



Donnelly
Mendocino County Board of Supervisors
501 Low Gap Road
Ukiah, CA 95482

October 4, 2020

Re: Agenda Item 5g, Hemp Pilot Program-

Discussion and Possible Action Including Introduction and Waive First Reading of an Ordinance Adding Chapter 10A.18- Industrial Hemp Cultivation Pilot Program to the Mendocino County Code (Sponsors: Agriculture and County Counsel)

Honorable Supervisors,

Mendocino Cannabis Alliance appreciates the history regarding the Board direction on this item and in keeping with the spirit of that history, as well as current practical reasons, respectfully requests a re-scheduling of this agenda item.

The Board previously asked Staff to convene meetings to have stakeholder's (Farm Bureau, MCA, and others) input prior to the development of a pilot program so that it was designed in a manner that addressed the specific technical issues concerning hemp and how a program could be designed to minimize the potential risk to existing cannabis permit holders and applicants.

After two meetings of the stakeholders, Staff prepared and brought forward the proposed ordinance for the pilot program as an agenda item on March 24, 2020¹. There were a number of written public comments that were submitted, including by stakeholders, that outlined a variety of issues that were not addressed in the proposal that had come forward by Staff for the 3/24/20 Agenda Item.

While frameworks were discussed in the stakeholder meetings, no specific ordinance language was proposed, and the draft 'Recommended Best Management Practices' presented to the stakeholder group failed to address detailed regulations, critical to any hemp program, before it was presented to the Board on 3/24/20. The topics concerning specific regulations went to the core goal of ensuring that any pilot program minimized the impact to existing authorized cannabis sites.

¹ The current version of the proposed ordinance was changed slightly in this "redline" version, but none of the changes related to outstanding program issues.

In March, the matter was postponed. In the more than six months since that postponement, there has been no attempt to address those outstanding issues.² Some of the issues include basic requirements like maximum size of hemp cultivation per site and the ability for the Department of Agriculture to adequately inspect for, and enforce violations of the prohibition of male pollen.n.

Specifically, at a minimum the following major discrepancies must be addressed prior to the adoption of any Hemp Pilot Program framework:

1. There are no limitations placed on the scale/acreage of cultivation in the proposed ordinance. It is only stated that a property must be a minimum of 10 acres. Therefore it is feasible that a single pilot program licensee may be allowed to cultivate 100's of acres of hemp. MCA previously recommended not more than 5 acres due to the extreme care with which crops must be inspected for male plants and branches. However, if the Ag Department does not have sufficient staff to adequately inspect that acreage on a weekly basis, then we would strongly recommend a much smaller limit. It is our understanding that additional factors pertaining to cultivation methods and testing capabilities would impact the Ag Department's capability to closely monitor the program participants.
2. Neither the frequency of Agriculture Department Inspections or the qualifications for inspectors have been addressed in the ordinance. MCA recommends that they should be codified in the ordinance. We do not agree that these can be adequately addressed in the promulgation of Agriculture Department regulations (10A.18.070) and are very concerned that the program will ultimately rely on self-inspection by the licensee rather than by qualified Department of Agriculture staff.
3. MCA maintains that there is not a safe practicable buffer distance between a hemp producer and a licensed cannabis farm in Mendocino County due to our topography, limited flat land areas, and the location of licensed cannabis farms existing throughout Mendocino County. The current proposed ordinance includes no specific buffer distance requirements at all.
4. Organic cultivation methods are not required by the proposed ordinance.
5. Loss of crop value on cannabis farms due to hemp farming practices that cause pollen or pesticide/contaminant drift and/or leaching has not been addressed.
6. Quality/contamination testing standards are not required by the proposed ordinance. At the very least we recommend that hemp produced in the county be required to undergo the same testing standards as cannabis, therefore limiting the potential for cannabis crop.

(See MCA's 3/24/2020 memo for our detailed concerns about the items listed above, as well as our specific proposal to create a rebuttable presumption of causality that creates a private cause of action between a hemp and cannabis producer in the event of cannabis crop loss.)

Given the critical need to resolve program details that directly impact whether a hemp could be

² Ag Commissioner Donnelly did reach out to MCA at the end of last week and scheduled a call for today, Monday, October 5, 2020, regarding questions he had about MCA's public comment from last March and spent a considerable amount of time on the phone with MCA representatives.

responsibly cultivated without creating crop loss for existing, authorized cannabis cultivators, and also given that the pilot program as proposed, while weak on significant details and protections, would require careful oversight of the program participants (once per week inspections) to help ensure against causing cannabis crop loss, and given the County is still in the midst of grappling with program administration and oversight of the Cannabis Program, and because the moratorium on hemp does not expire until February of 2021, we respectfully request that this item be further continued to December of this year and that Staff be directed to reconvene the stakeholder group to more thoroughly flush out the outstanding concerns.

Thank you for your consideration.

Mendocino Cannabis Alliance