

# **Appendix A**

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Notice of Preparation and  
Comment Received



# TRINITY COUNTY

## PLANNING DEPARTMENT

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## TRINITY COUNTY NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT AND NOTICE OF PUBLIC SCOPING MEETING FOR THE TRINITY COUNTY CANNABIS PROGRAM PROJECT

**DATE:** December 21, 2018

**TO:** Interested Agencies, Organizations, and Individuals

**PROJECT:** Trinity County Cannabis Program

**LOCATION:** Entire unincorporated territory of Trinity County (see Figure 1)

**LEAD AGENCY:** Trinity County

Trinity County (County) is the Lead Agency for the preparation and review of the Program Environmental Impact Report (EIR) for the Trinity County Cannabis Program (Cannabis Program). Pursuant to Section 15082 of the California Environmental Quality Act Guidelines (State CEQA Guidelines), the County is soliciting the views of interested agencies, organizations, and individuals on the scope and content of the environmental analysis in the EIR. Agencies should comment on the elements of the scope and content of the EIR that are relevant to the agencies' statutory responsibilities, as provided under State CEQA Guidelines Section 15082(b). A summary of the Cannabis Program and environmental effects that may result from implementing the Program is provided below.

### PUBLIC SCOPING MEETING

Trinity County will conduct a public scoping meeting to inform interested parties about the project, and to provide agencies, organizations, and the public with an opportunity to provide comments on the scope and content of the EIR. The public scoping meeting is scheduled for the following time and location:

**DATE:** January 16, 2019  
**Time:** 5:30 p.m. to 7:30 p.m.  
**Trinity Alps Performing Arts Center**  
**101 Arbuckle Court,**  
**Weaverville, CA 96093**

## PROVIDING COMMENTS ON THIS NOTICE OF PREPARATION

Written comments, including e-mail comments, on the notice of preparation (NOP) should be provided at the earliest possible date, but must be received by 4:00 p.m. on January 21, 2019. Please send all comments on the NOP to:

Trinity County Department of Transportation  
P.O. Box 2490  
31301 State Highway 3  
Weaverville, CA 96093  
Attn: David Colbeck  
Environmental Compliance Specialist  
Phone: (530) 623-1365 extension 3409  
Fax: (530) 623-5312  
E-mail: dcolbeck@trinitycounty.org

If you are from an agency that will need to consider the EIR when deciding whether to issue permits or other approvals for the project, please provide the name of a contact person. Comments provided by email should include the name and mailing address of the commenter in the body of the e-mail message.

### Focus of Input

Trinity County relies on responsible and trustee agencies to provide information relevant to the analysis of resources falling within their jurisdiction. The County encourages input for the proposed EIR, with a focus on the following topics:

**Scope of Environmental Analysis:** Guidance on the scope of analysis for the EIR, including identification of specific issues that will require closer study because of the location, scale, and character of the county;

**Mitigation Measures:** Ideas for feasible mitigation, including mitigation that could potentially be imposed by Trinity County and that would avoid, eliminate, or reduce potentially significant or significant impacts;

**Alternatives:** Suggestions for alternatives to the Trinity County Cannabis Program that could potentially reduce or avoid potentially significant or significant impacts; and

**Interested Parties:** Identification of public agencies, public and private groups, and individuals that Trinity County should notice regarding the EIR.

## PROJECT LOCATION

Trinity County is located in northern California east of Humboldt County, south of Siskiyou County, west of Shasta County, and north of Mendocino County. It encompasses 2,051,988 acres. Approximately 76 percent of this land area is under federal ownership that consists of the Shasta-Trinity, Six Rivers, and Mendocino National Forests and four wilderness areas: Yolla Bolly-Middle Eel Reserve, Trinity Alps, Chanchellula, and North Fork. There are 26 unincorporated communities in the county: Coffee Creek, Trinity Center, Covington Mill, Minersville, Weaverville, Lewiston, Junction City, Helena, Big Flat, Big Bar, Del Loma, Burnt Ranch, Hawkins Bar, Denny, Salyer, Douglas City, Hayfork, Hyampom, Peanut, Wildwood, Post Mountain, Forest Glen, Mad River, Ruth, Zenia, and Kettenpom. These unincorporated communities are under the jurisdiction of the County. There are no incorporated cities within the County.

Natural resources of the County include coniferous forests, the Coastal Range and Klamath Mountains, Trinity River, the South Fork of the Trinity River, and the New, Mad, Van Duzen, and Eel Rivers.

# DESCRIPTION OF TRINITY COUNTY CANNABIS PROGRAM

## Project Background

Trinity County currently regulates commercial cannabis cultivation licensing in the unincorporated area of the County under Ordinance 315-823 (as modified by Ordinances 315-829 and 315-830). Before this ordinance existed, the County regulated cannabis cultivation under Ordinance 315-816 EXT(A1), which was adopted on August 30, 2016. Licensed commercial operations are required to comply with the limitations on the location of cannabis cultivation and with performance standards that address noise; water supply; water quality; restrictions on the use and storage of fertilizers, pesticides, fungicides, rodenticides and herbicides; and nighttime lighting restrictions. Licensed cultivation operations are also required to obtain state licensing (known as CalCannabis Cultivation Licensing) and comply with the requirements associated with the State Water Resources Control Board (State Water Board) Cannabis Cultivation Policy – Guidelines for Cannabis Cultivation that includes Cannabis General Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (Cannabis General Order); General Water Quality Certification for Cannabis Cultivation Activities; Cannabis Small Irrigation Use Registration; and Water Rights Permitting and Licensing Program.

In addition, County are used to regulate the following commercial noncultivation cannabis uses:

- ▶ testing (Ordinance 315-824)
- ▶ nurseries (Ordinance 315-826 and -827)
- ▶ distribution (Ordinance 315-828 and -834)
- ▶ microbusiness (Ordinance 315-837), and
- ▶ manufacturing (Ordinance 315-838)

## Environmental Setting for EIR Analysis

State CEQA Guidelines Section 15125 states that an EIR must include a description of the physical environmental conditions in the vicinity of the project. This setting generally serves as the baseline against which environmental impacts are evaluated. Typically, and in accordance with the State CEQA Guidelines, the date the NOP is issued is considered appropriate for establishing existing environmental conditions.

For the purposes of this EIR, the description of the baseline conditions includes the operation of existing commercial cannabis operations that have been licensed by the County since it adopted its first commercial cannabis regulations (Ordinance 315-816 EXT[A1]) on August 30, 2016.

The environmental setting for the EIR also includes cannabis operations that are either unpermitted or illegal. Trinity County estimates that there are more than 3,500 unpermitted cannabis cultivation operations on private lands and an additional illegal trespass cultivation sites in the Shasta-Trinity National Forest (public lands). Existing unpermitted and illegal cannabis cultivation operations within public and private lands in the region have led to illegal water diversions, unpermitted removal of sensitive habitat, and direct mortality to special-status species from exposure to rodenticides and habitat removal. In addition, these practices (e.g., tree clearing, grading, and road construction) have been conducted in a manner that has resulted in sedimentation and water quality impacts to County watersheds.

## Project Description

The proposed Trinity County Cannabis Program consists of the amendment and re-adoption of the six ordinances identified above that regulate commercial cannabis operations in the unincorporated area of the County in a manner consistent with County Resolution No. 2016-077, "Four Principles on Local Regulation of Cannabis:"

- ▶ regulate cannabis operations in a manner that ensures that the county is a safe place for all residents to live and work,
- ▶ protect the county's quality of life and natural environment,
- ▶ ensure that cannabis operations avoid environmental damage and detrimental impacts on communities and neighborhoods, and
- ▶ regulate cannabis operations to protect the county's reputation as a tourist destination.

Proposed amendments to the ordinances are also intended to align the County's commercial cannabis regulations with state requirements.

Land owned by state and federal agencies and tribal trust land are not subject to the County Cannabis Program.

## POTENTIAL ENVIRONMENTAL EFFECTS

The County has determined that implementing the proposed Cannabis Program may result in significant environmental impacts; therefore, an EIR will be prepared. As allowed under State CEQA Guidelines Section 15060(d) (when the decision to prepare an EIR has already been made), the County has elected not to prepare an initial study and will instead begin work directly on the EIR.

The EIR will analyze a broad range of potential environmental impacts associated with implementing the Cannabis Program. The action is the adoption of a modified set of regulations that will apply countywide and is therefore programmatic in nature. The EIR will consider implementation of the Cannabis Program generally rather than specific review of the potential impacts of every individual cannabis project that is in operation or may be proposed. The analysis in the EIR will also be programmatic and will evaluate the effectiveness of the proposed land use requirements and development performance standards to address environmental impacts associated with the regulated cannabis activities for existing licensed operations and the development and operation of new commercial cannabis operations. Where potentially significant environmental impacts are identified, the EIR will also discuss mitigation measures (e.g., in the form of modifications to ordinance) that may reduce or avoid significant impacts. The EIR will tier off of the CalCannabis Cultivation Licensing program Final Program Environmental Impact Report.

Commercial cannabis operations that do not comply with the Cannabis Program would be considered illegal. Enforcement activities would be taken by the County in coordination with other agencies that could result in bringing some cultivation operations into compliance with County and state standards and the closure and remediation of others. However, it is acknowledged that illegal cannabis operations would likely continue to occur in the County after adoption and implementation of the Cannabis Program. Although this EIR will acknowledge the adverse environmental effects of continued illegal cannabis operations as part of the environmental baseline condition, the EIR does not propose mitigation measures to address illegal operations, because they are not part of the project.

The EIR will analyze the potential for significant adverse impacts (both direct and indirect) in the following areas:

**Aesthetics.** The EIR will describe how project implementation could generally change aesthetics within the county, especially from important viewpoints. Changes may include fences and other visual screens that block views of grow operations, as well as additional outdoor cultivation activities. The analysis will also include a discussion of light- and glare-related impacts and a discussion of potential impacts to the existing viewshed associated with mixed-light cultivation using hoop houses.

**Agriculture and Forestry Resources.** Health and Safety Code Section 11362.777(a) and Business and Profession Code Section 26067(a) define medical and adult-use cannabis as agricultural products. Thus, the cultivation of cannabis is not expected to result in the loss of important farmlands. The EIR will address the project's consistency with County General Plan and agricultural and forestry zoning provisions and will identify whether implementation of the Cannabis Program could result in the loss timberlands or conflicts with agricultural operations.

**Air Quality and Odors.** The County is located within the North Coast Air Basin and under the jurisdiction of the North Coast Unified Air Quality Management District. The EIR will evaluate the potential criteria pollutant emissions of the cannabis operations allowed under the Cannabis Program. The EIR will also evaluate potential odor impacts associated with the project.

**Biological Resources.** The effects of biological resources will be addressed in the EIR and will consider existing conditions compared to the reasonably foreseeable compliance responses associated with the Cannabis Program as well as protection measures within the State Water Board Cannabis Cultivation Policy – Guidelines for Cannabis Cultivation.

**Archaeological, Historical, and Tribal Cultural Resources.** The EIR will include a discussion of applicable state and local policies and regulations related to defined cultural resources; a brief summary of the prehistory and history of the county; a description of known historic properties or historical resources; and identification of impacts on historical, archaeological, and tribal cultural resources.

**Energy.** The EIR will evaluate whether cannabis operations allowed under the Cannabis Program would result in a wasteful, inefficient, or unnecessary use of energy (stationary and mobile). The section will consider Title 24 building efficiency requirements and state cannabis licensing provisions regarding the use of renewable energy. Construction energy use will also be addressed in the EIR.

**Geology and Soils.** The EIR will describe the geological setting of the County, including topography and soil characteristics, as well as County and state regulations related to geology, soils, paleontological resources, and seismicity. This information will be used to evaluate impacts related to geological hazards, seismic-related effects, unstable soil and slopes, soil erosion, impacts on paleontological resources, loss of availability to mineral resources of value, and other geologic issues.

**Greenhouse Gases and Climate Change.** The EIR analysis will determine whether commercial cannabis operations under the Cannabis Program would generate significant greenhouse gas emissions and result in a cumulatively considerable contribution to the global impact of climate change. The analysis will factor in the degree to which cannabis cultivation replaces other agricultural production or forest conditions. Changes in carbon sequestration associated with changes in vegetation from establishment of cultivation areas and plant growing cycles will be considered.

**Hazards and Hazardous Materials.** Cannabis operations may involve the use of potentially hazardous materials that could result in impacts on public health and the environment or the accidental release of hazardous materials into the environment. Applicable local and state regulations and databases will be identified and considered. Using available information, including the California Department of Pesticide Regulation's standards and guidance on pest management practices for cannabis cultivation (including in the State Water Resources Control Board Cannabis Policy), the EIR will identify typical hazardous materials used in cannabis operations and associated impacts. It also will address whether cannabis operations could result in an increase in wildfires or impairment to emergency evacuation/response plans.

**Hydrology and Water Quality.** The EIR will describe the existing hydrologic setting of the County and surrounding area. This discussion will include the impaired water status of Eel River, Mad River, and the Trinity River. The EIR will identify appropriate state and County regulations and policies related to these issues, including the State Water Board Cannabis Cultivation Policy – Guidelines for Cannabis Cultivation and numeric surface water and groundwater diversion standards by watershed. Using this information, the EIR will evaluate the effects of the cannabis operations allowed under the Cannabis Program on run-off and drainage patterns, pollutant discharges to surface waters, and

potential flooding hazards. The analysis will also address surface water and groundwater resource impacts associated with cannabis operation water supply needs.

**Land Use and Planning.** The EIR will evaluate the project relative to the Trinity County General Plan land use policies and applicable provisions of the County's Zoning Ordinance that provide environmental protection. The EIR will also address any potential for division of existing communities.

**Noise.** The EIR will generally describe the existing noise environment within the county and will identify existing areas with concentrations of noise-sensitive receptors and major noise sources; ambient noise levels; and natural factors, if any, that relate to the attenuation of noise, including topographic features. The impact of noise from specific equipment used for construction, cultivation (e.g., generators, fans, well pumps, and mechanical trimmers), manufacturing, and processing activities will be addressed. The EIR will assess exposure to excessive noise or groundborne vibration from allowed cannabis activities.

**Population and Housing.** The Cannabis Program would not involve the generation of substantial new employment or a need for housing that could result in significant impacts. Therefore, these issues will not be analyzed in the EIR.

**Public Services.** The Cannabis Program would allow for expanded or new cannabis operations that could generate additional need for law enforcement and fire protection services. The EIR will evaluate whether new cannabis operations under the Cannabis Program could result in new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives related to these public services. The EIR will evaluate whether the project could result in substantial physical deterioration of parks or recreation facilities. Implementation of the Cannabis Program would not be expected to affect school facility capacities or other public facilities because it would not involve the generation of substantial new employment or a need for housing that could generate new students; therefore, these issues will not be analyzed in the EIR.

**Transportation and Circulation.** The EIR will describe the existing transportation system and will analyze how cannabis operations under the Cannabis Program may affect the operation of County roadway facilities and state highway facilities. The EIR will address potential impacts on roadway conditions from increased truck traffic, as well as on traffic safety.

**Utilities and Service Systems.** The EIR will evaluate whether implementing the Cannabis Program may affect the provision of utilities and related service systems, including the need to construct new or expanded water, wastewater, stormwater drainage, or electrical systems, the construction of which would result in significant environmental effects. The impact analysis will also consider solid waste service demands associated with cannabis operations and whether impacts on disposal capacity or reduction goals would result.

**Cumulative Impacts.** The cumulative impact analysis will be based on existing land use plans for the County and the surrounding counties. The analysis will evaluate whether implementing the Cannabis Program would result in an incremental contribution to significant cumulative impacts that is considerable.


**Other CEQA Required Analyses.** The EIR will evaluate whether the Cannabis Program would have the potential to induce population and economic growth, identify any significant and unavoidable impacts, and disclose significant irreversible changes to the environment.

## USE OF THIS EIR FOR LATER PROJECT-LEVEL CEQA STREAMLINING

As encouraged under CEQA, the County intends to use the Program EIR prepared for the Cannabis Program to streamline the environmental review and consideration of future cannabis operation applications. The County plans to make full use of existing streamlining provided by CEQA, as well as emerging streamlining techniques that may become available later, as applicable. Subsequent to adoption of the Cannabis Program, applicants may apply for licenses pursuant to the regulations. Individual applications for commercial cannabis operations under the Cannabis Program will be subject to further site-specific environmental review as applicable under CEQA pursuant to CEQA Guidelines Section 15168(c), Use with Later Activities. This section of the guidelines addresses environmental review of projects intended to be addressed in a program for which an EIR was prepared. The County may determine that the environmental impacts of an individual application are adequately addressed in the EIR and that no further environmental review is required, or it may determine that additional environmental review is required or could require focused environmental review. Preparation of a site-specific environmental review document would be required if the County determines that the individual application would cause a significant environmental impact that was not examined in the EIR or would substantially increase the severity of a previously identified significant impact under State CEQA Guidelines Sections 15162 and 15168(c).

Date: December 21, 2018  
Name and Title: David Colbeck, Environmental Compliance Specialist  
Trinity County Dept. of Transportation

Signature:

  
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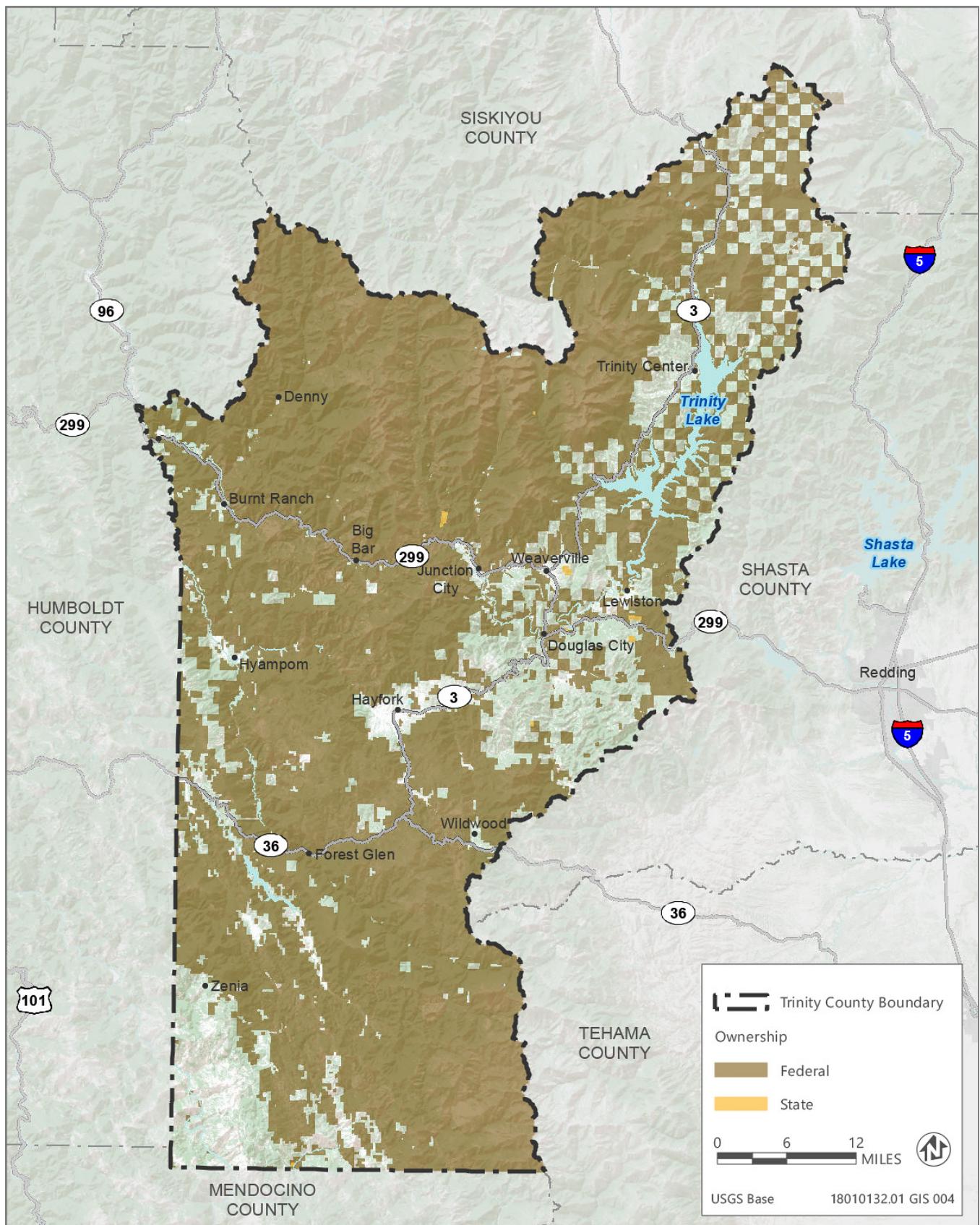


Figure 1 Project Location

**From:** [Ray Carpenter](#)  
**To:** [David Colbeck](#)  
**Subject:** CEQA comments  
**Date:** Sunday, January 20, 2019 8:41:59 PM

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Dear Mr. Colbeck,

Please consider the negative impacts of Commercial Cannabis grows on unimproved roads and those of us who live on them.

