



April 16, 2021

Board of Supervisors
County of Mendocino
501 Los Gap Road, Room 1010
Ukiah, CA 95482

RE: Commercial Cannabis Activity Land Use Ordinance

Dear Members of the Board and Chair Gjerde,

Thank you for the opportunity to comment on the Commercial Cannabis Activity Land Use Development Ordinance, Agenda Item 3b. The California Native Plant Society (CNPS) is a non-profit environmental organization with over 10,000 members. CNPS' mission is to protect California's native plant heritage and preserve it for future generations through application of science, research, education, and conservation. CNPS works closely with decision-makers, scientists, and local planners to advocate for well-informed and environmentally friendly policies, regulations, and land management practices. The Sanhedrin Chapter of the California Native Plant Society covers Inland Mendocino County and Lake County.

CNPS strongly opposes the Commercial Cannabis Activity Land Use Development Ordinance (CCAO) currently proposed by the county and schedule to be reviewed during the Mendocino County Board of Supervisors meeting on April 19, 2021. CNPS has provided input on the development of Mendocino's cannabis cultivation policy since 2016, consistently reminding the Board and Planning Commission where possible that under no circumstances should cannabis cultivation be permitted in rangeland. Yet, the Board continues to push for allowing Rangeland (RL) and Agricultural (AG) parcels with over 10-acre minimum parcel size to cultivate up to 10% of the parcel area. This directive will be catastrophic in terms of impacts to oak woodlands, sensitive natural habitats, streambeds and watersheds. Trees and vegetation will need to be removed, and entirely new roads and infrastructure will need to be constructed in order to make this expansion feasible, the impacts of which are not yet known because the county has not performed an environmental review. We urge the Board to reconsider sacrificing the County's natural resources for potential short term financial gains that may never be realized.

At the very least, the environmental impacts of the CCAO should be afforded full review under the California Environmental Quality Act (CEQA). The original 2017 cannabis ordinance was approved through a Mitigated Negative Declaration (MND), which analyzed the environmental impacts of the ordinance and provided for mitigation measures that would reduce those impacts. Now, the county contends that the CCAO is exempt from CEQA under California Business and Professions Code section 20655. If approved as drafted, the CCAO will lead to an astronomical increase in the amount of cannabis cultivation in the county. Essentially zero analysis has been done to assess the environmental impacts of the CCAO. None of the findings of the MND are applicable to the CCAO, because the MND did not contemplate such a huge amount of cannabis cultivation. In fact, the MND findings were based on the strict exclusion of rangelands and timberlands from production, and the clear requirement that cultivators not remove trees (oaks in particular) in their operations. Approving such a drastic alteration of existing regulations without

additional CEQA review is misguided and will not protect the county's environmental resources or residents. Using a CEQA exemption is inappropriate, will not allow for sufficient review of significant and cumulative environmental impacts, and deprives the public of the opportunity to engage with the Board's decision making. The Board should prepare an Environmental Impact Report ("EIR") so it does not lose out on the opportunity to fully analyze, avoid, and mitigate the CCAO's significant environmental impacts, including the impacts of the inevitable increase in unlicensed cannabis operators.

The Sanhedrin Chapter of CNPS supports clear policies that conserve natural resources while ensuring that cannabis growers in the county who are acting in good faith can grow legally. However, illegal cultivation has overrun the enforcement has been dismal. Expanding cultivation to this degree in RL and AG land will make enforcement even more challenging in a county that is already not equipped with resources to enforce cannabis regulations in existing cultivation areas. Unless enforcement improves in the immediate future, the Board has to assume that illegal cultivation will continue to outnumber legal cultivation many times over. The Board should not even consider expanding cultivation into RL and AG land until it has a plan for getting enforcement of illegal operations under control, especially considering that Rangeland is more remote and even more difficult to monitor.

