



# Calaveras County

## Final Environmental Impact Report

### Medical Cannabis Cultivation and Commerce Ordinance Project

Prepared for:  
Calaveras County  
Planning Department  
891 Mountain Ranch Road  
San Andreas, CA 95249

Prepared by:  
Ascent Environmental, Inc.  
455 Capitol Mall, Suite 300  
Sacramento, CA 95814

September 2017

**Final  
Environmental Impact Report  
For the  
Calaveras County  
Medical Cannabis Cultivation and  
Commerce Ordinance Project**

**SCH# 2016042019**

PREPARED FOR

**Calaveras County  
Planning Department**  
891 Mountain Ranch Road  
San Andreas, CA 95249  
Contact: Peter Maurer, Planning Director

PREPARED BY

**Ascent Environmental, Inc.**  
455 Capitol Mall, Suite 300  
Sacramento, CA 95814  
Contact: Chris Mundhenk, Project Manager

**September 2017**

# TABLE OF CONTENTS

Section	Page
<b>ACRONYMS AND ABBREVIATIONS</b> .....	<b>iii</b>
<b>1 INTRODUCTION</b> .....	<b>1-1</b>
1.1 Purpose and Intended Uses of this FEIR .....	1-1
1.2 Project Location.....	1-1
1.3 Objectives of the Proposed Ordinance.....	1-2
1.4 Summary Description of the Project .....	1-2
1.5 Major Conclusions of the Environmental Analysis .....	1-2
1.6 Summary of Project Alternatives .....	1-3
1.7 CEQA Public Review Process .....	1-3
1.8 Organization of this FEIR.....	1-4
<b>2 RESPONSES TO COMMENTS</b> .....	<b>2-1</b>
2.1 List of Commenters on the DEIR .....	2-1
2.2 Master Responses.....	2-3
2.3 Comments and Responses.....	2-12
2.4 State Agencies.....	2-19
2.5 Local Agencies.....	2-33
2.6 Organizations.....	2-49
2.7 Individuals.....	2-117
2.8 Public Meeting.....	2-396
<b>3 REVISIONS TO THE DRAFT EIR</b> .....	<b>3-1</b>
<b>4 MITIGATION MONITORING AND REPORTING PROGRAM</b> .....	<b>4-1</b>
4.1 Purpose of Mitigation Monitoring and Reporting Program .....	4-1
4.2 Roles and Responsibilities.....	4-1
4.3 Reporting.....	4-2
4.4 Mitigation Monitoring and Reporting Program Table.....	4-2
<b>5 LIST OF PREPARERS</b> .....	<b>5-1</b>
<b>6 REFERENCES</b> .....	<b>6-1</b>

**Tables**

Table 2-1 List of Commenters ..... 2-1

Table 4-1 Mitigation Monitoring and Reporting Program – Medical Cannabis Cultivation and  
Commerce Ordinance ..... 4-3

**Appendices (CD can be found on back cover)**

Appendix A Comment Letter Attachments

Appendix B Biological Site Assessments provided by Patrick J. Sullivan (Comment Letter I53)

# ACRONYMS AND ABBREVIATIONS

BMP	best management practices
BSAs	biological site assessments
Caltrans'	California Department of Transportation's
CCOG	Calaveras Council of Governments
CCWD	Calaveras County Water District
CDFA	California Department of Food and Agriculture
CDFW's	California Department of Fish and Wildlife's
CEQA	California Environmental Quality Act
CNDDB	California Natural Diversity Database
County	Calaveras County's
CSDs	community service districts
CVRWQCB	Central Valley Regional Water Quality Control Board
DEIR	draft environmental impact report
gpd	gallons per day
ITE	Institute of Transportation Engineers
LOS	level of service
MMRP	Mitigation Monitoring and Reporting Program
NOA	Notice of Applicability
NOD	Notice of Determination
PRC	Public Resources Code
Prop	Proposition
RIM	Road Impact Mitigation
RTP	Regional Transportation Plan
sf	square feet
TIS	Traffic Impact Study
USFWS's	US Fish and Wildlife Service's

This page intentionally left blank.

