- High Valley Ridge, LLC, owner of Reservoir and associated water rights located at 11700 Warrens Way in Clearlake Oaks, CA
- High Valley Ridge, LLC, owner of vacant land located at 11315 High Valley Road in Clearlake Oaks, CA over which a temporary pipeline has been installed
- Aviona LLC, owner of agricultural land located at 11650 High Valley Road that cultivates sunflowers, assorted vegetable crops, and livestock grazing

General Understanding of Water Purchase Agreement:

- Aviona LLC wishes to purchase water from High Valley Ridge, LLC.
- Subject to the regulations of the State of California concerning the appropriation and taking of water, Aviona has agreed to buy and High Valley Ridge has agreed to sell water for use on 11650 High Valley Road to irrigate crops, water livestock, or use in any legal capacity they see fit, the water on the Property located at 11700 Warrens Way and to lay and maintain all necessary water lines as may be required in its operations.

  Aviona may not interfere with any existing water right owned or operated by any person. Aviona shall hold High Valley Ridge, LLC and its Members harmless against all claims, including attorney fees, for damages claimed by any person asserting interference with a water right.

Length of Water purchase agreement:

- The selling party, High Valley Ridge, LLC , in conjunction with Aviona LLC, has rented the pipe that is used to deliver the water from the aforementioned reservoir located at 11700 Warrens Way, across the land located at 11315 High Valley Road, to the site at 11650 High Valley Road for a duration of six months beginning June 1st 2021. The term of the water purchase agreement should be until the end of the 2021 growing season. It should not extend into 2022 without both parties agreeing to an extension of this agreement.



High Valley Ridge LLC, Simon Whetzel



Aviona LLC, Managing Member

Elli Hagoel

Katherine Schaefers

From: Stoneman, Brad <Brad.Stoneman@kimley-horn.com>
Sent: Friday, September 10, 2021 12:40 PM
To: Katherine Schaefers
Cc: Tom Armstrong; elli hagoel
Subject: [EXTERNAL] CEQA discussion on Waterline, Brassfield, and sunflowers.
Attachments: RE- Revised Brassfield Write-up (09 -10 - 2021) Final docx.docx

Hi Katherine,

Please find the attached write-up on the CEQA analysis for the waterline, Brassfield, and sunflowers.

Based on all the information, the waterline and use of sunflowers constitute a temporary and very minor change. According to the CEQA guidelines this does not require subsequent documentation.

There is obviously more detail in the write-up and I will be happy to discuss.

Please let me know if you have any questions.

Thank you!

Brad

Brad Stoneman
Kimley-Horn | 555 Capitol Mall, Suite 300 **|** Sacramento, CA 95814
Direct: 916.571.1029 www.kimley-horn.com **|** Main: 916.858.5800

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Waterline from Brassfield and inclusion in CEQA analysis:

This write-up is to address the concern that utilizing the waterline from Brassfield results in a substantial change to the complexion of the proposed project. To summarize the following discussion – it does not. The overall cultivation area as previously disclosed in the project description for the Sourz High Valley Ranch ("proposed project") and evaluated in the Initial Study/Mitigated Negative Declaration (IS/MND) and the approximately 80 acres upon which it would occur, has not changed. As discussed below, although a minor modification has occurred, Sourz HVR ("applicant") ultimately maintains plans to cultivate cannabis on 80 acres as previously proposed and as was previously approved by the Lake County Planning Commission.

As noted in previous discussion and correspondence, the applicant, through a County approved ministerial process, extended a temporary above ground waterline from the Brassfield property to the south. The waterline was intended to, and only has been used to water sunflowers and to water livestock. It is important to note, this was undertaken as part of a separate use and by a separate entity, Aviona LLC,.

Further, it should be noted, this idea was originally volunteered by the applicant at the second Planning Commission hearing. The applicant volunteered to temporarily modify the composition of the plants within this portion of the overall cultivation area for a myriad of reasons including in response to neighbor concerns related to proximity to neighbors, odor and visual elements. Although odor and aesthetic impacts were previously found to be less than significant, and setbacks more than adhered to, the applicant volunteered this change to the planting plan to further minimize effects for this growing season.

Regarding the current use of the waterline, the waterline is currently routed to a filtration station and directed to the sunflower area; an area within the HVR property where cannabis cultivation is not occurring this year. While this is part of the area that is within the original cultivation footprint, the sunflowers are being grown in an area that was voluntarily set aside by the applicant during the Planning Commission hearing.

Again, this voluntary and temporary change includes planting of sunflowers in a garden area that is approved for cannabis. The sunflowers are being grown this year in said garden area as opposed to cannabis. This 10-acre area is the only area where water from the Brassfield waterline is being used and will be used to water. No water from Brassfield is currently being used or is planned to be used for cannabis cultivation. The applicant will only use previously identified water sources from existing wells on-site in support of the cultivation of cannabis. All areas where cannabis is being cultivated were discussed and disclosed as required in the IS/MND.

While the applicant agrees these are changes to the project – these changes are considered extremely minor. Regarding minor changes to a project and the potential need to recirculation of a California Environmental Quality Act (CEQA) Document. Pursuant to Section 15073.5(c)(2) of the State CEQA Guidelines, recirculation of a IS/MND document is **not required** if, "New project revisions are added in response to written or verbal comments on the project's effects identified in the proposed negative declaration which are not new avoidable significant effects." Simply stated, the changes were made in response to public comment and do not result in any additional significant effects.

To further explain this aspect of CEQA, Section 15162 of the State CEQA Guidelines discusses the need to prepare a subsequent CEQA document. Based on this Section, such a document would typically be required when project changes or changes in the circumstances of a project involve new significant environmental effects that were not identified in the previous EIR or Negative Declaration, or that would result in a substantial increase in the severity of previously identified significant effect.

None of these conditions exist as a result of use of the Brassfield waterline or planting of sunflowers.

First, the waterline was taken as a temporary measure and was constructed above ground as allowed by the Ministerial permit issued by the County for the listed use. The need for this work was unknown during earlier planning processed and was undertaken after circulation of the Initial Study/Mitigated Negative Declaration (IS/MND). Hence discussion in the IS/MND was not possible, and as it was unknown at the time and hence could not be included at that time. It is important to reiterate, that this is a temporary use and the waterline will removed in November or December of this year. There are no plans to make the waterline permanent. This highlights the fact that the waterline was not undertaken or contemplated for use or support of cannabis cultivation.

Regarding the potential for increased environmental effects, the voluntary and temporary changes will not result in any new, more severe, or additional significant impacts. As discussed, the waterline is above ground and as such, the area that would experience ground disturbance is extremely small. Regarding water use, because of the sunflower planting densities, the actual volume of water use for the area planted has been reduced. It should be noted this condition will persist through the end of the year further compounding this benefit and further reducing water consumption.

In sum, changes to projects during the approval process such as this, are allowed and can occur in response to public concern or comment. It is further important to note, that these changes often do not trigger any recirculation issues, do not require the addition of mitigation, and are themselves not considered mitigation. In this regard, as discussed above, this is a minor temporary change to the constituency of the planting plan and is not a mitigation measure.

Thus, in the case of the project, the IS/MND still satisfies the informational and disclosure requirements of CEQA because the project modification will not result in any new significant impacts or substantially more severe impacts as compared to those identified in previously circulated documents. The proposed project will temporarily change the proportion of planted cannabis in proportion to the entire site, but it will retain the same overall area that will eventually be used for cultivation. Thus, all the prior analysis is valid and there are no new impacts not previously disclosed.

ATTACHMENT 3

To Appeal (AB 21-04) of Early Activation/Major Use Permit (EA/UP 21-10) and Initial Study (IS 21-10), Dated November 15, 2021

From: **Tom Armstrong** tom@sourzfarms.com
Subject: [EXTERNAL] Re: Grading permit UP21-10 SourzHVR
Date: May 3, 2021 at 8:53 AM
To: Tracy Cline Tracy.Cline@lakecountyca.gov
Cc: Katherine Schaefers Katherine.Schaefers@lakecountyca.gov

TA

Tracy,

Thanks for getting back to me. Great, sounds good. I'll look out for an email regarding scheduling the phone call.

Best,
Tom

From: Tracy Cline <Tracy.Cline@lakecountyca.gov>
Sent: Monday, May 3, 2021 8:44 AM
To: Tom Armstrong <tom@sourzfarms.com>
Cc: Katherine Schaefers <Katherine.Schaefers@lakecountyca.gov>
Subject: RE: Grading permit UP21-10 SourzHVR

Good morning Tom,

Thank you for the questionnaire. I will review it this morning and we can schedule a time to discuss via the phone. But, to address the ag exempt grading question… ag exempt grading is typically only for existing ag operations that have already been through the full CEQA analysis and impacts have already been disclosed. For instance, annual tilling would be covered under the Ag Exempt grading permit. Ag Exempt activities still require a review and permitting.

Tracy

Tracy Cline
Assistant Resource Planner II
Department of Community Development
255 N. Forbes St.
Lakeport, CA 95453
Phone: (707) 263-2221 x 37119
Fax: (707) 262-2225
Email:Tracy.Cline@lakecountyca.gov
STAY CONNECTED:

From: Tom Armstrong [mailto:tom@sourzfarms.com]
Sent: Monday, May 3, 2021 8:23 AM
To: Tracy Cline <Tracy.Cline@lakecountyca.gov>
Cc: Katherine Schaefers <Katherine.Schaefers@lakecountyca.gov>
Subject: [EXTERNAL] Re: Grading permit UP21-10 SourzHVR

Good Morning Tracy,

Attached is the Grading questionnaire completed for the site at 11650 High Valley

Attached is the Grading questionnaire completed for the site at 11650 High Valley Rd in Clearlake oaks. This is in regards to Cannabis UP21-10 SourzHVR Inc.

I do see mention of a Ag specific grading questionnaire however I do not see it on the Lake County website nor was anyone from reception able to point me in that direction. I am hoping this will suffice. Please advise if there is another ag specific questionnaire that I may be missing.

Look forward to hearing from you soon.

Thanks!
Tom

From: Tom Armstrong <tom@sourzfarms.com>
Sent: Monday, April 26, 2021 2:32 PM
To: tracy.cline@lakecountyca.gov <tracy.cline@lakecountyca.gov>
Cc: Katherine Schaefers <Katherine.Schaefers@lakecountyca.gov>
Subject: Re: Grading permit UP21-10 SourzHVR

Good afternoon Tracy,

I wanted to follow up on the aforementioned email. Is there sometime we can arrange to discuss this project and the necessary grading permit?

Look forward to hearing from you soon!

Best,
Tom

Get Outlook for iOS

From: Tom Armstrong
Sent: Thursday, April 22, 2021 5:00:07 PM
To: tracy.cline@lakecountyca.gov <tracy.cline@lakecountyca.gov>
Cc: Katherine Schaefers <Katherine.Schaefers@lakecountyca.gov>
Subject: Grading permit UP21-10 SourzHVR

Good Afternoon Tracy,

I am reaching out to you regarding a grading permit for a cannabis cultivation use permit, UP21-10 SourzHVR. We are doing outdoor cultivation and are proposing erecting 11 - 10,000 sq ft buildings on already flat land. It is my understanding that we need to apply for a grading permit. If you could give me some direction on how to proceed at this juncture that would be greatly appreciated.

Thank you in advance for your support on this matter!

Best,
Tom Armstrong

Tom Armstrong

ATTACHMENT 4

To Appeal (AB 21-04) of Early Activation/Major Use Permit (EA/UP 21-10) and Initial Study (IS 21-10), Dated November 15, 2021

Katherine Schaefers

From: Candace Ponds <cponds10@yahoo.com>
Sent: Saturday, August 7, 2021 5:44 PM
To: Bruno Sabatier; Katherine Schaefers; Tina Scott; Jessica Pyska; Moke Simon; Eddie Crandell
Subject: [EXTERNAL] Sourzhvr High valley clearlake oaks (for the appeal)

SOURZHVR

Hello Board, I just wanted to send you my thought in regards to sourzhvr

This project is detrimental to the health, safety, morals, comfort and general welfare of property owners in High Valley.

JSTOR Daily Journal reports that growing cannabis plants emit volatile organic compounds that contribute to ground level ozone, or smog which is dangerous for humans to breath.

Classified by the state as an "agricultural" crop, cannabis can be grown and processed in Lake County on lots surrounded by rural residential properties -- with many undesirable but not really unexpected effects. Our neighborhood's core concern is not the legalization of recreational marijuana, but rather the permitted size and proximity to residential neighborhoods of large-scale grows and processing facilities.

Traffic and noise: We have experienced a huge increase in traffic, notably heavy vehicle traffic. Many residents have abandoned their daily walks, bicycle, horseback riding on this once-safe street. The facility emits a constant rattle of machines as wells as commercial-scale diesel generators running all day and night, every day. We have been stuck on the road many times due to their semi trucks stuck on the road.

The stench: We will experienced an incredible olfactory assault that shocks even those among us who have lived amid smaller-scale marijuana grows in northern California.

For months, the intense, skunk-like, eye-watering stench will prevent us from opening our windows and doors or turning on our coolers to cool our houses on summer nights, raising nighttime temperatures to unhealthy levels and causing sleep deprivation and anxiety.

Involuntary exposure to the concentrated chemicals emitted by the cannabis operations can trigger severe headaches, asthma episodes and other respiratory problems. We are greatly concerned about the effects of such chemicals on infants, children and people with weakened immune systems -- and, frankly, on all of us; we feel like subjects in an ill-conceived experiment on the downwind effects of large-scale marijuana operation.

For months, the stench will force us to involuntarily limit our outdoor time, for both work (in gardens and orchards, with animals, on various outdoor projects) and play (patios, porches, outdoor dinners, swimming pools, etc.). We have already been stuck in our houses since the end of may due to the dust from them grading ect.

Water: Cannabis requires irrigation water. State law prohibits pumping groundwater for irrigating recreational marijuana unless the property has irrigation water rights. Nevertheless, groundwater gets pumped for large-scale marijuana irrigation without such water rights, drawing down the local water table and affecting water levels in surrounding wells. The valley residents wells are all ready being affected.

Physical safety: Cannabis may be classified as an agricultural crop, but the security concerns attached to it produce a cartel-like atmosphere with drones, security cameras and guards patrolling the valley. What the heck is this kind of facility doing in this area? Have the employees had their background checks yet? How can we find out? We no longer feel safe.

Intimidation: In addition to these impacts, which are likely to experience intimidation by neighbors of any large-scale marijuana operation, our neighborhood might be subject to intimidation, threatened violence, profanity and arrogant bullying.

While this may not be typical of large-scale marijuana operations, the current Wild West-like atmosphere of light state and local regulation and insufficient staffing in regulatory agencies invites exploitation by greedy opportunists.

Our neighborhood's cannabis presence has forced itself to the forefront of our everyday lives and introduced a persistent fear for our health, sanity and physical safety. Many neighbors are so distraught and intimidated that they are planning to move away, leaving behind invested time and resources, memories and plans, and their attachment to a place -- to their homes -- with the dimly perceived goal of somehow starting all over in a place like our street used to be.

Several actions could be taken at the county and state levels to limit the impacts of large-scale cannabis operations on adjacent neighborhoods.

Significantly reduce the permitted size of individual grows near residences.

Limit large-scale operations to sites distant from residences.

Significantly increase the required setback from property lines.

Reclassify cannabis as something other than an "agricultural" crop.

Enforce the water laws.

We believe that such measures could help protect residential neighborhoods from the impacts we've described, would minimize local water-supply issues arising from surreptitious pumping of groundwater especially in a historic drought, and would slow the influx of exploitative industrial-scale operations.

The county allowed this project to go beyond the scope of the EA permit and grade, disc, destroy the creek beds, force the animals to leave, destroy the artifacts, cause dust in which the valley residents suffered among other violations. The county did nothing even after receiving many complaints. We called when they had dozers going through the creek beds and you did nothing, we called about the dust and again you did nothing. The list goes on. How can we have any trust in this department or the applicant? We don't, and believe that you will allow them to do whatever they want. There are so many animals that called that place home and yet you think its ok to have fish and game and other departments out long after they destroyed the area to do a study. They graded right over their nest and everything. That land

was never graded, irrigated, or planted, it had cows and horses grazing the pastures for over the last 40 years. The lady Randy who spoke at the meeting on July 8th was in on the sale had her son disc the land to aid in the sale of the property. Prior to that it had only ever been mowed. This is not ok and should be stopped for what they have done. How in the heck is it ok to pump water from a neighboring property (Brassfield Winery) to Sourzhvr to water their pot? Where is that in their staff report? Why is that ok?

They have broken the rules already, they are impacting the health and safety of the neighbors while breaking the rules, people are running out of water and we are in a historical drought.
We deserve a better life than this, you should be protecting our environment, health, and our safety. Are any of you going to ensure that SOURZHVR follows their permit and who will ensure that you follow up on SOURZHVR? The currently run huge lights all night long, is this ok? our houses are lit up like xmas trees. Since sourzhvr is ok with breaking the rules and simply just paying fines then its up to you to put a stop to it and deny their permit. They have proven to you that the cant be trusted to follow the rules and if you allow this you are saying its ok to break the rules. Please step up and protect the valley residents, we deserve better.

The planning commission has the right to deny this project and should.

51.4 Findings required for approval:

(a) The Review Authority may only approve or conditionally approve a major use permit if all of the following findings are made:

1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or be detrimental to property and improvements in the neighborhood or the general welfare of the County.
This is detrimental to the health, safety, morals, comfort and general welfare of every single resident in this valley. It puts us all as risk.

2. That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the type of use and level of development proposed.

3. That the streets, highways and pedestrian facilities are reasonably adequate to safely accommodate the specific proposed use.

Thank you























ATTACHMENT 5

To Appeal (AB 21-04) of Early Activation/Major Use Permit (EA/UP 21-10) and Initial Study (IS 21-10), Dated November 15, 2021

NORTHPOINT
CONSULTING GROUP, INC.



MEMORANDUM

To: Brad Johnson, Esq., Everview Ltd.

From: Annjanette Dodd, PhD, PE

Date: November 11, 2021

Subject: Review of Sourz HVR, Inc. Evaluation of Impacts to Groundwater Resources – Lake County UP 21-10 and IS 21-10

INTRODUCTION AND PURPOSE

An Administrative Draft Initial Study (IS) was prepared for High Valley Ranch Use Permit UP 21-10 in May 2021 (the Project) and adopted as a Mitigated Negative Declaration (MND) by the Lake County Planning Commission on July 22, 2021 along with certain Mitigation Measures and Conditions of Approval. The IS/MND did not identify the Project's impacts to groundwater resources in the Hydrology and Water Quality (IS/MND Section X) or Utilities and Service Systems (IS/MND Section XIX) sections as "Potentially Significant Impacts". The IS/MND imposed no mitigation measures on the Project's use of groundwater.

The IS/MND's conclusion that the Project's impacts to groundwater resources would be less than significant is unsupported by substantial evidence. Further, substantial evidence indicates that the Project may have a significant impact on groundwater resources.

REVIEW OF SELECTED SIGNIFICANCE CRITERIA

The IS/MND evaluates the Project's potential impacts to groundwater resources in sections - Hydrology and Water Quality (IS/MND Section X) and Utilities and Service Systems (IS/MND Section XIX). The memorandum addresses each in turn.

1. Section X Hydrology and Water Quality Significance Criterion X(b).

Subsection X(b) addresses the following question: "Would the project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?"