CNPS asks that the Board deny the CCAO and direct a new ordinance be drafted that includes the following policies:

- 1) Enforcement mechanisms need to be clear. The lack of enforcement by the county to date has led to the proliferation of cultivation sites in highly inappropriate places with catastrophic cumulative effects. Funding should be made available to local law enforcement and code enforcement agencies to deal with illegal cannabis cultivation. Fines should be prohibitive and reflect the cost of enforcement and cleanup. We support Sherriff Kendall's request to utilize satellite imagery as practiced in Humboldt County. Other counties have used this strategy successfully. As discussed during the April 12, 2021 Board hearing, Director John Ford of the Humboldt County Planning and Building Services noted that this method has been effective in Humboldt County and Humboldt boasts a 70-80% success rate in abatement of illegal grow sites. The Board should support increased staffing at the Sherriff's office dedicated to cannabis enforcement, as well as continued collaboration with other agencies with enforcement power (CDFW, Regional Water Quality Control Boards, etc.). Again, we urge the Board to recognize that without better enforcement, illicit operations will continue to dominate in the County and expanding cannabis cultivation into RL and AG will only exacerbate the problem.
- 2) All rangelands should be excluded from cultivation.
 - a. Rangelands incorporate oak woodlands, as well as sensitive natural habitats, streams that harbor the remaining populations of over-summering steelhead and Coho juveniles, and more.
 - b. Our rangelands are not appropriate for development that brings in roads that lead to erosion of silt into our streams, input of fertilizers, herbicides and pesticides, and water removal from these salmonid refugia.

- c. Water resources are extremely limited in rangelands, and water conditions in Mendocino County as a whole are the worst they have been since 1977. The situation is dire enough to prompt CalFIRE Chief Gonzales to ask the Board during the April 12, 2021 special hearing to declare a local drought emergency due to his concerns regarding the water supply and the upcoming fire season. There is general consensus that significant water conservation measures need to be immediately implemented, and as one Supervisor noted, this is not the year for residents to be expanding gardens or landscapes. Similarly, this is not the year for the Board to consider a huge expansion of cannabis cultivation in areas where water is already limited. In the face of such dire water conditions, many farmers will be lucky just to have enough water to keep vines and trees alive. Expansion is not appropriate until Mendocino County has come up with short and long term water resiliency strategies.
 - d. Water trucking should not be allowed. Trucking water is not a sustainable practice, and agriculture that depends on trucked water is not sustainable. If a site does not have adequate water for cultivation, it should not be used as such. Water trucks degrade roads, bring in pathogens with their water, and ultimately that water is coming from somewhere unknown with no oversight on the appropriate sourcing. Water trucks use large amounts of fuel and exacerbate our carbon emissions in the county.
 - e. Rangeland areas are dry and particularly susceptible to wildfire, and increasing industrial activity in these areas will lead to more wildfires (for example, the Black Fire).
 - f. Rangeland soils and oak woodlands store large quantities of carbon. Cultivation in these areas have large footprints, including roads, and impacted areas much larger than the actual farmed zone. Damage to rangeland soils and woodlands release stored carbon, increasing climate impacts.
- 3) Cannabis cultivation **is** appropriate in already developed agriculture zones with existing water rights and habitat that has already been converted and zoned.

IF an area zoned rangeland was converted in the distant past (not for cannabis cultivation) and is clearly appropriate for agriculture, then the owners of that property have a mechanism to have it re-zoned by going before the Planning Commission.

- 4) Discretionary Use-Permits would be appropriate if there are adequate environmental protections in place as part of the permitting process. For example, if rangeland is still excluded, and there continues to be a prohibition on oak tree removals in order to obtain and retain a cannabis cultivation permit, and if water resources are considered as part of the permitting process.
- 5) The proposed 10% rule is egregious. This level of expansion could lead to tens of thousands of additional acres of cannabis cultivation. These new areas will likely be cultivated by large companies who can afford to navigate the county's confusing and inefficient permitting process, putting local farmers and mom-and-pop growers out of business. Expanding cultivation to 10% of a property, especially on inappropriate sites

does not solve the resource issue. We are shocked and distressed that the county is now considering considerable expansion of legal cannabis when so much is still out of control. Since when is it the job of Mendocino County to provide enough cannabis to the processing businesses that have set up shop in our region?

Thank you for your consideration.

Sincerely,

Andrea Davis, wrecodeign@gmail.com, Co-President
Jennifer Riddell, jenariddell@gmail.com, Co-President
Cathy Monroe, cathy.monroe@gmail.com, Vice-President
Sanhedrin Chapter California Native Plant Society Board, sanhedrincnps@gmail.com

CC:

Isabella Langone, Conservation Analyst, California Native Plant Society
Nicholas Jensen, Conservation Program Director, California Native Plant Society
Sanhedrin CNPS Board
Nancy Morin, President Dorothy King Young Chapter, CNPS
Angela Moskow, California Wildlife Foundation/California Oaks