# 1 INTRODUCTION

This document has been prepared under Calaveras County’s (County) direction, as lead agency, in accordance with the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code [PRC] Section 21000-21177) and the State CEQA Guidelines (California Code of Regulations [CCR], Title 14, Division 6, Chapter 3, Sections 15000-15387) (“CEQA Guidelines”). This document contains responses to comments received on the draft environmental impact report (DEIR) for the proposed Medical Cannabis Cultivation and Commerce Ordinance (proposed ordinance or project), as well as revisions to the DEIR in response to comments. The Final EIR for the proposed ordinance consists of the DEIR and this document (response to comments document). For convenience, this document is referred to as the Final EIR or FEIR. All references to the FEIR are intended to include the DEIR, responses to comments, and all supporting documentation.

## 1.1 PURPOSE AND INTENDED USES OF THIS FEIR

CEQA requires a lead agency that has prepared a DEIR to consult with and obtain comments from responsible and trustee agencies that have jurisdiction by law with respect to the project, as well as from other interested parties including the public, and to provide an opportunity to comment on the DEIR. The FEIR is the mechanism for responding to these comments. This FEIR has been prepared to respond to comments received on the DEIR; to present corrections, revisions, and other clarifications and amplifications to the DEIR made in response to these comments and as a result of the County’s ongoing planning efforts; and to provide a Mitigation Monitoring and Reporting Program for the project. The FEIR will be used to support the County’s decision regarding whether to approve the proposed ordinance.

This FEIR will also be used by CEQA responsible and trustee agencies to ensure that they have met their requirements under CEQA before deciding whether to approve or permit project elements over which they have jurisdiction. It may also be used by other state, regional, and local agencies that may have an interest in resources that could be affected by the project or that have jurisdiction over portions of the project.

The following agencies may serve as responsible and trustee agencies:

- ▲ California Department of Fish and Wildlife, Region 2
- ▲ California Department of Food and Agriculture
- ▲ California Department of Forestry and Fire Protection
- ▲ California Department of Parks and Recreation
- ▲ California Department of Pesticide Regulation
- ▲ California Department of Transportation, District 10
- ▲ California Department of Water Resources
- ▲ Calaveras County Air Pollution Control District
- ▲ Central Valley Regional Water Quality Control Board, Region 5 (Sacramento)

## 1.2 PROJECT LOCATION

Calaveras County is located in California’s central Sierra Nevada region, ranging from low-elevation oak-covered foothills to high-elevation pine forests. The Mokelumne, Stanislaus, and Calaveras rivers flow through the County collecting water from rain and melting snow to fill the County’s numerous lakes and reservoirs. The majority of land within the County falls within the regulatory jurisdiction of the County, with the exception of the City of Angels Camp (the only incorporated city within the county boundaries) and federal and state lands (approximate 13 percent of the land area of the County). Approximately 39,000

acres within the County are owned by the Bureau of Land Management with an additional 6,000 acres, associated with the Calaveras Big Trees State Park, owned by the State of California.

### 1.3 OBJECTIVES OF THE PROPOSED ORDINANCE

Recognizing the requirements of state and federal law related to the use and distribution of cannabis, the primary objectives of the proposed ordinance include the following:

1. Comprehensively regulate premises within the County used for marijuana cultivation or commercial activities related to marijuana or to prohibit those uses within the constraints of state law.
2. Maintain the health, safety, and well-being of the County, its residents, and environment.
3. Minimize risks of and complaints regarding fire, odor, and pollution caused by unregulated cultivation of marijuana within the County.
4. Protect the County's surface and groundwater resources by reducing the discharge of sediments, pesticides, fertilizers, petroleum hydrocarbons, trash, and human waste.

