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MEMORANDUM

DATE: March 29, 2019

TO: Board of Supervisors

FROM: Harinder Grewal, Agricultural Commissioner
Matthew Kiedrowski, Deputy County Counsel

RE: Report on Genetically Modified Organisms Moratorium

On February, 26, 2019, the Mendocino County Board of Supervisors adopted urgency Ordinance No. 4425, approving interim restrictions on the cultivation of genetically modified organisms, as defined in the ordinance, pending the study and consideration of land use and existing regulations pertaining to such activity.

As part of Ordinance No. 4425, the Board of Supervisors directed the Departments of Agriculture and Planning and Building Services to study and prepare for their consideration changes to the County's General Plan or County code with respect to the regulation of the cultivation of genetically modified organisms. This report serves to provide an update on the County's efforts to alleviate the condition which led to the adoption of the urgency ordinance pursuant to Government Code section 65858 and what staff views as pathways forward for regulation of this issue by the County.

The Department of Agriculture recommends that the urgency ordinance be extended by the Board of Supervisors in order for staff to develop and propose comprehensive regulations regarding the cultivation of genetically modified organisms.

BACKGROUND ON GENETICALLY MODIFIED ORGANISM BAN

The urgency ordinance was adopted in response to concerns that the County's existing ban on genetically modified organisms adopted by Measure H in 2004, codified at County Code Chapter 10A.15, might not cover new genetic modification technologies. Since the adoption of Measure H, additional methods of genetically modifying organisms have been created, including gene-editing techniques such as CRISPR, that can alter the native intrinsic DNA of an organism without the use of non-species specific DNA. These newer techniques do not necessarily fall within the definitions established by Measure H and so would not be included within the prohibitions of the ordinance.

Under the urgency ordinance, the cultivation of genetically modified organisms for any purposes is prohibited and the County shall not issue any permit, registration or approval related to the cultivation of genetically modified organisms. Cultivation of genetically modified organisms in violation of the ordinance constitute a public nuisance which may be enforced or abated by any means available by law, including but not limited to Mendocino County Code Chapters 1.08 and 8.75; if the cultivation includes genetically modified cannabis, the cultivation may be abated pursuant to Chapter 8.76.

ORDINANCE RECOMMENDATIONS/NEXT STEPS

Staff is researching the most appropriate ways to create a new ordinance that will meet the current needs of Mendocino County. We have reached out to the County Farm Bureau and other counties who have adopted ordinances protect their citizens and environment from genetically modified organisms. We are reviewing the ordinances of the other counties.

Staff has reviewed methods of modifying genes in methods other than traditional selective breeding, conjugation, fermentation, hybridization, in vitro fertilization or tissue culture. We are researching the pertinent definitions of terms significant to the ordinance such as Genetic Engineering and Genetically Modified Organisms to match the current needs of the County.

Staff is also reviewing the feasibility and methods of inspection, enforcement and abatement of violations to be included in the ordinance.

Staff recommends that the Board of Supervisors extend the urgency ordinance for a period of 10 months and 15 days. During that time period, the Agricultural Commissioner's Office and other County departments will continue to consult with other counties and stakeholders to determine what additional local regulation will be necessary.