I live in Trinity Pines/Post Mountain where 99 pct. of our roads are dirt roads. The dust created by the increased traffic on our roads is horrendous, as is the damage done to the roads themselves.

My home and everything I own gets covered by the dust, even inside with windows closed. The only road we have that is chip sealed is 2 miles of Trinity Pines Drive, which was done with a Grant from the North Coast Unified Air Quality Management District to reduce the amount of dust in the air and sediment in the streams here.

The Commercial Cannabis growing in this area has negated that work and is a major Health Hazard and a Public Nuisance to all who live here.

Commercial Cannabis growing should be banned from areas such as Trinity Pines until the roads are chip sealed at the very least.

Please address these concerns when compiling your report.

Thank You.

Sincerely,

Ray Carpenter

Trinity Pines resident since 2003





CALIFORNIA DEPARTMENT OF  
FOOD & AGRICULTURE  
Karen Ross, Secretary

January 22, 2019

Trinity County Department of Transportation  
P.O. Box 2490  
Weaverville, CA 96093  
Attn: David Colbeck  
Environmental Compliance Specialist

Re: CDFA Comments on Trinity County Cannabis Program Project Notice of  
Preparation (NOP); State Clearinghouse No. 2018122049

Dear Mr. Colbeck:

The California Department of Food and Agriculture's (CDFA's) CalCannabis Division (CalCannabis) is pleased to submit comments on the NOP for the Trinity County Cannabis Program Project (Proposed Project), located in Trinity County, California.

CalCannabis is a Responsible Agency with respect to the Proposed Project, with jurisdiction over the issuance of licenses to cultivate, propagate and process commercial cannabis in the State of California. CalCannabis issues licenses to outdoor, indoor, and mixed-light cannabis cultivators, cannabis nurseries and cannabis processor facilities, where the local jurisdiction authorizes these activities. This authority is pursuant to the Business and Professions Code, Division 10, Chapter 2, Section 26012(2). All commercial cannabis cultivation within the State of California requires a cultivation license from CalCannabis.

CalCannabis certified a Programmatic Environmental Impact Report (PEIR) for cannabis activities throughout the state on November 13, 2017. The PEIR can be found at the following link: <https://www.cdfa.ca.gov/calcannabis/PEIR.html>. For a complete list of all license requirements please visit: <https://cannabis.ca.gov/wp-content/uploads/sites/13/2018/06/CA-Department-of-Food-and-Agriculture-Final-Text-of-Readopted-Emergency-Regulations.pdf>.



## **Background**

Trinity County currently regulates commercial cannabis cultivation under Ordinance 315-823 (as modified by Ordinances 315-829 and 315-830). The NOP indicates that the EIR the County will be preparing will cover amendments to the County cannabis ordinance, however no indication is provided in the NOP as to what changes may be anticipated. At present, the County issues multiple types of licenses for commercial cannabis cultivation projects, oriented to different types and sizes of cultivation to be undertaken. Ordinance 315-823 indicates that site-specific CEQA documentation must be prepared for each license application, though the ordinance does not provide details about the type of CEQA document(s) to be prepared.

## **Comments and Recommendations**

**Comment 1:** CalCannabis applauds the intention of Trinity County to prepare an EIR covering its cannabis cultivation ordinance, and to tier this EIR from the CalCannabis PEIR. CalCannabis believes that this step can improve the efficiency with which we can issue licenses for applicants from within the County.

**Comment 2:** The CalCannabis PEIR determined that some environmental topics generally fell outside of CalCannabis' regulatory authority because these topics are regulated by local land use. These include issues such as aesthetics, land use and planning, geology and soils, mineral resources, noise, odors, regional recreational structures and services, compliance with building standards, provisions for police and fire protection, and connections to public utilities (e.g., public water, wastewater, and storm drainage systems). Additionally, there are other topics for which detailed analysis in the CalCannabis PEIR was not possible because of the statewide nature of the CalCannabis licensure program. Many of these topics involve the evaluation of site-specific conditions, the details of which were infeasible to identify and evaluate in a statewide PEIR, and the characteristics of which were unknown at the time the PEIR was published (e.g., the locations of new cultivation sites that would be planned and licensed were unknown at the time the PEIR was published).

For these topics, listed below, the CalCannabis PEIR determined that potential impacts would most appropriately be evaluated in local regulatory program-level documents or site-specific documents. The PEIR, where appropriate, provides more general conclusions regarding the likelihood and types of impacts caused by cannabis cultivation, including the cumulative impacts that would be expected under the statewide CalCannabis Program.

CalCannabis requests that the Trinity County EIR evaluate the impacts of licensed commercial cannabis cultivation on these resource topics, at an appropriate regionally focused level, and include mitigation measures that, when applied to individual projects, will ensure that these projects will not result in significant adverse impacts on the environment.

### **Aesthetics**

- Substantial adverse effects on scenic vistas, scenic resources, or State-designated scenic highway, and/or the existing visual character or quality of a site and its surroundings

### **Land Use and Planning**

- Conflicts with any and all local land use plans, ordinances, policies, and/or resource programs; including but not limited to applicable Habitat Conservation Plans and Natural Community Conservation Plans

### **Mineral Resources**

- Potential loss of availability of a known mineral resource that would be of value to the region and the residents of the state
- Potential for the extraction of substantial mineral resources from lands classified by the State as areas that contain mineral resources (Mineral Resource Zone [MRZ]-3)
- Loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan

### **Noise**

- Exposure of people or residences to excessive noise levels within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport
- Generation of excessive groundborne vibration or groundborne noise levels
- Substantial permanent increase in ambient noise levels in the vicinity of a licensed cultivation activities above existing levels
- Excessive noise for sensitive receptors, and/or resulting in a substantial temporary or periodic increase in ambient noise levels
- Short-term construction-related impacts to noise (if applicable)
- Long-term operation-related noise impacts resulting from traffic and related changes to existing noise levels

## **Odor (Air Quality)**

- Create objectionable odors affecting a substantial number of people as a result of cannabis cultivation

## **Recreation**

- Potential impacts to existing neighborhood and regional parks or other recreational facilities

## **Public Services and Utilities**

- Exceedance of wastewater treatment requirements, resulting in the need to expand wastewater treatment facilities, or result in a determination by the wastewater treatment provider that it has inadequate capacity to serve the project
- Require or result in the construction of new or expanded water treatment and/or stormwater facilities
- Potential to be served by a landfill with insufficient capacity

## **Traffic and Transportation**

- Conflict with circulation plans, ordinances, or policies
- Conflict with congestion management programs
- Increase hazards due to a design feature or incompatible uses.

**Comment 3:** It is critical for the EIR to evaluate the cumulative impacts of cannabis cultivation in Trinity County. Of particular importance are topics for which the impacts of individual project may be less than significant, but where individual projects may contribute to a significant cumulative impact. These topics include:

- Impacts of surface water diversions on aquatic species and habitats, including riparian habitats reliant on stream flows;
- Impacts of groundwater diversions on the health of the underlying aquifer, including impacts on other users, impacts on stream-related resources connected to the aquifer;
- Impacts on terrestrial biological species and habitats, particularly special-status species as defined under CEQA;
- Impacts related to noise;
- Impacts related to air quality and objectionable odors.

Adequately evaluating these cumulative impacts, and incorporating mitigation measures to address them will allow applicants and the County to take advantage of CEQA streamlining opportunities at the site-specific level.

**Comment 4:** Where the CalCannabis PEIR determined that potential impacts would most appropriately be evaluated at a local level, CalCannabis anticipated that local governments would provide applicants with direction on how to operate their cannabis projects without adversely impacting the environment, as defined under CEQA. CalCannabis assumes that, as part of the local jurisdiction's approval process, the local government will comply with CEQA, which may include the preparation of site-specific CEQA documents. An applicable regulatory framework and significance thresholds appropriate at a local level may be provided in the County's cannabis cultivation ordinance or through a regulatory framework established in the County's general plan, land use policies, ordinances, and/or other regional plans developed.

In considering changes to its cannabis cultivation ordinance, Trinity County should review the State regulations and requirements and consider adopting policies that are equally as restrictive as those defined by the State. Applicants for State licensure will be required to meet these requirements, so requiring measures that are at least as restrictive will provide clarity to cultivators and increase the likelihood that CDFA will be able to issue a license for the project.

**Comment 5:** It is important to note that, pursuant to state regulations, CDFA requires an annual-license applicant to provide evidence of exemption from, or compliance with, CEQA (3 Cal. Code of Regs. § 8102).

If a local jurisdiction prepares a site-specific CEQA compliance document that contains the information required by CDFA to issue an annual license, it improves the efficiency with which CalCannabis can issue annual licenses for projects located within that jurisdiction. For site-specific cultivation projects where CDFA must act as the CEQA lead agency, CDFA will either have to rely on its PEIR for Annual Permit issuance (possibly in combination with the local agency's program-level EIR), or request that the applicant prepare site-specific analysis. It is possible that some projects may require extensive CEQA documentation. This may result in significant delays to projects receiving state cultivation licenses.

CalCannabis therefore requests that the County provide site-specific environmental documentation for each project, and include mitigation measures or permit terms that minimize the direct impacts of the project, and reduce its contribution less than considerable for any significant cumulative impacts identified in the County's program-level EIR.

## Conclusion

CalCannabis appreciates the opportunity to provide comments on the NOP for the Trinity County Cannabis Program Project. If you require additional information, please contact Kevin Ponce, Senior Environmental Scientist, at [(916) 263-0801] or via e-mail at [kevin.ponce@cdfa.ca.gov](mailto:kevin.ponce@cdfa.ca.gov).

Sincerely,



Lindsay Rains  
Licensing Program Manager

cc





State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Region 1 – Northern  
601 Locust Street  
Redding, CA 96001  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOME, Governor  
CHARLTON H. BONHAM, Director



January 18, 2019

David Colbeck  
Trinity County Department of Transportation  
P.O. Box 2490  
Weaverville, CA 96093  
[dcolbeck@trinitycounty.org](mailto:dcolbeck@trinitycounty.org)

Dear Mr. Colbeck:

**Subject: Notice of Preparation for a Program Environmental Impact Report for the Trinity County Cannabis Program Project, State Clearinghouse Number 2018122049**

The California Department of Fish and Wildlife (Department) has reviewed the Notice of Preparation (NOP) for a Program Environmental Impact Report (PEIR) for the Trinity County (County) Cannabis Program Project (Project) (State Clearinghouse Number 2018122049). The NOP was received by our office on December 24, 2018. Thank you for the opportunity to address the Department's area of statutory responsibility that must be included in the PEIR (Cal. Code Regs., tit.14, §§ 15082 & 15375.).

The proposed County Cannabis Program consists of the amendment and re-adoption of the six ordinances (cultivation [Ordinance 315-823 as modified by Ordinances 315-829 and 315-830], testing [Ordinance 315-824], nurseries [Ordinance 315-826 and -827], distribution [Ordinance 315-828 and -834], microbusiness [Ordinance 315-837], and manufacturing [Ordinance 315-838]) that regulate commercial cannabis operations in the unincorporated area of the County in a manner consistent with County Resolution No. 2016-077, *Four Principles on Local Regulation of Cannabis*:

- Regulate cannabis operations in a manner that ensures that the County is a safe place for all residents to live and work.
- Protect the County's quality of life and natural environment.
- Ensure that cannabis operations avoid environmental damage and detrimental impacts on communities and neighborhoods.
- Regulate cannabis operations to protect the County's reputation as a tourist destination.

Proposed amendments to the ordinances are also intended to align the County's commercial cannabis regulations with State requirements.

*Conserving California's Wildlife Since 1870*

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

## **DEPARTMENT JURISDICTION**

### California Environmental Quality Act (CEQA) Role

The Department is California's Trustee Agency for fish and wildlife resources, and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) The Department, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (Id., § 1802.) Similarly for purposes of CEQA, the Department is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

The Department expects that it will need to exercise regulatory authority as provided by the Fish and Game Code and act as a Responsible Agency as part of its consideration and issuance of discretionary approvals, described below (CEQA Guidelines, §§ 15082, subd. (a)(1)(A) & 15124, subd. (d)(1).), for cannabis cultivation site activities in Trinity County.

### Discretionary Approvals

*State Threatened, Endangered, Candidate and Rare Species:* The Department has discretionary authority over activities that could result in the "take"<sup>1</sup> of any species listed as candidate, threatened, endangered, or rare species pursuant to the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) and the Native Plant Protection Act (NPPA) (Fish & G. Code, § 1900 et seq.). The Department generally considers adverse impacts on CESA- and NPPA-listed species, for the purposes of CEQA, to be significant without mitigation. Take of any CESA- or NPPA-listed species is prohibited except as authorized by State law (Fish & G. Code, §§ 2080 & 2085; Cal. Code Regs., tit. 14, §786.9, subd. (b).). Consequently, if an individual cannabis-related activity is approved under the Project, including construction or operation of any cultivation activity, and it results in take of CESA- or NPPA listed species, the Department recommends that the cannabis cultivator seek appropriate authorization prior to Project implementation. This may include an Incidental Take Permit (ITP) or a Consistency Determination in certain circumstances (Fish & G. Code, §§ 2080.1 & 2081.).

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<sup>1</sup> Pursuant to Fish & G. Code, §86, "Take" means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill."

*Rivers, Lakes, and Streams:* An entity may not: substantially divert or obstruct the natural flow of; substantially change or use any material from the bed, channel, or bank of; or dispose of any debris, waste, or other material into, any river, stream, or lake unless certain conditions are met. For such activities, the entity must provide written notification to the Department. Based on the written notification and site-specific conditions, the Department will determine if the activity may substantially adversely affect an existing fish or wildlife resource and issue a Lake or Streambed Alteration (LSA) Agreement to the entity that includes reasonable measures necessary to protect the resource (Fish & G. Code, § 1600 et seq.).

Note that the Department must comply with CEQA prior to issuing a CESA ITP or LSA Agreement. As such, the Department must consider the Lead Agency's CEQA documentation. To minimize additional requirements by the Department and/or under CEQA, the Lead Agency's CEQA document should fully disclose potential Project impacts on CESA- or NPPA-listed species and any river, lake, or stream, and provide adequate avoidance, minimization, mitigation, monitoring, and reporting measures for issuance of the ITP or LSA Agreement. Where site-specific impacts are unknown, the Lead Agency's CEQA document should disclose that impacts on these resources have not been fully disclosed and an additional environmental document may be required to be tiered from the PEIR (CEQA Guidelines, §§ 15152 & 15162.).

## **SCOPE AND CONTENT OF ENVIRONMENTAL INFORMATION**

The Department offers the following guidance as to the scope and content of the environmental information to be included in the PEIR, including detail about significant environmental issues, reasonable alternatives, and mitigation measures (CEQA Guidelines, §§ 15082 & 15375.).

### **Intended Uses of the PEIR and the Department's Role as a Responsible Agency**

The PEIR should articulate the intended uses of the PEIR and specify that the Department is anticipated to be a Responsible Agency that will use the PEIR in its decision making for the Project (CEQA Guidelines, § 15124.).

### **Program EIR and Tiering**

The Department recognizes there are several advantages to a PEIR, such as subsequent Project activities within the scope of the PEIR would not require preparation of an additional environmental document. The Department is pleased to provide guidance to the County in support of the preparation of a PEIR that, pursuant to CEQA Guidelines section 15168, deals with the effects of the program as specifically and comprehensively as possible. However, based on the large scale and scope of the Project, the Department anticipates that for some subsequent



Project activities additional environmental documents will be required and tiered from the PEIR (CEQA Guidelines, §§ 15152 & 15162).

The PEIR should articulate the following structure to ensure that Lead Agencies and other agencies using the PEIR in their decision making are informed of the PEIR's intended uses and properly comply with CEQA:

- As soon as the Lead Agency has determined an additional environmental document will be required, it will informally consult with all Responsible and Trustee agencies, including the Department, to obtain recommendations as to whether an additional environmental document should be prepared (CEQA Guidelines, § 15063, subd. (9)).
- Establishing a procedure in the PEIR for determining if each subsequent Project activity is within the scope of the PEIR, or requires an additional environmental document, will be critical to ensuring adequate analysis of impacts on biological resources. CEQA Guidelines section 15168 states: *where the subsequent activities involve site-specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the program EIR.*
- Each Lead Agency should use the checklist appended to the PEIR and file a Notice of Determination for each subsequent activity.
- The checklist must be accompanied by enough relevant information and reasonable inferences based on this information to support each conclusion concerning biological resources. For subsequent Project activities that may affect sensitive biological resources, the Lead Agency will prepare a site-specific analysis, from which the supporting information would be derived (see additional guidance regarding site-specific analyses below). The checklist will cite the specific portions of the PEIR, including page and section references, containing the analysis of the subsequent Project activities' impacts and significant impacts and indicate whether it incorporates all applicable PEIR mitigation measures.
- *Note: An example checklist was developed for infill projects and can be found in CEQA Guidelines section 15183.3 and Appendix N. The Department of Conservation used a similar checklist for their Oil and Gas Well Stimulation Project program EIR, available at: [https://www.conservation.ca.gov/dog/Pages/SB4\\_Final\\_EIR\\_TOC.aspx](https://www.conservation.ca.gov/dog/Pages/SB4_Final_EIR_TOC.aspx). For full disclosure of impacts, the PEIR should encourage Lead Agencies to make the checklist and supporting biological analysis for each subsequent Project activity available for public review (See Impacts and Mitigation section below for further discussion).*



### Project Description

In order to evaluate Project impacts on biological resources, it will be necessary to include all Project activities that may result in a potentially significant impact on biological resources in the PEIR.