### 1.4 SUMMARY DESCRIPTION OF THE PROJECT

The proposed ordinance addresses regulations concerning the cultivation, manufacture, testing, distribution, transportation, and storage of medical marijuana within Calaveras County. These regulations include permitting requirements to manage conditions that create public nuisances by enacting restrictions on the location, type, and size of marijuana cultivation sites; the location, type, and size of commercial activities involving medical marijuana; and the use of screening, security, and other protective measures to more effectively control the adverse environmental impacts associated with medical marijuana cultivation and commercial activities.

### 1.5 MAJOR CONCLUSIONS OF THE ENVIRONMENTAL ANALYSIS

The EIR identified the following significant impacts related to the project:

#### Aesthetics

- ▲ Have a substantial adverse effect on a scenic vista or substantially damage scenic resources (less than significant after mitigation)
- ▲ Create a new source of substantial light or glare that would adversely affect views (less than significant after mitigation)

#### Air Quality

- ▲ Long-term operational emissions of ROG, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub> (less than significant after mitigation)
- ▲ Generation of greenhouse gas emissions (less than significant after mitigation)
- ▲ Exposure of people to objectionable odors (significant and unavoidable)

#### Biological Resources

- ▲ Impacts to special-status species (less than significant after mitigation)
- ▲ Modification and/or loss of streamside habitat and fill or other disturbance of waters of the United States and/or state (less than significant after mitigation)

- ▲ Degradation or removal of sensitive natural communities (less than significant after mitigation added in this FEIR)
- ▲ Conflicts with any local policies protecting biological resources (less than significant after mitigation)
- ▲ Disturbance or loss of wildlife migratory corridors (less than significant after mitigation)

### **Archaeological, Historical, and Tribal Cultural Resources**

- ▲ Change in the significance of an historical resource (less than significant after mitigation)
- ▲ Disturb unique archaeological resources (less than significant after mitigation)

### **Hydrology and Water Quality**

- ▲ Construction water quality impacts (less than significant after mitigation)
- ▲ Operational water quality impacts (less than significant after mitigation)
- ▲ Groundwater supply impacts (less than significant after mitigation)
- ▲ Surface drainage impacts on on-site and off-site flooding (less than significant after mitigation)

### **Transportation and Circulation**

- ▲ Long-term increase in traffic (significant and unavoidable)

With respect to cumulative impacts, significant and unavoidable cumulative impacts were identified in the DEIR for biological resources and transportation and circulation. The DEIR had identified significant and unavoidable impacts to sensitive natural communities. Through public comment on the DEIR, feasible mitigation was identified with respect to impacts to these sensitive natural communities, which reduced the project-specific impact to less than significant and the cumulative contribution of the project to less than cumulatively considerable.

## **1.6 SUMMARY OF PROJECT ALTERNATIVES**

The EIR provides an analysis of the comparative impacts anticipated from three alternatives to the project: (1) the No Project Alternative, which assumes no change in County Code would occur and that the Urgency Ordinance would expire; (2) a Ban on Commercial Cannabis Operations Alternative, which includes the adoption by the County Board of Supervisors of a countywide ban on cannabis-related activities unless otherwise expressly allowed by Proposition 64; (3) the Reduced Zoning Designations Alternative, which includes a restriction on the type of zoning designations that would allow commercial cannabis operations; and (4) Minimum Parcel Sizes and Further Reduced Zoning Designations Available for Commercial Cannabis Operations Alternative, which restricts allowable zoning designations and establishes minimum parcel sizes within which cannabis operations could occur. (The fourth alternative was added in response to comments on the DEIR.)

The Ban on Commercial Cannabis Operations Alternative is considered the environmentally superior alternative because it reduces several impacts associated with the proposed project and, unlike the No Project Alternative, Alternative 2 does not increase a significant impact related to transportation, odors, and biological resources. Also, Alternative 2 would reduce impacts to a greater extent than Alternatives 3 or 4, although Alternative 4 would reduce impacts to a greater extent than Alternative 3. Alternative 2 would also meet the project objectives.