A Hydrology Technical Memorandum (TM), dated February 5, 2021, was prepared for the Project and was the basis for the analysis provided in the IS/MND. According to the TM, the Project would be served by an existing well (Well #4 southeast corner of site) and a new, proposed well. The TM states that Well #4 has a yield of 200 gallons per minute (gpm) and that a well test was conducted to confirm the yield. The TM identifies five additional, existing wells, that are no longer functional and that would need to be replaced. The Project also proposes total irrigation storage of 50,000 gallons of water.

The Project proposes an irrigation system requiring 24 gpm per acre of cannabis irrigated 6 hours per day (8,640 gallons per day per acre), 3 times per week (25,920 gallons per week per acre) for 22 weeks. This equates to a demand of 48,470,400 gallons (148.8 acre-feet) over a 22-week cultivation season.[1] Irrigation would occur in three, 6-hour sets using up to 680 gpm per set. At this rate, it would take 18 hours to supply the water needed to irrigate 85 acres of cannabis. The TM includes employee water demand of 500 gallons per day or 2.26 acre-feet per season. Without additional wells and storage and at a constant rate of 200 gpm, Well #4 could supply only 216,000 gallons in 18 hours which could irrigate up to 25 acres at 8,640 gallons per acre.

Section X(b) of the IS/MND summarizes the Project's demand and provides the following statements to justify that the Project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the Project may impede sustainable groundwater management of the basin:

- The proposed project would comply with all the requirements of the Model Water Efficient Landscape Ordinance,
- Cultivation area would remain permeable and would not reduce groundwater recharge on the site,
- A well draw-down test was completed suggesting the well on the southern end of the project area has sufficient yield,
- The well permit for the new well has been issued,
- The project would not alter a stream or river, nor would it substantially increase the amount of runoff that would result in flooding, and
- There are no above ground water sources near the site.

Notably, none of these factors relates to the pertinent question, i.e., "will the Project's use of groundwater decrease overall groundwater supplies or interfere substantially with groundwater recharge"? To answer this question, analysis of the relevant groundwater basin, groundwater supply capacity, total groundwater basin demand, and cumulative impacts are necessary. The IS/MND contains no analysis of any of these factors.

Following preparation and circulation of the IS/MND, the Project was brought forward at the July 8, 2021 Lake County Planning Commission (Commission). During this meeting the Commission requested that the Project proponent provide additional information regarding water hydrology and the Commission continued review of the Project to the July 22, 2021 Commission meeting. In response to this, the TM was revised on July 14, 2021 to include additional information regarding the localized hydrogeology and existing and future water use demands based on the 2006 *Lake County Groundwater Management Plan*, the 2021 *California's Groundwater Update 2020, Bulletin 118* (Bulletin 118), and the 2016 *Groundwater Availability Study* prepared by EBA Engineering prepared for the Brassfield Estates Winery (EBA GAS).

[1] Table 1 of the TM provides an annual irrigation demand of 351.6 acre-feet, which would be the approximate groundwater usage for year-round cultivation at the Project. However, the IS/MND only analyzes cultivation activities for 22 weeks annually.

The Revised TM states that a new, 8-inch diameter well (Well #7) was installed approximately 50 feet west of existing Well #4 at a depth of 292 feet below ground surface (bgs). No yield was provided for Well #7.

The source groundwater basin for the Project is the High Valley Groundwater Basin (Basin). The Basin has two principal water-bearing units, the Quaternary alluvium and the Holocene volcanics aquifers. According to the Lake County Groundwater Management Plan and Bulletin 118, the Quaternary alluvium consists of up to 100 feet of fine-grained lake deposits and is a good water producing unit. The Holocene volcanics underlie the fined grained alluvium and likely originated from the vicinity of Round Mountain located to the east. These volcanics, which also dammed the ancestral valley, were later buried in the central portion of the valley by fine-grained alluvium reducing potential recharge on the valley floor. The volcanics were initially a productive aquifer; however, it has been noted that well yields in this unit have reduced over time. Recharge is likely reduced by the fine-grained alluvium preventing infiltration to the volcanics. In 1960, the California Department of Water Resources (DWR) estimated the storage capacity of the Basin to be 9,000 acre-feet for a saturated depth interval of 10 to 100 feet and the usable storage capacity was estimated to be 900 acre-feet.

The EBA GAS was prepared to determine whether there are adequate existing and future groundwater supplies to accommodate the proposed development of an additional 130 acres of vineyards. The Sourz HVR project is within the same study area as the EBA GAS. The EBA GAS estimated the combined storage capacity of the Quaternary alluvium and Holocene volcanics to be 27,799 acre-feet, the High Valley groundwater demand to be 378.70 acre-feet (not including the SourzHVR Project), and the average annual recharge (over a recharge area of 1,973 acres) to be 2,425 acre-feet.

Discussion: The EBA GAS storage capacity estimate of 27,299 acre-feet is more than three times the 9,000 acre-feet estimate provided by DWR. The EBA GAS estimate assumes the entire extent of the Quaternary alluvium unit, 1,973 acres, is the storage area for both the Quaternary alluvium and Holocene volcanics aquifers. While this area is likely reasonable for the Quaternary alluvium, it is likely an overestimate of the area for the Holocene volcanics. These volcanics were derived from the east and it is unknown how far they extend into the valley. In addition, there is significant variability in yield within the volcanic unit, indicating "pocket" aquifers. Thus, the storage capacity estimate in the confined volcanic unit is likely high. The average annual recharge estimation method and amount provided in the EBA GAS is likely reasonable. The groundwater demand in the Basin, including the Project, is 529.8 acre-feet. This represents approximately 22% of the average annual recharge of 2,425 acre-feet. Based on the information provided in the EBA GAS, it appears there is sufficient recharge during an average year to support the Project.

However, these data are gross estimates, and do not reflect the concept of *usable storage capacity*. Bulletin 118 defines *usable storage capacity* as the amount of groundwater of suitable quality that can be economically withdrawn from storage. A groundwater basin's useable storage capacity may be only a fraction of its total gross storage capacity (for example, DWRs estimate of the usable storage capacity is 10% of overall storage capacity). This is important because, as more groundwater is extracted, groundwater levels may fall below some existing wells, which may then require replacement or deepening. Other impacts that should be evaluated include the potential for subsidence and groundwater quality degradation. This is key to evaluating potential impacts, especially due to the confined nature and size of High Valley as well as the fact that multiple existing onsite wells are in poor condition and need to

be abandoned. Also, wells in the valley, within the Holocene volcanic unit, have been seen to decrease in capacity over time. This could be because the confined volcanic unit takes much longer to recharge compared to the alluvium unit. The TM and Revised TM identified numerous wells on the Project site that are no longer functional and other wells in the High Valley Groundwater Basin have seen decreased capacity. These are indicators that the Basin's storage capacity is less than estimated in the EBA GAS. No discussion was provided on usable storage capacity. Thus, the Revised TM contains no analysis of the Project's impacts on usable storage capacity of the Basin and the potential impact to neighboring wells.

There is no discussion in the IS/MND or the Revised TM of the measures the Project applicant would take in the event well production declines and/or if well production from drilling the additional well(s) turns out to be insufficient. At the time of the IS/MND, there was only one well, Well #4, with a yield of 200 gpm. This yield is only sufficient to irrigate approximately 25 acres of cannabis. The Well Driller's Report for Well #4, which was not provided or discussed in the IS/MND, TM, or the Revised TM, shows that the well was drilled in 1958, at a depth of 115 feet bgs into dark volcanic rock, thus, the well is likely drawing water from the Holocene volcanic unit. The Revised TM makes mention of new Well #7 but provides no information regarding the production capacity of this well.

A strong indicator that the Project does not have sufficient groundwater supplies from either Well #4, Well #7, or both, is that the Project applicant has entered into a Water Purchase Agreement to obtain water from an offsite source and pipe it to the cultivation areas. This offsite source, located approximately 0.85 miles south of the center of the project site, is a 7-acre water storage reservoir that is filled using water pumped from existing groundwater wells. In an email to Katherine Schaefers of the Lake County Community Development Department, dated September 10, 2021, the applicant's representative, Brad Stoneman, provided an attachment discussing the waterline and inclusion in the CEQA analysis. The attachment states:

> "*Regarding the current use of the waterline, the waterline is currently routed to a filtration station and directed to the sunflower area; an area within the HVR property where cannabis cultivation is not occurring this year. While this is part of the area that is within the original cultivation footprint, the sunflowers are being grown in an area that was voluntarily set aside by the applicant during the (second) Planning Commission hearing.*
>
> *Again, this voluntary and temporary change includes planting of sunflowers in a garden area that is approved for cannabis. The sunflowers are being grown this year in said garden area as opposed to cannabis. This 10-acre area is the only area where water from the Brassfield waterline is being used and will be used to water. No water from Brassfield is currently being used or is planned to be used for cannabis cultivation. The applicant will only use previously identified water sources from existing wells on-site in support of the cultivation of cannabis. All areas where cannabis is being cultivated were discussed and disclosed as required in the IS/MND.* "

The discussion in the attachment continues to explain that these changes to the project are extremely minor, they are voluntary and temporary changes, they would not result in new, more severe, or additional significant impacts. The discussion in the attachment concludes that the IS/MND (as written and approved) satisfies the disclosure requirements and that all the prior analysis that was conducted remains valid and there are no new impacts not previously disclosed. However, in their argument, there

is no discussion on the amount of water 10-acres of sunflowers require. There is also no discussion of the water source and the impacts using water from this source would have on the surrounding area. Additionally, video documentation taken prior to the second Planning Commission Meeting shows that this water system was in place prior to the meeting, indicating the intended use was to augment onsite groundwater.

This waterline, which is not described in the Project Description nor analyzed in the IS/MND, raises the obvious question of why additional water was needed to irrigate sunflowers, which are a drought-tolerant crop, if ample water was in fact available for the Project from either or both of the identified groundwater wells. This waterline also begs the question of why the Project applicant would go to the expense of executing a Water Purchase Agreement and installing a pipeline for the temporary cultivation of 10-acres of sunflower, which is not a particularly high-value crop. These facts do not square with the analysis of the IS/MND, and strongly indicate that the Project site lacks sufficient water supplies. Further, there is no indication that the waterline will be removed prior to the Project applicant's cultivation of cannabis in that 10-acre area.

Also not discussed in the IS/MND, TM, or the Revised TM, is that Well #4 is a California Statewide Groundwater Monitoring (CASGEM) Program monitoring well (CASGEM Well ID #35927) that has been used to track and monitor seasonal and long-term groundwater elevation trends in the High Valley Groundwater Basin since 1961. Groundwater elevations in the well have been recorded almost every March and October since 1961. CASGEM identifies the monitoring entity as the Lake County Watershed Protection District. Although the general trend in groundwater depth, in feet bgs, appears to have been increasing since the well was drilled, it has been trending downward over the last 10 to 20 years (Figure 1 through Figure 3). This data, accordingly, contrasts with the data provided in the EBA GAS that seems to suggest the Basin has ample storage and recharge capacity.[2]

In summary:

- The data cited in the TM and IS/MND to support the "no significant impact" conclusions is not relevant to the analysis of Project impacts to groundwater resources under IS/MND Section X(b), and does not constitute substantial evidence supporting the IS/MND's conclusions in that section.
- The additional data provided in the Revised TM, including the EBA GAS, suggests that the High Valley Groundwater Basin may have adequate groundwater resources to support the Project, however, competing data, including the poor functionality of wells on the Project site, CASGEM data, and data from surrounding wells, indicates that the useable groundwater capacity of the Basin is far less than indicated in the EBA GAS, and is decreasing rather than increasing. These factors all constitute substantial evidence indicating that the Project may have a significant impact on groundwater resources.
- The IS/MND contains no analysis whatsoever of the Project's cumulative impacts to groundwater resources when taking into consideration current and reasonably foreseeable future projects in the High Valley Groundwater Basin.

[2] We note that no water level measurements were provided in the CASGEM database for October 2020 or October 2021. Will this well continue to be a part of the CASGEM Program? If not, this would result in a data gap in seasonal monitoring of groundwater in the High Valley Groundwater Basin.

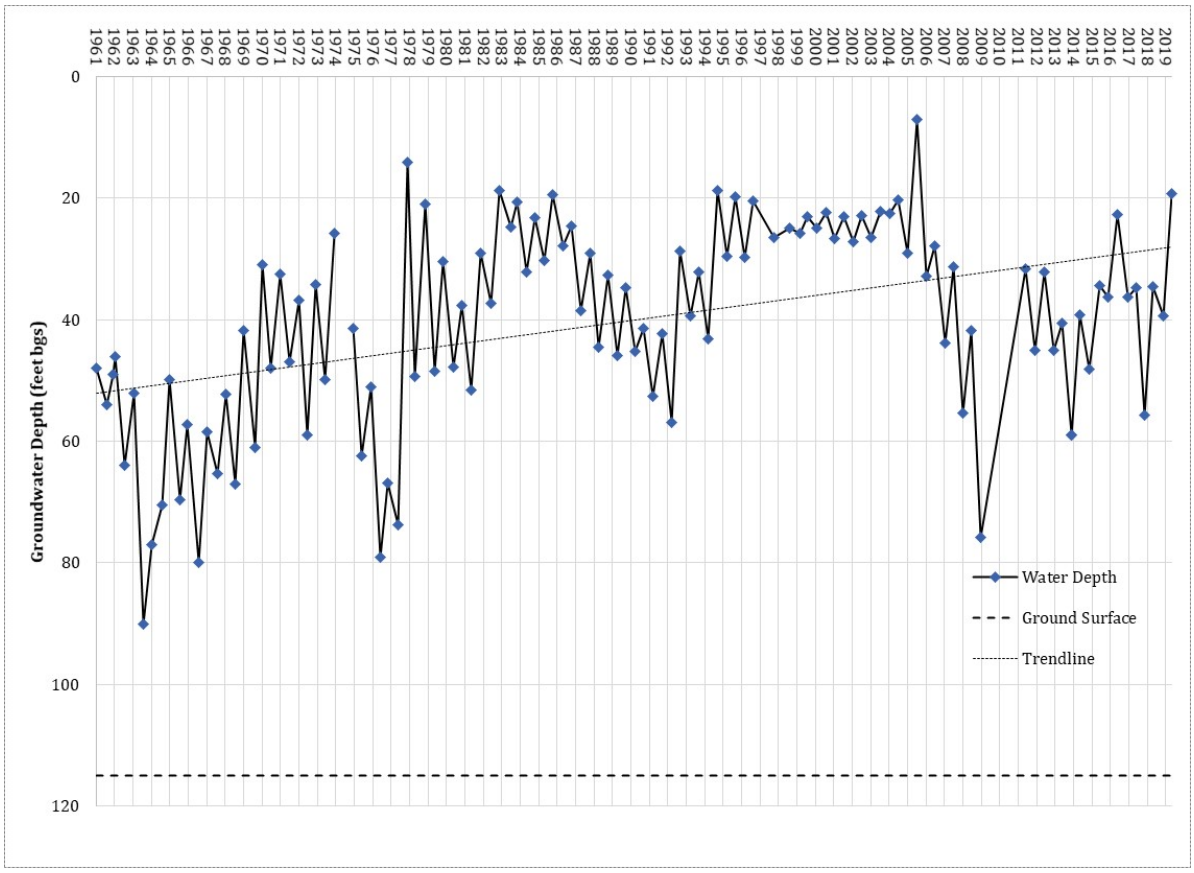


Figure 1. Depth of water (feet bgs) recorded at Well #4 from 1961 to 2020.

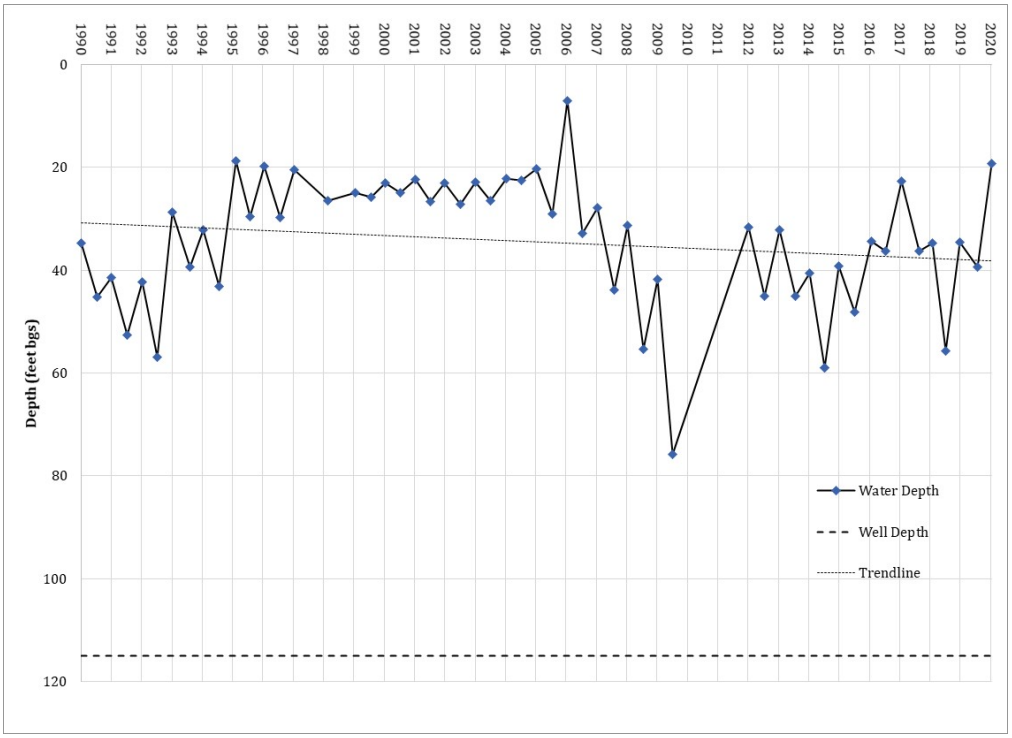


Figure 2. Depth of water (feet bgs) recorded at Well #4 from 1990 to 2020.

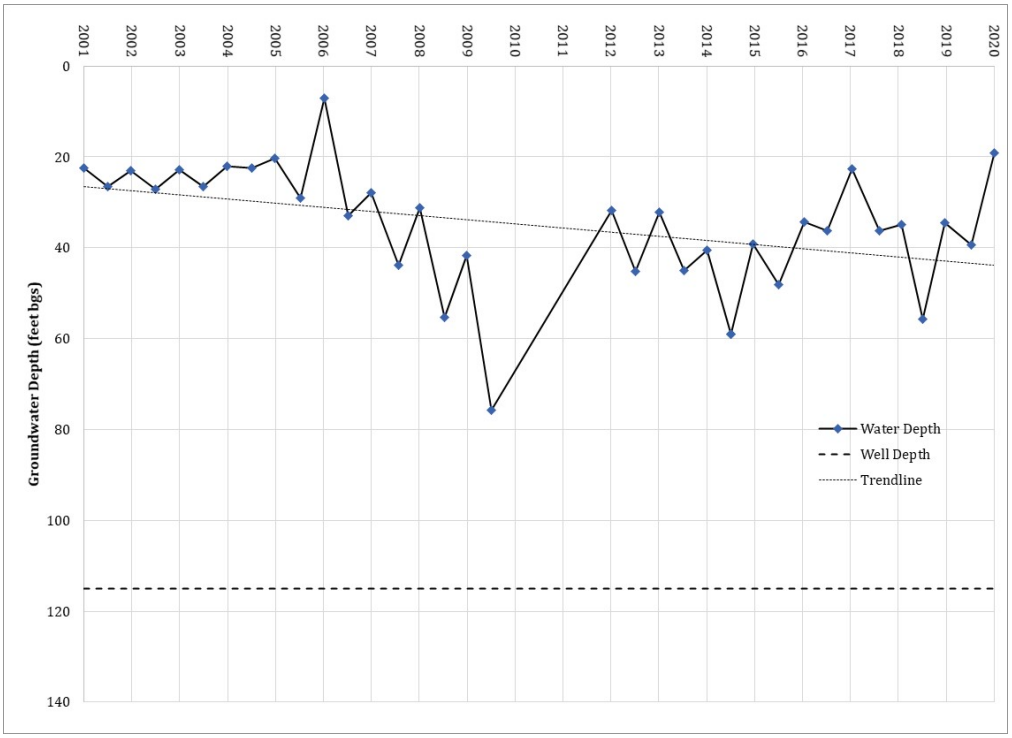


Figure 3. Depth of water (feet bgs) recorded at Well #4 from 2001 to 2020.