*Biological Expertise:* Project proponents often engage the services of biologists or consultants experienced in conducting CEQA analysis in order to develop a project description that contains sufficient information to evaluate impacts on biological resources. The Department strongly recommends this approach and encourages the County to ensure that Project engineering and construction experts are available to collaborate with biologists in preparing a complete and accurate Project description.

*Detail Project Activities:* The Project description should detail activities that result in any type of ground disturbance, including "minor" disturbances (e.g., trampling, soil erosion, runoff, and sedimentation), visual disturbance (i.e., light sources that may result in phototaxis), auditory disturbance (i.e., noise), and respiratory disturbance (i.e., dust). Detailed information about facilities/infrastructure and related construction, operation, maintenance, and decommissioning should be included. For example, the Project description should include information on work areas, temporary and permanent access roads, equipment staging and storage areas, sources of water withdrawal, stockpile storage and disposal, dewatering and on/offsite water storage and disposal, post-Project destination of runoff from the Project site, chemicals used, and potential spills and leaks.

*Identify Setbacks:* The Project description should identify setback distances from flood zones, wetlands, streams and lakes, including both perennial and episodic, and ponds; and identify and evaluate potential aquifer cross-contamination sources such as septic systems, and hazardous geological materials such as arsenic, asbestos, nitrates, etc. Whenever possible, the Department recommends these setbacks be consistent with existing State law, including the setbacks mandated by the State Water Resources Control Board's Cannabis Policy:

[https://www.waterboards.ca.gov/water\\_issues/programs/cannabis/docs/policy\\_sept272018.pdf](https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy_sept272018.pdf).

### Environmental Setting

The PEIR must include a description of the environmental setting (i.e., baseline or existing physical conditions) that contains sufficient information to understand the significant impacts of the Project and its alternatives (CEQA Guidelines, §15125).

*Program Level Detail:* The Department recommends the PEIR include the following information at the level of detail that is feasible at the "program level" to avoid siting subsequent Project activities where sensitive biological resources occur and to target areas that may require additional analysis. The PEIR should focus on

adequately describing biological resources likely to be impacted by multiple subsequent Project activities:

- *Ecoregions*. An environmental setting organized by U.S. Department of Agriculture ecoregion section.
- *Species and Vegetation*. A description and mapping of special status species and their habitats, and rare natural communities that may be impacted by the Project (i.e., oak woodlands).
- *Aquatic/Wetland Features*. A description and mapping of water features, including streams, lakes, riparian habitat, wetlands, groundwater and aquifer sources, seasonally and permanently wetted channels, sloughs, depressions, spring seeps, ponds, and flood zones.
- *Protected Habitat Areas*. A description and mapping of specially protected habitat areas and other sensitive biological features (e.g., conservation lands, Department owned lands, deer wintering range, and wildlife movement corridors).
- *Climate Change Projections*. A description and mapping of areas where future physical conditions are projected to be altered due to climate change. This will inform how the Project will impact such areas in the foreseeable future as a result of changing conditions.

*Site-Specific Detail:* To support the checklist prepared for each subsequent Project activity, the PEIR should state that the Lead Agency should have prepared, by a qualified biologist, a site-specific biological resources analysis to establish local baseline conditions potentially indeterminable at the program level. To be qualified, a biologist should have, at minimum, a relevant educational background including a degree from an accredited university and have the following expertise: (1) knowledgeable in relevant species life histories and ecology, (2) identify relevant species, (3) conducted field surveys of relevant species, (4) knowledgeable in survey protocols, and (5) knowledgeable of State and federal laws regarding the protection of sensitive species. The analysis may include, but is not limited to, the elements listed below:

- *Site-Specific Environmental Data*. For example, soil, water table, and topographic data that may inform the occurrence of, and Project activity impacts on, sensitive biological resources.
- *Conserved Lands Spatial Data*. For regions with habitat conservation plans, databases and geographic information system layers that catalog existing conserved lands will be instrumental in helping to direct the location of subsequent Project activities. Existing and proposed cultivation sites should



be overlaid on detailed maps of conserved lands so that potential footprints can be considered in a conservation-planning context.

- *Rare Plants/Natural Communities.* A thorough assessment of rare plants and rare natural communities following the Department's "2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities"  
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>. Note that vegetation classification and mapping should use the Second Edition of a *Manual of California Vegetation* (available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=86948>) which provides a standardized, floristic-based systematic classification and description of vegetation in the State.<sup>2</sup> These standards meet the National Vegetation Classification System standards followed by federal agencies. Use of this vegetation classification system will help better determine the extent of common, rare, and unique habitats, including natural communities.
- *Lake or Streambed Alterations.* A description of Project activity-related alteration of the bed, channel, bank, and/or natural flow of any river, lake, or stream. These areas should be quantified by existing habitat type, management strategies and constraints, species presence, and ownership and/or agency responsible for the management and maintenance of the parcel.
- *Special Status, Rare, Threatened, Endangered Species Surveys.* Protocol-level survey results for rare, threatened, endangered, and other special status plants and animals, including species listed on the Department's "Special Vascular Plants, Bryophytes, and Lichens List." Surveys should be conducted in accordance with Department and U.S. Fish and Wildlife Service (USFWS) accepted protocols.
- *Wetland Delineations.* Delineations should be conducted to determine the boundaries of wetlands that the subsequent Project activity may impact. Resource agencies do not use the same criteria to identify wetlands (e.g., the Department, California Coastal Commission, State Water Resources Control Board, and Army Corps of Engineers). Therefore, prior to conducting a delineation, the Lead Agency should consult with the resource agencies with jurisdiction over the Project activity, including the Department, to determine the appropriate criteria for identifying wetlands.

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<sup>2</sup> Sawyer, J.O., T. Keeler-Wolf, and J.M. Evens. 2009. *A Manual of California Vegetation*, Second Edition. California Native Plant Society, Sacramento.

## **IMPACTS AND MITIGATION**

### Program EIR and Tiering

The PEIR subsequent Project activity review process does not facilitate adequate biological resources impact analysis because Lead Agencies may determine impacts are in-scope without a supporting analysis or public review. To ensure subsequent Project activities are adequately analyzed, the PEIR should encourage the County and other Lead Agencies to make the aforementioned checklist with the supporting site-specific biological analysis available for public review.

As with the environmental setting, the PEIR should focus on adequately analyzing impacts and providing mitigation for biological resources likely to be impacted by multiple subsequent Project activities. For example, if many activities could impact northern spotted owl (*Strix occidentalis caurina*), which is likely in a heavily timbered area like Trinity County, the PEIR impact analysis and mitigation for the species should be adequate for most site-specific analyses and should not be deferred until future environmental study or review.

### Impact Thresholds

CEQA applies to significant project-related environmental impacts, including cumulative impacts. Therefore, a clearly defined threshold by which the significance of impacts is measured is necessary. Appendix G of the CEQA Guidelines identifies significance thresholds for biological resources impacts, including Mandatory Findings of Significance. These thresholds are generally sufficiently comprehensive; however, additional considerations for determining impacts on wetlands are recommended by the Department.

### CEQA Appendix G Biological Resources Checklist:

**A. 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 species in local or regional plans, policies, or regulations, or by the Department or USFWS?**

Species addressed by this threshold include, but are not necessarily limited to, the following categories:

- Listed as rare, threatened, or endangered under federal law
- Listed as rare, threatened, endangered, candidate, or fully-protected under State law
- Listed by the California Board of Forestry and Fire Protection, U.S. Forest Service, Bureau of Land Management, or other land managing agency



- California Rare Plant Rank (CRPR) of 1 through 4 (<http://www.cnps.org/cnps/rareplants/ranking.php>)
- California Species of Special Concern (SSC) (<https://www.wildlife.ca.gov/Conservation/SSC>)
- A local or regional rare plant or animal identified in a local or regional plan, policy, or regulation
- Meets the criteria of CEQA Guidelines section 15380 rare, threatened and/or endangered species

In order to assist the County in identifying these species, the Department has compiled the following lists of special status species occurring within Trinity County:

### ***Amphibians***

<b>Common Name</b>	<b>Scientific Name</b>	<b>State Status</b>	<b>Federal Status</b>
Southern long-toed salamander	<i>Ambystoma macrodactylum sigillatum</i>	SSC	None
Pacific tailed frog	<i>Ascaphus truei</i>	SSC	None
Foothill yellow-legged frog	<i>Rana boylei</i>	Candidate Threatened, SSC	None
Cascades frog	<i>Rana cascadae</i>	SSC	None
Southern torrent salamander	<i>Rhyacotriton variegatus</i>	SSC	None

### ***Birds***

<b>Common Name</b>	<b>Scientific Name</b>	<b>State Status</b>	<b>Federal Status</b>
Northern goshawk	<i>Accipiter gentilis</i>	SSC	None
Golden eagle	<i>Aquila chrysaetos</i>	Fully Protected	None
Black swift	<i>Cypseloides niger</i>	SSC	None
Northern spotted owl	<i>Strix occidentalis caurina</i>	Threatened	Threatened
Little willow flycatcher	<i>Empidonax traillii brewsteri</i>	Endangered	None
Bald eagle	<i>Haliaeetus leucocephalus</i>	Fully Protected, Endangered	Delisted

### ***Fish***

<b>Common Name</b>	<b>Scientific Name</b>	<b>State Status</b>	<b>Federal Status</b>
Summer-run steelhead trout	<i>Oncorhynchus mykiss irideus</i>	SSC	None
Chinook salmon - upper Klamath and Trinity Rivers ESU.	<i>Oncorhynchus tshawytscha</i>	SSC	None
Coho salmon-southern Oregon/northern California ESU	<i>Oncorhynchus kisutch</i>	Threatened	Threatened

### ***Mammals***

<b>Common Name</b>	<b>Common Name</b>	<b>State Status</b>	<b>Federal Status</b>
pallid bat	<i>Antrozous pallidus</i>	SSC	None
Sonoma tree vole	<i>Arborimus pomo</i>	SSC	None
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	SSC	None
California wolverine.	<i>Gulo gulo</i>	Fully Protected, Threatened	Proposed Threatened
Oregon snowshoe hare	<i>Lepus americanus klamathensis</i>	SSC	None
Humboldt marten	<i>Martes caurina humboldtensis</i>	Candidate Endangered, SSC	None
fisher - West Coast DPS	<i>Pekania pennanti</i>	Candidate Threatened, SSC	Proposed Threatened
American badger	<i>Taxidea taxus</i>	SSC	None
Sierra Nevada red fox	<i>Vulpes vulpes necator</i>	Threatened	Candidate

### ***Mollusks***

<b>Common Name</b>	<b>Scientific Name</b>	<b>State Status</b>	<b>Federal Status</b>
Trinity bristle snail	<i>Monadenia infumata setosa</i>	Threatened	None

### ***Plants***

<b>Common Name</b>	<b>Scientific Name</b>	<b>State Status</b>	<b>Federal Status</b>	<b>Plant Rank</b>
Indian Valley brodiaea	<i>Brodiaea rosea</i>	Endangered	None	1B.1
Trinity buckwheat	<i>Eriogonum alpinum</i>	Endangered	None	1B.2
water howellia	<i>Howellia aquatilis</i>	None	Threatened	2B.2
The Lassics lupine	<i>Lupinus constancei</i>	Candidate Endangered	None	1B.2

### ***Reptiles***

<b>Common Name</b>	<b>Scientific Name</b>	<b>State Status</b>	<b>Federal Status</b>
Western pond turtle	<i>Emys marmorata</i>	SSC	None

Project direct and indirect impacts on each candidate, sensitive, or special status plant and animal species and their habitats should be thoroughly addressed. Impacts are based on the sensitivity of each biological resource receptor; in this case, each identified species and habitat. Examples are included below:

- Erosion may result in sedimentation that leads to downslope impacts on terrestrial and aquatic habitats. In addition to sediment, cannabis cultivation can result in delivery of nutrients, petroleum products, and pesticides into streams and other waters, degrading the water quality and increasing turbidity. Sediment that washes into streams can smother gravel beds where salmonids spawn and impair growth and survival of juvenile salmon. Adoption of a County-wide grading ordinance that incorporates best management practices for erosion control and site drainage may mitigate such impacts.
- Clearing/grading may result in the colonization of invasive plant species that reduce habitat quality. The PEIR should require the adoption of site-specific invasive species management plans.
- Artificial lighting may impact wildlife in several ways (i.e., phototaxis), including impacts to navigation, changes in foraging behavior, changes in circadian rhythms (both physiological and behavioral), predator-prey relationships, and suppressed immune response (including increased tumor growth). Impacts have been observed in birds, insects, terrestrial mammals, reptiles, amphibians, fish, and bats. To avoid potentially significant impacts in cases where artificial lighting may be used, the PEIR should require that outdoor artificial lighting be shielded so that it does not escape beyond the

immediate cultivation area and that artificial lighting both in greenhouses and for “mixed-light” techniques not be visible outside of any structure used for cannabis cultivation.

- Noise at even moderate levels (40-60 dB) is associated with physiological and behavioral changes in birds, terrestrial mammals, amphibians, and bats. For example, the USFWS has recommended guidelines for Project-generated sound levels to avoid certain impacts on northern spotted owl (*Strix occidentalis caurina*) and marbled murrelet (*Brachyramphus marmoratus*). The PEIR should analyze Project noise contributions to ensure that loud pumps and generators do not significantly impact the local fauna. To avoid or minimize potentially significant impacts, the PEIR should require: (1) use of low-noise technology equipment, or building noise-reducing structures to house noisy equipment, (2) noise generating equipment should not be operated from one hour before sunset to one hour after sunrise, (3) generators should not be permitted as a primary power source except for temporary use in emergencies.
- Hazardous features could trap, displace, or lead to death of wildlife. Examples include: open vertical and horizontal pipes; open trenches and exposed excavation areas; pipe networks; materials to control erosion using gabions or non-biodegradable meshes; night lighting; stockpiled vegetation and soils; tarped areas; trash, garbage and open containers; vents on sheds and buildings; and oil leaks from heavy equipment. These potential impacts should be evaluated to reduce or eliminate risks to wildlife.
- Anticoagulants and other rodenticides can have harmful impacts on non-target species, and secondary poisoning of wildlife may occur. Anticoagulants are toxins found in major rodent poisons. Anticoagulants such as bromadiolone and brodifacoum prevent clotting, causing animals to bleed to death internally. As these poisons move up the food chain, other wildlife including mammalian predators and raptors are unintentionally poisoned. Mortality from secondary poisoning has been documented in several predators including mountain lion and coyotes in the Santa Monica Mountains. The Department recommends prohibiting anticoagulant use for the Project. All Project sites should be prohibited from using chemical rodenticides both indoors and outdoors. Only manual control within the Project sites should be permitted (manual traps within the confined grow site, physical barriers non-hazardous to wildlife).
- Pesticides with targets other than rodents may harm native insect pollinators and other desirable arthropods which can have cascading adverse ecosystem impacts in adjoining areas. Chemical pesticides should be prohibited on Project sites.

- Physical barriers such as perimeter fencing, screening, caging, or other means intended to limit access to cannabis plants by native herbivores must be constructed and maintained to minimize and reduce hazards to wildlife. Chicken wire and nylon netting are particularly hazardous as animals can become trapped. Fence posts or other posts which attract perching birds must be designed to not contain holes at the top that can ensnare perching raptors. An inspection checklist could be used to identify and address hazards when individual sites are approved for initial use, and through periodic inspections. Hazardous fencing materials, such as monofilament netting, should be removed and replaced with non-hazardous materials. The Department recommends prohibiting use of monofilament netting as both a fencing material and trellising material.
- Removing special status plant species or populations, disturbing associated soil seed banks sustaining populations and their genetic adaptations, clearing suitable habitat occupied by special status plant species, and removal of habitats supporting their pollinators and dispersal agents could result in potentially significant impacts.
- Adverse edge impacts typically arise when natural habitats are disturbed and farmed. A small grow site 1 acre in size or a new greenhouse in a natural habitat area could still result in weed invasions or adversely impact a special status plant or animal population just downslope or nearby. Adverse edge impacts extend varying distances from the source of impact depending upon the issue and location. Establishing protective buffers can effectively minimize adverse edge impacts.
- If permanent greenhouses would constitute structures requiring fuel clearance under State and/or local fire codes, this is an additional potentially significant impact to native habitats and the wildlife species. Areas subject to fuel modifications typically become degraded and are prone to invasion by non-native species which jeopardizes the integrity of adjoining areas.
- Access routes should also be analyzed for biological impacts if new roads or grading is required for Project sites. Construction of new access routes can lead to many substantial adverse impacts on watershed integrity, such as increased erosion.
- Cultivation of cannabis requires a nitrogen-rich soil environment, and thus, many cultivators use fertilizers and imported soils to increase the nitrogen content of the local soils. Nutrient enrichment can increase the abundance of pests and pathogens, and the use of imported soils can contain invasive plant or animal species that harm native biodiversity. Excess nutrients from fertilizers that run off into watersheds can cause nutrient imbalances that kill fish and other wildlife and decrease the activity of aquatic species. Fertilizer

runoff can also cause algae outbreaks, which, when they begin to decay, deplete the water of oxygen, suffocating fish and other aquatic life. The Department recommends the use of organic fertilizers and avoidance of synthetic fertilizers. Fertilizer use should be minimized in areas where it is likely they could run off into watersheds.

- Because of the large water needs of cannabis plants, cultivation sites may construct ponds or other artificial water sources to ensure reliable access to water during the growing season. If these ponds are not constructed with proper engineering, they can pose a threat to water quality through delivery of sediment to nearby streams. They also may result in substantial grading and fill in the area. Ponds have also been shown to become breeding habitat for invasive species such as the American bullfrog (*Lithobates catesbeianus*), which prey on native wildlife including State Candidate foothill yellow-legged frog (*Rana boylei*). The Department recommends the use of best management practices in the siting, design, and construction of ponds to ensure minimal risk of failure and subsequent sediment delivery to nearby streams. Often this includes the use of a licensed professional engineer. Adoption of a County grading ordinance would further minimize the risk of impacts such as sediment delivery before and after construction through the adoption of standards and discretionary approval. Adoption of a site-specific invasive species management plan may minimize the risk of colonization by invasive species including bullfrogs.
- Development of a cultivation site can often include clearing of existing vegetation which can have numerous impacts on the local ecosystem. Vegetation removal may result in the loss of special status plant species and the loss of habitat that supports pollinators and birds. Clearing may also cause fragmentation and loss of sensitive habitats and create edge effects that permeate far beyond the cultivation site. The activities associated with clearing may also disturb associated soil seed banks that sustain local plant populations. Removal of vegetation has also been shown to make communities vulnerable to colonization by invasive plant species and to spread the pathogen responsible for Sudden Oak Death syndrome. Additionally, the abundance of dried vegetation remaining after removals may increase risk for fires. The Department recommends the PEIR require that a qualified biologist survey each cultivation site for the presence of special status plants and suitable habitat for special-status wildlife species on, or adjacent to, the site before vegetation removal. Surveys should extend around the site in a biologically appropriate buffer based off potential impacts (light, noise, etc.). If present, the qualified biologist should conduct protocol level surveys for special status wildlife and develop appropriate avoidance and minimization or mitigation plans. Each cultivation site should be planned out to minimize edge habitat and fragmentation. Cleared vegetation should be removed from the site to limit risk of fire.