## **1.7 CEQA PUBLIC REVIEW PROCESS**

On May 1, 2017, the DEIR was released for a 45-day public review and comment period that ended on June 14, 2017. The DEIR was submitted to the State Clearinghouse; posted on the County's website

(<http://planning.calaverasgov.us>); posted with the Calaveras County Clerk; and made available at the Calaveras County Planning Department as well as the San Andreas Central Library. A notice of availability was distributed by the County to the Calaveras Enterprise and a project-specific mailing list.

A public meeting on the proposed ordinance and conclusions of the DEIR was held on May 22, 2017 to receive input from agencies and the public on the DEIR. The hearing was held at the Calaveras County Board of Supervisors Chambers in San Andreas, CA.

As a result of these notification efforts, written and verbal comments were received from agencies, organizations, and individuals on the content of the DEIR. Chapter 3, “Responses to Comments,” identifies these commenting parties, their respective comments, and responses to these comments. None of the comments received, or the responses provided, constitute “significant new information” by CEQA standards (State CEQA Guidelines CCR Section 15088.5).

The County will hold a public hearing before the Calaveras County Board of Supervisors in September 2017 to consider certification of the EIR and approval of the proposed ordinance. The public and interested agencies may comment on the project at this hearing.

## 1.8 ORGANIZATION OF THIS FEIR

This FEIR is organized as follows:

**Chapter 1, Introduction:** This chapter describes the purpose of the FEIR, summarizes the project and the major conclusions of the EIR, provides an overview of the CEQA public review process, and describes the content of the FEIR.

**Chapter 2, Responses to Comments:** This chapter contains a list of all parties who submitted comments on the DEIR during the public review period, copies of the comment letters received, and responses to the comments. The chapter begins with a set of master responses that were prepared to comprehensively respond to multiple comments that raised similar issues. A reference to the master response is provided, where relevant, in responses to individual comments.

**Chapter 3, Revisions to the DEIR:** This chapter presents revisions to the DEIR text made in response to comments, or to amplify, clarify or make minor modifications or corrections. Changes in the text are signified by ~~strikeouts~~ where text is removed and by underline where text is added.

**Chapter 4, Mitigation Monitoring and Reporting Program:** This chapter presents the Mitigation Monitoring and Reporting Program (MMRP) for the proposed ordinance, in accordance with CEQA and the State CEQA Guidelines (PRC Section 21081.6 and State CEQA Guidelines Sections 15091[d] and 15097), which require public agencies “to adopt a reporting and monitoring program for changes to the project which it has adopted or made a condition of project approval to mitigate or avoid significant effects on the environment.”

**Chapter 5, List of Preparers:** This chapter identifies the lead agency contacts as well as the preparers of this FEIR.

**Chapter 6, References:** This chapter identifies the organizations and persons consulted during preparation of this FEIR and the documents used as sources for the analysis.

## 2 RESPONSES TO COMMENTS

This chapter contains comment letters received during the public review period for the Draft Environmental Impact Report (DEIR), which concluded on June 14, 2017, including written comments received during the May 22, 2017 public meeting. In conformance with Section 15088(a) of the State California Environmental Quality Act (CEQA) Guidelines, written responses were prepared addressing comments on environmental issues raised in comments on the DEIR.

### 2.1 LIST OF COMMENTERS ON THE DEIR

Table 2-1 presents the list of commenters, including the numerical designation for each comment letter received, the author of the comment letter, and the date of the comment letter.