2. Section XIX Utilities and Service Systems Significance Criterion XIX(b).

Subsection XIX(b) addresses the following question: "Would the project have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?"

Section XIX(b) of the IS/MND provides the following statements to justify that the project would have sufficient water supplies to serve the project:

- The site contains six existing on-site wells and one new well will be drilled,
- If necessary, existing wells may be reconditioned to provide efficiency in the water supply or redundancy for the irrigation system,
- The existing well and proposed well would produce an adequate volume of water to serve the cultivation and other project demands,
- The annual water demand for High Valley Ranch is approximately 353.86 acre-feet[3], and
- Accounting for evapotranspiration and overspray, it is anticipated that approximately 60% to 70% of the irrigation water will be returned to the aquifer through infiltration in an average year, which will reduce the net decline in water levels within the aquifer. [4]

As stated above and in the IS/MND, the Project proposes an irrigation system requiring 24 gpm per acre of cannabis irrigated 6 hours per day (8,640 gallons per day per acre), 3 times per week (25,920 gallons per week per acre) for 22 weeks. This equates to a demand of 48,470,400 gallons (148.8 acre-feet) over a 22-week cultivation season.[5] Irrigation would occur in three, 6-hour sets using up to 680 gpm per set. At this rate, it would take 18 hours to supply the water needed to irrigate 85 acres of cannabis. The TM includes employee water demand of 500 gallons per day or 2.26 acre-feet per season.

Without additional wells and storage and at a constant rate of 200 gpm, Well #4 could supply only 216,000 gallons in 18 hours which could irrigate up to 25 acres at 8,640 gallons per acre. Neither the IS/MND, TM, nor the Revised TM provide the yield capacity of Well #7, and therefore the only available data indicates that the Project does not have adequate water supplies to serve the Project.

Further, as also stated above, a strong indicator that the Project does not have sufficient groundwater supplies from either Well #4, Well #7, or both, is that the Project applicant is piping water from an offsite source that was not included as part of the proposed Project. It was noted, also stated above, in

[3] We note the inconsistency with the annual water demand stated in Section X of the IS/MND, which is based on 22 weeks of cultivation per year. This higher figure suggests year-round cultivation, which is not analyzed in Section X of the IS/MND or in any other section of the IS/MND.

[4] This statement is highly suspect, and would require the Project applicant to apply water to cannabis plants far in excess of agronomic rates, which would conflict with the County's Model Water Efficient Landscape Ordinance as well as state water use guidelines applicable to cannabis cultivation, and would also likely result in root rot.

[5] Table 1 of the TM provides an annual irrigation demand of 351.6 acre-feet, which would be the approximate groundwater usage for year-round cultivation at the Project. However, the IS/MND only analyzes cultivation activities for 22 weeks annually.

correspondence with the County that the applicant is using this offsite water to irrigate 10-acres of sunflowers that were voluntarily set aside by the applicant during the Planning Commission meeting. However, video documentation taken prior to the second Planning Commission Meeting shows that this water system was in place prior to the meeting, indicating the intended use was to augment onsite groundwater.

Although not discussed in the IS/MND, the Revised TM included a discussion regarding recharge during an average year, but lacked any discussion or analysis of recharge during a dry year or multiple dry years. For example, the lowest annual precipitation on record at the gage used by the EBA GAS (https://wrcc.dri.edu/cgi-bin/cliMAIN.pl?ca1806) occurred in 1976 and was 8.17 inches. Using 8.17 inches of precipitation to represent a dry year and the methodology provided by EBA GAS, there would be a recharge deficit of 407.7 acre-feet during a dry year. The greatest drawdown in Well #4 occurred in October 1976, at 79 feet bgs.

In summary:

- The data cited in the TM and IS/MND to support the "no significant impact" conclusions is not relevant to the analysis of Project water supply under IS/MND Section XIX(b), and does not constitute substantial evidence supporting the IS/MND's conclusions in that section.
- Neither the IS/MND, TM, or Revised TM provide any analysis or substantial evidence indicating that Project water supplies are adequate to serve the Project currently, or in dry or multiple dry years. To the contrary, substantial evidence cited above indicates that the Project currently lacks adequate water supplies.

PREPARER'S QUALIFICATIONS

Dr. Dodd has a PhD in Water Resources Engineering. In addition, Dr. Dodd is a licensed Professional Engineer with the State of California with 30-years of experience practicing and teaching Water Resources Engineering, including over 15 years of teaching, practicing, and modeling surface and groundwater hydrology.

ATTACHMENT 6

To Appeal (AB 21-04) of Early Activation/Major Use Permit (EA/UP 21-10) and Initial Study (IS 21-10), Dated November 15, 2021

Independent Water Use Analysis and High Valley Aquifer Impact Study –
Sourz HVR Major Use Permit [UP-21-10. Initial Study [IS21-10]

7-8-21

- Address the impacts of the HVR project on the High Valley Aquifer and all of the existing wells.
- A drawdown analysis should be done that includes monitoring of the surrounding wells and the recovery rate of the wells. Include the effects/impacts of any new wells.
- If water is to be sourced from offsite, this should be incorporated into the analysis.
- Address these impacts in the context of drought conditions. What do the existing well levels look like now? How much are they producing? Are some wells truly going dry? Is the aquifer level being depleted? Will the storage capacity of the aquifer potentially be reduced due to ground subsidence?
- Reference information in the Lake County Groundwater Management Plan, which states the usable capacity, is 900 acre-feet. Reference, historical information, and information from the State DWR.
- Indicate that the projected project demand is 352 acre-feet per year, almost 40% of the usable capacity. What mitigation measures will be implemented during drought years to limit overdraft?
- Any modeling that is conducted should include all model assumptions and how parameters were determined/estimated.
- The new report should be included in the CEQA Initial Study analysis of water impacts from the project.
- List the qualifications of the individuals doing the study.

Don and Margie Van Pelt
(707) 272-2850
1325 Valley Oak Dr.
Clearlake Oaks, CA. 95423

ATTACHMENT 7

To Appeal (AB 21-04) of Early Activation/Major Use Permit (EA/UP 21-10) and Initial Study (IS 21-10), Dated November 15, 2021

Katherine Schaefers

From: Annje Dodd <Annje@northpointeureka.com>
Sent: Wednesday, June 30, 2021 11:42 AM
To: Tracy Cline; Eric Porter; Andrew Amelung; Katherine Schaefers
Cc: Cannabis@lakecountyca.gov
Subject: [EXTERNAL] UP 21-10 Sourz at 50 High Valley Road

Importance: High

Out of curiosity, how did Sourz get Early Activated? It is the 80 acre cultivation project at 50 High Valley Road. I hear that at least one neighbor submitted a letter of complaint (a rumor, so I could be wrong).

I came across it in a discussion about another project and looked it up as a reference since it was posted to the state clearinghouse (https://ceqanet.opr.ca.gov/2021050225). I was curious how their consultant conducted analysis for that project and thought there may be things I could use in future analyses. I thought I should bring some of the obvious items to your attention. I only have access to the clearinghouse documents, so there may have been other docs that took care of these, but they were not posted.

The project proposes to use 48,400,000 gallons (149 acre-feet) per year of water and there was no discussion of the aquifer or the well yield…frankly, the discussion regarding the impact to water is woefully lacking in both the PMP and the IS MND. There is mention of a drawdown test, but no discussion of the results of that test. There is a model in the PMP, but a model is not a test of actual conditions and does not appear to be sufficient. According to California Bulletin 18, the site is located in the High Valley Groundwater Basin. The Lake County Groundwater Management Plan discusses this basin, but none of that was incorporated into the project analysis.

I reviewed the bio-assessment. The bio assessment does not include full floristic surveys. It says field surveys were conducted in September…missing both spring and summer. With all of the other bio reports I have reviewed, there is some chance that rare plant species could occur in the types of plant communities that occur on site and that the two floristic are required to rule them out. I am surprised that this project was allowed to move forward without them.

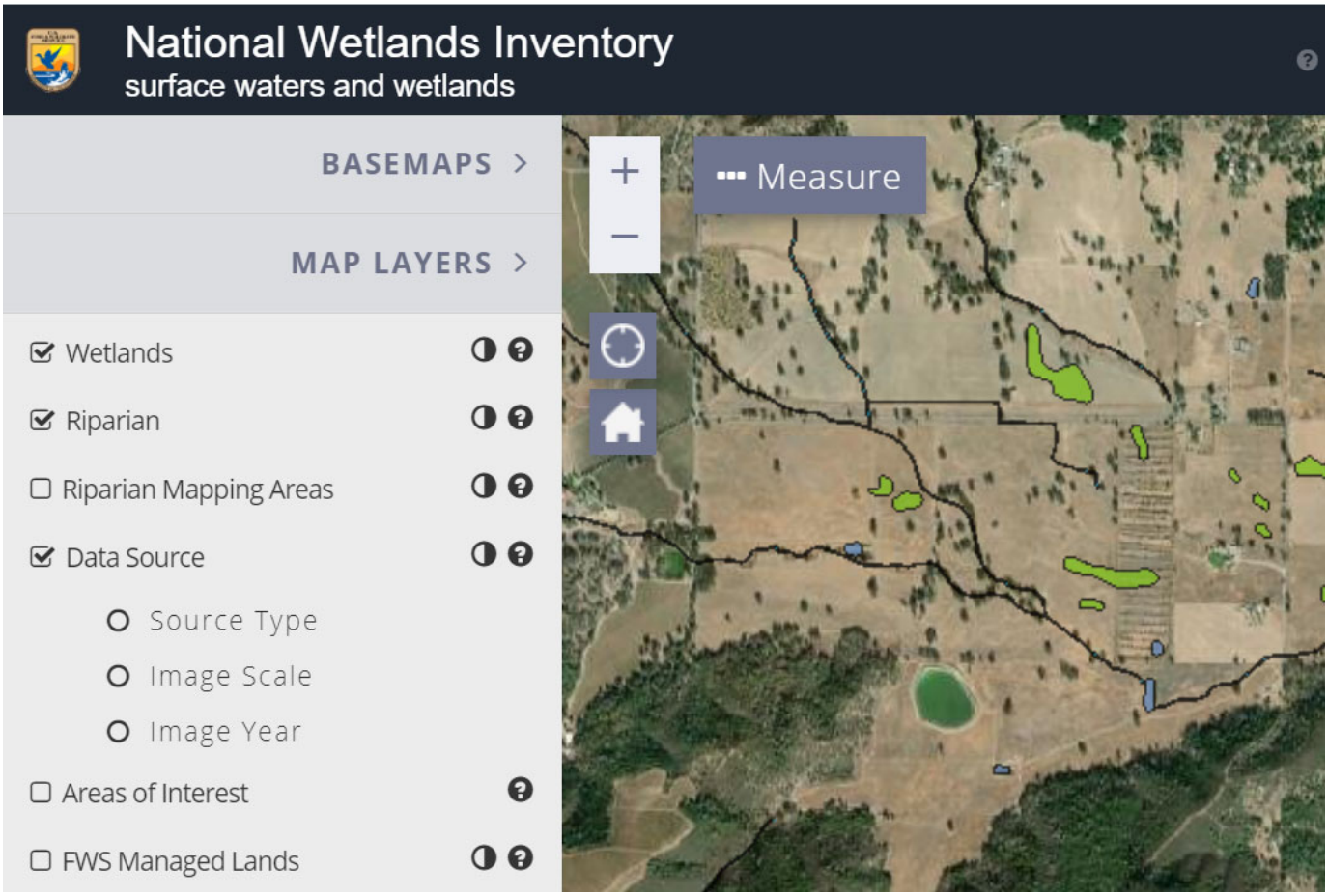
Also, no formal wetland delineation was completed. The national wetlands inventory shows potential wetlands on the site. This was not discussed in the bio. Screen capture below.

The number of trips seems low for an 80-acre cultivation project.

I felt it important to bring this to your attention due to the level of scrutiny projects are getting for water, bio, and traffic and the potential for litigation.

Annje Dodd, PhD, PE
Vice President
NORTHPOINT
CONSULTING GROUP, INC
1117 Samoa Blvd. Arcata, CA 95521
Office: 707-798-6438 EXT 703
Cell: 707-845-1340
annje@northpointeureka.com

www.northpointeureka.com



ATTACHMENT 8

To Appeal (AB 21-04) of Early Activation/Major Use Permit (EA/UP 21-10) and Initial Study (IS 21-10), Dated November 15, 2021

May 10, 2021

Lake County Planning Commission

Re: Proposed Cannabis Projects

Dear Members of the Lake County Planning Commission,

The Redbud Audubon Society supports carefully planned and permitted cannabis projects in Lake County. However, we are worried about the massive influx of permits and question if the County is in full compliance with the numerous State agencies that have an overriding concern for the State's environment. These agencies include the Department of Fish and Wildlife, the State Water Boards and the California Environmental Protection Agency which administers our CEQA laws.

Donna Mackiewicz, my co-chair on the Conservation Committee for the Redbud Audubon Society, a local chapter of the National Audubon Society, has brought to my attention that a cannabis project on Harrington Flat Road near Kelseyville calls for the removal of over 100 mature oak trees. Mitigation for loss of Oaks of any kind is questionable and extremely long term as it takes decades for Oak trees to mature. Even if the permit requires "planting five oaks for every one removed," there is no guarantee that any of the oaks planted as a mitigation measure will thrive or survive. Long-term monitoring of such mitigation would be difficult if not impossible.

We are concerned that most permits that are being granted are ambiguous regarding the removal of Oak trees, chaparral, and other native California flora. There is usually never a mention of habitat corridors for the passage of wildlife and little regulation of clearance of shrub and oak habitat during the nesting season which could pose violations of the Migratory Bird Treaty Act and regulations of the California Department of Fish and Wildlife. The biological surveys that are being required only address endangered or threatened species and don't address the more common species that although common, require certain types of habitat for their existence, such as the Wren-tit that lives in chaparral its whole life with very small boundaries. With the alarming loss of birds recently recorded, numbering in the billions, loss of any bird habitat needs to be considered and mitigated.

Department of Fish and Wildlife regulations identify nesting season occurring from Feb. 1 through Aug. 31. They require/recommend avoidance which can take the form of surveys, monitoring, etc. When I recently questioned a plan to clear five acres of chaparral I was told that a nesting bird survey would be done before clearance. When I asked how that would be possible on five acres of dense shrub, and asked that I be able to attend the "survey," to see how it is carried out, I received no reply from the representative of the grower who had replied to my original question about the amount of chaparral habitat to be removed, since that fact was not in the original bio survey report. I should note here that when dealing with vineyard developers we (Redbud Audubon) often met with them and were hosted on field trips to receive a more "hands on," understanding of exactly what was being proposed. Would it be possible for cannabis growers to take this approach as well?

I've been in touch with residents of the Double Eagle development East of Clear Lake Oaks who are highly concerned about a development in the approval stages there. The applicant was growing illegally and also it is believed that he destroyed a vernal pool and cut several trees before applying for his permit. My understanding is that once you are involved in any type of project that requires either a grading or a building permit, you are not allowed to move forward on destroying habitat that you should

be asking for permission, at least, to destroy. The Double Eagle Ranch development is also going to be using hundreds of thousands of gallons of ground water and people there are understandably concerned about their own wells.

I found this paragraph in one of the numerous Requests for Reviews I receive very interesting regarding the anxiety about water usage: “There is no groundwater ‘depletion threshold’ established for water usage in Lake County and water consumption due to cannabis cultivation is fairly new. The Project Site is located within the Clear Lake Pleistocene Volcanic Area Groundwater Basin. This basin has not been specifically labeled as over drafted; however, the neighboring Big Valley Groundwater Basin may be over drafted during periods of drought. . . . Because cannabis cultivation activities in the County are fairly new and impacts related to groundwater are not well studied, the unexpected depletion of groundwater supplies would be a potentially signification impact.”

The complete statement regarding this particular development does not address the fact that Lake County is currently in a drought and prospects for adequate precipitation next year are already being questioned by meteorologists. The Governor has proclaimed drought situations in neighboring counties and our Sheriff has proclaimed a drought emergency here in Lake County. Should not a moratorium on projects requiring copious amounts of water perhaps be considered?

There appears to be no study of the long term cumulative impacts of these massive cannabis developments, especially in our wildlands. It was our understanding that the Marijuana Ordinance, adopted in 2016 would eliminate illegal grows. It appears, however, that these illegal grows, when identified, are not halted but simply stewarded through the permitting process by County Staff. It appears that some growers are clearing and destroying habitat before applying for their permits which is clearly illegal. This appears to me to be a serious flaw in the adopted “early activation,” portion of the County’s cannabis ordinance.

There are two suspected illegal grows on Pt. Lakeview Road that have been reported but as yet have not been thoroughly investigated nor halted. Donna Mackiewicz, knows of one in the Clearlake Oaks area, adjacent to the lake, that instead of being shut down is being stewarded through the permitting process. The county obviously does not have the capacity to monitor cannabis. If we cannot monitor and halt the illegal grows, how can we monitor the legal grows that call for mitigation measures?

We understand that the County is in need of the funding and job growth that apparently comes with cannabis development, but the question must be asked if changing the landscape, the habitat, and the culture of the County is worth these extra funds.

Lastly, does the County have a Climate Change policy? And, if not, shouldn’t it? Oak trees sequester an amazing amount of carbon and during this time of Climate Change, which is definitely contributing to our wildland fire catastrophes, shouldn’t Climate Change become a part of the discussion? Again, the Harrington Flats Rd. project (just one of many that will require Oak tree removal) calls for the removal of 100 mature oak trees that are sequestering carbon.

Thank you for considering our concerns.

Roberta Lyons

Redbud Audubon Society, Lake County CA

Katherine Schaefers

From: Redbud Audubon <redbud.audubon@gmail.com>
Sent: Monday, July 19, 2021 4:47 AM
To: Dist3 PlanningComm
Cc: Eddie Crandell; Katherine Schaefers; CDD - Email
Subject: [EXTERNAL] UP 21-10 Sourz Environmental Impact Report Urgently Needed

Honorable Commissioner,
The reasons for a full EIR are clear and urgently needed before UP 21-10 is permitted.
Extreme drought, water use with no ground water studies and neighbors wells going dry ("proposed drill" 7 has been dug)
Violations to County and US Fish & Wildlife Codes committed
Local tribes have not commented in on the protection of cultural artifacts uncovered
Nesting birds were not identified by the study that was done in the fall – not spring when most birds are migrating and arriving in the county
A formal traffic study was called for when applicant consultant, in his recorded live answer, mentioned CalTrans calls for traffic studies when there are over 120 vehicles traveled per day
The applicant, himself, stated "200 employees", not the low numbers mentioned in the report, are" waiting patiently"
Water reports submitted were done before the project had been purchased by Mr. Hagoel
No mention of the air strip and its use in the report
No inventory or protection for the on-site wetland
Wildfire plan – responsible, large acre projects like Maha, submitted plans to protect and aid local fire districts. This applicant has the manpower and money to contribute to protect the land from fire, neighbors' drinking water protection, but has not been asked to

Please, consider a slow-down of the project – an EIR is needed.

