



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

December 6, 2020

**Re: Agenda Item 5i for Board of Supervisors Meeting 12/8/2020**

*Discussion and Possible Direction to Staff Regarding the Cannabis Cultivation Permitting Program Priorities from September 22, 2020 and Direction to Staff to Review Additional Options for the Program Including Potential Consideration of Cannabis Cultivation as an Agricultural Activity (Sponsor: Planning & Building Services)*

Honorable Supervisors,

MCA is in strong support of all efforts to research and consider the possible redesignation of cannabis cultivation as an agricultural activity in the County. We have not yet seen proof that this would solve our CEQA challenges, but this designation would, at a minimum, resolve other issues. For example, it would normalize CalFire road standards to certain cultivation sites, achieving parity with other agriculture in that regard.

We also understand the need to pause work on some objectives to free up resources to pursue this new path. **However, it is imperative that work on current applications continues. MCA respectfully requests that any items that are paused be reported on by Staff and revisited by the Board every 30 days.**

Specifically, the CDFW Interagency Agreement should not be paused. This plan, already in motion, to bring CDFW biologists in-house to process the Sensitive Species Habitat Reviews (SSHRs) is essential and we request that it continues. The SSHRs are required by our local ordinance 10A.17, have already been paid for by the current cohort of provisional licensees, and are necessary for Phase 1 permit holders to ultimately be eligible for State Annual Licenses. Pausing on

this work may put existing provisional licenses in jeopardy and, at a minimum, would do a great disservice to the vast majority of Phase 1 applicants who have been waiting in good faith for this review to be performed, in some cases for several years.

It remains uncertain whether or not (and if so, under what specific circumstances) redesignating cannabis cultivation as an agricultural activity locally would resolve the CEQA challenges the Phase 1 program has faced. It is imperative that we first understand definitively whether or not CDFA will accept the local redesignation of cannabis cultivation as an agricultural activity in light of the State's current active designation of cannabis as an agricultural product, and issue Annual Licenses to existing Provisional License holders on this basis. This must be determined before resources are diverted from pursuing the various fixes to Phase 1 and the processing of Phase 1 applicants.

The fact is that cannabis is an agricultural crop. And it is our firm conviction that cannabis cultivation is an agricultural activity and that our County's cannabis cultivators are farmers. We strongly urge the County to take the lead on redesignation regardless of the CEQA issue and are prepared to support the County in any efforts to designate the activities of our cannabis farming community as such. Ultimately, local redesignation may lead to resolving the core discrepancy between State law (defining cannabis as an agricultural product) and reality (cannabis is an agricultural crop) and enable the smoother transition of our cannabis farmers into the regulated market. This has been one of the underlying causes of our County Cannabis Program's inability to provide a definitive pathway for our existing Provisional License holders to become eligible for Annual Licenses. While we don't know if designation at the local level will fix the CEQA issue as long as the State maintains its designation of cannabis as an *agricultural product*, it clearly has other benefits and should be pursued regardless.

Thus far, our research indicates that local redesignation of cannabis as an agricultural activity has only a limited potential to solve the CEQA problem in certain cases. Santa Cruz County has recently (June 2020) made changes to its cannabis program that certainly provide a model worth considering in detail. However, our initial review of the CEQA documents filed with the Governor's Office of Planning and Research (OPR) only turns up two projects successfully processed and granted Annual Licenses in this manner. Both of the projects were approved based on a Class 1 Categorical Exemption from CEQA, meaning that the projects consisted of, at most, minor alterations of existing facilities or topographical features involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. We are unsure about

how many additional projects may be in the queue and eligible for Annual Licenses on a different basis, or if this approach would be useful for new projects.

Despite this, **MCA strongly encourages the Board of Supervisors to direct Staff to explore the potential of redesignating cannabis as an agricultural activity without pausing on the CDFW Interagency Agreement and the Sensitive Species Habitat Reviews.** We will continue conducting our own research into this option and are more than happy to share information and insights with the County as it explores redesignation as a possible solution.

Thank you for your consideration.

Mendocino Cannabis Alliance