<b>Table 2-1 List of Commenters</b>		
Letter No.	Commenter	Date
<b>STATE AGENCIES</b>		
S1	California Department of Fish and Wildlife Tina Bartlett, Regional Manager	June 13, 2017
S2	California Department of Transportation Carl Baker, Chief, Office of Rural Planning & Administration	June 14, 2017
<b>LOCAL AGENCIES</b>		
L1	Calaveras County Water District Peter Martin, Manager of Water Resources	June 13, 2017
<b>ORGANIZATIONS</b>		
01	Calaveras Cannabis Alliance Trevor Wittke, Executive Director	June 14, 2017
02	Calaveras Child Care Council	May 19, 2017
03	Calaveras Planning Coalition Thomas P. Infusino, Facilitator	June 14, 2017
04	Calaveras Residents Against Commercial Marijuana Susan Morse and Vicky Reinke	June 14, 2017
<b>INDIVIDUALS</b>		
I1	Aimee	June 14, 2017
I2	Anthony Applewhite	May 8, 2017
I3	Jessica Benson	June 14, 2017
I4	Mark Bolger	June 14, 2017
I5	David Bowman	May 10, 2017
I6	Dennis and Marie Bullock	May 11, 2017
I7	Lori and Randy Caires	June 13, 2017
I8	Anne Calderwood	June 13, 2017
I9	Jane Henning Childress	June 14, 2017
I10	Tyler Childress	June 14, 2017

**Table 2-1 List of Commenters**

Letter No.	Commenter	Date
I11	Matthew Clark	June 14, 2017
I12	Marti Crane	June 7, 2017
I13	Richard DeGarmo	June 14, 2017
I14	Andres T. DeHerrera	June 7, 2017
I15	Gailan DeHerrera	June 7, 2017
I16	R. De Herrera	June 7, 2017
I17	Mark Dyken	June 13, 2017
I18	Brock Estes	June 15, 2017
I19	George Farley	June 13, 2017
I20	Trisha Frazier	June 12, 2017
I21	Trisha Frazier	June 12, 2017
I22	Tom Griffing	June 12, 2017
I23	Tom Griffing	June 14, 2017
I24	Julio Stanford Guerra	June 14, 2017
I25	Julie Hall	June 12, 2017
I26	Jason Hauer	June 12, 2017
I27	Peter Hertzog	May 28, 2017
I28	J. David Hitchcock	June 9, 2017
I29	Karen Hoza	June 14, 2017
I30	Cynthia and Steven Judson	June 11, 2017
I31	Paul Knier	June 14, 2017
I32	Ken and Jeanne Koll	June 12, 2017
I33	Fernando Leyva	May 31, 2017
I34	Gordon Long	June 14, 2017
I35	Holly Mines	June 10, 2017
I36	Deena Morris	May 16, 2017
I37	Steven Morris	June 9, 2017
I38	Lora A. Most	May 22, 2017
I39	Rob Nelson	June 14, 2017
I40	Rodger Orman, MD	June 14, 2017
I41	Mike Osgood	May 10, 2017
I42	Ron Pieretti	June 7, 2017
I43	Christopher L. Powell	June 14, 2017
I44	Bob Powers	June 6, 2017
I45	Franziska M. Schabram	June 9, 2017
I46	Edward L. Shaffer	May 23, 2017
I47	Edward L. Shaffer	June 14, 2017
I48	Chloe Shufeldt	June 12, 2017

**Table 2-1 List of Commenters**

Letter No.	Commenter	Date
I49	Jay Skeen	June 12, 2017
I50	Kim Skeen	June 12, 2017
I51	Dr. Prapanna Randall Smith	June 12, 2017
I52	Benjamin Stopper	June 14, 2017
I53	Patrick J. Sullivan, Ph.D.	June 14, 2017
I54	Stephen and Lydia Testa	May 29, 2017
I55	Rick and Bea Whitten	May 22, 2017
I56	Wilson	June 13, 2017
I57	Joan Tanner-Wilson	June 13, 2017
I58	Robert Wise	June 12, 2017
<b>INDIVIDUALS</b>		
PM1	Patricia Gordo	May 22, 2017

## 2.2 MASTER RESPONSES

Several comments raised similar issues. Rather than responding to each individual comment separately, master responses have been developed to address the comments comprehensively. Master responses are provided for the following topics: program-level versus project-level analysis, baseline conditions, employees, and range of alternatives. A reference to the master response is provided, where relevant, in responses to the individual comment.