Ask this applicant for due diligence and thorough accountability like we hold all applicants to.

Very sincerely,
Donna Mackiewicz, Vice President and Conservation Committee, co-chair

Redbud Audubon
redbud.audubon@gmail.com
707-263-8030
P.O. Box 5780
Clearlake, CA 95422
www.redbudaudubon.org

ATTACHMENT 9

To Appeal (AB 21-04) of Early Activation/Major Use Permit (EA/UP 21-10) and Initial Study (IS 21-10), Dated November 15, 2021

Initial Study Commentary

UP 21-10 Sourz HVR

CHP Clear Lake Area

Thank you for your submittal, the State Clearinghouse (SCH) is in receipt of your comments.

Mikayla Vaba
State Clearinghouse
(916) 445-0613

From: Fansler, Daniel@CHP <DFansler@chp.ca.gov>
Date: Wednesday, June 9, 2021 at 2:01 PM
To: katherine.schaefers@lakecountyca.gov <katherine.schaefers@lakecountyca.gov>
Cc: CHP-10AAdesk <10AAdesk@chp.ca.gov>, Hutchings, Kara@CHP <Kara.Hutchings@chp.ca.gov>, OPR State Clearinghouse <State.Clearinghouse@opr.ca.gov>
Subject: RE: 063 – Environmental Document Review – SCH # 2021050225 -- Due to Lead Agency by 06/10/2021

To whom it may concern,

After driving to the location for this proposed commercial cannabis operation, I would argue there will be a potential impact to CHP operations and with traffic congestion in the small community of Clear Lake Oaks.

I'm no expert on cannabis operations but based on the attachments provided, this reads like a very large operation. The first three tenths of mile on High Valley Road from State Route 20 is narrow and partially within a residential area. The increase in potential commercial traffic and daily employee traffic traveling to a 3.5 million canopy feet commercial cannabis operation every day will have an impact on traffic flow on High Valley Road and when entering/ exiting State Route 20, especially in the narrow portions of the roadway. A significant increase in traffic will generate more traffic complaints and potentially more traffic collisions. I would imagine traffic congestion never experienced before by the small community of Clear Lake Oaks would occur. Respectfully,

Dan Fansler, Lieutenant
Commander
CHP Clear Lake Area (151)
707-279-0103 (Office)
707-279-2863 (Fax)
dfansler@chp.ca.gov

"I prefer to see the sunrise!"



Safety, Service, and Security

Disclaimer: This Message contains confidential information and it is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. E-mail transmissions can be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of e-mail transmission.

From: Hutchings, Kara@CHP <Kara.Hutchings@chp.ca.gov>
Sent: Friday, May 28, 2021 9:58 AM
To: Dye, Arthur J@CHP <ADye@chp.ca.gov>
Cc: Enciso, Blanca@CHP <Blanca.Enciso@chp.ca.gov>; Krul, Steven@CHP <SKrul@chp.ca.gov>; CHP-10AAdesk <10AAdesk@chp.ca.gov>; Fansler, Daniel@CHP <DFansler@chp.ca.gov>
Subject: 063 – Environmental Document Review – SCH # 2021050225 -- Due to Lead Agency by 06/10/2021

Special Projects Section (SPS) recently received the referenced Notice of Environmental Impact document from the State Clearinghouse (SCH) outlined in the following Web site:

https://ceqanet.opr.ca.gov/2021050225

Due to the project's geographical proximity to the Clear Lake Area, please use the attached checklist to assess its potential impact to local Area/Section operations and public safety. If impact is determined, responses should be e-mailed directly to **Lake County (Lead Agency)** with cc to SCH and myself.

CC to Division FYI only.

Please feel free to e-mail me if you have any questions.

Thank you!

Kara Hutchings

Associate Governmental Program Analyst
California Highway Patrol
Special Projects Section
916-843-3370

Department of Toxic Substances Unit

Ms. Schaefer,

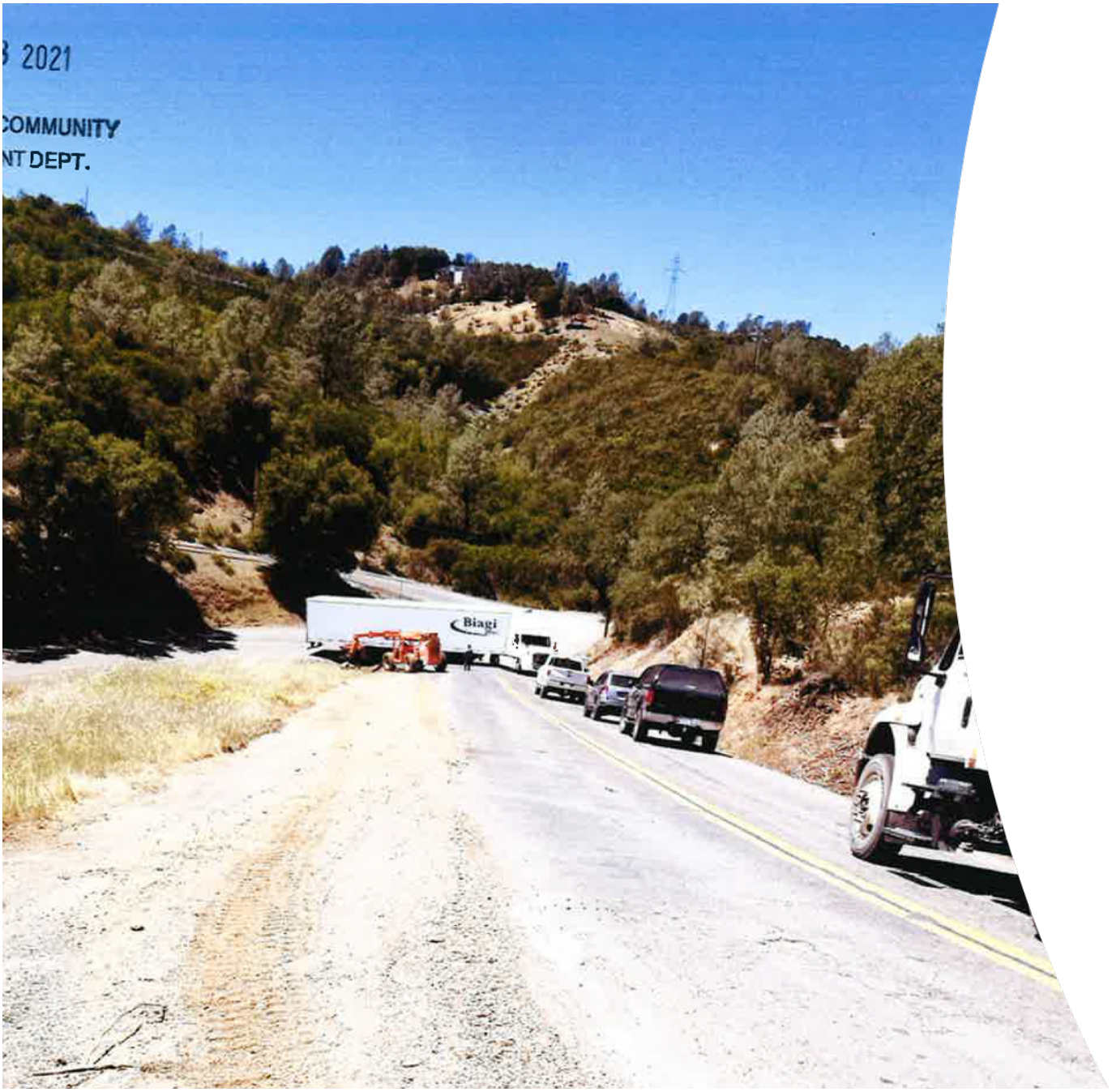
Good afternoon. We received an Initial Study for the subject project. Lake County seems to have quite a few cannabis operations popping up and I have sent comment letters on a number of them. I thought this time I would reach out directly via email. Does Lake County take any steps to ensure that soils in which cannabis will be planted is not contaminated with pesticides or other contaminants? It's my understanding that CalCannabis requires a search of Envirostor, but I haven't been able to determine if any steps are taken for pesticides specifically.

Thank you.

Gavin McCreary
Project Manager
Site Evaluation and Remediation Unit
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, CA 95826
(916)255-3710
Gavin.McCreary@dtsc.ca.gov

ATTACHMENT 10

To Appeal (AB 21-04) of Early Activation/Major Use Permit (EA/UP 21-10) and Initial Study (IS 21-10), Dated November 15, 2021


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ATTACHMENT 11

To Appeal (AB 21-04) of Early Activation/Major Use Permit (EA/UP 21-10) and Initial Study (IS 21-10), Dated November 15, 2021

PHA Transportation Consultants

2711 Stuart Street Berkeley CA 94705
Phone (510) 848-9233
Email: Pangho1@yahoo.com

Nov. 11, 2021

Bradley Johnson, Esq.
Everview Ltd.
bjohnson@everviewlaw.com

Re: Peer Review of Sourz HVR Traffic Memorandum and Project IS/MND

Dear Mr. Johnson,

In response to your request, PHA Transportation Consultants (PHA) has conducted a peer review of the Kimley-Horn Traffic Memorandum, dated July 14, 2021 (Traffic Memorandum) and the Initial Study/Mitigated Negative Declaration (IS/MND) prepared for the Sourz HVR cannabis cultivation project in Lake County (Project).

Apparently based on the Traffic Memorandum, the IS/MND concluded that the Project would have less than significant impacts in each of the impact areas analyzed, with no mitigation measures imposed.

The IS/MND and Traffic Memorandum fall short in at least two ways. First, the Traffic Memorandum and IS/MND Transportation section (Section XVII) analyze fewer employees and vehicle trips than described in the IS/MND Project Description, and also fail to quantify vendor and delivery truck traffic, resulting in an underestimate of vehicle trips attributable to the Project. This defect alone will require revision and recirculation of the IS/MND, at minimum.

Second, the Traffic Memorandum and IS/MND fail to analyze increased hazards due to truck travel specifically on High Valley Road approaching the Project. Substantial evidence indicates that this Project impact may in fact be significant.

These deficiencies together mean that the IS/MND's impact conclusions are not supported by substantial evidence, and further, substantial evidence discussed below indicate that the Project may in fact have a significant impact.

ANALYSIS

1. **<u>Inconsistent trip generation estimates between the Traffic Memorandum and the Project Description of the IS/MND</u>**

The Traffic Memorandum states, in relevant part, as follows:

> The proposed project would require employees to operate the cultivation activities on a day to day basis. Peak cultivation would occur during the planting, growing, and harvesting season between May 1st through October 31st. During this time, it is anticipated the proposed project would require between 20-30 employees. Conservatively estimated, this would generate approximately 60 average daily trips over the approximate 6-month period. During the non-peak season, the number of employees needed is conservatively estimated at 10-15 employees. This would generate an average of 30 daily trips during this six-month period.

(Traffic Memorandum, pp. 4-5.) The Traffic Memorandum then summarizes these numbers in Table 3 – Project Trip Generation, but misleadingly labels the trips as "Trips Per Month", when, in fact, the figures are daily trips, consistent with the foregoing text.

Table 3 – Project Trip Generation

Trips Per Month											
Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
30	30	30	30	60	60	60	60	60	60	30	30

Source: Traffic Memorandum, p. 5. The same figures generally appear in the Transportation section (Section XVII) of the IS/MND.

Problematically, the IS/MND Project Description provides different employee estimates and trip generation estimates. The IS/MND states, in relevant part:

> The majority of efforts and work related to cultivation and operations of the proposed project would be focused during the growing season. The following summarizes the demands for employees and operations of the proposed project:
>
> - Between 30-40 employees for 22 weeks of the year.
> - During October, there is the potential for up to 65 part-time employees during the peak season.
> - Approximately 10 employees are anticipated to reside on-site.

- Trips per day are conservatory estimated at 40-80 Average Daily Trips (ADT).

(IS/MND, p. 11.) The Traffic Memorandum and the IS/MND Transportation analysis do not take into account these employee counts.

Further, the peak-season estimate of 65 part-time employees results in a daily trip estimate of approximately 130, which exceeds OPR's 110-trip threshold below which traffic impacts are presumed to be less than significant.

Finally, neither the Traffic Memorandum nor the IS/MND quantify vendor and delivery truck trip counts, which only exacerbates the undercounting in the Traffic Memorandum and Transportation section compared to the Project Description, and results in an incomplete analysis. Given the large number of processing and drying facilities (totaling 11 buildings and approximately 111,000 square feet of building space), we would expect the number of trucks necessary to serve such a complex would be significant, but in any event more than the "zero" currently accounted for in the Traffic Memorandum and IS/MND.

Further, we understand that outdoor cultivation projects (exclusive of the intensive processing facilities involved in this Project) typically required between 2 and 3 employees per acre of cultivation. The estimate of 65 peak-season employees for this 80-acre project is clearly low, and does not appear to account for staffing of the 11 processing facilities. Based on our experience, we would expect this Project to require between 160 and 240 employees, with resulting employee-only trips of between 320 and 480 per day.

In summary, the inconsistencies between the IS/MND Project Description and the analyses in the Traffic Memorandum and the IS/MND Transportation section, accompanied by the complete failure to quantify vendor and delivery truck traffic, render the IS/MND "less than significant" conclusion wholly unsupported by substantial evidence. Correction of these defects will require revision and recirculation of the IS/MND, at a minimum.

2. **The IS/MND fails to analyze increased safety hazards on High Valley Road due to Project truck traffic**

CEQA Appendix G, Section XVII (Transportation), subdivision (c) asks whether a project will "Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)." High Valley Road is the primary access route to the Project, and is a narrow and sharply-winding road. The Traffic Memorandum and IS/MND state that between June 1, 2019 and July 14, 2021, there were no reported vehicle accidents along High Valley Road.

However, the relevant question is whether the Project will increase hazards, not whether non-Project-related hazards have occurred in the past. In this regard, the California Highway Patrol commented in a July 9, 2021 communication that the Project has the potential to increase traffic congestion, traffic complaints, and traffic collisions on High Valley Road, particularly in the initial stretch of High Valley Road off of State Route 20.

Neither the IS/MND and Traffic Memorandum provide any analysis as to why Project-related traffic, and in particular truck traffic, will not substantially increase hazards along High Valley Road as suggested by the California Highway Patrol (CHP) (email correspondence from Daniel Fansler). As it stands, the CHP constitutes substantial evidence indicating that the Project may have a significant impact in this area.

Recommendation

The lack of traffic data review and analysis, the inconsistency of employee count compared to the with the data in the Initial Study, and the misleading trip generation information render the Kimley-Horn Traffic Memorandum inadequate.

To fully understand the Project's traffic impacts, the Traffic Memorandum needs to be revised to include a discussion of the following critical areas:

1. Include a project site plan showing the internal circulation of the site, with a discussion of the parking spaces needed for employees, visitors, deliveries, driveway way access, and County parking code requirements for the project.

2. Identify and discuss the number of employees, including seasonal, part-time workers, visitors, wholesale/retail buyers, and deliveries. Clarify the daily trip generation, both for the average days and peak season days for the proposed cannabis project.

3. Identify the current traffic volumes and control at the intersection of the site access road and High Valley Road and what kind of traffic control, lane markings, would be needed with the proposed project. Discuss any sight restriction issues, due to both horizontal and vertical curves on High Valley Road near the site access.

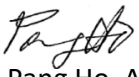
4. Identify current traffic load and any capacities-related issues on High Valley Road near the site access. Evaluate whether or not there are traffic operation issues at the intersection of High Valley Road at the site access.

5. Discuss the potential project construction traffic impacts; identify the number of construction workers, and the number and type of trucks needed for the project construction. Identify and discuss the width of High Valley Road, being a narrow two-

lane County road that would be able to handle construction trucks traffic and the associated site related traffic.

Thank you for contacting us. Please feel free to contact me if you have any questions.

Regards,



Pang Ho, AICP
PHA Transportation Consultants

About PHA Transportation Consultants

See attached description of qualifications.

Pang Ho, AICP

PHA Firm Principal

YEARS OF EXPERIENCE

30 Years

EDUCATION

Master of Urban Planning Specialized in Transportation Planning/Engineering, Kansas University 1982

KEY QUALIFICATIONS

Pang Ho, AICP, firm owner and principal, has more than 30 years of professional experience in transportation planning and engineering. Before founding PHA, Pang spent a decade working for three municipalities, a civil engineering firm and a transportation consulting firm. Pang is highly experienced in traffic impact, parking, circulation, and operation studies, computer simulation, signal timing coordination, site planning, capacities and traffic capacity-LOS analysis. Pang is versed in various traffic modeling and simulation techniques and state-of-the-art computer software packages. Pang Ho is currently on-call traffic consultant for Cities of Antioch, Richmond, Moraga and San Ramon.

CURRENT PROJECTS

Pang Ho currently is working with AECOM and Santa Clara Water District to evaluate the construction traffic, haul trucks and construction crew, impact for seismic upgrade at the Guadalupe Dam and Calero Dam in Santa Clara County.

REPRESENTATIVE PROJECT EXPERIENCE

1. **FORWARD Landfill Expansion Traffic Study- San Joaquin County (2018)**
   PHA recently completed a traffic study to evaluate the potential impact of a proposed expansion at the landfill for the County. The study evaluated haul truck traffic impact on 12 key roadway intersections, segments, and freeway mainline and ramp operation. County and Caltrans staff concurred with the study findings and the project is now under County Planning Commission reviews.
   Project Manager Pang Ho, San Joaquin County Contact: John Funderburg (209) 486-3120

2. **BLUEWATER Industries Recycle Inc. San Leandro (2019)**
   PHA recently completed a truck traffic trip generation study for BLUEWATER Recycle., The purpose of the study is to evaluate its current site traffic patterns and to estimate the extent of a proposed capacity expansion without overloading the adjacent streets.
   Project Manager Pang Ho, Client BLUEWATER Industries Recycle Contact: Chris Kirkenheuter 5(10) 904-3901

3. **City of Richmond Speed Survey- City of Richmond (2018)**
   PHA recently completed a citywide speed survey study for the City's Engineering Department. The purpose of the study is to set and update speed limits along various street segments throughout the City. The study included more than survey and recommending appropriate speed limits for more than 100 street segments.
   Project Manager Pang Ho, Richmond Engineering Department Contact: Dane Rodgers (510) 307-8112

4. **Slater School, Stevenson School, and Theuerkauf School Traffic Study, Mountain View (2017)** PHA recently completed a traffic study as part of an EIR for the Mountain View Whisman School District for a proposed elementary school. The report evaluated traffic impact, parking needs, on-site circulation for drop-off/pick-up, and traffic safety for the students.
   Project Manager Pang Ho, EIR Consultant, Richard Grassetti: (510)-849-2354

5. **Vineyard South Mining (Granite Construction) Traffic Study, Sacramento County (2017)** PHA completed a traffic study as part of an EIR for Granite Construction Co in Sacramento County to evaluate the potential impact of haul trucks transporting mined materials from a mining site to a processing site at Granite Construction Company on Bradshaw Road.
   Project Manager Pang Ho, Sacramento County Transportation Department Contact, Kamal Atwal, (916)-875-2844. Granite Construction Client Contact: Yasha Saber: 916-825-4997

6. **Antioch High School Traffic Study, Antioch (2016)** PHA completed a traffic study for the Antioch School District to evaluate the District Proposal to close a section of a street as its solution to solve traffic congestion and safety in front of the school campus. PHA conducted a traffic study for the School District and the City of Antioch to evaluate the potential impact of the street closure and developed alternative strategies to reduce traffic congestion in front of the school. PHA also developed strategies to improve parking, on-site circulation, dropped-off and pick/up operation.
   Project Manager Pang Ho, City Contact, Lynne Filson: (925)-779-7025

7. **Concord Naval Weapon Station Traffic Study, Contra Costa County (2015)** PHA completed a traffic study for the Philip Oil company as part of a CEQA document to evaluate the potential impact of haul trucks transporting hazardous material from underground the Naval Station to the landfill and other parts of the state for disposal. PHA evaluated truck and various construction related vehicles traffic and generation, directional distribution, and truck impact on street pavement. PHA worked directly with and EIR Consultant for this project.
   Project Manager, Pang Ho, EIR Consultant: Doug Herring, Doug Herring and Associates (510) 237-2233).

