

To: Board of Supervisors

In your commercial marijuana ordinance, we urge you include a provision like this one from Humboldt County's ordinance 2544, adopted January 26, 2016:

"Section 55.4.11(m): Water is to be sourced locally (on site) and trucked water shall not be allowed, except for emergencies. For purposes of this provision, 'emergency' is defined as: 'a sudden, unexpected occurrence demanding immediate action.'"

Water trucks to supply marijuana grows are dangerous on narrow private roads and damage the road surface. Unless you prohibit this practice, there will continue to be significant environmental impacts.

print name

sign name

address

Clay Young

Clay Young

Rhea P. Green

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James S. Denton

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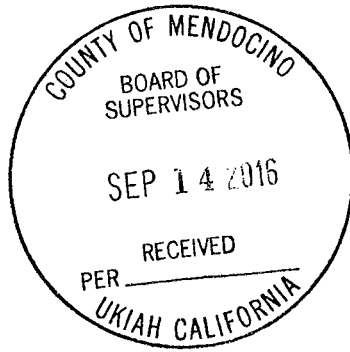
ALAN SWANSON

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4201 Running Springs Road
Ukiah, CA 95482
September 11, 2016

Elizabeth Burks
LACO Associates
21 W. 4th Street
Eureka, CA 95501

RE: Necessity of credible enforcement for marijuana ordinance

Dear Ms. Burks:

This comment is offered on the environmental impacts of the Board of Supervisors' proposed marijuana ordinance for Mendocino County.

By giving legal sanction to commercial operations, and allowing much larger grows up to 10,000 square feet, the ordinance would cause a substantial increase in marijuana cultivation. The ordinance's regulations purport to provide mitigations for the impacts. However, the regulations really constitute mitigations **only to the extent that they are observed by marijuana growers.**

Our actual experience in Mendocino County is that the overwhelming majority of growers disregard County regulations on number of plants, setbacks, odor, light, water diversion, and/or wildlife fencing. Based on this experience, the environmental impact of the proposed ordinance will be unmitigated damage from a massive increase in cultivation stimulated by the knowledge "on the street" that growers can get away with blatant violations.

Our experience, however, teaches us something else as well. Individual complaints about violations by specific growers have resulted in compliance when the Sheriff's Department responds by making an arrest, pulling plants, or ordering the violator to abate the violation. Yet the Sheriff's enforcement hasn't successfully controlled marijuana violations throughout the County because of inconsistent and uncertain policies not only by the Sheriff but also the District Attorney and the Board of Supervisors.

As written, the proposed ordinance would fatally undermine the credibility of marijuana enforcement. That's because the Supervisors have yielded to the entreaties of the marijuana industry and made enforcement the sole responsibility of the Department of Agriculture, using an entirely civil administrative procedure.

Mendocino County has a very poor record of civil enforcement of County Code, despite the vigorous efforts of the current chief Code Enforcement Officer. The nuisance

C: BOS, CEO, CCo, Ag, PRS

abatement procedure, and the scarcity of County resources, have proven incapable of dealing with more than a handful of violations at a time and never quickly. And these code enforcement violations concern routine matters like illegal building or accumulation of solid waste, which are much easier to investigate than a marijuana plantation which may be guarded by pit bulls, locked fences and the threat of gunfire.

Making marijuana cultivation a legal activity controlled by the Agriculture Commissioner's permit is a laudable objective. I hope to see the day when permits become routine and effective. But it is delusional to pretend that we can instantly transition from the current lawlessness to a situation where marijuana growers obtain permits, pay taxes, limit their production and incur substantial mitigation costs, motivated by nothing more than the threat of a stern letter from Chuck Morse.

To be effective, the Department of Agriculture must have close and constant support from the Sheriff. The Sheriff enforces criminal laws. **Therefore cultivation without a valid permit, or in violation of the conditions of the permit, should be a misdemeanor under County Code.** There is ample precedent for making violation of County Code a misdemeanor crime. For example, it is a misdemeanor to shoot a firearm in certain places (8.04.060), possess fireworks (8.40.030) or commit a 2nd offense of panhandling (8.72.040). The Agriculture inspectors will be ineffective unless they are able to call in the Sheriff when they are faced with any failure to immediately correct violations. While this relationship would require the consent of the Sheriff, the Board of Supervisors should explicitly sanction it in the ordinance.

Equally important is **summary abatement** of marijuana nuisances. It does no good to merely declare a nuisance and invoke the usual slow process of County Code 8.75. The crop would be harvested and sold before the hearing is scheduled. The marijuana ordinance should specifically state that when marijuana regulations are violated, "immediate action is necessary to preserve or protect the public health or safety." After documentation of the violation by photograph and affidavit, County officers should pull the plants. This should be explicitly provided for in the ordinance.

Any enforcement action, whether misdemeanor citation or summary abatement, should be accompanied by the most severe fines possible, assessed in the most effective way. This would add credibility to enforcement and also offset County costs.

Credible enforcement wouldn't negate the goal of the County ordinance--that is, to bring marijuana cultivation into a legal permit system that allows increased production along with environmental protection. **On the contrary, without credible enforcement the goal will never be realized.**

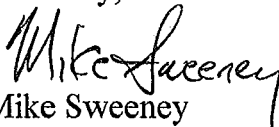
Finally, there is the question of CEQA. Frustrated citizens are lying in wait, prepared to invoke the low threshold to require an EIR for the County ordinance. That can be avoided only if the ordinance is amended to provide credible enforcement.

Without credible enforcement, there are no credible regulations.

Without credible regulations, there are no mitigations.

Without mitigations, there are only significant environmental impacts in violation of CEQA.

Sincerely,


Mike Sweeney

cc: Board of Supervisors
Planning Commission
Andy Gustavson, Chief Planner, County of Mendocino
Sheriff Tom Allman
Katherine Elliott, County Counsel