### 2.2.1 Master Response 1: Program-level versus project-level analysis

This master response addresses comments pertaining to the level of detail, specificity, and approach to the programmatic Environmental Impact Report for the proposed Medical Cannabis Cultivation and Commerce Ordinance Project. Several commenters raise questions regarding the level of detail provided in the DEIR analysis of various impacts. As described on DEIR page 1-1, the analysis presents a programmatic assessment of the potential impacts of the proposed ordinance, focusing on overall regulations that would control cannabis cultivation, distribution, etc. throughout Calaveras County. Individual development sites are not addressed in detail; rather the focus of the Environmental Impact Report (EIR) is on the entire ordinance and impacts resulting from cannabis operations compliant with the ordinance.

A program EIR is defined as one that addresses “a series of actions that can be characterized as one large project and are related either:

- (1) Geographically;
- (2) As logical parts in the chain of contemplated actions;
- (3) In connection with the issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program; or

- (4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental impacts which can be mitigated in similar ways” (CEQA Guidelines section 15168).

“The level of specificity of an EIR is determined by the nature of the project and the ‘rule of reason’” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 407). “[W]here an EIR covers several possible projects that are diverse and geographically dispersed, the agency has discretion to evaluate the potential environmental impacts of the individual projects in general terms in the EIR” (*California Oak Foundation v. Regents of University of California* (2010) 188 Cal.App.4th 227, 271, citing *In re Bay-Delta* (2008) 43 Cal.4th 1143, 1170-1171). Here, the proposed ordinance covers medical cannabis operations throughout the County. Accordingly, the EIR analyzes the proposed ordinance at a programmatic level.

As noted in the EIR, significant and unavoidable impacts associated with implementation of the proposed ordinance were identified for odors and long-term increases in vehicle traffic. The potential for these impacts would depend on site-specific conditions (e.g., nearby residences and the number of cannabis-related operations located along the same roadway as the property being evaluated), however based on the analysis as part of the EIR, the potential exists for impacts to occur during implementation of the proposed ordinance because of resources present within the county. Because the proposed ordinance does not identify specific properties/sites for cannabis-related operations but rather allows such operations to occur within properties with the appropriate zoning, the exact locations of cannabis-related operations and location-specific impacts cannot be determined at this time. As a result, the potential for the aforementioned impacts cannot be ruled out within the context of the programmatic analysis of the DEIR for the proposed ordinance. Therefore, the EIR appropriately and programmatically evaluated the potential for the construction and operation of commercial medical cannabis operations to result in physical environmental impacts.

## 2.2.2 Master Response 2: Alternatives

Several comments were received during public review of the DEIR that expressed concern about the alternatives analysis in the DEIR, including the selection of the two alternatives other than the No Project Alternative presented in Chapter 6 of the DEIR. Comments also suggested that the DEIR’s description and analysis of alternatives was too general or vague. This master response describes the process by which the County developed and selected the alternatives, and then explains the EIR approach to comparing these alternatives.

### REASONABLE RANGE

State CEQA Guidelines section 15126.6 states that “An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project.” As noted in the Executive Summary of the EIR, significant and unavoidable impacts associated with implementation of the proposed ordinance were identified for sensitive vegetation communities, odors, and long-term increases in vehicle traffic. Additionally, the EIR required mitigation, in the form of amendments to the proposed ordinance, to reduce impacts associated with aesthetics, air quality (and greenhouse gases), biological resources, cultural resources, and hydrology/water quality. Chapter 6, “Alternatives,” discusses two distinctly different alternatives that would result in comprehensive regulation of medical cannabis related activities within the County.