8. **Diablo Vista Pump Station Relocation Traffic Study, Lafayette (2013)** PHA completed a traffic study as part of an EIR for EBMUD (East Bay Municipal Utility District) to evaluate the potential traffic impact of relocating a pump station and more than 5,000 feet of underground pipes along Mt. Diablo Boulevard, a major thoroughfare in Lafayette. The project required traffic lane closures along the arterial street during various construction stages. PHA evaluated the traffic impact of the lane closure using traffic simulation and evaluated on-street parking impact and provided solutions to accommodate the loss of on-street parking.
   Project Manager Pang Ho, EBMUD Contact, Oscar Herrera, Civil Engineer (510)287-1005

9. **Cutting Boulevard Interconnect and Timing Coordination (2013)** PHA completed a traffic signal interconnect and timing coordination project for the City of Richmond. The project will interconnect 11 traffic signals and develop timing plans for am, midday and pm peak hour operations.
   Project Manager, Pang Ho, City Contact, Steven Tam, Senior Civil Engineer, Public Works (510) 307-8091

10. **Richmond Quiet Zone Traffic Study, City of Richmond (2016)**
    PHA completed a traffic study for the Engineering Department to evaluate train traffic patterns and impact on residential neighborhoods throughout the City. The purpose of the study is for public utility agency to evaluate and set train horn blowing policies. As part of the study, PHA collected train traffic schedules, volumes, and analyzed potential conflicts with city street traffic including school buses.
    Project Manager Pang Ho, Richmond Engineering Department Contact: Michael Williams (510)-307-8147.

11. **2995 Atlas Road (Point Pinole Business Park)**
    PHA completed a traffic study for the proposed warehousing distribution center project with 707,000 square feet warehouse and distribution center at Point Pinole Business Park. The site was formerly a steel plant. PHA compared traffic generation for the former manufacturing use and proposed warehouse use and evaluated both haul truck and worker traffic LOS for a number of intersections along Giant Highway, Atlas Road, and San Pablo Avenue. PHA also recommended a Traffic Demand Management (TDM) as part of project mitigation measures.
    Project Manager, Pang Ho, EIR Consultant, Richard Grassetti, (510) 849-2354, City Contact: Jonelyn Whales (510) 620-6785

12. **Honda Port of Entry EIR Traffic Study, Richmond (2008)** PHA has recently completed a traffic study for the city of Richmond to evaluate the potential impact of a proposal to bring Japanese manufactured Honda vehicle through the port of Richmond. The study evaluated vehicle traffic, truck traffic, train traffic and construction impact and identified a list of mitigation measure for the project.
    Project Manager, Pang Ho, City Contact, Kieron Slaughter, Richmond Assistant planner, Janet Harbin Senior Planner: (510) 620-6706, EIR Consultant Doug Herring, (510)-237-2233.

13. **Sacramento Utility District (SMUD) Corporation Yard Relocation Traffic Study, Sacramento (2009)**
    Working as a sub-consultant to Burleson Consultant in Sacramento, PHA completed a traffic study for Sacramento Municipal Utility District (SMUD). The study evaluated the potential traffic impact associated with the relocation of its corporation yard and from the City of Sacramento to a new location in the County near Rancho Cordova. The study evaluated traffic operation along major arterial street corridors including I-50 and developed a mitigation package to minimize project impact, which includes installing traffic signals and adding turning lanes and acceleration/deceleration lanes
    Project Manager, Pang Ho, Burleson Consulting: Beth Kelly (916) 984-4651 Ext. 14

ATTACHMENT 12

To Appeal (AB 21-04) of Early Activation/Major Use Permit (EA/UP 21-10) and Initial Study (IS 21-10), Dated November 15, 2021

Everview

Everview Ltd.

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San Diego, CA 92123

401 E. Sonterra Blvd., Suite 375
San Antonio, TX 78258

Tel: (916) 704-6393
Fax: (916) 250-0103
www.everviewlaw.com

via electronic mail to: marcus.beltramo@lakecountyca.gov

November 2, 2021

Marcus Beltramo
Code Enforcement Officer
Lake County Code Enforcement
255 N. Forbes Street
Third Floor, Rm 323
Lakeport, CA 95453

Re: Sourz HVR, Inc. UP/EA 21-10 Permit Violation and Enforcement Demand

Dear Mr. Beltramo:

This firm represents property owners that own property in the High Valley area, near Clearlake Oaks. Our clients live near the SourzHVR cannabis cultivation project located at 11650 High Valley Road (UP/EA 21-10) (hereinafter the "Project"). The Project Permittee ("Permittee") is actively cultivating and/or processing cannabis on a large scale on the Project site identified in UP/EA 21-10. Recently, it has come to our attention that the Permittee is conducting cannabis cultivation and/or processing activities in violation of County Code and state law and in a manner that constitutes a nuisance to surrounding landowners. **We demand that County Code Enforcement staff take immediate enforcement actions to abate this illegal activity.**

Project Background and Illegal Activities

The County Planning Department approved an Early Activation Permit ("EA Permit") for the Project on June 7, 2021. Sometime thereafter it obtained its state-issued cannabis cultivation licenses and commenced cultivation activity. Ultimately the County Planning Commission approved the Project on July 22, 2021. Concerned parties, our clients, appealed the Planning Commission's Project approval and that appeal is currently pending hearing by the Board of Supervisors.

Relevant to this Demand, pursuant to its submittals and County approvals, the Permittee agreed and UP 21-10 allows the Permittee to conduct cannabis drying activities in approximately ten (10) drying structures, using only grid power provided by PG&E. The underlying environmental review document and permit submittals were predicated on these parameters. (See SourzHVR Property Management Plan at p. 15 ("PMP"); Draft Initial Study, High Valley Ranch, UP 21-10, May 2021 at p. 11.) This is important because, as described further below, compliance with the PMP is a mandatory condition of the EA Permit.

Recently, the Permittee constructed approximately 52 hoop houses, and installed numerous generators in order to dry and cure harvested cannabis. Photographic evidence of this is provided with this correspondence as **Attachment 1**. The use of hoop houses and generators to dry cannabis is in violation of the EA Permit and County Code, as well as state law. Accordingly, the balance of this correspondence will outline the legal authorities related to this activity.

Legal Requirements

First, the EA Permit, by its own terms, has expired. The EA Permit states: "This permit shall expire (6) months from the date of issuance **or upon issuance or denial of use permit UP 21-10**." (EA Permit condition No. 32 (emphasis added).) As stated above, the Planning Commission approved the Project on July 22, 2021. Through Project approval, the EA Permit has expired and is no longer in effect. Further, the appeal of the Planning Commission's Project approval has also stayed the effect of the UP 21-10. County Code states that pending an appeal, the decision of the Planning Commission is stayed. (See County Code sec. 21-58.32.) Accordingly, pursuant to the County Code, the EA Permit expired on July 22, 2021, and the underlying use permit approval is also stayed pending the appeal. Despite this, the Permittee appears to have commenced cannabis cultivation sometime in August. It is our understanding that this cultivation activity is, or was, therefore being conducted without County approvals and must be abated immediately.

Second, the Permittee's activities violate several EA Permit and County Code provisions as well as state law. For example:

- The County's cannabis ordinance requires the preparation and submittal of a PMP. (County Code Sec 21-27(at)(3).) The PMP is meant to determine how the project will be managed and demonstrate "…how the operation of the commercial cannabis cultivation site will not harm the public health, safety, and welfare or the natural environment of Lake County." (*Ibid*.) One of the required sections relates to air quality. This section states that the permittees must identify equipment or activity that may cause, or potentially cause, the issuance of air contaminants and shall identify measures to reduce the air contaminant. (*Id*. subd. (at)(3)(i)(b).) Moreover, in order to operate any "article, machine, equipment or other contrivance" which may cause the issuance of an air contaminant, the permittee must obtain an authority to construct or permit to operate the equipment from the Lake County Air Quality Management District. (*Id*. subd. (at)(3)(i)(c-e).) Here, the Project PMP clearly identifies the use of drying structures and grid power, **not** 52 hoop houses and numerous generators. As such, the Project proponent deviated substantially from the PMP and is in violation of the County Code and potentially Lake County Air Quality Management District regulations.

- EA 21-10 also prohibits generator use. Section 1 of EA 21-10 states: "the early activation for the commercial outdoor cultivation …shall be in substantial conformance with: a. Site plan, dated May 25, 2021 b. Property Management Plan, cover letter dated March 2021." (EA Permit Condition No. 1.) The EA Permit also has sections relating to the use of diesel equipment, the storage of combustible materials, and noise that could implicate the use of generators. (*Id*. at Condition Nos. 12, 22, 23, and 26.) The hoop houses and generators clearly conflict with the PMP. As such, the current use of hoop houses and generators is in violation of the EA Permit.

- The County is required, by express provisions in its own Code, to enforce its regulations and abate the conditions described above and does not have discretion to choose not to enforce it. The County Code states in relevant part: "[t]he above-named officers and employees [including the Planning director and Zoning Code Compliance Officer] **shall enforce** the provisions of this Chapter and all other laws relating to the use of land or buildings and the erection, construction, reconstruction, moving, alteration or addition to any buildings or structures in the unincorporated areas of the County of Lake.(County Code sec. 21-61.3(b)(emphasis added).) The County Code also states: "It **shall be the duty** of the Planning Department of the County of Lake **to enforce** the provisions of this Chapter pertaining to major use permits, minor use permits, design review permits, and development review permits." (County Code sec. 21-61.2(b)(emphasis added).) As is clear from the emphasized portions above there is an affirmative duty by numerous County departments to ensure the County Code is enforced. Case law analyzing similar provisions have held that jurisdictions are limited in the prosecutorial discretion to enforce the zoning code. (See e.g. *Terminal Plaza Corp. v. City & Cty. of San Francisco* (Ct. App. 1986) 186 Cal. App. 3d 814, 835.) Taken together therefore, the County must take action to abate this illegal activity.

- There are also provisions in the EA Permit and related County Code sections that require that an early activated project does not result in adverse impacts to the environment. The County Code states that an early activation permit application or use can be revoked if it results in adverse environmental impacts. (See County Code Sec. 21-27.4(d).) Additionally, California Department of Fish and Wildlife ("CDFW") regulations and permits do not allow, or heavily regulate, the use of motors, the storage of fuels, and operations near and around waterways. (See e.g. Final Lake and Streambed Alteration Agreement Notification No. EPIMS-LAK-21213-R2 SourzHVR conditions nos. 2.19; 2.25; 2.26; 2.27.) The Permittee has already performed illegal grading that caused adverse environmental impacts and required remediation pursuant to the CDFW enforcement actions. (See generally *ibid*.) The County has revoked several similar early activation permits throughout the County for similar grading activities, but somehow the Permittee is still able to continue Project activities. These prior actions of the Permittee, specifically

the illegal grading, and now the use of unpermitted generators illustrates that the Permittee does not comply with environmental regulations and that Project has resulted in adverse environmental impacts, and as such should be enjoined.

- Finally, the construction of 52 hoop houses and the use of dozens of generators was never presented to the public during the approval process. Members of the public, particularly affected property owners, and other government agencies had no opportunity to comment on or review this new infrastructure. Now, the Permittee is conducting these operations in stark violation of its approval, its own environmental studies, and County Code. There may also be various other regulatory violations not detailed in this correspondence, such as Department of Cannabis Control, CDFW, California State Water Resource Control Board and California Air Resource Control Board violations. These agencies should be consulted regarding the illicit Project activities to determine how best to remediate potential environmental damage.

* * *

Based on the foregoing, the Project presents an immediate threat to the safety, health, and well-being of the County, its residents, and the environment. Accordingly, we demand that the County take the following actions:

- Enjoin cannabis cultivation and processing activities at the Project site;
- Issue citations or violations based on violations of the County Code;
- To the extent any approvals exist allowing Project activities, revoke such approvals; and,
- Require remediation of the Project site based on the illegal activity described in this correspondence.

In conclusion, the serious nature of the violations described above, we demand that the County take immediate action. If the County does not take action to address these violations within a reasonable time, we reserve, and will exercise, the right to compel County action, and seek all available legal remedies as well as costs and fees associated with these remedies.

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If you have any questions or would like clarification with respect to this correspondence, please do not hesitate to contact me at (209) 640-4972 or by email at janderson@everviewlaw.com.

Sincerely,



James I. Anderson, Esq.
Everview Ltd.

cc: Client
Anita Grant, Lake County Counsel
Lake County Board of Supervisors

ATTACHMENT 1





ATTACHMENT 13

To Appeal (AB 21-04) of Early Activation/Major Use Permit (EA/UP 21-10) and Initial Study (IS 21-10), Dated November 15, 2021

LAKE COUNTY PLANNING COMMISSION

MINUTES

REGULAR MEETING

July 22, 2021

Commission Members	**Staff Members**
P John Hess, District I	**A Carol Huchingson, Interim Deputy Director**
P Everardo Chavez, District II	**P Eric Porter, Associate Planner**
P Batsulwin Brown, District III	**P Katherine Schaefers, Assistant Planner**
P Christina Price, District IV	**P Nicole Johnson, Deputy City Counsel**
	P Kerrian Marriott, Office Assistant III

REGULAR MEETING

9:00 a.m. **CALL TO ORDER**

Pledge of Allegiance lead by Comm. Brown

9:00 a.m. **ACTION ON MINUTES**

Comm. Price Motioned to approve the minutes from the July 8, 2021 PC Hearing seconded by Comm. Hess.

4 Ayes, 0 Nays -- Motion Carried

9:05 a.m. **CITIZEN'S INPUT –** None

9:07 a.m. **Public Hearing to consider MAJOR USE PERMIT (UP 20-11). Applicant / Owner: Pasta Farms LLC. Proposed Project: Four phase development containing (11) A Type 3 (medium outdoor) commercial cannabis cultivation licenses within 113 hoop houses, and (1) A-Type 13 'self-distribution' license. Four (4) of the A-Type 3 licenses will convert to A-Type 3B (greenhouse) licenses within four years and will be inside four (4) 26,000 sq. ft. greenhouses. Location: 10750 and**

10417 Seigler Springs North Road and 10833 Diener Drive, Kelseyville, CA; APNs: 115-004-01, 05 and 08. Environmental Evaluation: Mitigated Negative Declaration (IS 20-11). (Eric Porter)

Nicole Johnson Deputy County Counsel stated prior to the current item being read that it was unfortunate that the item had been presented to the commission in the way that it had. The item could be continued based on how the commission viewed the application based on what information staff had provided. The commission had the option to refuse the item, thus no action would be needed. If the item was taken up, the commissioners had the option to continue as staff had recommended or ask staff what information needed to be provided or corrected and how the analyst in the report would change and how long the continuance would be to achieve that goal. Ms. Johnson stated that new information could lead to a more thorough environmental analysis.

Comm. Hess asked what the difference between rejecting the item versus a continuance of the item in terms of process.

Nicole Johnson responded t Comm. Hess, stating that if the item was not taken up it did not trigger any rules it would be as though the project had never been presented to the commissioners and the items once the concerns were addressed would be publicized to the public and be re-presented to the commissioners. If the item was not taken there were no areas of concerns.

Comm. Price asked how the commissioners felt about not taking up the item or continuing it.

Comm. Hess asked if the item had to be read.

Nicole Johnson stated that if the commissioners did not take the item it could just be rejected and there would be no deliberation and no discussion and staff would go back and address their concerns with the report as presented. The report for the item at hand states that findings cannot be made and if the commissioners accepted staff's assessment, they could not approve the application.

Comm. Chavez asked Mr. Porter if he would recommend the commissioners not take the item, giving staff more time to assess the findings needed.

Eric Porter stated that he could not give a recommendation and that the project could not be approved as it was. Mr. Porter stated that there was a water conflict that came to light too close to the hearing date which changed the recommendation of the project from approval to a continuation giving

staff the opportunity to do a very thorough review of the dispute of the water source. The item is recommended to be continued to a date uncertain as there is uncertainty as to what the process would be to resolve the water dispute. There had also been substantial public objection to the project.

Nicole Johnson stated to the commissioners that they could take staff's recommendation but ultimately the decision was theirs to either continue the item as staff had recommended, deny the application or not pick up the item at all. It was based on evidence provided and the commissioner's analysis and determination.

Comm. Hess asked if a continuance could result in triggering additional studies, by not taking the item up wouldn't that trigger additional studies?

Nicole Johnson stated that she was unable to speak to the actual substance of the item, however if the item was refused staff would have to reassess the item and provide the commissioners with an analysis that could be reviewed and interpreted allowing them to form a decision.

Comm. Chavez stated he was moving more towards refusing the item.

Comm. Price asked if Com. Chavez wanted to refuse the item and have staff complete an overhaul.

Further conversation continued between Legal Counsel and the Planning Commissioners regarding the item at hand and whether the item should be continued, refused or denied.

Item Refused

9:18 a.m. Public Hearing to consider a Parcel Map (PM 20-23) to divide a 406.69 acre property to create three new parcels. Applicant / Owner: Langtry Farms LP. Location: 21700 and 22000 Butts Canyon Road, Middletown, CA; APNs: 014-310-08, 014-320-06 and 014-330-08. (Eric Porter)

Nicole Johnson Deputy County Counsel asked if the item was a general plan amendment.

Eric Porter Associate Planner stated that it was not, it was a parcel map.

Eric Porter gave a verbal and visual presentation on the proposed project. The presentation included, general background on the project, the zoning map, aerial photo of site and vicinity, parcel map, conformance with lake county regulations, county code - chapter 17 compliance, CEQA analysis and its exemption, staff's recommendation and a request from applicant

for change in conditions C2 requesting the addition of unless conducted for agricultural purposes pursuant to Lake County air quality management district burn permit.

Comm. Hess asked if the proposed project was connected to the Guenoc properties.

Eric Porter stated that Comm. Hess was correct.

9:29 a.m. Public Comment –

John Webb representative for the applicant thanked staff and gave a brief detail of the proposed project.

Nicole Johnson requested that the Commissioner ask staff if the change in conditions would affect a CEQA analysist.

Comm. Brown asked if the mitigation measures had any impact on the CEQA analysist.

Eric Porter stated that nothing would change with the application. The applicants were allowed to burn vegetative waste (non-cannabis) with the required burn permit. Cond. of approval included dust control and vegetative waste.

Comm. Hess asked if burning had been done on the site previously.

Eric Porter stated that he assumed so.

Comm. Hess stated that he had seen smoke from the site prior and asked if it would be considered an existing use like previously disturbed.

John Webb stated that the applicant utilized the standard Lake County burn permit and had burned previously for many years and the applicant was requesting to continue.