Appropriate habitat or species-specific mitigation measures should be included for each potentially significant impact. Onsite habitat restoration or enhancement should be considered and detailed. If onsite mitigation is not feasible, then offsite mitigation through habitat creation and/or acquisition and preservation in perpetuity should be considered.

The PEIR should include a mitigation measure that states that the Project applicant will consult the Department for any Project activity that may result in "take" of CESA- or NPPA-listed species, and that for unavoidable "take" the applicant will submit an ITP application to the Department and receive authorization prior to implementing the Project. In such cases, early consultation with the Department is encouraged because significant modification to a subsequent Project activity and mitigation measures, and an additional CEQA environmental document, may be required. Additionally, "take" of species listed under the federal Endangered Species Act would require a separate authorization from the USFWS and/or National Marine Fisheries Service.

**B. Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the Department or USFWS.**

Project direct and indirect impacts on riparian habitat or other sensitive natural communities should be evaluated and quantified as feasible at the program level.

Appropriate mitigation measures should be included for each potentially significant impact (e.g., restoration, permanent setbacks). Plans for restoration and revegetation should be prepared by individuals with expertise in the local California ecosystem and native plant revegetation techniques.

For Project activities potentially impacting ephemeral streams, herbaceous vegetation, woody vegetation, and woodlands also serve to protect the integrity of ephemeral streams and help maintain natural sedimentation processes. The PEIR should require effective setbacks to maintain appropriately-sized vegetated buffer areas adjoining ephemeral streams.

The PEIR should require that, prior to the commencement of any Project activity that will substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake; or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, the Project applicant must submit a complete LSA notification package and fee to the Department.

**C. Would the Project have a substantial adverse effect on federally protected wetlands as defined by section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?**

All resource agencies do not use the same criteria to identify wetlands. The Department and USFWS identify areas as wetlands if they exhibit wetland hydrology, hydric soils, or hydrophytic vegetation. The PEIR should analyze impacts on wetlands that may or may not be considered federally protected wetlands.

Project direct and indirect impacts on wetlands should be carefully evaluated. For example, Project impacts could include changes in drainage patterns on and downstream of Project sites; changes in the volume, velocity, and frequency of existing and post-construction surface and subsurface flows; polluted runoff; and soil erosion and/or sedimentation in wetlands, and impacts on groundwater and aquifer sources.

Protection of water quality is a vital component for conserving fish and wildlife resources. Water quality is regulated by State and federal laws, which are primarily administered by the State Water Resources Control Board and nine Regional Water Quality Control Boards, and the U.S. Army Corps of Engineers. The Department strongly discourages development in wetlands or conversion of wetlands to uplands. Any development or conversion that would result in a reduction of wetland acreage or habitat values should include mitigation that assures "no net loss" of wetland habitat values or acreage. Development and conversion include, but are not limited to, conversion to subsurface drains, placement of fill or building of structures within the wetland, and channelization or removal of materials from the streambed. All wetlands and watercourses, intermittent or perennial, should be retained and provided with substantial setbacks to the maximum extent feasible, to preserve the riparian and aquatic values and maintain their value to onsite and offsite wildlife populations.

**D. Would the Project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?**

Project direct and indirect impacts on wildlife movement areas, linkages, corridors, and nursery sites (e.g., bat maternity and roosting colonies, rookeries, salmon spawning and rearing habitat, etc.) should be analyzed.

The PEIR should stipulate that clearing of vegetation and other activities that may adversely affect breeding birds should occur outside of the peak avian breeding season. In Northern California, peak avian breeding season is generally from



February 1 through August 31, or as early as January 15 for some raptors. As such, vegetation removal and site preparation should be limited to September 1 through mid- to late-January, depending on the site. If vegetation clearing or other activities are necessary during breeding season, the PEIR should require that a qualified biologist experienced with conducting breeding bird surveys conduct such surveys no more than seven (7) days prior to work in the area. If an active breeding site is identified, the qualified biologist should establish and demarcate a buffer zone, which may be several hundred feet, depending on the species and local conditions (e.g., ambient levels of human activity, screening vegetation, or other factors) between the Project activities and the breeding site to avoid breeding activity interruption. The buffer zone must remain in place until the young have fledged or the breeding site is no longer active, as determined by a qualified biologist. Department staff are available to consult with the Project biologists on appropriate buffers and survey techniques.

**E. Would the Project conflict with any local policies or ordinances protecting biological resources (such as a tree preservation policy or ordinance), or conflict with the provisions of an adopted Habitat Conservation Plan (HCP), NCCP, or other approved local, regional, or State habitat conservation plan?**

The Department recommends that the PEIR require Project consistency with the aforementioned policies, ordinances, plans, and conservation land goals as part of the *Project Description*. Alternatively, the PEIR should analyze potential Project conflicts with local policies or ordinances protecting biological resources; regional conservation planning approaches, including NCCPs, HCPs, Regional Conservation Investment Strategies (Assembly Bill 2087, if passed); conservation and mitigation banks; and conservation elements in County general plans; conserved land areas including properties with habitat conserved through conservation easements or fee title ownership by federal, State and local government; and land trusts for the purpose of conserving and restoring habitat. Such conflicts could result in significant impacts on biological resources.

**Floodway Cannabis Cultivation**

The Trinity County General Plan (Chapter 7 – Hazards) explains that, “*The County Zoning Ordinance contains three different tools to deal with floodplains: the Floodplain Management Ordinance, the "Flood Hazard" zoning district and the Flood Hazard Overlay Zone. The purpose of the Floodplain Management Ordinance is to promote the public health, safety and general welfare; to protect fish and wildlife resources; and to minimize public and private losses due to flood conditions in specific areas.*” These ordinances identify that one of the activities allowed in the floodway is agriculture, which the Department assumes may include commercial cannabis cultivation. The 2016 Trinity County Crop and Livestock Report (the last year available on the Trinity County Department of Agriculture website, which is prior to the legalization of commercial cannabis cultivation in 2018) indicates that Trinity County agricultural products include

timber production, livestock, grapes, field crops, fruits and vegetables, nurse stock, and apiary. A satellite imagery search performed by Department staff, using imagery taken predominantly in 2018, of the mainstem Trinity River, South Fork of the Trinity River, Mad River, and Van Duzen River within the boundaries of Trinity County found that none of these aforementioned agricultural products, besides timber and livestock, appear to be cultivated at a commercial level within the 100-year FEMA Flood Insurance Study Areas or within the Department of Water Resources Flood Awareness maps. However, the Department has reviewed numerous Notifications of Lake or Streambed Alteration for cannabis cultivation sites located within mapped flood areas along these rivers, indicating that many cannabis cultivators may seek to cultivate within flood prone areas.

Cannabis cultivation is unique among the many agricultural products produced in Trinity County in that a large percentage of the crop is grown above ground in large soil containers or pots, is often grown in temporary hoop houses or permanent green houses, uses wire or plastic trellising that is installed annually to support the plants, imports large amounts of potting soil and fertilizer, may use pesticides and other chemicals during the growing season, and requires daily watering during its peak growth period. The PEIR should analyze potentially significant impacts resulting from cannabis cultivation within both the FEMA 100-year floodplain, and when a FEMA map is unavailable, consider impacts of cultivation occurring within the flood boundaries of the Department of Water Resources Flood Awareness maps. The PEIR analyses should include a discussion of potential pollution sources including fertilizers, compost, pesticides, and potting soils that could be transported into surface waters or leached into groundwater when located within a potential floodzone. The PEIR should also discuss how cannabis plants and other roughness elements such as semi-permanent or permanent hoop houses, greenhouses, above-ground pots containing imported soil, well/pump houses, fencing, trellising and wire cages, etc., will change the flood capacity of rivers. The PEIR should also consider developing a process for ensuring that cannabis cultivation in unmapped floodplains is avoided or mitigated to reduce impacts to less than significant in order to reduce hazards to fish and wildlife. Alternately, the County could prohibit cannabis cultivation in floodways.

#### Community Service District Water Supply

Many community service districts (CSDs) supplying residential and commercial customers with water in Trinity County including, but not limited to, Trinity County Waterworks District #1 (TCWD) and the Weaverville Community Service District, obtain their water directly from streams and rivers or from sources hydrologically connected to them (i.e., offset wells). For example, TCWD supplies water for the community of Hayfork. The primary water source for TCWD according to their 2017 Consumer Confidence Report is Big Creek. The Big Creek watershed is a major tributary stream to Hayfork Creek, which is the main tributary to the South Fork of the Trinity River. In 1998, the North Coast Regional Water Quality Control Board declared the South Fork of the Trinity River to be temperature impaired pursuant to Clean Water Act section 303(d)

list. Among other factors, water diversions decreasing the natural flow of the South Fork of the Trinity River and its tributaries, including Hayfork Creek and Big Creek, are likely contributing to the temperature impairment of the watershed. The increased water supply demand due to an increased number of cannabis cultivation customers in the TCWD service area, as well as other CSDs in Trinity County, should be addressed in the PEIR as a potentially significant impact on the streams and rivers the CSDs rely on for water supply.

#### Workforce Housing and Infrastructure Requirements

Outdoor cannabis cultivation, and the associated harvest and processing of cannabis flower, is generally reliant on an increase in seasonal workforce during the months of September through December. During this time the cannabis plant matures, is harvested, dried, and the flower is trimmed so that unwanted vegetative material is removed from the final product. Department staff have observed that many licensed cannabis cultivation sites in Trinity County are associated with a single family home and a number of smaller structures associated with the cultivation of cannabis. Staff have also observed that in many cases, these residential sites rely on a water diversion from a spring, stream, or low-production well. Seasonal workers at these residential sites may be reliant on vault toilets, septic systems designed for single families, and other waste disposal systems not intended for commercial use. Often these seasonal workers are reliant on onsite housing that may include utilizing tents or temporary bunkhouses.

In general, the single family residential sites chosen as cannabis cultivation sites in Trinity County were not designed with infrastructure that can accommodate an influx of seasonal workers who will reside on the site during the final harvesting and processing of cannabis. It is foreseeable the Project may induce substantial unplanned population growth, seasonal or permanent, in Trinity County, which may increase housing and resource demand which in turn may increase pressure biological resources. The PEIR should consider the potential significant impacts associated with an increased cannabis cultivation workforce, including increased demand on surface and groundwater resources, increased waste disposal needs and associated construction activities associated with improvement of this infrastructure, and the increased need for housing and development and how this growth will impact biological resources.

#### Setback Variances

Trinity County has previously proposed amendments to the cannabis cultivation ordinance that included lifetime variances in setbacks for cultivation sites located adjacent to Timber Production Zone (TPZ), Open Space or Non-Recreational Public Lands (public lands that have no designated improvements or facilities such as trails, campgrounds, or boat access areas) to be eligible to apply for lifetime variances to setback requirements. It is unclear from the NOP if these amendments are proposed in the scope of the current Project. The Department believes that encroachment into each of these land designations may be a potential significant impact that has the potential to

degrade the quality of the environment and substantially reduce or degrade the habitat of a fish or wildlife species.

A reduction in setbacks from the TPZ designation may have significant impacts on wildlife species and those private timberland owners seeking to sustainably manage timberlands. For instance, the northern spotted owl (NSO) was listed as Threatened under the federal Endangered Species Act in 1999, and then similarly listed under CESA in 2017. NSO populations have declined significantly in California primarily as a result of destruction of forest habitat from logging and development. As a habitat specialist, NSO are primarily threatened by further loss, fragmentation, and degradation of their forest habitats, which is further complicated by their low reproductive rate and limited ability to disperse. Additionally, contaminants from cannabis cultivation is a growing threat to NSO. Noise from road use, generators, and other equipment may disrupt foraging NSO, which primarily use hearing to hunt. Also, exposure to vehicle noise has been shown to increase stress hormone levels in NSO, which was particularly evident in males during times when they were exclusively responsible for feeding their mates and nestlings. Owners of private timberlands must undertake rigorous surveys within 1.3 miles of a proposed timber harvest site and must implement strong avoidance measures to avoid take of NSO, including seasonal restrictions on noise and disturbance.

To date, cannabis cultivators are not employing the same level of NSO avoidance as timberland owners, even though the cultivation sites are actively removing timber stands, operating adjacent to known NSO activity centers, and permanently converting forested areas into cannabis cultivation sites. The Department recommends that prior to encroachment into TPZ setbacks, the County: (1) assess the impacts of cannabis cultivation adjacent to TPZ areas known to support NSO, and (2) require cannabis cultivators within 1.3 miles of a known NSO activity center or federally designated Critical Habitat to adhere to State and federally supported NSO avoidance and mitigation measures. The Department recommends the PEIR analyze the impact of any reduction in TPZ setbacks on NSO and other sensitive species, and create clear guidelines for how environmental review of Project specific reductions in setbacks will occur.

The Department recommends the term "Open Space" be clearly defined in any amended Ordinance and in the PEIR. If it will refer to the Open Space Zoning District, the County zoning ordinance defines that as *"land intended to protect significant or critical wildlife habitat areas or areas which should not be developed due to public health or safety reasons."* Many of these Open Space areas may include wetland or riparian habitat, or occupied habitat for endangered species such as NSO and Coho Salmon. The Department does not support the encroachment of cannabis cultivation on critical wildlife habitat. The Department recommends the PEIR analyze the impact of any reduction in Open Space setbacks on sensitive species, and create clear and enforceable guidelines for how subsequent environmental review of Project specific reductions in setbacks will occur.

The phrase “Non-Recreational Public Lands” has been proposed for inclusion in an amended Ordinance and it is unclear to the Department the status of this amendment and whether or not it is included in the current Project analyzed by the PEIR. The Department manages the State’s fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public. The Department’s constituent groups include hunters, anglers and non-consumptive users that actively use the previously proposed Non-Recreational Public Lands for recreational use and enjoyment of natural resources. The vast majority of public lands in the County would fall into the category of Non-Recreational Public Lands under the proposed definition, although these sites are frequented by the public for their low traffic characteristics and ability to provide higher quality experiences for outdoor enthusiasts such as hunters, anglers, and non-consumptive users, such as bird watchers, naturalists, and hikers.

Unimproved areas are specifically targeted by the public for their low traffic characteristics and ability to provide higher quality experiences for outdoor enthusiasts such as hunters, anglers, and non-consumptive users. Allowing a lifetime of reduced or eliminated buffers for cannabis cultivation adjacent to properties defined as Non-Recreational Public Lands without consideration of possible reduced access, degradation of quality of experience, loss or degradation of hunting and angling opportunity, and compromise to public safety should not be enacted without first evaluating the potential for substantial recreational impacts. Additionally, many of these areas currently designated as Non-Recreational Public Lands contain federally designated Critical Habitat for NSO, on which the impacts of setback variances are described above. The definition of “Recreational Public Lands” should be redefined to include all public lands, including State and federal lands, legally accessible to the public and should not exclude unimproved areas devoid of such features such as trails, campgrounds, and boat areas. The Department recommends the PEIR analyze the impact of any reduction in setbacks to public lands on recreational opportunity and experience as well as sensitive species and create clear guidelines for how subsequent environmental review of Project specific reductions in setbacks will occur.

In addition, for any reduction in setback to TPZ, Open Space or “Non-Recreational Public Lands,” the Department recommends the PEIR require a site-specific biological resource assessment, and incorporate additional species-specific avoidance and minimization measures, as appropriate.

### Wild and Scenic Rivers

The United States legislature enacted the federal Wild and Scenic Rivers Act (WSRA) in 1968 to preserve rivers and their immediate environments with “*outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values*” in their “*free-flowing condition*” (16 USC §1271). The California legislature followed suit in 1972 with the California Wild and Scenic Rivers Act (California WSRA). Similar to the federal WSRA, the California WSRA’s stated purpose

is to preserve rivers and their immediate environments with “extraordinary scenic, recreational, fishery, or wildlife values” in their “freeflowing state” (PRC § 5093.50). The Trinity River, segments of its North and South Forks and the New River, were protected under the California WSRA in 1972 and under the federal WSRA in 1981.

Many factors may influence the Project’s impact on the Wild and Scenic River designation of the Trinity River and its tributaries, including changes to the scenic, recreational, fisheries, and/or wildlife resources. Scenery may be impacted by changes to flow, water appearance, fish and wildlife viewing, and visual effects of facilities within the watershed of the river. Recreation may be impacted by changes to water quality related aesthetic odors, tastes, contacts, and public health and safety aspects as well as the odor of cannabis within the river corridor. Fisheries may be impacted by changes to streamflow, water temperature, water quality, and quality of aquatic habit. Wildlife may be impacted by changes to, or loss of, habitat as a result of Project activities. The PEIR should analyze the impact of the proposed Project on the wild and scenic nature of these rivers and, if necessary, propose avoidance and minimization measures to preserve the character of the WSRA-listed rivers.

#### Deer Winter Range and Migration Corridors

Fish and Game Code sections 450-460 specify the Department's authority for management of deer herds in California. Fish and Game Code section 450 states that it is *"the policy of the Legislature to encourage the conservation, restoration, maintenance, and utilization of California's wild deer populations..."* The Department has found that land management activities such as grazing, timber practices, agricultural practices and human encroachment due to development may cause a marked decrease in critical deer winter range.

Migratory deer spend up to six months each year on winter ranges. Winter ranges are typically low in elevation with vegetation communities ranging from oak woodlands, bitterbrush and other shrubs to grasses and forbs. The PEIR should analyze the potential significant impact the Project may have on quality and quantity of critical deer winter range as well as the ability of deer to migrate from spring and summer range to winter range. The analysis should include a discussion of the impact of parcel subdivisions, fencing, lighting, noise, habitat fragmentation, loss of migration and travel corridors, loss of water sources due to development, loss of mineral springs, loss thermal refugia, loss of foraging areas, and establishment of new roads, cultivation sites, and other infrastructure.

#### Cumulative Impacts

A key PEIR advantage is that the Lead Agency can ensure consideration of cumulative impacts that might be slighted in a case-by-case analysis (CEQA Guidelines, § 15168, subd. (b)(2)).

There are numerous past and existing cannabis cultivation projects and other activities that have adversely impacted the biological resources in CEQA Guidelines Appendix G.

Many impacts are exacerbated because they are not addressed by current regulatory processes of the Department and other agencies regulating natural resources impacts. For example, impacts from conversion of upland habitat (e.g., timberlands, grassland, oak woodland) from grading to establish cultivation sites are not regulated by the County or the Department. Diversions from streams, springs, and groundwater hydrologically connected to surface waters are already adversely impacting watersheds throughout the State. Many watersheds may not be able to support the existing level of diversions, and new Project diversions or groundwater wells would likely exacerbate this problem. The PEIR should analyze the ability of Project-affected watersheds to support sensitive biological resources including, but not limited to, special status species and their habitats, and rare natural communities.