Thomas Addams representative of applicant stated that applicant was requesting to continue doing what they had been doing in the past pursuant to existing ordinances.

9:35 a.m. Public Comment Closed

Comm. Hess Moved to Motion, Seconded by Comm. Price find on the basis of the environmental review undertaken by the Planning Division and no mitigation measures were added to the project, that the Parcel Map, PM 20-23 as applied for by Langtry Farms, LP on property located

at 21700 Butts Canyon Road, Middletown, APN 014-310-08; 21200 Butts Canyon Road, Middletown, APN 014-320-06; and 22300 Guenoc Valley Road, Middletown, APN 014-330-08 will not have a significant effect on the environment and thereof, recommend the Planning Commission approve the proposed Categorical Exemption using CEQA section 15300.2(b) with the findings listed in the Staff Report dated July 22, 2021 and as amended today.

4 Ayes, 0 Nays – Motion Carried

Com. Hess Moved to Motion, Seconded by Comm. Price find that the Tentative Parcel Map, PM 20-23 as applied for by Langtry Farms, LP on property located at 21700 Butts Canyon Road, Middletown, APN 014-310-08; 21200 Butts Canyon Road, Middletown, APN 014-320-06; and 22300 Guenoc Valley Road, Middletown, APN 014-330-08 is in conformity with the provisions of the Subdivision Map Act and Chapter 17 of the Lake County Code and the Lake County Zoning Ordinance, and upon that basis approve said map subject to the conditions and with the findings listed in the Staff Report dated July 22, 2021 and as amended today.

4 Ayes, 0 Nays – Motion Carried

NOTE: The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination.

9:38 a.m. **Break**

9:47 a.m. **Continuation of Item from the July 8, 2021 Planning Commission Hearing. Public Hearing to consider approving Use Permit UP 21-10. Applicant/Owner: Sourz HVR, Inc./Aviona LLC. The proposed commercial cannabis cultivation operation will be composed of (80) A type 3 outdoor cultivation, (1) type 11 distributor, and (1) A type 4 nursery licenses with a total combined canopy area of 3,485,000 square feet (sf). The proposed project includes 11 buildings totaling 110,000 sf for storage and drying of cannabis. Location: 11650 High Valley Road, Clearlake Oaks, CA 95423, on property consisting of 1,639.96 acres. APNs: 006-004-07, 006-004-25, 006-004-24, 006-004-06, 006-002-04, 006-002-09, 006-009-36 . (Katherine Schaefers)**

Katherine Schaefer gave a verbal presentation on the proposed project. Referencing the staff report and the applicant's responses to the concerns brought forth in the July 8th hearing of Biological surveys, cultural resources, traffic, hydrology and a follow up to the CDFW violation.

Comm. Chavez asked if the proposal of the well 50 ft. from nursery was in the original application.

Comm. Brown stated he completed a site visit and viewed the proposed site.

10:03 a.m. Public Comment

Tom Armstrong member of Sourz gave a PowerPoint presentation, the presentation addressed the concerns that were discussed in the July 8th PC Meeting.
Traffic and Roads – Property Access points – Mitigation measures included, most employees living onsite, operational traffic consisting of passenger vehicles, roads to site are 4290 compliant, partial pavement of road and applicant had contacted the county regarding paying for road improvement, etc.
Distance from school – showed to be approximately two and a half miles away.
CDFW/Grading violation – New Lake and bed agreement was issued. Violation had been cleared
Localized Hydrology – Effect on neighboring wells, water conservation measures – showed diagram of the different aquifers in the high valley basin, diagram also showed due to well capacity, the applicants well should have no impact on the neighboring wells as it drew from a deeper aquifer. Mitigated measures also included the installation of driplines, tensiometers (measures the amount of water in the soil, which helps with over watering) and plastic mulch.
Cultural Resources - project reviewed and approved by Archeologist Dr. John Parker, all identified artifacts were found in wooded areas with trees, which were avoided, there was no tree removal.
Air Quality/Odor control/dust – odor reducing plants planted around the perimeter of the property, more than the required setback from neighbors. Compaction of soil as a dust mitigation measure along with the use of water trucks and a dust suppression treatment.
Biological Resources – Senior Biologist review found that no suitable habitat occurred on the proposed site.

Brad Stoneman Kimley Horn prepared the CEQA documentation. Spoke on traffic and a VMT analysist, which would typically be completed for projects greater than 110 trips, project is less but the study was still completed. Mr. Stoneman reiterated points made Mr. Armstrong regarding

the Grading Violations, the Lake and stream bed agreement and the conformation of the project.

Maria Conn neighbor voiced her concern with large cannabis corporations being allowed within residential communities. Supports cannabis community but is opposed to Non-residential Organizations moving in to the county to utilize the resources for financial gain, spoke on the CDFW violation and her concern that the project lacked the County's supervision. Spoke on violation of the EA permit. I.e. the project could not control to less than significant the odor as they could not control the wind, safety concerns, and water concerns. Requested a full and detailed environmental report be made completed, before an approval was given. Stated the hydrology report was padded with duplicated and outdated information for the appearance of a new review. Requested reports be completed from the county and not from the applicant.

Don Von Pelt Neighbor stated that the applicant's mitigation measures regarding dust were not enough, it was still dusty. Spoke on the number of employees proposed for the project and his believe that the applicant is misrepresenting the number of employees he will have. Mr. Von Pelt voiced his concern with odor.

Doug Logan neighbor voiced his concerns about the drought as it pertained to several districts implementing water reservation recommendations and his neighbors well, including his currently being dry.

Karen Mantele voiced her concern for the water supply, transparency with the reports and asked if there were new wells proposed for the project, how many wells total. Ms. Mantele voiced her concern for traffic and asked if the deeper well was currently existing or new. Ms. Mantele also asked if the CDFW had been cleared and who was the environmental scientist who signed off on the project. Was there a tribal consultation after AB52. Believes project should not be approved.

Richard Jones owns property in the area spoke on his concern with water, stating that the presentation did not include gallons being used but spoke on acreage. Mr. Jones stated that the crop being grown was not essential. Spoke on population of the oaks and the gallons utilized per day of drinking water stating that the long term effects were concerning with the current drought

John Mocknic Lake County Grown, supports project, spoke on the project being properly zoned and stated that it was the best location and the mitigation measures taken by the applicant were well thought through.

Richard Dhuram cultivator stated that it was one of the most comprehensive studies on a project he had seen, spoke well about the applicant. Stating the Importance of the project for the county and smaller farmers.

Mary Draper stated she had helped with the project and it transparency, spoke about the applicant and his willingness to communicate with his neighbors, states that applicant had also reached out to neighbors with dry wells and had personally brought them water. Believes that the applicants were being asked to do more than other projects she had been associated with. Spoke of Annje Dodd a representative for cannicraft stating that she was hired by another cultivator to look into the project.

Elli Hagoel owner spoke on the steps taken to address the concerns of his neighbors, states he had support from some neighbors who choose not to speak due to fear of ramification, states that the location is zoned for the project.

Karen Mantele voiced questions regarding PSI seminars and how the traffic compared to the current project. Asked why the Initial Studies showed the removal of vegetation, although the applicant had stated that there would none, which was contradictory. Ms. Mantele asked if the wetland had been surveyed, was the existing septic system sufficient and why the commissioners thought this was such a great project.

Annje Dodd addressed Ms. Draper's comments stating that she had not been hired to address the proposed project

Jason Sheasley with Kimley Horn & Associates representing the applicant spoke on irrigation with land use, stated that the applicant was aware of the viability of their project and that it hinged on them being good stewards of the ground water resource, spoke on the geology and hydrogeology of the High Valley region survey completed, referenced the water availability report completed by EBA engineering. Spoke of the water basin and the different aquifers in High Valley.

Paul Bernacchio neighbor to applicant at another location. Spoke well of the applicant. Stated that a project of this size needed someone like the applicant who would be stewards of the land and the water resources and would help elevate Lake County on a whole. Asked the commissioners to support the project.

Damien Ramirez supports project states that the applicants had presented a vigorously thought through plan and in a zoned area designated for agriculture.

Jennifer Smith stated that the project met the requirements mandated. Applicants had shown complete transparency throughout the process. Spoke of the positive impact the project would bring to the county as an agricultural crop in a designated agricultural area. Ms. Smith stated that she supported the project.

Brad Stone Responded to wetland question asked by Ms. Mantele stating that there were no wetlands within the area of impact. Mr. Stone stated that vehicle miles traveled in comparison to prior owners PSI seminars would be less Mr. Stone also addressed the septic concern stating that there were a number of septic and leach fields on site and was adequate for the project.

Maria Conn stated that she did not understand why an environmental impact report was not completed for this project. Spoke of her grievance with the impact to the community as it related to noise and scenic views. Ms. Conn stated that her grievances was not with the applicant who had helped her fill her tank but was very concerned due to the size of the project and its water consumption.

Elli Hagoel Spoke on Ms. Conn concern regarding collapsion of the valley, Mr. Hagoel stated that he was living his life in faith not in fear as fear would bring about no change and that community support was what was needed. Mr. Hagoel read a letter into the record from Lesly and Craig Small, neighbors to the project in support of the project and their acknowledgement of the relocation of the entry gate to the project and his willing to mitigate concerns. Mr. Hagoel stated that the company had decided to reduce the number of cannabis plants and would utilize 40 acres to plant sunflowers thus increasing the buffer between the project site and his neighbors.

Doug Logan stated that the applicants had been amicable, the concern was the water usage.

Mary Draper recommended that consultants should state what projects they are representing prior to commenting, Ms. Draper referenced Ms. Mantele as such.

Karen Mantele stated she was a member of the public and that she was familiar with planning and her comments referenced her personal concerns.

Sara Faudi stated she had concerns with cultivation on a whole prior to longtime friend Mr. Hagoel explaining it to her. Ms. Faudi spoke on the public's views of the applicants being a corporation and referenced the historic battle with agriculture in respect to sharing resources and farms in close proximity. Referenced property owner rights and congratulated everyone for using facts versus emotions.

11:24 a.m. Public Comment Closed

Nicole Johnson Deputy County Counsel stated that should there be a tied vote it would be considered a denial. Option to continue if the vote could potentially be tied should be considered as there was no option to retract if that occurred.

Comm. Brown reiterated that he had conducted a site visit. He had questions regarding the hydrology report including the ground water recharge of the aquifers and had questions of the impact to all the aquifers.

Jason Sheasley stated that the applicants had a recharge drip irrigation system which was water conscious and allowed water to be applied directly to the land surface which slowly infiltrated the subsurface and recharged the first aquifer it came in contact with. Stating that benefits of applicants drawing water from the deeper aquifer was that it would recharge the smaller one.

Comm. Brown asked if the drought and the aquifer have an effect on the drought in the valley.

Jason Sheasley stated that the drought would have an impact, survey completed showed during normal seasonal fluctuations that an anticipated 5 to 10 ft. water level change. However due to the water being utilized for irrigation purposes vs being trucked off or for livestock and it being reapplied to the land service. Spoke of the 1976 drought that took approx. 4-5 years for ground water to come back to normal conditions. Stated that adjustments could be made for irrigation as necessary i.e. reducing crop sizes or possibly using reclaimed water as a mitigated measure versus using ground water.

Comm. Brown voiced his concern for traffic impacts and asked if a pilot cart would support the transport of products etc. versus a larger than half ton truck. Would it reduce the road use?

Comm. Chavez referenced a video that surfaced via YouTube depicting pipes from the neighboring AG site Brassfield Winery to the proposed project and asked why and what it was being used for?

Comm. Hess asked if the applicant had made any financial contributions to county for the maintenance of the roads. Comm. Hess commented that there was current sensitivity to water but the commissioners were not a policy making body, each application was taken on a case by case basis.

Comm. Price asked why the diversion of water from Brassfield, was there going to be trimming onsite and stated that 60 employees seemed rather small for the scope of the project.

Comm. Chavez asked how deep the well being utilized was. How far away was the cultural resource site in relation to where the applicant had disked and did the applicant know before disking where the cultural sites were located?

Elli Hagoel stated that the new well would be over 350 ft. deep. Stated that Dr. Parker had informed them where the cultural sites were located.

Comm. Price asked how many wells were currently on-site and how many more were additions were being proposed.

Elli Hagoel stated they had three current wells, with a proposed additional two wells. Mr. Hagoel responded to Comm. Hess stating that they were in communications with Public Works and were committed to adding a 15 ft. culvert by the turn. Mr. Hagoel added that the diverted water from Brassfield was for cattle, 40 acres of sunflowers and could be utilized for fire suppression.

Tom Armstrong responded to the hydrology and drought question stating that the 2016 report was completed at a time of comparable drought with similar conditions to the current drought situation.

Comm. Brown reiterated his question regarding pilot cars and mitigating some of the road wear concerns.

Tom Armstrong stated that they would do whatever they could to make conditions better for the neighbors and road wear.

Scott Deleon Public Works Director confirmed that the applicant had been in contact with road superintendent Jim Hail to discuss improvements to the road. Mr. Deleon stated that with Board approval the applicant would pay a percentage from the cannabis tax to help with the upkeep and maintenance of the road.

Comm. Price asked was the diversion of water from the Brassfield vineyard apart of the original application?

Tom Armstrong stated that because the water was not being utilized for the proposed project it had no effect on CEQA so it was not considered in the initial study. It was also temporary, rented and above ground and was completed within county ordinances.

Katherine Schaeffers asked Scott Deleon Public Work Deputy to clarify what an encroachment permit was.

Scott Deleon stated that a trenching permit allowed the applicant to place a horizontal directional boar beneath the county road extending water lines to the adjacent property. An encroachment permit allows the applicants to do work on a county maintained road right of way. The permit allows for the installation not the use.

Comm. Price reiterated her question of trimming being completed on site or off site?

Tom Armstrong stated that multiple housing structure were onsite as the site was initially designed for a proposed hotel, which the employees would utilize.

Comm. Chavez stated that he felt his water concerns had been adequately addressed.

Comm. Price stated that she appreciated the visual presentation.

Comm. Hess commented that this was the most comprehensive and carefully crafted application he had seen.

Comm. Hess Moved to Motion, Seconded by Comm. Chavez find that the Major Use Permit (UP 21-10) applied for by SourzHVR Inc on a property located at 11650 High Valley Rd, 4919 New Long Valley Rd, 4963 New Long Valley Rd, 10788 High Valley Rd, 10750 High Valley Rd, 10945 High Valley Rd, 4491 New Long Valley Rd, in Clearlake Oaks, CA 95423, further described as APN: 006-004-06; 006-004-07; 006-004-25; 006-002-04; 006-009-36; 006-004-24; 006-002-09, will not have a significant effect on the environment and therefore a mitigated negative declaration shall be approved with the findings set forth in Staff Report dated July 22, 2021.

4 Ayes, 0 Nays – Motion Carried

Comm. Hess Moved to Motion, Seconded by Comm. Chavez find that the Major Use Permit (UP 21-10) prepared for the project proposed by SourzHVR Inc on a property located at 11650 High Valley Rd. Clearlake Oaks, CA, further described as APN: 006-004-06; 006-004-07; 006-004-25; 006-002-04; 006-009-36; 006-004-24; 006-002-09 does meet the requirements of Section 51.4 of the Lake County Zoning Ordinance and the Major Use Permit be granted subject to the conditions and with the findings listed in the staff report dated July 22, 2021.

4 Ayes, 0 Nays – Motion Carried

NOTE: The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination.

11:56 p.m. UNTIMED STAFF UPDATE

Office News

11:57 p.m. Adjournment

ATTACHMENT 14

To Appeal (AB 21-04) of Early Activation/Major Use Permit (EA/UP 21-10) and Initial Study (IS 21-10), Dated November 15, 2021

To : Lake County Planning Commission
To: Katherine Schaefers
To: Ed Crandell Supervisor District 3
Fr: Maria Kann and Matthew Welsh
12250 High Valley Road
Clearlake Oaks CA 95423
Dt: July 4, 2021

RE: Request for Denial of SourzHVR Use Permit 21-10

Several residents and property owners of High Valley, on High Valley Road in Clearlake Oaks CA are extremely concerned about the negative impact of the SourzHVR project and the irreparable damage it will cause to our properties, animals, livestock, wildlife, safety, and quality of life. Many of our families have lived in High Valley for over 20 years and we will protect our right to continuing the lifestyle we have worked so tirelessly to achieve. We ask that the Lake County Planning Commission place value on the lives and needs of property owners (taxpayers) and residents over large organizations coming from out of the area to use our resources and sell their product elsewhere. We recognize they will be paying taxes to the county and ask that the livelihood of the residents take precedence over the almighty dollar. We request the denial of SourzHVR Use Permit 21-10 and cancellation of the project based on the following outline of concerns.

1. Water Security Issues

A. We are currently in a drought and have been for several years. Approving this use permit will severely impact property owners' wells and sole access to water. Proposed project would consume 740,070 gallons per day with an annual average demand of 353.86 acre-feet of water.

B. A large water use project is already established in High Valley. Brassfield Estate Winery is directly across the street from the proposed project site. A second major water use project makes no sense in our small valley.

C. Property owners are currently experiencing failing wells. Multiple wells in High Valley are already being adversely affected by Brassfield Estate Winery and a second large water-consuming operation should not be permitted to further exacerbate the situatioin.

2. Traffic Increase Issues

A.The construction of High Valley Road will not withstand additional use. High Valley Road is not designed for heavy use of cars and large vehicles due to sharp curves, steep slopes, and narrow passage. It is a poorly-maintained County road with a hairpin turn roughly 1/2 mile from the Highway 20 entrance. Large trucks and vehicles have repeatedly gotten stuck and blocked the road in both directions for lengthy periods of time.

B. Constant traffic is disturbing to residents and animals (domestic and wild) and destroys the serenity of the valley.

C.Safety risk to residents due to lack of sidewalks. Residents walk their pets daily and the road has no sidewalks for the safety of pedestrians.

D. Increased traffic will create more pollution along the road and in the valley. Residents take pride in our valley and regularly pick up litter that has blown or been released from trucks and cars.

E. Unacceptable levels of traffic. The project plan has conservatively estimated 60+ trips per day, 7 days a week, for several months out of the year.

3. Pollution Increase Issues

A. Noise nuisance from increased cars and trucks will ruin our peaceful lifestyle.

B. Exhaust from increased cars and trucks will blow throughout the valley

C. Dust from vehicles and tractors is already a nuisance as we have been living with a dust cloud covering and drifting through all our homes during their initial land preparation phase.

D. Debris and litter from passenger cars and trucks

E. Smell of marijuana every year whether we like it or not

F. Degraded water conditions of the water available to residents and property owners

G. Increased risk of health issues to residents due to increased pollution levels and stress on our environment

4. Safety Issues

A. Unacceptable risk of injury and death to residents, their animals, and wildlife due to the daily increased traffic and activity in the valley. High Valley has a diverse collection of respected and appreciated wild creatures that cross the road unexpectedly. Increased traffic poses an unacceptable risk of injury and death to our animal population.

B. Marijuana invites undesirable elements to the area and poses a risk to the safety and security of property owners, their property, animals, and wildlife. As an unincorporated area, we are served by our local sheriff and their limited staff and are concerned about their ability to assist in a timely manner due to the vast area which they protect.

C. Access to High Valley consists of a two-lane road starting at Highway 20 and continuing through the Mendocino forrest into conditions requiring a 4-wheel drive

vehicle. Therefore, we have a single entry and exit route. An excess of vehicles in the valley during a natural disaster could be catastrophic and cause loss of life due to the shear volume of cars, trucks, and livestock trailers attempting to evacuate.