The analysis should include installing stream gages for monitoring the timing and quantity of water diversions and streamflow. Significant impacts may occur if the analysis shows a watershed would be less capable of supporting sensitive biological resources as a result of Project water diversions. Analyses should be periodically reevaluated as new information about the hydrology of watershed systems becomes available.

The PEIR must consider past, existing, and reasonably foreseeable impacts when evaluating whether the Project may significantly impact each resource in CEQA Guidelines Appendix G.

#### Limit Cultivation to Previously Developed Sites

Project activities should be confined to existing actively farmed areas or disturbed lands which do not sustain natural habitats and wildlife populations. The County proposes approximately 500 cannabis licenses but acknowledges the presence of approximately 3,500 existing cultivation sites indicating there is an ample supply of previously developed cannabis sites available for licensed cultivation. Limiting cultivation to previously developed sites and prohibiting the development of new sites will minimize the accrual of additional environmental impacts associated with habitat conversion.

#### Site-Specific Zoning Review

All land zoned for agriculture and timber production in Trinity County may not be appropriate for intensive cannabis cultivation where these areas still support native habitats and sustain wildlife and watershed resources. For instance, an area zoned for timber production containing a stand of old growth timber may not be appropriate for conversion to cannabis cultivation as conversion would remove an increasingly rare age class of forest. In many areas of the State, local governments use agricultural zoning as a default zoning; however, an agricultural zoning may not correspond with terrain or soil

types suitable for irrigated agriculture and crop production and can support important wildlife habitat values. Clearing new land for intensive cultivation or replacing native rangelands, including oak woodlands, with intensified agricultural production may lead to significant adverse direct, indirect and cumulative impacts on wildlife habitats and watersheds. The Department recommends that each proposed site, regardless of zoning, be assessed for whether it is appropriate for intensive cannabis cultivation in light of its other land use and habitat values.

### Enforcement

The Department is supportive of efforts to regulate cannabis cultivation; however, issuance of permits will not ensure compliance, particularly without consistent monitoring, enforcement, and substantial penalties for violations. Cultivation sites that operate in violation of State and local environmental regulations should have cultivation operations suspended until compliance with local and State laws is demonstrated. The County should ensure adequate resources are available to enforce the County's licensing program, and meaningful enforcement should be implemented concurrently for licensed cultivation sites, as well as those not in compliance with County Code and State law. The County should partner with, but not rely on, State agencies for enforcement.

Without meaningful enforcement and penalties for non-compliance, the number of unpermitted and non-compliant cultivation sites with their associated environmental impacts will continue to increase and undermine the marketplace for licensed cultivators. The Department recommends the amended County Code include specific penalties and remedies for permit non-compliance and post-permit environmental remediation.

### Grading Ordinance

Some of the environmental benefits of adoption of a County-wide grading ordinance have been discussed previously in this letter and include minimizing erosion and discharge of sediment into lakes and streams. Additional benefits may include avoidance of hazardous conditions, such as landslides and slope failures, protection of utilities and adjacent properties, protection of the viewshed, avoiding sensitive habitats, and many other benefits related to orderly land use and resource planning. The Department will continue to advocate for the adoption of a County grading ordinance as a means to offset the environmental impacts associated with unregulated grading activities that Department staff have observed throughout Trinity County.

At the December 18, 2018 Board of Supervisors meeting, the Board considered passage of a moratorium on grading activities. Board members posed questions to County staff inquiring about whether the Department regulates and enforces activities related to grading. As mentioned previously, the Department administers the Lake and Streambed Alteration Program. This authority is generally limited to the bed, channel,



and bank of the stream and does not extend to upland areas, and in general, would not regulate substantial grading activities observed around Lewiston and Trinity Pines. In addition to the LSA Program, the Department enforces Fish and Game Code section 5650, which prohibits the discharge of deleterious materials, which includes sediment discharged from upland areas, into waters of the State. The Fish and Game Code has also established special fines for cannabis cultivators violating Fish and Game Code sections 1600 and 5650. These fines are issued after a violation has occurred. A grading ordinance would be a proactive measure to avoid environmental impacts in upland areas away from the stream areas the Department regulates.

## FILING FEES

The Department anticipates the Project will have an impact to fish and/or wildlife habitat, and assessment of filing fees is necessary (Pub. Resources Code, § 21089; Fish & G. Code, § 711.4.). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by the Department.

The Department appreciates the opportunity to comment on the NOP and looks forward to working with Trinity County to effectively regulate cannabis cultivation and mitigating its environmental impacts. If you have any questions, please contact Adam McKannay, Senior Environmental Scientist (Supervisor), at (530) 225-2124 or [adam.mckannay@wildlife.ca.gov](mailto:adam.mckannay@wildlife.ca.gov).

Sincerely,



**Curt Babcock**  
Habitat Conservation Program Manager

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## Down River Consulting

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January 17, 2019

Trinity County Planning Department  
PO Box 2819  
Weaverville CA 96093

Re: Trinity County Cannabis Program, Notice of Preparation

Dear Mr. Colbeck,

After reviewing the Trinity County Cannabis Program Notice of Preparation documents released on December 21, 2018, Down River Consulting has the following concerns:

### Notice of Completion & Environmental Document Transmittal

In the Notice of Completion & Environmental Document Transmittal, the Department indicated, under the “Project Issues Discussed in Document” section, that growth inducement, transportation and cumulative effects will not be discussed in the programmatic environmental impact report (PEIR) that will be created. Failure to address these important concerns, that have already been communicated by the public and trustee agencies, will most certainly lead to litigation, following the certification of the PEIR.

### Cumulative Impacts

Environmental impacts from concentrated commercial cannabis activities has already resulted in significant impacts, in certain areas, due to the overburdened carrying capacity of the subwatersheds. Continuing to license additional commercial activities without looking at cumulative impacts will further exasperate these overburdened systems. Cannabis cumulative impact analysis methodology has already been developed for the Main stem and South Fork Trinity River watersheds, by the Department of Fish and Wildlife, Eureka office. In 2014, the Watershed Research and Training Center (WRTC) began 2 years of studying agricultural impacts in the target watersheds. During these studies I acted as the GIS specialist and assisted in -data compilation. Please contact Josh Smith at the WRTC for all of the confidential methodology, project outcomes and reports.

## Notice of Preparation

### Project location

Most of the first paragraph under the Project Location section on page 2 of the NOP describes the federally managed lands, including wildernesses, rather than the private lands that collectively comprise the project location. The project location is only on private lands, however total private land acreage and percent is not given in this description. Please focus on describing and analyzing impacts to private lands

In the NOP Trinity County's natural resources are insufficiently summarized in one basic sentence, which reads, "Natural resources of the County include coniferous forest, the Coastal Range and Klamath Mountains, Trinity River, the South Fork of the Trinity River, and the New, Mad, Van Duzen, and Eel Rivers." The diverse geology, soils, topography, and surface water features in Trinity County host a plethora of unique biological communities, which provide many ecosystem services. Trinity County's long history of extraction-based economies include mineral resource extraction, timber harvesting and agricultural production. To marginalize the natural resources of our project areas environmental setting into one poorly described vegetation type, a few mountain ranges and rivers is a shocking oversight. Please adequately and inclusively describe the natural resources in the project area. A description of the county's natural resources belongs in the environmental setting.

There are many natural resource professionals who collectively have decades of experience and intimate knowledge of Trinity County's natural resources. The project will be much stronger and efficient if the Department and Ascent Environmental reach out to these scientists and build upon the intellectual resources that are already available.

### Environmental Setting for EIR Analysis

The document describes baseline conditions as including "existing commercial cannabis operations that have been licensed by the county since it adopted it's first commercial cannabis regulations ...on August 30, 2016" as well as "3,500 illegal ...and an [undisclosed amount of] illegal trespass cultivation sites." CEQA §15125 (a) (1) states that baseline conditions should be established as the existing conditions on the publishing date of the NOP unless there is "substantial evidence" and historic conditions will "provide the most accurate picture." The NOP release date was December 21, 2018. The substantial evidence of both licensed and illegal cannabis farms must come from the same time frame. 2016 NAIP imagery will not provide accurate illegal cannabis cultivation results. Due to the low resolution many illegal farms will be undetectable. Furthermore, the date that the 3,500 illegal farms number was established was not provided in the NOP and is unknown to the public at this time. I do not believe that 3,500 is representative of the true number of Trinity County's unlicensed farms in 2016.

We believe that the most accurate baseline condition data will be available now and that December 21, 2018 represents the most appropriate baseline condition for this EIR. Much of the environmental data associated with legal farms has become more accurate over time. Farmers now have several years of reporting and know how much water they are using. Enforcement data is suspected to be more robust than ever at this time as well. Regardless of the baseline that is chosen, please provide a detailed, referenced description of the methodology/data sources used for establishment of baseline conditions so the public will be appeased that baseline conditions

represent the most appropriate point in time and contain only a small margin of error. Also please provide justification of why the baseline timeframe was chosen.

#### Air Quality and Odors

Please provide only fact based and scientifically proven evidence of these impacts, rather than the emotional opinions presented regularly in Trinity County, about cannabis odors. There is a body of evidence about dermal contact allergies and allergic reactions to pollen, however I have been unable to find data proving that the smell of cannabis is harmful. Furthermore, there are not any local odor-based regulations in Trinity County that would trigger a significant impact determination. I do not necessarily like the smell of the timber mill processing white fir, but I recognize it as the smell of economic opportunity.

#### Biological resources

Although many of the 247 California Native Plant Society rare plants, that reside in Trinity County, are not listed or protected under the California Endangered Species Act (CESA), they are afforded protection under CEQA 15125.c, which reads:

“...Special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project. The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context.”

Presence of botanical resources cannot be assumed and the South Fork Trinity River Watershed is home to at least 11, or 5% of California's serpentine endemic plants. These plants have evolved in localized islands of ultramafic soils and even the destruction of 1 population can result in the catastrophic extinction of a genetic lineage.

Trinity County also provides some of the last refugia for many threatened, endangered and sensitive animal species including the northern spotted owl, Coho salmon, the Pacific fisher and Townsend's big eared bat. Adequate biological resource analysis and built in mitigations are required to prevent accelerated extinction and aid in species recovery.

#### Growth Inducement

This impact should be analyzed if the project will help promote housing development, cause other significant environmental impacts or eliminate barriers to growth. The Trinity County Cultivation Ordinance 315-823 requires a permitted dwelling on each licensed parcel. Section 5(a)(ii), Limitation on Location to Cultivate Cannabis, includes “A legal parcel without a permitted/legal housing structure, or without an active building permit.” The dwelling requirement will directly result in housing development and also helps eliminate barriers to growth by providing opportunities for employment and other economic stimuli.

#### Hydrology and water quality

Existing data shows the number of reporting surface diverters per subwatershed as well as the amount of water diverted. This data could easily be compiled and compared to the flow data collected by regional Water Board staff at key locations adjacent to cannabis impacts. The existing water use data could be extrapolated to estimate water use per ft<sup>2</sup>, for light deprivation

operations or water use per plant for full season outdoor. Using this methodology, the Planning Department would have a standardized and accurate way to quantify water quantity impacts.

If you have any questions, please call  
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Thank you,

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CC: Leslie Hubbard & David Colbeck

January 18, 2019

Trinity County Department of Transportation  
PO Box 2490  
31301 State Highway 3  
Weaverville, CA 96093  
Attn: David Colbeck  
Environmental Compliance Specialist

**Subject:** Comments on Notice of Preparation for an Environmental Impact Report for the Trinity County Cannabis Program Project

Dear Mr. Colbeck,

Thank you for the opportunity to comment on the Trinity County (TC) Cannabis Program Environmental Impact Report (EIR) project (the Project). Enclosed are primary topics that I would like to offer for consideration in the development of the Project.

### **Project Background:**

The NOP describes the Project background on page 3 of the filing. In addition to the Ordinances listed on page 3, TC Resolution No.2016-077 should also be considered.

The baseline for the environmental settings is discussed in this section. The baseline should be established as 8/30/2016. This is the date of the adoption of the first Urgency Ordinance (UO) and coincides with publicly available satellite imagery from Google Earth for TC. Most of TC was imaged in 2016 and southern parts have 2015 imagery available. While satellite imagery is not completely accurate, it is one of the few quantifiable measures of cannabis activities at the time of the baseline.

Establishing baseline conditions with a retroactive date is problematic and attempts to establish a baseline further in the past runs the risk of even less available data. Additionally, cultivation sites prior to 2016, tended to still use methods designed to prevent aerial detection. The 8/30/2016 baseline is further supported by data collected by the TC planning Department since the start of the licensing program.

### **Project Description:**

The NOP specifically discusses the need to ensure that cannabis operations avoid environmental damage and the most effective means to that goal is through a combination of "carrot and stick"

(regulatory compliance and enforcement). These two items form the basis of a successful Project and both need to be thoroughly implemented.

### **Potential Environment Effects:**

The NOP published on 12/21/2018 states “the EIR does not propose mitigation measures to address illegal operations, because they are not part of the project.” This position is not accurate based on the enforcement sections of the TC cannabis ordinances and principles of Resolution No.2016-077.

Cannabis licensing fees have been and continue to be used for enforcement of the Project by the Trinity County Sheriff Office (TCSO). The nexus of complaint and noncompliant cannabis activities cannot not be separated in the TC cannabis EIR. A major purpose of the Project is to improve the existing environmental conditions associated with the unregulated cannabis industry in TC. Without enforcement against noncompliant activities, a successful Project is not reasonably possible.

### **Aesthetics:**

Lighting standards in CalCannabis regulations and TC Ordinance 315-823 reduce lighting impacts. Visual appearance of cultivation structures is addressed by TC Zoning code. Cultivation sites would not visually appear different from other agricultural operations.

Enforcement of the Project is able to reduce the cumulative impacts through abatement of the ubiquitous fabric fencing, excessive refuse, and generally poor appearance associated with noncompliant cultivation sites.

### **Agricultural and Forestry Resources:**

There are no impacts from the conversion of farmlands to non-agricultural use. The Project is in compliance with existing TC zoning and land use designations. Timberland conversion is regulated through CalFIRE permitting and TC has established a role in the approval of less than 3 acre conversion exemptions. Licensing of cultivation on TPZ zoned land is prohibited in TC Ordinance 315-823, with the exception of early enrollment in the NCRWQCB Cannabis discharge waiver program. Additionally, the removal of riparian trees is subject to CDFW LSAA permitting and SWRCB Cannabis General Order (CGO) regulations. Reforestation of removed oak trees is specifically mentioned in the CGO.

Enforcement of this Project is the able to reduce the cumulative impacts associated with unpermitted land conversions by enforcement of Ordinance 315-823 as land conversions are one for the main purpose of unlicensed cultivation.

### **Air Quality and Odors:**

Objectionable odors from cultivation activities has long been a major complaint from TC citizens. To address the issue, a 350 setback from neighboring dwellings to the cultivation sites has been established



and included in the Project since the adoption of the UO. This setback is subject to a variance that includes to the possibility for the impacted neighbor(s) to address the issue at a public hearing.

Enforcement of the Project by code enforcement and abatement actions is the best way to reduce the overall impact of odors created by outdoor cultivation. Cumulative impacts are reduced when enforcement is able to eliminate non-complaint cannabis activities, especially ones in proximity to higher population density areas.

## **Biological Resources:**

Impacts to biological resources is reduce with mandatory compliance with F&GC, CWC, and TC Cannabis Ordinances. Either a CDFW letter stating no Agreement is needed or an LSAA must be obtained for CalCannabis licensing. Enrollment in the NCRWQCB or SWRCB cannabis water quality programs have been required for TC licensing since the adoption of the UO. Waterboard cannabis program iterations are progressively more restrictive and currently the mandatory setbacks from riparian and wetland areas is up to 150ft. Additional restrictions on access roads and slope maximums provide further reductions to biological habitat impacts.

Cannabis irrigation surface water forbearance requirements, implemented in the CGO and reinforced by reporting to SWRCB via Statements of Diversion and Use and CDFW's LSA program, are some of the strongest environmental safeguards in the Project. The use of either rainwater catchment or groundwater during the typical cultivation season will dramatically help reduce impacts to surface waters. Furthermore, the framework for groundwater forbearance requirements are outlined in the CGO and they could be mandated at the discretion of the SWRCB, should they deem it necessary.

A new program for storing surface waters for cannabis irrigation, the Small Irrigation Use Registrations (SIUR), has been created by the Division of Water Rights (DWR). Numerous requirements for the storage of forbearance water are included in TC Ordinances, CGO, and CDFW permitting. Restrictions on the use of un-permitted on-stream water storage facilities is included in the CGO, along with all open water storage reservoirs for irrigation must undergo annual surveys for invasive bullfrogs. There are simply too many additional requirements in the Project which reduce biological impacts to list here.

Wildlife exclusionary fencing requirements in the Project currently are proposed to be eliminated in the most recent TC Planning Commission recommended cultivation amendments. Noise level thresholds are established in the various Cannabis Program ordinances and TC Zoning code. Prohibitions on light pollution, especially from greenhouses, are included in the cultivation ordinances and greater public knowledge has helped to reduce the issue County wide.

Enforcement of biological resources, mainly by NCRWQCB and CDFW staff, has been increasing since the adoption of the UO. In 2018, greater emphasis is reported to be have come from TC Sheriffs Office (TCSO) towards abatements of non-compliant cultivation, continuing to reduce cumulative biological resources impacts. The enforcement of the Project is expected to continue increasing in the coming years.

## **Archaeological, Historic, and Tribal Cultural Resources:**

Impacts to archaeological, historic and tribal cultural resources are reduced by requirements found in CGO, TC ordinances, and CalCannabis regulations. Procedure for discovery of remains and/or artifacts during construction is outlined in detail within the CGO and is also contained in the Site Management Plan document that each Discharger is required to have on-site.

The Project is able to reduce the cumulative impacts to archaeological, historic, and tribal cultural resources through enforcement of the TC Ordinances using Cannabis license fees. This process eliminates the cultivation activities which are the main reason for ground disturbances in the Project area. Future impacts are additionally reduced as more cultivators choose to not develop new sites in the face of increased enforcement of state and local law.

## **Energy Use and Greenhouse Gas Emissions:**

Greenhouse gases, and thus climate change, are mainly reduced by ability of the cultivators and employees to live at the job site. TC cultivation ordinances require a permitted dwelling on the cultivation parcel and nothing reduces carbon emissions more than working at home. Additionally, grid power supplied by TPUD is hydroelectric and not sustainably contributing to carbon emissions.

Traffic is one of the main contributors to greenhouse gases and the enforcement of the Project will help to reduce those impacts by eliminating non-complaint cultivation sites and the vehicular traffic associated with those sites. Overall, the cumulative impacts from the Project to climate change is reduced.

## **Geology and Soils:**

The Project requires compliance with building codes and other laws and regulations related to seismic and geologic hazards. Prohibition of slopes greater than 50% is included in the CGO and additional erosion control reporting is required for cultivation sites over 30%. A Construction General Permit (CGP) is required for grading of over one acre in both TC ordinances and the CGO and will also necessitate the development and implementation of a Stormwater Pollution Prevention Program (SWPPP). Soils are protected by the requirement for a county permitted on-site wastewater treatment system or sewer connection in the TC ordinances.

While many different government agencies, groups and individuals have pointed to the lack of a TC grading ordinance as a significant issue, the Project already includes many soil and erosion control requirements. The CGO contains limits to disturbances of riparian buffers, restricts wintertime activities, requires the development of an erosion control document (Site Management Plan), and many additional measures.

Enforcement of this Project further reduces the cumulative impacts to the environment by abating non-compliant cultivation sites.

## **Hazards and Hazardous Materials:**

Hazards and Hazardous materials impacts are reduced by the requirements contained in the CGO, CalCannabis regulations and TC ordinances. The restriction on petroleum products and gas/diesel powered engines within riparian buffers, storage requirements, and equipment service locations are just a few of the ways hazardous materials impacts are reduced. Fuel reductions and other fire hazard reduction methods should be encouraged.

Pesticide use is highly regulated by CalCannabis, TC Ordinances, and the CGO amongst others. The use of products approved for use in certified organic farming are even prohibited, leaving many cultivators to use other controls including predatory insects and nematodes. Further, testing requirements for cannabis flowers and products, along with the Track and Trace Program (TTP), ensure that prohibited pesticides are not used. Rodenticide use is also prohibited and included in the testing program.

The cumulative impacts of hazards and hazardous material is reduced by enforcement of the Project. Abatement of non-compliant cultivation sites will eliminate cultivation activities which is the main driver for the use of hazardous materials.

## **Hydrology and Water Quality:**

Many of the impacts to hydrology and water quality are reduced by requirements discussed in other sections of this comment letter, but generally, the forbearance requirements in the CGO are the most important. Many other requirements, far too many to list here, are included in CalCannabis regulations, the CGO, and TC ordinances. CDFW also regulates the diversion of surface water and activities in the floodplain and watercourses through the LSAA program.

Impacts to water quality from private road systems have been discussed and the main method proposed to address them is requiring a private road association be formed. Typically, this would involve only the people seeking a cultivation license and perhaps a few well meaning neighbors. Unfortunately, this process is fraught with indirect impacts as non-compliant sites will continue to operate as economic free riders and it could even create an extortion scenario where cultivation license holders are forced into unproportionate and potentially illegal concessions. A hostile neighborhood atmosphere is likely to develop and complaints over shared roads is a leading contributor to neighbor disputes. Requiring individual private land owners to improve roads they own, to reduce water quality impacts, is still the best overall method and is proportionately more feasible than requiring a road association.

Cumulative impacts to water quality and hydrology are reduced by enforcement of the Project. Abatement of non-complaint cultivation will result in less demand for irrigation waters and better over water quality. Sites with substantial water quality issues may be remediated using the proposed Cannabis Remediation Program, with funds being generated by fines associated with enforcement actions. Abatement and remediation of non-compliant cultivation sites is one of the most effective ways to reducing cumulative environmental impacts.

## **Land Use and Planning:**

Setbacks from neighboring dwellings and property lines are incorporated into the TC Cannabis ordinances and medium sized cultivation sites require a conditional use permit. Odor, dust, noise, traffic, and many other impacts are reduced by TC Zoning code as well. Agriculture is a historical activity in TC and many of the zoning land use designations allow for agriculture activities. To limit impacts to higher density areas where residents have voiced objections to the Project, “opt-out” areas have been developed since the enactment of the UO. These areas have typically been defined by community services districts.

Cumulative impacts to Land Use and Planning are reduced via the enforcement of the Project. A leading complaint by TC citizens is noncompliant cultivation within residential neighborhoods. An electronic complaint form accessible to all persons is available on the TC planning webpage.

### **Noise:**

Noise impacts are reduced by requirements contained within TC cannabis ordinances and zoning code. Both noise thresholds and time of day restrictions are contained in Ordinance 315-823. Noises associated with contraction and standard agricultural operations will abide by all applicable state and local laws.

Cumulative impacts to noise will be reduced by enforcement of this ordinance. Abatement of noncompliant cultivation activities will eliminate the source of most noise impacts, especially from increased traffic associated with the fall harvest season.

### **Population and Housing:**

TC cannabis cultivation ordinances require a legal dwelling be located on the parcel licensed for cultivation. This will increase the amount of available housing in TC.

Enforcement of the Project will increase the available housing in TC by abating noncompliant cultivation activities. Through the elimination of these activities, a leading impact to the supply of available housing is dramatically reduced. Fewer cultivation sites will also reduce the impacts from the larger populations need to support the noncompliant cultivation activities.

### **Public Services:**

A legal dwelling onsite is required by TC cannabis ordinances. The ability of license holders and employees to work in close proximity to their housing creates a reduction on the impacts to public services overall. Compliance to building, electrical, and fire codes are required by TC cannabis Ordinances and they all reduce the impacts to public services, especially fire related services. A regulatory framework for cannabis activities and the T&TS will provide for reductions on the impacts to law enforcement generally.

Cumulative impacts to public services are reduced through enforcement of this Project. A large portion of public services impacts are generated by noncompliant cannabis activities, especially regarding law

enforcement services. The elimination of these activities will therefore free more time and funding to be directed towards other public service needs.

### **Transportation and Circulation:**

Transportation and circulation impacts are reduced when a person is able to live in close proximity their work.

The cumulative impacts of the Project on transportation and circulation are reduced by enforcement of the Project. When noncompliant cultivation sites are eliminated, the associated impacts to transportation and circulation are correspondingly reduced.

### **Utilities and Service Systems:**

Impacts to utilities and services systems are reduced by compliance with SWRCB, CDFW, CalCanabis and TC regulations and code. New wastewater treatment requirements have been included in permeant updates to CGO regulations for indoor cultivation. Requirements for discharges from outdoor cultivation have been in place since 2015 under the NCRWQCB cannabis cultivation waiver program.

Cumulative impacts to the utilities and service systems from the Project are reduced by enforcement against noncompliant activities. Through the elimination of these cannabis activities, stresses to the utility and services systems, such as increased demands from persons associated with the abated activities, is correspondingly reduced.

### **Cumulative Impacts:**

Cumulative impacts from the Project must consider all aspects of the Project, including section 8 (Enforcement) of TC ordinance 315-823. One of main driving forces behind the Project and associated ordinances (including Resolution No.2016-077) is the need to stem the environmental impacts associated with unregulated cannabis activities in TC. Without an enforcement aspect to the Project, the Project objectives are generally considered unattainable.

The elimination of cultivation activities through enforcement is the single greatest mechanism, in the Project, available to reduce environmental impacts. It could in many ways be considered the ultimate means of impact reduction and its potential to reduce the cumulative impacts of the Project to below the threshold of significance cannot be underestimated.

A mitigation program using the enforcement fines should be considered as a means to ensure quantifiable reduction of cumulative impacts. Fees collected from TC cultivation licensing have been, and increasingly are being, used by TCSO for enforcement of the Project. Currently, the abatement costs and code violation fines are being handled according to TC code section 8.64.

A well crafted Mitigation and Monitoring Plan could incorporate a mechanism in which the fines generated by enforcement are directed into a remediation fund. These funds can then be used to ensure the most egregious environmentally impactful sites are properly remediated, thus ensuring a

permeant reduction in environmental impacts from the Project. This process is similar to mitigation banking and when combined with licensing data and enforcement statistics, an evidence based analysis of the cumulative impacts can be performed. While a means to direct funds from enforcement efforts back into the Project for mitigations of cumulative impacts currently does not exist in the TC ordinances, a mechanism to accomplish this goal should be incorporated into future TC cannabis ordinance amendments.

## **Alternatives:**

### **No-Project Alternative:**

The no-Project alternative would presumably be a return to the largely unregulated local conditions that existed prior to the adoption of the UO in 2016. It is generally assumed that this will result in increased environmental impacts in every category. Additionally, impacts to transportation/circulation and utility services would increase as people who worked from home at licensed cultivation sites would need to seek employment outside of their residence. In a rural community such as TC, the traffic impacts associated with employment outside the home can involve dramatic longer drive times and distances.

The no-Project alternative would also result in the loss of state grant funding for enforcement of state laws and, of course, the elimination of licensing fees which sustainably support enforcement of the Project. Without the enforcement of the Project, cumulative impacts from the existing and future cannabis activities will result in a literal unmitigated disaster.

### **More Permissive Alternative:**

This alternative would possibly include the relaxing of licensing restrictions with regard to “stacking” of licenses, other possible license combinations not currently allowed in TC ordinances, and the elimination of the Hayfork Water District #1 opt-out area. Provided enforcement efforts are successful at reducing the cumulative impacts of the Project, a more permissive alternative should be considered by the TC board of Superiors (BOS).

### **More Restrictive Alternative:**

A more restrictive alternative to the Project could possibly involve more regulations and ultimately the requirement for Conditional Use Permits for Project complaint licensing. This option stands a very good chance of reducing the likelihood the Project will be successful in its objectives to protect the environment. Increasing the regulatory hurdles risks forcing more cannabis activities to stay noncompliant or return to noncompliant status. The environmental impacts without regulatory protections is sure to increase. The Project currently has a blend of “carrot and stick” and more restrictive alternative to the Project risk further reductions in participation of the Project.

Sincerely, Justin Hawkins



**From:** [Jvorp](#)  
**To:** [David Colbeck](#)  
**Subject:** NOP Comments  
**Date:** Friday, January 18, 2019 10:35:49 AM

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Massive amounts of quality water from Trinity county are diverted every year to the Sacramento Valley using a system including dams, tunnels and lakes. Supporting the water needs of the Cannabis Community would require only a minuscule amount of this diverted water to be allocated to the county. It could be actual water or a water credit. This would provide the Cannabis Community with a reliable source of high quality water even in drought years.

**From:** [Steven Menken](#)  
**To:** [David Colbeck](#)  
**Subject:** EIR Comments  
**Date:** Sunday, January 20, 2019 9:47:09 AM

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There should be a method for properties that have abatements and injunctions, that are in low impact areas or agriculture zoned areas to get into the program to bolster it's enrollment and further fund enforcement of high impact grows. Additionally, there can be a clause that allows the owner to pay the prospective fines and then the permit fee to join. It does not make sense to have many properties with injunctions for cultivating when they are on agriculture zoned land, and it is now an agriculture crop according to the state.

This could be a good way to shift growers from high impact areas to agriculture land while bolstering the county's coffer.

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## North Coast Regional Water Quality Control Board

January 23, 2019

Mr. David Colbeck  
Environmental Compliance Specialist  
Trinity County  
P.O. Box 2490  
31301 State Highway 3  
Weaverville, CA 96093

Dear Mr. Colbeck:

Subject:       Comments on Notice of Preparation (NOP) for the Trinity County Cannabis Program Environmental Impact Report (EIR), State Clearinghouse Number 2018122049

Thank you for the opportunity to comment on the Notice of Preparation (NOP) for the Trinity County Cannabis Program Environmental Impact Report (EIR), State Clearinghouse Number 2018122049. The North Coast Regional Water Quality Control Board (Regional Water Board) is a responsible agency, with jurisdiction over the quality of ground and surface waters (including wetlands) and the protection of beneficial uses of those waters. Please see comments below regarding the NOP.

1. Ensure analysis and any proposed avoidance, minimization, and mitigation measures address compliance with the following objectives of the California Department of Food and Agriculture CalCannabis PEIR (from which the Trinity County EIR will be tiered as identified in the NOP):
  - a. Require that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability;
  - b. Require that cultivation will not negatively impact springs, riparian wetlands, and aquatic habitats;
  - c. Require that cannabis cultivation by licensees is conducted in accordance with applicable federal, state, and local laws related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, species protection, agricultural discharges, pesticide use, and similar matters.

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DAVID NOREN, CHAIR | MATTHIAS ST. JOHN, EXECUTIVE OFFICER

5550 Skylane Blvd., Suite A, Santa Rosa, CA 95403 | [www.waterboards.ca.gov/northcoast](http://www.waterboards.ca.gov/northcoast)

2. Include water availability and priority watersheds in analysis and proposed measures. Potential hydrologic modification – the alteration of flow regimes and groundwater recharge by the proposed activities should also be analyzed.
3. The proposed project area includes land within the Eel River, Mad River, and the Trinity River Watersheds which are listed on the Regional Water Board's Clean Water Act section 303(d) list as impaired due to excessive sedimentation and siltation. Additionally, the Eel River is also listed as impaired due to elevated water temperature. Sources of sedimentation and siltation include road construction, land development, disturbed sites, urban runoff from storm sewers, other urban runoff, highway/road/bridge runoff, hydromodification, channelization, removal of riparian vegetation, stream bank modification and destabilization, drainage and filling of wetlands, erosion, and other nonpoint sources. Sources of temperature impairment include hydromodification, stream bank modification and destabilization, removal of riparian vegetation, and other nonpoint sources. These potential impacts should be evaluated in the analysis.
4. Address potential cumulative impacts of well diversions to groundwater basins and connected surface water basins. Cumulative effects analysis should also include consideration of potential disruption of watershed-level aquatic functions, such as pollutant removal, floodwater retention, and habitat connectivity. These impacts may degrade water quality and beneficial uses, increase peak flows and flooding, and destabilize stream channels, resulting in engineered solutions to the disrupted flow patterns and loss of natural functions and values in the affected watershed.
5. Include analysis of water quality impacts from roads used for activities associated with cultivation, including potential grading impacts. Consider use of ordinance to minimize or mitigate impacts. Water quality impacts from roads and road use, construction and maintenance activities that occur on County and/or private land, including shared use road networks relied upon by cultivators, but beyond their properties and sole control, may not be addressed by the State Water Board Resources Control Board Order WQ 2017-0023-DWQ General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities depending on their location and use. These roads have the potential to contribute to cumulative impacts related to pollutant discharge and hydromodification impacts to surface waters.
6. Review previous comments submitted Oct. 27, 2017, by the Regional Water Board regarding the Initial Study for the Trinity County Commercial Cannabis Cultivation Ordinance, see attachment.

Additionally, please provide the California Department of Food and Agriculture (CDFA) PEIR Tiering Checklist (Appendix J) for the project (Trinity County Cannabis Program EIR).

If there are any questions or if you would like to meet and discuss analysis and/or proposed measures, please contact Amanda Piscitelli at [amanda.piscitelli@waterboards.ca.gov](mailto:amanda.piscitelli@waterboards.ca.gov) for further coordination.

Sincerely,

Mona Dougherty, PE  
Senior Water Resource Control Engineer

cc: State Water Resources Control Board, Kevin Porzio, Robert Cervantes

California Department of Fish and Wildlife, Donna Cobb

Attachment: Oct. 27, 2017, Regional Water Board to Trinity County Planning Dept.  
SUBJECT: Comments on the Draft Project Initial Study – Environmental  
Checklist and Evaluation of Environmental Impact regarding the Trinity  
County Commercial Cultivation Ordinance

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## North Coast Regional Water Quality Control Board

October 27, 2017

Leslie Hubbard  
Interim Planning Director  
Trinity County Planning Department  
61 Airport Road  
Weaverville, CA 96093  
[lhubbard@trinitycounty.org](mailto:lhubbard@trinitycounty.org)

**SUBJECT:** Comments on the Draft Project Initial Study – Environmental Checklist and Evaluation of Environmental Impact regarding the Trinity County Commercial Cultivation Ordinance

Dear Ms. Hubbard,

Thank you for the opportunity to comment on the Draft Project Initial Study-Environmental Checklist and Evaluation of Environmental Impact (DPIS) regarding the Trinity County Commercial Cultivation Ordinance (Ordinance), together (the Project). The North Coast Regional Water Quality Control Board (Regional Water Board) is a responsible agency for this project, with jurisdiction over the quality of ground and surface waters (including wetlands) and the protection of beneficial uses of those waters.

The Regional Water Board comments, provided below, include recent changes to the water quality regulatory programs; existing cumulative impacts associated with sediment, temperature and other water quality impairments; addressing existing and new impacts from shared use roads; the need for a strong enforcement component; cumulative impacts to hydrology and groundwater; and the need for watershed coordination as a tool for achieving healthy watersheds.

### Water Boards Cannabis Cultivation Regulatory Programs

On October 17, 2017, the State Water Board held a Public Hearing and adopted the *Cannabis Cultivation Policy: Principals and Guidelines for Cannabis Cultivation* and *General Water Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation*



*Activities* (hereinafter, the Cannabis Policy and Statewide Order). The recent regulations are available as items 6 and 7, respectively at:

[https://www.waterboards.ca.gov/board\\_info/agendas/2017/oct/101717\\_agenda.pdf](https://www.waterboards.ca.gov/board_info/agendas/2017/oct/101717_agenda.pdf)

According to the Statewide Order, all existing enrollees under Order No. R1-2015-0023 will have to transition to the Statewide Order by July 1, 2019, and comply with the new requirements except for grandfathered riparian setback requirements. However, The DPIS describes that the full impacts of commercial cultivation activities “enabled by the proposed ordinance and, which are in compliance with the Regional Water Board Order will result in a wide range of environmental improvements” and that “the requirements and management measures of both the proposed Ordinance and Order #2015-0023 would not degrade the quality of the environment” (Pg. 63 DPIS). The Regional Water Board recommends that the DPIS acknowledge the Cannabis Policy and Statewide Order and, to the extent feasible, ensure consistency with the procedural and prescriptive requirements. Additionally, all references to compliance with the Regional Water Board Order should also include these new regulations.

### **Cumulative Impacts**

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

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

The DPIS states that a preliminary assessment conducted by the county of existing/past cannabis cultivation sites throughout private land holdings identified “approximately 3,927” potential cannabis cultivation sites located within the County (Pg. 16 DPIS). Independently, the Regional Water Board has also identified potential suspected cannabis cultivation sites located throughout Trinity County from 2014 satellite imagery. The Regional Water Board has identified over 4800 suspected cannabis cultivation sites located

on over 2700 distinct parcels<sup>1</sup>. The Ordinance limitation on the number of allowable permits results in only allowing the permitting process for a maximum potential of 20% of the identified suspected parcels under cultivation.

In addition, on page 16 of the DPIS it states that “the environmental impacts of existing cultivation sites which may qualify for licenses previously pursuant to the urgency ordinance and now covered by the proposed permanent ordinance are assumed to be less severe in magnitude and intensity of those illegal/trespass sites and that such impacts will be further reduced as existing sites are brought into compliance”. It is unclear how impacts from the remaining 80% of sites, the vast majority of sites located within county jurisdiction, will have decreased negative impacts to the environment if there is no mechanism for those sites to become regulated. To adequately address cumulative impacts associated with the Project, the DPIS and the Ordinance must address how impacts of existing and future, unpermitted, cultivation will be mitigated, as the vast majority of the sites that currently exist will not be allowed to operate under the proposed Ordinance framework.