D. The entrance to High Valley Road runs alongside East Lake Elementary School which poses an increased risk of injury or death to our children from the volume of vehicles and trips per day outlined in the project proposal. This is already a congested intersection given the amount of school staff and parents already engaged in transporting themselves and students throughout most of the year.

5. Aesthetic and Quality of Life in High Valley

A. Increased traffic and activity in the valley would negatively impact the residents and property owners by destroying the pristine and serene valley aesthetic of our home which we value immensely.

B. Living next to a commercial marijuana grow will not be favorable for our property values and could potentially cause problems to the property owners when the time comes for them to sell. Given this partial list of negative impacts to the community, buyers will undoubtable look elsewhere for property.

Thank you for allowing me to comment.

Sincerely,

Maria Kann and Matthew Welsh
12250 High Valley Road
Clearlake Oaks, CA 95423
mariackann@gmail.com

ATTACHMENT 15

To Appeal (AB 21-04) of Early Activation/Major Use Permit (EA/UP 21-10) and Initial Study (IS 21-10), Dated November 15, 2021

Katherine Schaefers

From: Cannabis@lakecountyca.gov
Sent: Monday, August 9, 2021 8:56 AM
To: Candace Ponds
Subject: RE: [EXTERNAL] SOURZHVR

Hello,

In order to address your concerns, we need a complaint filed. Please fill out an online complaint form with our Code Enforcement Department at the link below.

Accela Citizen Access

Thank you,

Planning Division
Department of Community Development
255 N. Forbes St.
Lakeport, CA 95453
Phone: (707) 263-2221
Fax: (707) 262-1843
Email: cannabis@lakecountyca.gov
STAY CONNECTED:

CONFIDENTIAL OR PRIVILEGED:
This communication contains information intended only for the use of the individuals to whom it is addressed and may contain information that is privileged, confidential or exempt from other disclosure under applicable law. If you are not the intended recipient, you are notified that any disclosure, printing, copying, distribution or use of the contents is prohibited. If you have received this in error, please notify the sender immediately by telephone or by returning it by reply e-mail and then permanently deleting the communication from your system.

From: Candace Ponds [mailto:cponds10@yahoo.com]
Sent: Saturday, August 7, 2021 7:00 PM
To: Cannabis@lakecountyca.gov
Subject: [EXTERNAL] SOURZHVR

Hi,
I have some concerns with sourzhvr in High Valley in Clearlake Oaks.

They are using huge lights at night that are lighting up the residents of High Valley. My entire yard and house have been lit up like an xmas tree for over a week now. They are working 24 hours a day. Are they allowed to do these things.
There are still days that the dust is out of control, the valley is in a dust cloud.

They also have a lot of employees and I seen in their permit it states that all employees must go through a background check with lake county sheriff department, I was wondering if this has happened and how we can find out, as well as who is responsible for making sure this is done.

Thank you









ATTACHMENT 16

To Appeal (AB 21-04) of Early Activation/Major Use Permit (EA/UP 21-10) and Initial Study (IS 21-10), Dated November 15, 2021

SR21-01311

Menu **Help**

File Date: 10/22/2021

Application Status: Received

Description of Work: For the last week since Oct 14, 2021 I've been hearing a loud engine-like noise coming from 11650 High Valley Road which is the SourzHVR cannabis operation that continues all night long. My understanding is that they are suppose to stop working after 7pm yet residents are being subjected to whatever this noise is along with loud music playing at unreasonable times.

Application Detail: Detail

Application Type: Cannabis Related Complaint

Address: 11650 High Valley Road, Clearlake Oaks, 95423

Owner Name:

Owner Address:

Application Name:

Parcel No:

Contact Info: **Name** **Organization Name** **Contact Type** **Contact Primary Address** **Status**

Custom Fields: **Service Request Information**

Source of Complaint
Citizen

Type of Submittal
–

Additional Location Information
–

Notify Complainant
Yes

Workflow Status: **Task** **Assigned To** **Status** **Status Date** **Action By**

SR Intake
Investigation
Final Notification

Condition Status: **Name** **Short Comments** **Status** **Apply Date** **Severity** **Action By**

Application Comments: **View ID** **Comment** **Date**

Initiated by Product: ACA

Scheduled/Pending Inspections: **Inspection Type** **Scheduled Date** **Inspector** **Status** **Comments**

Resulted Inspections: **Inspection Type** **Inspection Date** **Inspector** **Status** **Comments**

SR21-01317

Menu **Help**

File Date: 10/25/2021

Application Status: Potential Duplicate

Description of Work: I'm filing a noise complaint regarding SourzHVR. They are running huge fans that create a constant roar in the valley and they have the fans running late into the night. It's currently 10:20 pm and I can hear them at my house. I can only imagine how loud they must be to the adjoining neighbor's property! They are working around the clock and being completely disrespectful to the long term residents and property owners.

Application Detail: Detail

Application Type: Cannabis Related Complaint

Address: 11650 High Valley Road, Clearlake Oaks, 95423

Owner Name:

Owner Address:

Application Name:

Parcel No:

Contact Info:

Name	Organization Name	Contact Type	Contact Primary Address	Status
Maria Kann		Complainant		Active

Custom Fields:

Service Request Information

Source of Complaint
Citizen

Type of Submittal
-

Additional Location Information
-

Notify Complainant
Yes

Workflow Status:

Task	Assigned To	Status	Status Date	Action By
SR Intake				
Investigation				
Final Notification				

Condition Status:

Name	Short Comments	Status	Apply Date	Severity	Action By

Application Comments:

View ID	Comment	Date
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/25/2021
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/25/2021

Initiated by Product: ACA

Scheduled/Pending Inspections:

Inspection Type	Scheduled Date	Inspector	Status	Comments

Resulted Inspections:

Inspection Type	Inspection Date	Inspector	Status	Comments

SR21-01316

Menu **Help**

File Date: 10/25/2021

Application Status: Potential Duplicate

Description of Work: 11650 high valley road is using some kind of large wind machine as soon as the sun goes down they turn it on and it is extremely loud and then run it until the sun comes up. It sounds like a tornado out here. Please put a stop to this. We have been listening to it for the past few weeks. We can't take it anymore, as the kids can't fall asleep and they are suffering at school. Also the lights on their hoop houses are lighting up our side of the valley. I don't think they are allowed all of this. Please put a stop to it. Thank you

Application Detail: Detail

Application Type: Cannabis Related Complaint

Address: 11650 High valley road, Clearlake Oaks , 95423

Owner Name:

Owner Address:

Application Name:

Parcel No:

Contact Info: **Name** **Organization Name** **Contact Type** **Contact Primary Address** **Status**

Custom Fields: **Service Request Information**

Source of Complaint
Citizen

Type of Submittal
-

Additional Location Information
Hoop houses m, lights and wind machine thing are back to the east side of their property and directly inline with my house.

Notify Complainant
No

Workflow Status:

Task	Assigned To	Status	Status Date	Action By
SR Intake				
Investigation				
Final Notification				

Condition Status: **Name** **Short Comments** **Status** **Apply Date** **Severity** **Action By**

Application Comments:

View ID	Comment	Date
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/25/2021

Initiated by Product: ACA

Scheduled/Pending Inspections: **Inspection Type** **Scheduled Date** **Inspector** **Status** **Comments**

Resulted Inspections: **Inspection Type** **Inspection Date** **Inspector** **Status** **Comments**

SR21-01315

Menu **Help**

File Date: 10/25/2021

Application Status: Received

Description of Work: Every night for the past 2 weeks just after dark High Valley ranch turns on some kind of extremely loud fan or blower or heater of some sort. It is really loud and its keeping my children and myself awake. On 10/21/21 they were blaring music that started at 9:38pm and continued until after 3am. The humming was going until 4:32 am. On 10/22 along with the loud humming was also several large trucks with trailers that started arriving at 12:02 am. Several arrived within the next few hours. On 10/23 the humming started at dusk and went on until 6:30 am. On 10/24 its was pouring down rain which we did not hear the loud humming, however we could hear it as the rain let up around 11:52 pm and continued until 5:45am. Along with this every night we also have trucks driving all over the ranch and one has a bright yellow light that flashes and these light lite up our house. Every night between 10:30 and midnight large trucks with trailers start arriving with several arriving through out the night. The lights from their temp green house light up the valley, especially on the east side. These lights are so bright that it makes our yard look like the day time. Please make the humming and lights stop. I can best describe it as a airplane engine roaring through the valley. I had attached a video of the humming coming from 11650 High Valley road as well as a picture of the lights. Thank you

Application Detail: Detail

Application Type: Cannabis Related Complaint

Address: 11650 High Valley Road, Clearlake Oaks, 95423

Owner Name:

Owner Address:

Application Name:

Parcel No:

Contact Info: **Name** **Organization Name** **Contact Type** **Contact Primary Address** **Status**

Custom Fields: **Service Request Information**

Source of Complaint
Citizen

Type of Submittal
–

Additional Location Information
It's towards the east side

Notify Complainant
No

Workflow Status: **Task** **Assigned To** **Status** **Status Date** **Action By**

SR Intake
Investigation
Final Notification

Condition Status: **Name** **Short Comments** **Status** **Apply Date** **Severity** **Action By**

Application Comments: **View ID** **Comment** **Date**

Initiated by Product: ACA

Scheduled/Pending Inspections: **Inspection Type** **Scheduled Date** **Inspector** **Status** **Comments**

Resulted Inspections: **Inspection Type** **Inspection Date** **Inspector** **Status** **Comments**

SR21-01328

Menu **Help**

File Date: 10/27/2021

Application Status: Potential Duplicate

Description of Work: Sourzs is operating some loud heater or fans or something similar and it is not acceptable. Please make them abide by the rules. This has become a nightly occurrence. This causes stress in my livestock as well as myself.

Application Detail: Detail

Application Type: Cannabis Related Complaint

Address: 11650 High Valley Road, Clearlake Oaks , 95423

Owner Name:

Owner Address:

Application Name:

Parcel No:

Contact Info: **Name** **Organization Name** **Contact Type** **Contact Primary Address** **Status**

Custom Fields: **Service Request Information**

Source of Complaint
Citizen

Type of Submittal
–

Additional Location Information
–

Notify Complainant
No

Workflow Status:

Task	Assigned To	Status	Status Date	Action By
SR Intake				
Investigation				
Final Notification				

Condition Status:

Name	Short Comments	Status	Apply Date	Severity	Action By

Application Comments:

View ID	Comment	Date
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/27/2021

Initiated by Product: ACA

Scheduled/Pending Inspections:

Inspection Type	Scheduled Date	Inspector	Status	Comments

Resulted Inspections:

Inspection Type	Inspection Date	Inspector	Status	Comments

SR21-01327

Menu **Help**

File Date: 10/27/2021

Application Status: Received

Description of Work: They are using big wind machines that start at dark and continue till early morning. They are faced in our direction and are extremely loud. Along with that tonight they are also blasting music. We can sleep as it is too loud. This has been going on two weeks now and we can't handle it any longer. This is such a nuisance to us and unacceptable. Please make them stop this noise. Do they have a permit for the hoop houses and huge fans?

Application Detail: Detail

Application Type: Cannabis Related Complaint

Address: 11650 High valley road, Clearlake Oaks , 95423

Owner Name:

Owner Address:

Application Name:

Parcel No:

Contact Info: **Name** **Organization Name** **Contact Type** **Contact Primary Address** **Status**

Custom Fields: **Service Request Information**

Source of Complaint
Citizen

Type of Submittal
-

Additional Location Information
-

Notify Complainant
No

Workflow Status: **Task** **Assigned To** **Status** **Status Date** **Action By**

SR Intake
Investigation
Final Notification

Condition Status: **Name** **Short Comments** **Status** **Apply Date** **Severity** **Action By**

Application Comments: **View ID** **Comment** **Date**

Initiated by Product: ACA

Scheduled/Pending Inspections: **Inspection Type** **Scheduled Date** **Inspector** **Status** **Comments**

Resulted Inspections: **Inspection Type** **Inspection Date** **Inspector** **Status** **Comments**

SR21-01334

Menu **Help**

File Date: 10/28/2021

Application Status: Potential Duplicate

Description of Work: Night noise, fans, ect. Please come out at night instead of the day like you did on monday. They dont have the loud fans running during the day. You need to check on this at night without them knowing that you are coming out.

Application Detail: Detail

Application Type: Cannabis Related Complaint

Address: 11650 High valley road, Clearlake Oaks, 95423

Owner Name:

Owner Address:

Application Name:

Parcel No:

Contact Info: **Name** **Organization Name** **Contact Type** **Contact Primary Address** **Status**

Custom Fields: **Service Request Information**

Source of Complaint
Citizen

Type of Submittal
–

Additional Location Information
–

Notify Complainant
No

Workflow Status: **Task** **Assigned To** **Status** **Status Date** **Action By**

SR Intake
Investigation
Final Notification

Condition Status: **Name** **Short Comments** **Status** **Apply Date** **Severity** **Action By**

Application Comments:

View ID	Comment	Date
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/28/2021
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/28/2021
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/28/2021
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/28/2021

Initiated by Product: ACA

Scheduled/Pending Inspections: **Inspection Type** **Scheduled Date** **Inspector** **Status** **Comments**

Resulted Inspections: **Inspection Type** **Inspection Date** **Inspector** **Status** **Comments**

SR21-01330

Menu **Help**

File Date: 10/28/2021

Application Status: Potential Duplicate

Description of Work: SourzHVR has been running huge drying fans around the clock. They are destroying the peacefulness of the valley. It sounds like a jet engine all night long or like we're living next to a freeway. I did not buy property in the country to be assaulted by the constant roar of machinery. This is completely unacceptable!

Application Detail: Detail

Application Type: Cannabis Related Complaint

Address: 11650 High Valley Road, Clearlake Oaks, 95423

Owner Name:

Owner Address:

Application Name:

Parcel No:

Contact Info: Name	Organization Name	Contact Type	Contact Primary Address	Status
Maria Kann		Complainant	Home, 12250 High Valle...	Active

Custom Fields:

Service Request Information

Source of Complaint
Citizen

Type of Submittal
-

Additional Location Information
-

Notify Complainant
Yes

Workflow Status: Task	Assigned To	Status	Status Date	Action By
SR Intake				
Investigation				
Final Notification				

Condition Status: Name	Short Comments	Status	Apply Date	Severity	Action By

Application Comments: View ID	Comment	Date
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/28/2021
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/28/2021
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/28/2021

Initiated by Product: ACA

Scheduled/Pending Inspections: Inspection Type	Scheduled Date	Inspector	Status	Comments

Resulted Inspections: Inspection Type	Inspection Date	Inspector	Status	Comments

SR21-01329

Menu **Help**

File Date: 10/28/2021

Application Status: Potential Duplicate

Description of Work: Was up all night again from the fans/heaters from Sourzs. Please stop this. Thanks

Application Detail: Detail

Application Type: Cannabis Related Complaint

Address: 11650 High valley road, Clearlake Oaks , 95423

Owner Name:

Owner Address:

Application Name:

Parcel No:

Contact Info: **Name** **Organization Name** **Contact Type** **Contact Primary Address** **Status**

Custom Fields: **Service Request Information**

Source of Complaint **Type of Submittal**

Citizen –

Additional Location Information

–

Notify Complainant

Workflow Status:

Task	Assigned To	Status	Status Date	Action By
SR Intake				
Investigation				
Final Notification				

Condition Status:

Name	Short Comments	Status	Apply Date	Severity	Action By

Application Comments:

View ID	Comment	Date
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/28/2021
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/28/2021

Initiated by Product: ACA

Scheduled/Pending Inspections:

Inspection Type	Scheduled Date	Inspector	Status	Comments

Resulted Inspections:

Inspection Type	Inspection Date	Inspector	Status	Comments

Record Details

SR21-01338

Menu **Help**

File Date: 10/29/2021

Application Status: Potential Duplicate

Description of Work: I am filing an odor complaint for the SourzHVR cannabis operation in High Valley. The stench of marijuana has been constant for the last few weeks and the smell is permeating any laundry I hang out in the sun. This smell has become very offensive as I an a daily walker and the fresh air I used to breathe is now pungent and overwhelming. The odor is the worst in the early morning and then in the evening when the wind has stopped. The smell just sits in the valley and gets stronger. I don't want to live with this stench year after year.

Application Detail: Detail

Application Type: Cannabis Related Complaint

Address: 11650 High Valley Road, Clearlake Oaks, 95423

Owner Name:

Owner Address:

Application Name:

Parcel No:

Contact Info:

Name	Organization Name	Contact Type	Contact Primary Address	Status
Maria Kann		Complainant		Active

Custom Fields:

Service Request Information

Source of Complaint
Citizen

Type of Submittal
–

Additional Location Information
–

Notify Complainant
Yes

Workflow Status:

Task	Assigned To	Status	Status Date	Action By
SR Intake				
Investigation				
Final Notification				

Condition Status:

Name	Short Comments	Status	Apply Date	Severity	Action By

Application Comments:

View ID	Comment	Date
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/29/2021
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/29/2021
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/29/2021
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/29/2021

Initiated by Product: ACA

Scheduled/Pending Inspections:

Inspection Type	Scheduled Date	Inspector	Status	Comments

Resulted Inspections:

Inspection Type	Inspection Date	Inspector	Status	Comments

SR21-01337

Menu **Help**

File Date: 10/29/2021

Application Status: Potential Duplicate

Description of Work: The cannabis odor from this place is strong. I had to stop hanging our laundry outside due to the smell staining my clothes. I was hanging my laundry out to dry and now when i bring it in after it has dried it all smells like a skunks booty. It smells really bad in the early am and then again in the evening. It smells worse when the wind is blowing. This is unacceptable to be forced to smell this daily and as well as listening to the fans all night and the music all day. They drive around all night in trucks, one with a big blinking yellow light. The have a ton of hoop house which is NOT allowed and a very large bright lights that light up the valley like its a walmart. They claim that they stop all activities at dark which is not true, they continue to have cars in and out, drive trucks all over the ranch, play music, and have those fans on nightly. They need to abide by their permit and this needs to stop. I feel sorry for the people who live even closer than i do.

Application Detail: Detail

Application Type: Cannabis Related Complaint

Address: 11650 High Valley Road, Clearlake Oaks, 95423

Owner Name:

Owner Address:

Application Name:

Parcel No:

Contact Info: **Name** | **Organization Name** | **Contact Type** | **Contact Primary Address** | **Status**

Custom Fields:

Service Request Information

Source of Complaint	Type of Submittal
Citizen	-

Additional Location Information
The back east area before the pavilion building.

Notify Complainant
No

Workflow Status:

Task	Assigned To	Status	Status Date	Action By
SR Intake				
Investigation				
Final Notification				

Condition Status: **Name** | **Short Comments** | **Status** | **Apply Date** | **Severity** | **Action By**

Application Comments:

View ID	Comment	Date
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/29/2021
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/29/2021
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/29/2021

Initiated by Product: ACA

Scheduled/Pending Inspections: **Inspection Type** | **Scheduled Date** | **Inspector** | **Status** | **Comments**

Resulted Inspections: **Inspection Type** | **Inspection Date** | **Inspector** | **Status** | **Comments**

SR21-01340

Menu **Help**

File Date: 10/30/2021

Application Status: Potential Duplicate

Description of Work: This is just getting worse! We have been listening to these fans for the last 36 hours straight! First it was all night and now it's all day as well. This is unreal that no one has put a stop to this. The residents are angry and frustrated. They have hoop houses that are not allowed and today they put up more stuff. In their permit it says no work after dark but that is not what is happening, we have to listen to this all night long, every night and smell that horrid smell 24 hours a day. They need to be doing only what their permit says!!!! Enough is enough! There are cars and trucks going in there around the clock.

Application Detail: Detail

Application Type: Cannabis Related Complaint

Address: 11650 High Valley Road, Clearlake Oaks , 95423

Owner Name:

Owner Address:

Application Name:

Parcel No:

Contact Info: **Name** **Organization Name** **Contact Type** **Contact Primary Address** **Status**

Custom Fields: **Service Request Information**

Source of Complaint
Citizen

Type of Submittal
-

Additional Location Information
-

Notify Complainant

Workflow Status:

Task	Assigned To	Status	Status Date	Action By
SR Intake				
Investigation				
Final Notification				

Condition Status:

Name	Short Comments	Status	Apply Date	Severity	Action By

Application Comments:

View ID	Comment	Date
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/30/2021
PUBLICUSER0	This is a potential duplicate of Record ID: SR2...	10/30/2021

Initiated by Product: ACA

Scheduled/Pending Inspections:

Inspection Type	Scheduled Date	Inspector	Status	Comments

Resulted Inspections:

Inspection Type	Inspection Date	Inspector	Status	Comments

SR21-01346

Menu **Help**

File Date: 11/01/2021

Application Status: Received

Description of Work: Please make them quit using the fans. We can't sleep. This is effecting our lives. Please!

Application Detail: Detail

Application Type: Cannabis Related Complaint

Address: 11650 High valley road, Clearlake Oaks , 95423

Owner Name:

Owner Address:

Application Name:

Parcel No:

Contact Info: **Name** **Organization Name** **Contact Type** **Contact Primary Address** **Status**

Custom Fields: **Service Request Information**

Source of Complaint
Citizen

Type of Submittal
–

Additional Location Information
–

Notify Complainant

Workflow Status: **Task** **Assigned To** **Status** **Status Date** **Action By**

SR Intake
Investigation
Final Notification

Condition Status: **Name** **Short Comments** **Status** **Apply Date** **Severity** **Action By**

Application Comments: **View ID** **Comment** **Date**

Initiated by Product: ACA

Scheduled/Pending Inspections: **Inspection Type** **Scheduled Date** **Inspector** **Status** **Comments**

Resulted Inspections: **Inspection Type** **Inspection Date** **Inspector** **Status** **Comments**

SR21-01347

Menu **Help**

File Date: 11/02/2021

Application Status: Received

Description of Work: See attached correspondence. Cannabis cultivation in violation of County Code and Early Activation Permit.

Application Detail: Detail

Application Type: Cannabis Related Complaint

Address: 11650 HIGH VALLEY RD, CLEARLAKE OAKS, 95423

Owner Name:

Owner Address:

Application Name:

Parcel No:

Contact Info: Name	Organization Name	Contact Type	Contact Primary Address	Status
James Anderson		Complainant	Business, 9655 Granite...	Active

Custom Fields:

Service Request Information

Source of Complaint
Citizen

Type of Submittal
-

Additional Location Information
See attached correspondence.

Notify Complainant
Yes

Workflow Status: Task	Assigned To	Status	Status Date	Action By
SR Intake				
Investigation				
Final Notification				

Condition Status: Name | Short Comments | Status | Apply Date | Severity | Action By

Application Comments: View ID | Comment | Date

Initiated by Product: ACA

Scheduled/Pending Inspections: Inspection Type | Scheduled Date | Inspector | Status | Comments

Resulted Inspections: Inspection Type | Inspection Date | Inspector | Status | Comments

SR21-01348

Menu **Help**

File Date: 11/03/2021

Application Status: Received

Description of Work: I am filing a noise complaint about the loud cannabis drying fans being used at SourzHVR. They are running these fans continuously overnight , night after night, and they are disturbing the quiet of the valley. There is a constant engine sound that we are having to deal with and the county doesn't seem to care. I have submitted several complaints and have not heard back from anyone. PLEASE DO SOMETHING ABOUT THIS!!!

Application Detail: Detail

Application Type: Cannabis Related Complaint

Address: 11650 High Valley Road, Clearlake Oaks, 95423

Owner Name:

Owner Address:

Application Name:

Parcel No:

Contact Info: Name	Organization Name	Contact Type	Contact Primary Address	Status
Maria Kann		Complainant		Active

Custom Fields:

Service Request Information

Source of Complaint
Citizen

Type of Submittal
–

Additional Location Information
–

Notify Complainant
Yes

Workflow Status: Task	Assigned To	Status	Status Date	Action By
SR Intake				
Investigation				
Final Notification				

Condition Status: Name	Short Comments	Status	Apply Date	Severity	Action By

Application Comments: View ID	Comment	Date

Initiated by Product: ACA

Scheduled/Pending Inspections: Inspection Type	Scheduled Date	Inspector	Status	Comments

Resulted Inspections: Inspection Type	Inspection Date	Inspector	Status	Comments

ATTACHMENT 17

To Appeal (AB 21-04) of Early Activation/Major Use Permit (EA/UP 21-10) and Initial Study (IS 21-10), Dated November 15, 2021

NORTHPOINT
CONSULTING GROUP, INC.

MEMORANDUM

To: Brad Johnson, ESQ, Everview

From: Annjanette Dodd, PhD, PE

Date: November 14, 2021

Subject: Biological Resources – Sourz HVR, Inc., Lake County UP 21-10 and IS 21-10

The purpose of this Memorandum is to provide you a review regarding the evaluation and determination of impacts to Biological Resources in the Biological Resources Section IV of the Administrative Draft Initial Study (IS) that was prepared for High Valley Ranch Use Permit UP 21-10 in May 2021 and adopted as a Mitigated Negative Declaration (MND) by the Lake County Planning Commission on July 22, 2021. The IS/MND was based on the Biological Resources Report (BRS) for the High Valley Ranch Project (Project) dated October 2020.

The BRS was developed using desktop review of relevant databases, literature, 2020 Google Earth Imagery, and a single site survey conducted over a two-day period on September 28th and 29th, 2020. While the BRS provides the relevant information necessary for Project scoping and site plan development, it does not appear to provide the level of rigor required to analyze the potential impacts to biological resources. While the IS/MND identifies potential impacts and provides corresponding mitigation measures associated with special-status wildlife species that have the potential to occur onsite, it fails to do the same for special-status plant species and water resources. The IS/MND concluded that the Project would have less than significant impacts on these two biological resources, with no mitigation measures imposed. Evidence indicates that the Project impacts, without mitigation measures, may in fact be significant, as discussed below.

1. Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or the US Fish and Wildlife Service?

The IS/MND states: *"Cultivation of cannabis proposed to occur entirely within the agricultural land and non-native grasslands. The agricultural areas are routinely disked, have been used for grazing. During the site survey, these areas were largely devoid of vegetation or were found to contain upland ruderal and non-native species. The non-native grasslands were comprised primarily of plant species that mature in spring and early summer but were not noted as being disturbed. There are eight special status plants recorded within 5 miles of the project property. The Biological Resources report included a survey of the cultivation areas and none of the species were observed nor was the specialized habitats such as playas, vernal pools, seeps, and serpentinite or volcanic soils within any of the areas proposed for improvements. None of the 8 species are expected to occur within areas that would be disturbed as a result of project implementation. Therefore, the report did not recommend any mitigation for impacts to special status plant species. Impacts in this regard would be less than significant."*

The BRS identified the Project area to be comprised of the following primary plant communities and wildlife habitats: Non-Native Grasslands and Agricultural Fields (Figure 1). The Project area is bounded to the north by Valley Foothill Woodland communities and is interspersed with Mixed Oak Woodland communities. The BRS concluded that no special-status plant species have the potential to occur on the project site. The BRS and IS/MND do not take into account the fact that the community identified as non-native grasslands, which were comprised primarily of plant species that mature in spring and early summer and were not noted as being disturbed, were identified based on only one (1) late season site survey, outside of the spring and early summer floristic periods.

In addition, although the Agricultural Fields were identified as being disturbed during the site survey, by Spring 2021, the fields area covered in lush, green vegetation (Figure 2). The BRS and IS/MND do not address the potential for special-status plant species to migrate into these areas, which are surrounded and interspersed with Woodland communities. Without seasonal floristic surveys, which the County has required as standard practice for cannabis cultivation projects seeking discretionary approval, the impact to special-status plant species cannot be determined. At a minimum, the IS/MND should have included a mitigation measure to conduct spring and early summer seasonal floristic surveys throughout the Project area prior to construction of the Project. In practice, the County has required cannabis cultivation applications seeking discretionary approval to conduct seasonal floristic surveys prior to completing the preparation of the IS/MND.

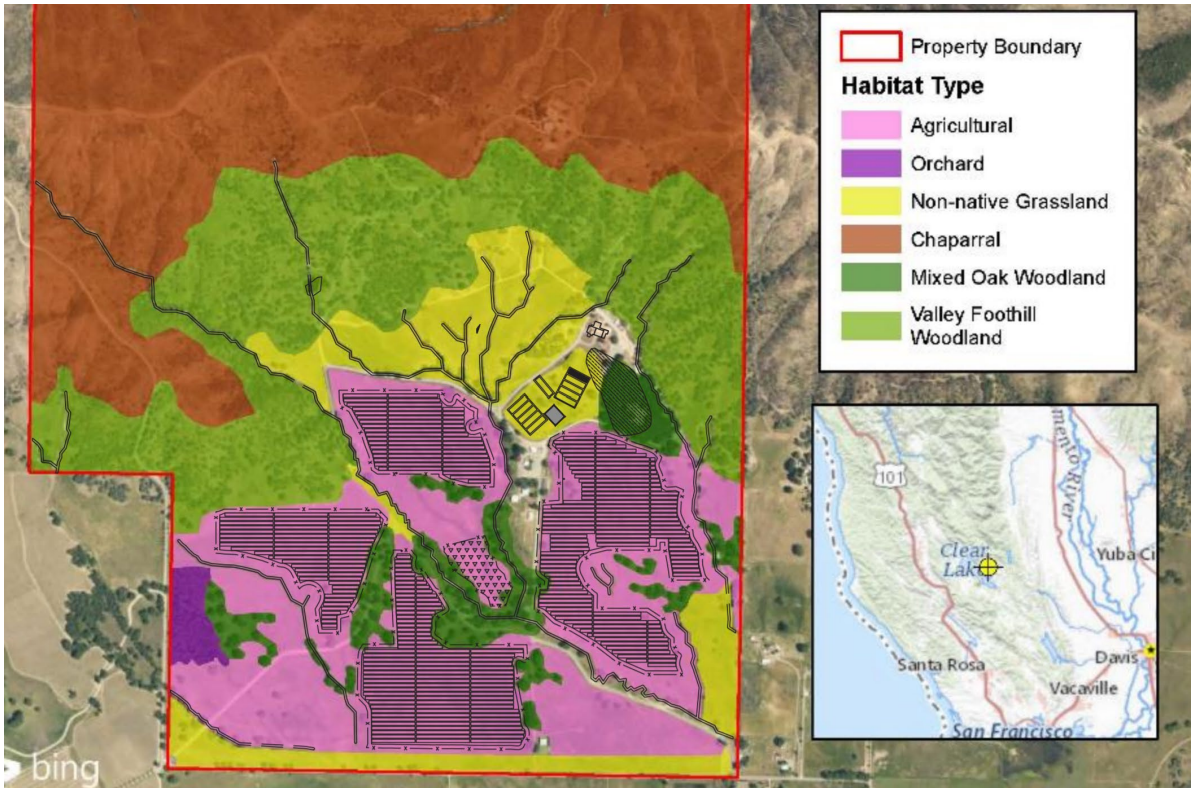


Figure 1. Plant Communities on the Project Site (IS/MND Figure 10)



Figure 2. Google Earth Imagery April 21, 2021

2. Would the Project have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

The IS/MND states: *"Within the project property there are ephemeral drainages and intermittent creeks. The ephemeral drainages account for a total of approximately 20.38 acres, and intermittent creeks account for approximately 9.17 acres over the entire project property. A formal wetland survey was not performed, but several wetland plant species were present or identifiable in the drainages during the September 2020 surveys. The majority of these features are located outside the project parcel that would contain the four cultivation areas and nursery. All cultivation areas have been cited to avoid all such features and to maintain required buffers. All cultivations areas would have at least a 100-foot buffer from any of these features. Figure 11-Aquatic Resources Map, shows these features in relation to the proposed cultivation areas.*

The bed, bank, and channel of the ephemeral and intermittent drainages within the project property are subject to California Department of Fish and Wildlife (CDFW) jurisdiction under Section 1600 of CFGC. Within the project areas where cultivation is proposed, riparian habitat was not observed. If any riparian vegetation surrounding these features is located, these areas would also be subject to CDFW jurisdiction if found. These features may also be considered waters of the state by the Regional Water Quality Control Board/State Water Quality Control Board (RWQCB/SWQCB), pursuant to the Clean Water Act (CWA). Prior to project

initiation, it would be verified that all activities that could result in impacts to potential jurisdictional features would not result in encroachments to these areas. Prior to site activation, authorization from the CDFW and RWQCB/SWQCB would be required. Additionally, as mentioned above, the project would comply with SWQCB that requires watercourse setbacks to be implemented for cannabis production projects. This would ensure impacts are less than significant and mitigation is not required."

The BRS identifies several drainages within the Project area that appear to be categorized as Class III. However, the two larger drainages through the Project area are mapped on the National Wetlands Inventory as Riverine, evidencing they are more significant than Class III and are possibly Class II. Class II watercourses are intermittent watercourses with water flowing for three to nine months during a typical year and/or provides habitat for non-fish aquatic species. No evidence was provided as to why the watercourses mapped on the National Wetlands Inventory were classified as Class III rather than Class II. Since site surveys were conducted at the end of September, during the driest time of the year, it may have not been possible to make a determination as to whether or not these watercourses provide habitat for non-fish aquatic species. At a minimum, the Project should have been required to conduct site surveys during the wet season to confirm the appropriate characterization of these watercourses.

While the Project plans include 100-feet setbacks from the drainages identified in the BRS (Figure 3), not all drainages requiring setbacks were identified in the BRS. From review of aerial imagery, there are additional Class III drainages within the Project area for which no setbacks are provided. Class III watercourses are ephemeral watercourses with water flowing for less than three months during a typical year and the watercourse does not support riparian vegetation or aquatic life. Class III watercourses typically flow for a short duration during and after precipitation events or snowmelt and are capable of sediment transport. There are drainages throughout the project area that would likely classify as Class III watercourses. These are obvious on aerial imagery of the site (Figure 2 and Figure 4). Either setbacks should have been established for these drainages or mitigation measures provided to account for disturbing these drainages. As designed, the project does not appear to be in compliance with State or County setback requirements associated with the Class III drainages that were not identified in the BRS.

The IS/MND states that several wetland plant species were identifiable in the drainages during the September 2020 surveys and that all cultivation areas have been sited to avoid all such features and maintain required buffers. However, a formal wetland survey was not performed, and the site survey was conducted during the driest time of year. In addition, the IS/MND states that prior to project initiation, it would be verified that all activities that could result in impact to potential jurisdictional features would not result in encroachment to these areas. The BRS included the recommendation for two mitigation measures to minimize potential impacts that were not incorporated into the IS/MND, including 1) implementation of required creek and riparian setbacks described by the State Regional Water Quality Control Board Cannabis General Order and the Lake County Code of Ordinances and 2) implementation of best management practices (BMPs). Neither of these were included in the IS/MND. At a minimum, the Project should have been required to conduct site surveys during the wet season and prior to site disturbance to ensure the Project would not impact water resources and jurisdictional features.

However, the Project was allowed to move forward through Early Activation in June 2021 without additional site surveys. Aerial imagery in June 2021 demonstrates project encroachment into the drainages, into the 100-feet setbacks, and outside of the mapped cultivation areas (Figure 5). This is confirmed by the fact that the project received a California Department of Fish and Wildlife (CDFW) violation in June 2021, including grading within drainages, drainage setbacks, and rerouting a channel.

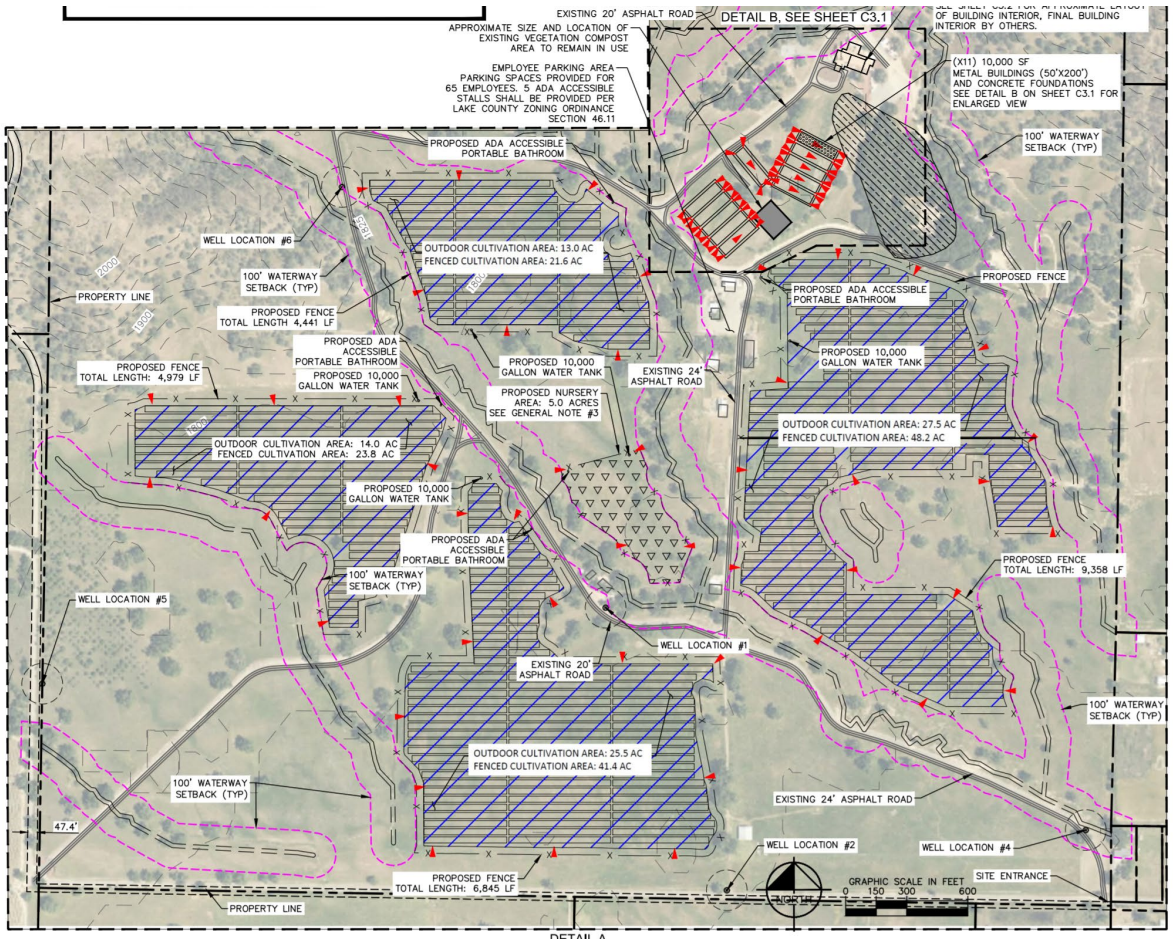


Figure 3. Project Site Plan



Figure 4. Drainages w/in Eastern-most Cultivation Area



Figure 5. June 2021 Aerial Imagery Illustrating Tilled Areas