The DPIS identifies the Regional Water Board Order on several occasions as justification for less than significant impacts in many areas of the DPIS (i.e. “The proposed ordinance only applies to persons who have complied with requirements of the Regional Board Order No. 2015-0023”). Aside from the need of the Ordinance and DPIS to become consistent with the new Statewide Cannabis Policy and Statewide Order, the Water Boards regulatory frameworks are regional and statewide in scope, and do not prevent or restrict cultivation in particularly threatened watersheds. Currently, the DPIS and accompanying Ordinance do not address impacts or mitigations measures on a local, county-wide or smaller, level from high densities of cultivation, whether permitted or not. One potential solution is for Trinity county to develop, as part of the framework of the Ordinance, a program to incentivize the remediation and/or relocation of cultivations sites that do not, or will not, have the ability to come into compliance under the Ordinance.

The DPIS and Ordinance need to propose adequate mitigation measures, including compliance and enforcement strategies, for the resulting cumulative impacts from cannabis cultivation on both a county-wide and more local level. This includes measures for preventing over-concentration of cultivation in any one area and mitigations for when that cannot be avoided or when it is the least impactful option based on current baseline conditions. Additionally, the County needs to provide a detailed explanation in the DPIS, and reflect those findings in the Ordinance, for how Trinity County will allocate compliance and enforcement resources for effective implementation of the Ordinance framework to ensure environmental impacts from non-compliant sites are addressed.

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<sup>1</sup> It is important to note that the mapping effort that was conducted by the Regional Water Board was incomplete; specific areas that need further imagery analysis include the Junction City area, Burnt Ranch, Big Bar, Trinity Center, Trinity Lake, and Coffee Creek neighborhoods.

## Shared Use Roads

Shared use roads are among the most significant sources of chronic sediment discharges to surface waters across populated rural landscapes, and as documented in the North Coast Basin Plan<sup>2</sup>. It is important to ensure adequate maintenance and retrofitting of these roads to control and prevent both chronic and episodic sediment delivery to streams, especially at crossings and unstable features.

Currently, neither the DPIS nor the Ordinance address impacts of private or county maintained shared use road systems. The Regional Water Board, along with several regulatory agencies, have well documented that a major impact of cannabis cultivation sites is the increased use of current road networks, both public and private, as well as the creation of new road networks to access cultivation sites on private properties. It is imperative that both the Ordinance and the DPIS address impacts relating to shared use road systems to adequately account for the environmental impacts associated with these systems.

The DPIS does not currently address, nor does the accompanying Ordinance propose strategies to address the existing road network and impacts associated with poorly located, designed, and maintained roads. Mitigations should include the requirement for, and incentives to, creating road associations and sediment control plans for the roads, including off-property private and county road networks. Road associations, whether they are legal organizations or based on informal agreements, are critical to ensure that adequate and equitable resources are invested in shared road systems.

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

A separate, but related, issue is the grading activities associated with cultivation. Site development, as well as ongoing maintenance, of cannabis cultivation sites often results in work conducted that involves significant amounts of grading. Currently, there is no mechanism to address and mitigate the impacts from grading activities in the County. This has resulted in significant difficulties in the mitigations of negative environmental impacts, specifically in regards to sediment discharges into watercourses. We recommend that the County include standards in the Ordinance to address grading activities on all cannabis sites or commit to the development of a County-wide grading ordinance as a mitigation measure in the DPIS. At a minimum, the DPIS needs to adequately address how negative

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<sup>2</sup> Water Quality Control Plan for the North Coast Region, available at:  
[https://www.waterboards.ca.gov/northcoast/water\\_issues/programs/basin\\_plan/basin\\_plan\\_documents/](https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/basin_plan_documents/)

impacts from grading activities associated with cannabis cultivation will be mitigated as a result of the Ordinance being adopted.

### **Enforcement**

The Ordinance includes specific penalties and abatement methods for violations of the Ordinance, but does not specify any non-compliance and/or post-permit environmental remediation methods or mitigations to ensure that sites, once identified as in violation, will have their environmental related pollution/nuisances adequately remediated. It is imperative that the County provide adequate staffing to conduct enforcement efforts and compliance review, to ensure that violations are abated without delay. Additionally, the consequences should be reasonably scaled to the impacts associated with the non-compliance, and clearly outlined in the Ordinance. Often in the case of enforcement, eradication efforts abate the immediate nuisance of the plants, but the underlying environmental problems, such as the improper grading, noncompliant stream crossings, excess soil spoils, and general refuse on the site are left onsite, to continue to be a negative impact on the environment. The DPIS should address how enforcement related activities, such as abatement, will result in improvements, or at a minimum mitigate negative impacts, on the environment, and address this language in the accompanying Ordinance.

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

We encourage County enforcement staff to actively coordinate with partner agencies to promote safety, consistency, and effectiveness to ensure that site conditions are addressed in a comprehensive and adequate strategy. It is important that applicable agencies have notification of non-compliance related to regulations beyond the County jurisdiction to ensure that all potentially environmentally harmful activities are adequately investigated by the respective experts and remedied accordingly. Resulting compliance agreements should reflect the timelines required by the agencies with jurisdiction. When environmental remediation is required, the agencies with jurisdiction should be consulted for review and concurrence.

It is imperative that not only those sites that are part of the Ordinance program are remediated, but also those sites that are identified outside of the Ordinance program. The DPIS should clarify what the County's plans are for enforcement of unpermitted sites and how those plans and associated resources will be adequate to address the environmental impacts from the vast majority of cultivation sites in the County. By providing an opportunity for licensing and regulating existing sites that seek, and are capable of,

compliance, the truly environmentally damaging and irreparable sites could be more effectively targeted for enforcement.

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

### **Cumulative Impacts to Hydrology and Groundwater**

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

The Regional Water Board has received significant complaints from neighbors concerned with groundwater draw-down associated with increased groundwater extraction for large-scale cannabis cultivation. The Ordinance currently only proposes that sites that are using a well simply have a well permit from the county. We recommend Trinity County require cultivators using groundwater wells to monitor them for drawdown in order for the County to understand how the cumulative impacts of groundwater withdrawal are affecting the groundwater and related surface water tables. If the County does not employ such a mechanism, at a minimum, the DPIS needs to address potential cumulative impacts to groundwater basins, and connected surface water basins, through well diversions.

Additionally, the Ordinance should also include provisions that are reflective of the Cannabis Policy which includes provisions for rainwater catchment and associated infrastructure of off-stream storage as a source for water use. If the County chooses to limit water use to only stream diversions and groundwater extraction, the DPIS needs to demonstrate how those limitations will not adversely impact the local hydrology.

### **Watershed Coordination**

In addition to regulatory tools, non-regulatory watershed coordination can contribute to improved watershed stewardship. We recommend that the County build capacity for watershed groups and road associations to monitor and report watershed conditions and coordinate on a watershed scale, and provide technical assistance and organizational models to assist citizens to coordinate effectively on shared resource protection issues, including but not limited to road maintenance, water diversions, and habitat protection and enhancement. This will also promote opportunities for grant funding to assist in water resource protection. Additionally, the County, in coordination with partner agencies and watershed groups, should identify watershed monitoring and metrics to inform thresholds

for cumulative impacts and watershed carrying capacities. A combination of stewardship and environmental mitigation projects can contribute to such an effort. The Regional Water Board would be available to actively partner on watershed stewardship and coordination projects.

**Regional Water Board contacts**

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

Sincerely,

Kason Grady  
Cannabis Unit Supervisor  
North Coast Regional Water Quality Control Board



**From:** [Donna Rupp](#)  
**To:** [David Colbeck](#)  
**Subject:** Comments on NOP  
**Date:** Wednesday, January 23, 2019 4:41:21 PM

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Hi David - I hope this isn't too late to include in the review for the Cannabis Programmatic EIR. My biggest concern over the entire permitting process is in regards to how issuance of cultivation permits do not address water resources. Here are my concerns:

1. There is no review of the of subwatersheds regarding carrying capacity and sustainable use of water. There should be an allocated number of permits allowed per subwatershed (HUC6) based on stream flow, number of wells, and availability of water resources.
2. There is no review of the subwatersheds regrading existence of sensitive habitat for aquatic and terrestrial animals.
3. Currently, the way it is set up, all 500 permits could be issued in one subwatershed and the destruction to that particular drainage would be acceptable to the county. They are not tracking permits and carrying capacity in any way. The current process could lead to destruction of sensitive habitat and organisms, as long as all individuals met state standards set by CDFW and the Water Board. Cumulative impacts within each subwatershed needs to be addressed by the County. Individuals do not have the landscape level view available to the County.

Thanks -

*Donna Rupp*

[Weaverville CA](#)

[Cell: 503-807-8770](#)

Safe Alternatives for our Forest Environment (SAFE)  
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Attn: David Colbeck  
Environmental Compliance Specialist  
Phone: (530) 623-1365 extension 3409  
E-mail: dcolbeck@trinitycounty.org

Dear Mr. Colbeck:

Below are my scoping comments for the proposed Environmental Impact Report as Executive Director of Safe Alternatives for our Forest Environment (SAFE) these should be considered as additions to the input from our legal counsel Steven Volker. Thank you for your consideration of this input.

**Background:** SAFE is a 501c3 nonprofit educational and advocacy organization in Trinity County and has been Trinity County's environmental voice since the mid 1970s.

Sometime after the voters passed Proposition 215, Trinity County passed an unpopular and widely ignored personal use ordinance with an 8-plant limit, with scant enforcement and little community buy-in. The first wave of the Green Rush was created as word of the lack of enforcement of this ordinance spread.

The State of California enacted the Medical Marijuana Regulation and Safety Act (MMRSA) which had the effect of yet another wave in the Green Rush. Again Trinity County's reputation for "no enforcement" and very inadequate regulations made the county a destination for growers from all over the world.

Trinity County then passed a so-called "Urgency Ordinance" with no environmental study and little or no enforcement, which further opened the flood gates to wide spread illegal cultivation which has had the effect of intensifying The Green Rush.

SAFE has participated in many meetings with Trinity County officials, including the pivotal meeting that saw the enactment of the "Urgency Ordinance." The "Urgency Ordinance" was

brought forward because of the widespread environmental damage of illegal Cannabis grows in Trinity County, and the additional threats to public safety. SAFE has asserted many times that county needed a CEQA document to guide it in decisions on these cannabis land use issues at these many public hearings, and private meetings with individual supervisors we heard the promises that the County would immediately start working on a permanent Cannabis ordinance, and that would be an open public process and be compliant with environmental law and include the necessary ramped-up enforcement.

### **Scope of the Environmental Analysis:**

From SAFE's point of view the most important issue is the cumulative impact of cannabis growing throughout the county. This analysis must include a comprehensive look the impacts on water and wildlife aquatic and terrestrial.

The despite the public insistence, the county enacted is ordinance and licensing program without evaluating the environmental impacts of this newest ordinance and most importantly the cumulative impacts.

Cumulative impacts are those that are significant when viewed in connection with the effect of past projects, other current projects, existing conditions legal and illegal, and probable future projects. The county has failed to consider how its adoption of this ordinance, following right after their prior failures at regulating cannabis and polices including not taking significant or meaningful enforcement action, will impact the environment. Since the county ultimately proceeded without preparing an EIR, and studying the cumulative impacts. All permits issued without benefit of this thorough analysis must be given new review and not granted any special status.

Incremental Impacts of the current ordinance added to past degradation are very significant. In determining its significance, the county must consider the impacts of the Ordinance in the context of Trinity's degraded environmental condition. California Environmental Quality Act (CEQA) requires impact analyses to consider the degree to which past actions have led to an existing significant environmental impact. Where such impact exists, additional incremental impacts that add to that deteriorating scenario must be considered as potentially cumulative significant impacts. To comply with CEQA, the Environmental Impact Report (EIR) must consider all of these cumulative impacts.

The environmental impacts associated with cannabis cultivation have increased, and unlawful water diversions for Cannabis irrigation have a detrimental effect on fish and wildlife and their habitat, which are held in trust by the state for the benefit of the people of the state.

A 2014-2015 Trinity County Grand Jury noted the impacts of the Green Rush in calling for action, stating: “The combination of excessive fuel loads in the forest, the lack of viable and beneficial timber management practice, and the massive amounts of dangerous chemicals including rodenticides being used is the ‘perfect storm’ for environmental disaster for both wildlife and humans in what was once a Shangri-La.”

The County Board of Supervisors found in 2012 that:

*[t]he proliferation of marijuana cultivation operations within the county—particularly as pertains to operations intended to serve persons who are not Trinity County residents—poses serious threats to the health, safety, and well-being of the county and its residents. The deleterious impacts of such widespread cultivation include, but are not limited to: degradation of the natural environment associated with large marijuana grows, including diversion of, and discharges into, streams, creeks, and other natural watercourses; taking of endangered species, such as the Coho Salmon and Northern Spotted Owl; on-site grading without regard to topography or erosion control, causing sedimentation of water bodies; erection of unpermitted and illegal buildings and structures; disposal of human waste without connection to sewages or septic systems; disposal of garbage and rubbish directly onto the property of grow sites; and the abandonment of grow sites without remediation of the aforementioned impacts.*

The Board went on to state that these “deleterious impacts” were “fully confirmed and supported by the great weight of evidence.” Notably, the findings of these effects from the activity of cultivation were not tied to the cultivation’s legal status. The county had previously limited cultivation of marijuana to a maximum total of eight plants or 400 square feet of growing space, with almost no enforcement. With the current ordinance, the county has changed direction dramatically, allowing a much larger legal industry. This larger legal industry is having even greater impacts when combined with the continued thriving black market industry.

The environmental impacts of Trinity’s licensing program must be considered in the context of the county’s already degraded baseline.

**The Trinity County Base line:** CEQA states you must analyze for incremental impacts, adoption of this proposed baseline would ignore virtually all of these impacts.

The proposed baseline for this analysis is arbitrary and designed to limit any mitigation and to do so will not result in the cessation or any repair of the damage done to the by the county’s previous failed regulation attempts. A more conservative and accurate baseline would be one that is more consistent with direction of the ballot initiative Prop 64 passed by the voters of California. When passing Adult Use of Marijuana Act (AUMA) Prop 64, voters said that existing Cannabis grows were illegally initiated and that this caused extensive environmental harm. Poorly regulated and unenforced cultivation activities have

resulted in significant adverse effects on biological resources throughout California and all of Trinity County.

To reach a truly informed decision about the impacts on Trinity's Environment you must look at all the growing legal and illegal on private and public lands. It's impossible to know how many houses, ranches and Cannabis grows a watershed or sub-watershed could support unless you study it and take into account the full range of actives happening in each sub watershed and establish and what watershed carrying capacity would be.

The North Coast Regional Water Quality Control Board has described the recent growth of Cannabis cultivation throughout the North Coast Region as "exponential" and its impacts as "significant" and detrimental to water resources. The county should adopt a baseline prior to this "green rush," to more adequately and accurately address the environmental impacts of Cannabis growing that concerned the voters.

Water diversions from streams, springs, and groundwater hydrologically connected to surface waters are already adversely impacting watersheds throughout the county. Many watersheds are not able to support the existing level of diversions, and new Cannabis cultivation diversions will exacerbate this problem.

The CEQA document prepared for Trinity's Ordinance should analyze the ability of Cannabis-affected watersheds to support sensitive biological resources, including but not limited to special status species and their habitats, and rare natural communities. Many sensitive species such as the Northern Spotted Owl and the Pacific fisher have already experienced loss of population due to the pesticide poisoning associated with Cannabis cultivation. An analysis and mitigation must be offered for this.

Trinity County has said previously *"The county conducted a preliminary assessment of existing/past Cannabis cultivation sites throughout private land holdings within the county using current aerial imagery. Based on this preliminary assessment, approximately 3,927 potential Cannabis cultivation sites were identified, but no formal evaluation of existing sites has ever been made. the newly elected Trinity County Sheriff Tim Saxon confirmed to SAFE at meeting on 1-16-2019 that actual number is more than 7000!"*

**SAFE questions the validity of any environmental review that willfully ignores the already existing abuses and violations of multiple laws and regulations.**

**Significant items to be studied in this CEQA process:**

**Carve outs:** This document must review the impact that creating carve outs. These arbitrary carve outs invented during the urgency ordinance are inconsistent with the

Trinity County's General Plan. These carve outs have the impact of forcing growers into the less populated areas with more sensitive species and critical habitats and into critical watersheds. These impacts must be addressed and mitigation offered. We like to point out Trinity's temporary Urgency Ordinance became Trinity's Permanent Ordinance, under which these impacts have increased.

**Noise:** Trinity's ordinance states *"Cultivation activities shall not cause exceedance of General Plan noise level standards consisting of 55 decibels (db) from 7:00 a.m. – 7:00 p.m. and 50db from 7:00 p.m. – 7:00a.m. as measured at the parcel property line. Generators associated with the commercial cultivation of Cannabis shall not be used between 10:00 p.m. and 7:00 a.m."*

Under the "Cultivation Performance Standards," generators are allowed. When the Planning Commission developed their recommendations for a permanent ordinance, they agreed that generator use should be phased-out over 2 years while operators developed more sustainable electrical sources. There has been once again, no enforcement. What has been the effect on sensitive species like the Northern Spotted Owl and Pacific Fisher?

**Light pollution:** Most of the Cannabis growers now have moved to multiple crops per year. To do this in many cases they are lighting up hoop houses. The light from these can be seen for miles. What effect is the having on wildlife what is this doing to our cherished dark skies in Trinity that allows us to see the milky way most nights. What has been the effect on sensitive species like the spotted owl and fisher?

**Clearcutting and grading:** This has been used to create light and level spaces for Cannabis grows.

Sensitive species such as the Coho Salmon, Northern Spotted Owl and the Pacific Fisher are detrimentally affected by these activities. The effects must be analyze and mitigated for.

**Water:** Diversions from streams, springs, and groundwater hydrologically connected to surface waters are already adversely impacting watersheds throughout the county. Many watersheds are not able to support the existing level of diversions, and new Cannabis cultivation diversions will exacerbate this problem. The CEQA document now prepared for the county's ordinance should analyzed the ability of Cannabis-affected watersheds to support sensitive biological resources, including but not limited to special status species and their habitats, and rare natural communities.

Many sensitive species such as the Coho Salmon, Northern Spotted Owl and the Pacific Fisher have already experienced loss of population due to the dewatering of streams and rivers associated with Cannabis cultivation. Also the extensive use of non-native soils and



nitrogen rich fertilizers which run off into streams and rivers. This poisons the fish and kills off many the insects they feed on. This should be analyzed and mitigated for.

**Increased vehicle trips:** The increased activity on unproved county roads and roads and through federal public lands is having an negative impact. As we stated earlier most growers have converted to some form of Light Deprivation or mixed light methods and are harvesting multiple times a year – they are not synchronized with other sites. This result in the impact of having increasing amounts of employees driving on unimproved rural roads in all times of the year.

Also Cannabis grows are all much larger and require more workers. There are soil and amendment deliveries multiple times a year. Also fencing and construction supply deliveries as well as heavy equipment for site construction and water deliveries. There needs to be analysis of these impacts an some proposed mitigation for all of this.

**The growth inducing effects:** Increased construction permitted and unpermitted should be analyzed. Some of the biggest beneficiaries of the Trinity green rush have been the realtors. Many realtors have encouraged illegal sub divisions and lease arrangement to avoid zoning restrictions.

**Trinity County lacks the capacity to enforce and regulate:**

Simply passing regulations to limit Cannabis growing has no environmental benefit unless people who are licensed to grow are actually held to the standards set forth in the ordinance and unless the vast majority of all *unlicensed* Cannabis growing is stopped. Simply fining people or cutting down the crops of growers (even if Trinity County were actually conducting some real and meaningful enforcement) would not matter much because those fines and the loss of crops are both viewed as merely the cost of doing business, therefore these are not real deterrents. The fines need to be substantial and progressive.

SAFE would like to point out, Cannabis growing with environmental violations is still a felony under California law and Trinity County needs to prosecute violators to the full extent of the law. Compliance depends on robust enforcement and real penalties. Based on Trinity County's pitiful track record of minimal enforcement, it is clear that the county lacks the real capacity and the resolve to enforce at the level required for anyone to take them seriously. So how even the most well-conceived and well planned Cannabis regulation could never work without successful enforcement

In summary, all of the issues SAFE and others have raised need to be factored together to analyze the full cumulative and synergistic effects. Without this complete review, you do

not have adequate information to determine what the full impacts are and will be and then plan how eliminate or mitigate these.

**Alternatives:** Suggestions for alternatives to the Trinity County Cannabis Program that could potentially reduce or avoid potentially significant or significant impacts

Alternative 1. No commercial Cannabis cultivation. Personal use only limited to six plants

Alternative 2. Commercial Cannabis grows limited only on flat Ag land (or land with similar zoning) with an onsite well or municipal/community water. Green houses with covers for the nighttime so no light escapes. Lighting provided only by wind/solar or public utility, no generators. Chemical free and/or organically grown.

Alternative 3. Similar to current existing regulations except no grows over 10000 square ft. permits are exclusive to the person and the site. No clearing of forested land. Watershed analysis that determines the carrying capacity of each sub watershed. Grow numbers kept below that threshold. Grows 5000 square or bigger need conditional use permit. All grows Chemical free and/or Organically grown. Solid berm around each cultivation site to preclude any run off. No grows within 600 feet of a neighbor's home that objects.

Declare a state of emergency get help and resources from the state and the federal government to begin robust enforcement actions that reduce the current count of over 7000 grows to under five hundred.

**Mitigations:** We feel the only useful mitigation would be to declare a state of emergency get help and resources from the state and the federal government to begin robust enforcement actions that reduce the current count of over 7000 grows to under five hundred.

Submitted by Larry Glass for

SAFE – Safe Alternatives for our Forest Environment

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10.637.01

January 18, 2019

VIA EMAIL

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Attn: David Colbeck, Environmental Compliance Specialist

**Re: Scoping Comments of Safe Alternatives for Our Forest Environment on  
Trinity County's Notice of Preparation of a Program Environmental Impact  
Report for the Trinity County Cannabis Program**

On behalf of Safe Alternatives for Our Forest Environment ("SAFE"), we submit the following comments on the Notice of Preparation of a Program Environmental Impact Report for the Trinity County Cannabis Program. Trinity County (the "County") has a duty to consider the extensive environmental impacts that have already and will continue to occur from cannabis cultivation, both regulated and unregulated, as it moves forward with its long-overdue Environmental Impact Report ("EIR"). Please include these comments in the public record for this matter.

**INTRODUCTION**

Permitted and unpermitted cannabis cultivation has many severe, long-term impacts on Trinity County's environment, including removal of native vegetation, diversion and pollution of ponds, springs, streams and rivers, destruction of habitat, grading of roads that erode and cause landslides, and loss of wildlife. Because of the County's "geographic and climatic conditions, low population density, availability of resource lands . . . and reputation as a Cannabis producing region," there has been a "steady influx" of people flocking to the area for the purpose of cannabis cultivation. Trinity County Ordinance 315-823 Section I, subd. (18).

As the County's Notice of Preparation ("NOP") states, "unpermitted cannabis cultivation operations on private lands and illegal trespass sites in the Shasta-Trinity National Forest . . . have led to illegal water diversions, unpermitted removal of sensitive habitat, and direct mortality to special-status species from exposure to rodenticides and habitat removal." NOP, p. 3. Indeed, the State Water Resources Control Board ("SWRCB") and the North Coast Regional Water Quality Control Board ("NCRWQCB") have identified and documented a dramatic increase in

the number of cultivation sites and their corresponding impacts. Trinity County Ordinance 315-823 Section I, subd. (19). These include:

“increases in impacts to water supply and water quality, including the discharge of sediments, pesticides, fertilizers, petroleum hydrocarbons, trash, and human waste. These impacts result from the widespread unpermitted, unmitigated, and unregulated impacts of land grading, road development, vegetation removal, timber clearance, erosion of disturbed surfaces and stream banks, stream diversion for irrigation and temporary human occupancy without proper sanitary waste disposal facilities, and threaten the endangered fish species. In addition, the actions of some Cannabis growers . . . result in the killing of wildlife, including further endangering other threatened species such as the Pacific Fisher and Coho Salmon.”

*Id.*; 2017 Trinity County Commercial Cannabis Cultivation Ordinance Initial Study - Environmental Checklist and Evaluation of Environmental Impact, pp. 17-19 (“2017 Initial Study”).

Yet, despite these widespread and catastrophic impacts, the County has thus far failed to properly address the environmental impacts of cannabis cultivation or considered appropriate measures that would help mitigate the impacts. The purpose of the California Environmental Quality Act, Public Resources Code § 21000 et seq. (“CEQA”), is to require public agencies to document and consider the environmental implications of their actions before they are taken. *See* Pub. Resources Code, §§ 21000, 21001. The County has used the temporary CEQA exemption found in California Business and Professions Code section 26055(h) as a way to circumvent the vital process of understanding the impacts of its permitting system on the County’s environment. Because the environmental effects of cannabis cultivation in Trinity County are severe and growing, they cannot be ignored. Without adequate environmental review, cannabis cultivation will continue to wreak havoc on Trinity County’s waters, forests, wildlife, and community.

## **I. THE PROJECT’S UNDERLYING PURPOSE SHOULD DRIVE ITS PROPOSED PROGRAM AND RANGE OF ALTERNATIVES**

The County describes the Program as amending and re-adopting the County’s commercial cannabis related ordinances to be consistent with the County Resolution No. 2016-077, “Four Principles on Local Regulation of Cannabis” (“Four Principals”). NOP, p. 4. But the NOP does not clearly describe how it proposes to do so. Any EIR must accurately describe the proposed Program, so that the County may then compare its alternatives to that proposed Program. *Washoe Meadows Community v. Department of Parks & Recreation* (2017) 17 Cal.App.5th 277, 288 (“inconsistencies in a project’s description, or (as here) the failure to identify or select any project at all, impairs the public’s right and ability to participate in the environmental review process. A description of a broad range of possible projects, rather than a preferred or actual

project, presents the public with a moving target and requires a commenter to offer input on a wide range of alternatives that may not be in any way germane to the project ultimately approved”).

In developing the proposed Program and alternatives, the County must address the underlying purpose of the proposed Program. *North Coast Rivers Alliance v. Kawamura* (2015) 243 Cal.App.4th 647, 666-667. It appears that the Four Principals constitute the objectives of the proposed Program. NOP, p. 4. And the underlying purpose of the proposed Program appears to be to regulate commercial cannabis operations. Thus, the proposed Program, and any alternatives thereto, must be designed with this purpose and those objectives in mind.

However, feasible Program alternatives that satisfy most – but not all – of the Program objectives must still be considered if they have fewer impacts. *North Coast Rivers Alliance v. Kawamura*, *supra*, 243 Cal.App.4th at 667; 14 C.C.R. (“CEQA Guidelines”) § 15126.6, subd. (f).

## **II. THE EIR MUST COMPREHENSIVELY EXAMINE IMPACTS OF THE CANNABIS PROGRAM ON THE ENVIRONMENT**

### **A. EROSION AND WATER QUALITY**

The County must consider the impacts of erosion and sediment on the environment, especially in light of the County’s lack of a grading ordinance. As the NOP acknowledges, existing unpermitted cultivation operations’ tree clearing, grading, road construction, and other activities “have been conducted in a manner that has resulted in sedimentation and water quality impacts to County watersheds.” The EIR’s analysis *must* include the cumulative impacts of past, present and reasonably foreseeable future cannabis activities in the County in order to accurately inform decisionmaking. And the County must consider adequate mitigation measures to remedy these significant impacts. CEQA Guidelines § 15355.

The 2017 Initial Study estimates that there are approximately 3,927 potential cannabis cultivation sites in the County, though this approximation has likely grown significantly since the study was conducted in mid-2017. 2017 Initial Study, p. 16. And, this number does not even account for the numerous unpermitted and illegal sites that are currently in operation or that will be established with each passing month. On January 16, 2019, County Sheriff Tim Saxon informed members of SAFE that the County has 7,000 grow sites, both legal and illegal. The “County is negatively impacted and vulnerable to numerous large-scale trespass commercial Cannabis cultivation operations on public and private lands, yet law enforcement consistently estimates that each year they eradicate only a small fraction of these operations.” Trinity County Ordinance 315-823 Section I, subd. (21). These illegal grow sites will continue to substantially add to the environmental impacts that growers are already causing. With so much of Trinity County at risk of further harm, the County must thoroughly examine the environmental

consequences of its future land use permitting process to protect the County's lands, waters and wildlife from the growing impacts of cannabis cultivation.

The suggested Best Management Practices ("BMPs") in the 2017 Initial Study are not adequate to reduce or eliminate the significant detrimental effects of cannabis cultivation. *See* Initial Study Appendix C, pp. 1-6. Many of the BMPs are unenforceable, and those that are enforceable are largely ineffective. Furthermore, without urgently needed law enforcement measures, there are possibly hundreds or thousands more cultivation locations that are illegal and undiscovered that will not be obligated to follow these measures.

For example, BMP 9 states: "Upon completion of grading, slope protection of all disturbed sites shall be provided prior to the rainy season through a combination of permanent vegetative treatment, mulching, geotextiles, and/or rock, or equivalent." *Id.* at 2. How does the Commission expect growers to know which method is most effective in minimizing the risks of erosion for an individualized grading project? What types of vegetation should be planted and how soon after a project is complete is that required? How many different treatments should be utilized to adequately prevent runoff into streams and watersheds? If there are not more concrete regulations for cannabis cultivators to follow, there cannot be proper enforcement of these mitigation measures.

BMP 37 is likewise unenforceable. It states: "Upon work completion, all exposed soil present in and around the cleanup/restoration sites shall be stabilized within 7 days." *Id.* at 5. But without more information on how this cleanup should be accomplished, this BMP cannot be enforced. This BMP also proves problematic in that it allows a full week of exposure of the soil to the elements to carry eroded material to areas outside the designated cultivation site, including wetlands and streams.

Without adequate protections, cannabis operations cause significant negative impacts on fish species and wildlife that depend on these watersheds. Carah, J. et al., *High Time for Conservation: Adding the Environment to the Debate on Marijuana Liberalization*, BioScience (2015), p. 4 (stating that fine-sediment loading into streams damages spawning and rearing habitat for salmon and trout) ("*High Time for Conservation*"). Furthermore, application of pesticides – including rodenticides – that are washed into streams, rivers, and lakes degrades water quality and causes additional impacts to sensitive aquatic species. Portugal, E. et al., *A Paired Watershed Comparison of Hydrological and Biological Condition in Streams With and Without Cannabis Cultivation, Humboldt County, CA*, Research Gate, p. 3. The EIR must address and adequately mitigate these impacts.

Besides erosion, water quality is also severely harmed by the diversion of water from streams and rivers, and waste generated by growers. Cultivators redirect natural water sources to achieve effective irrigation systems for their cannabis grows, even damming streams to create these diversions and thereby depriving downstream lands of needed water. Thompson, A., *When*



*Growing Marijuana Isn't Green*, NBC News (Apr. 22, 2016). “Once the pipes are diverted to the grow site, it’s diverted there forever.” *Id.* (quoting Mourad Gabriel, a researcher with the Integral Ecology Resource Center). These diversions have significant impacts on water flow and the species that rely on the streams and rivers. Moreover, cultivators leave hazardous materials, such as sewage and trash, that create a danger of wildfire through the use of chemicals, generators, and cooking fires. Starr, H., *The Carrot and the Stick: Tailoring California’s Unlawful Marijuana Cultivation Statute to Address California’s Problems*, 44 McGeorge L. Rev. 1069, 1092 (2013) (“*The Carrot and the Stick*”). As streams dry up and pollution is increased, diversions will lead to more harm to wildlife, as well as the public, that depend on these same streams for water.

In the October 23, 2018, comment letter submitted to the County’s Planning Commission by the California Department of Fish and Wildlife (“CDFW”) for the October 25, 2018, special meeting on the Amendment to Trinity County’s Zoning Ordinance, CDFW stated that “[d]iversions from streams, springs, and groundwater hydrologically connected to surface waters are already adversely impacting watersheds throughout the State. Many watersheds may not be able to support the existing level of diversions, and new cannabis cultivation would likely exacerbate this problem.” October 23, 2018 Public Comment Letter Submitted by CDFW, *Amendment to Trinity County’s Zoning Ordinance Regarding Section 43 Allowing for Commercial Cultivation of Cannabis*, p. 2 (“CDFW Letter”). As California’s Trustee Agency for fish and wildlife resources, CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. *Id.* at 1; Fish & G. Code, § 1802; Pub. Resources Code, § 210707; CEQA Guidelines § 15386, subd. (a).

The County should heed CDFW’s recommendation to review of the extensive cumulative effects on “watersheds with cannabis cultivation on sensitive biological resources.” CDFW Letter, p. 2. To mitigate these impacts, the proposed Program must expand past the current Ordinance’s mostly-toothless prohibition that “[t]he cultivation of Cannabis shall not create erosion or result in contaminated runoff into any stream, creek, river, or body of water.” Trinity County Ordinance 315–823 Section 1, subd. (6)(d). Instead it must establish clear enforceable measures to prevent these damaging impacts.

## **B. BIOLOGICAL RESOURCES**

As of now, the County has failed to adequately tackle the impacts cultivation permits will have on wildlife. The EIR must examine the harmful impacts of cultivation, including the cumulative impacts, on biological resources. And the EIR must present alternatives and mitigation measures that sufficiently avoid or lessen these significant impacts.

First, contamination by d-Con, used by growers to protect plants from wood rats, has poisoned the Pacific fisher and endangered Northern Spotted Owls (“NSOs”) that ingest these

rats with its anticoagulant effects. Gabriel, M.W. et al., *Anticoagulant Rodenticides on Our Public and Community Lands: Spatial Distribution of Exposure and Poisoning of a Rare Forest Carnivor*, PloS One (2012). To make matters worse, as rodents have begun to develop greater resistance to the first and second generations of the poison, growers have turned to more acutely toxic compounds, leading to worsening impacts by this anticoagulant rodenticide. *Id.* The County must prepare for and make attempts to mitigate against the likely significant increase in the use of illegal rodenticides, perhaps through inspection fees.

Additionally, “cannabis grows, which are typically more isolated and placed away from roads in forest interiors, generate proportionately greater losses of core area and greater increases in forest edge and shape complexity.” Wang, I. et al., *Cannabis, An Emerging Agricultural Crop, Leads to Deforestation and Fragmentation*, *Frontiers in Ecology and the Environment* (2017), p. 5. Cannabis cultivation operations that occur far from developed roads will likely lead to landscape fragmentation, dividing species’ habitat and impeding wildlife corridors necessary for breeding or feeding purposes. See Butsic, V. and J.C. Brenner, *Cannabis (Cannabis Sativa or C. Indica) Agriculture and the Environment: A Systematic, Spatially-Explicit Survey and Potential Impacts*, *Environmental Research Letters*, p. 1. Land terracing, road construction, and forest clearing also remove native vegetation and increase erosion, exacerbating the impacts to species. *High Time for Conservation*, p. 3. Aside from these indirect effects, cultivators have also been known to poach animals for a variety of purposes including hunting deer for meat, killing bears to hang as a deterrent to other wildlife, and even poaching endangered species simply to keep as souvenirs. *The Carrot and the Stick*, p. 1090. Permitting more sites will not only greatly increase ecosystem fragmentation and resource destruction, but also directly harm wildlife that depend on large undisturbed areas of forests and their vegetation to survive.

Moreover, increased cannabis cultivation will have a severe impact on fish populations, including salmon. “Growers of marijuana often withdraw water directly from small streams and use up to 6 gallons per day per plant during the summer season.” Bland, A., *California’s Pot Farms Could Leave Salmon Runs Truly Smoke*, NPR, *The Salt* (Jan. 13, 2014). With California receiving less rain each year due to global warming, and many cultivation sites with thousands or tens of thousands of plants using stream diversions for irrigation, increased cultivation will harm salmon rearing and spawning habitat, resulting in declining chinook and coho populations. *Id.* The growing use of fertilizers that drain into these rivers and streams greatly increases the growth of algae, which absorbs oxygen from the water and suffocates the fish. *Id.* And, pesticides used for cultivation directly poison both terrestrial and aquatic life. Without more regulation and enforcement on growers, the County – and other areas of Northern California – could forever lose their irreplaceable salmon runs.

Finally, as CDFW identified, forest fragmentation and degradation, and cultivation contaminants are proving to be a growing threat to the NSO. CDFW Letter, p. 4. Already listed under the Federal Endangered Species Act (“ESA”) and the California Endangered Species Act (“CESA”), the NSO is further harmed by the noise produced from road use, generators, and other

construction equipment. *Id.* The NSO relies on hearing to hunt and the noise produced by cannabis cultivation activities impedes that essential life function. *Id.* While owners of “private timberlands must undertake rigorous surveys . . . and must implement strong avoidance measures to avoid take of NSO . . . cannabis cultivators are not employing the same level of NSO avoidance.” *Id.* at 4-5.

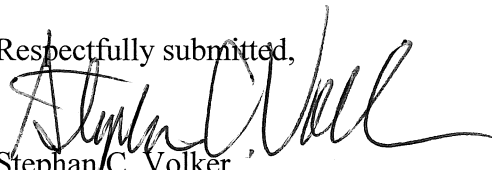
The County must consult with CDFW and other experts to understand and prevent the widespread environmental impacts that cannabis permitting will have on the wildlife, watersheds and forests of Trinity County.

### CONCLUSION

The County should heed the advice of our wildlife experts at CDFW, who warn that “efforts to further increase cannabis cultivation should not be permitted without a thorough evaluation of the cumulative impacts on the environment.” CDFW Letter, p. 2. Further, CDFW recommended these impacts be studied “pursuant to CEQA prior to any new permits under the amended Ordinance.” *Id.* As SAFE has demonstrated, the impacts analysis required in the EIR must be thorough and examine the cumulative effects of the Program with past present and future cannabis activities – not simply “existing land use plans.” NOP, p. 6.

Thank you for considering our comments on this vitally important matter. The County’s environment hangs in the balance.

Respectfully submitted,



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SCV:taf