Under Alternative 2, the County would implement a countywide ban on commercial medical cannabis activities and require the removal of existing cannabis-related operations and restoration of the site to a condition that prevents erosion and allows for suitable, subsequent use of the property. Several jurisdictions within the State of California have considered or are considering bans on cannabis-related operations to the

extent allowable under state law. Because a ban would preclude legal cannabis-related development and its associated physical environmental impacts, it is considered a reasonable alternative to reduce the potential physical environmental impacts associated with implementation of the proposed ordinance. Alternative 3 addresses modification to the proposed ordinance which would remove the Rural Residential (RR) zone from consideration for development of cannabis-related operations. As noted on page 6-10 of the Draft EIR, it was assumed that this alternative would reduce the potential for commercial cannabis operations within the County by approximately 25%. Several comments questioned the percentage reduction and the basis for its selection. The reduction of 25% was based on a review of the applications for commercial cannabis operations received under the Urgency Ordinance. Approximately 25% of the applications received were for properties located within the RR zone, and therefore it is considered a reasonable estimate that removal of the RR zone would result in a similar reduction in potential cannabis-related operations within the County.

Further, the three alternatives evaluated in the DEIR in addition to the proposed ordinance represent a reasonable range of alternatives. The options of restricting cannabis-related operations to certain zones and parcel sizes that are established within the County's General Plan and County Code, respectively, are limitless, and are all basically variations on a theme. Further, within the context of the programmatic evaluation of physical environmental impacts associated with implementation of the proposed ordinance as presented in the DEIR, none of the alternatives presented in public comment would reduce the significant impacts of the project to less than significant. In demonstration of this and based on public comment received on the DEIR (refer to Comment O3-55), a fourth alternative was added as part of this Final Environmental Impact Report (FEIR) (Refer below and to Chapter 3, "Revisions to the DEIR"). Similar to Alternative 3 in the DEIR, Alternative 4 would reduce the number of parcels available for cannabis-related activities. The elements of the following alternative that would be different from Alternative 3 would be related to setbacks and restricting such activities to larger parcels. Because this alternative raises some important differences compared to Alternative 3 and its impacts, on the surface, may be different, a new alternative that reflects the issues raised in the comment has been added to this EIR, as Alternative 4. It has been included in Chapter 3, "Revisions to the DEIR," and the following analysis has been added to page 6-12 of the DEIR:

#### **6.3.4 MINIMUM PARCEL SIZES AND FURTHER REDUCED ZONING DESIGNATIONS AVAILABLE FOR COMMERCIAL CANNABIS OPERATIONS ALTERNATIVE (ALTERNATIVE 4)**

This alternative would involve a further restriction on the zoning designations available for commercial cannabis cultivation and related activities and would also establish minimum parcel sizes for many of the allowable zones. Under this alternative, the following additional zoning and parcel size restrictions would be instituted as part of a cannabis cultivation and commerce ordinance:

1. Only organic cannabis cultivation activities would be allowed.
2. Rural Residential (RR) would be removed as an acceptable zone within which outdoor and indoor cultivation could occur.
3. Additional restrictions would be placed on allowable Rural Agricultural (RA) parcels. Outdoor cultivation would be conditionally allowed on parcels of ten acres or more; indoor cultivation would be conditionally allowed on parcels of five acres or more. Project-level CEQA analysis would be required for all applications received for parcels zoned RA.
4. Cultivation would be allowed on Unclassified (U) parcels with additional project-level CEQA review and a change in zoning.

5. On Industrial (I) parcels, only indoor cultivation with odor filtration and 200-foot setbacks from residential uses would be allowed.
6. Within Community Centers and Community Plan Areas, only indoor cultivation with utility-provided water and odor filtration would be allowed.
7. Setback requirements would be increased to 200 feet from property lines for outdoor cultivation.
8. Commercial operations would only be allowed along publicly-maintained state highways or public county roads.

Based on the number of applications received under the urgency ordinance for commercial cannabis operations, the zoning and parcel sizes associated with the applications under the urgency ordinance, and the zone and parcel size restrictions listed in this comment, it is assumed this alternative would reduce the potential for commercial cannabis operations within the County to approximately 415 commercial operations (a reduction of approximately 45% from the reasonably foreseeable compliance response identified in Chapter 2, "Project Description" of the DEIR). This alternative would also result in locating commercial cannabis operations within more remote areas of the County, because that is where these parcels are located, and away from developed communities. The mitigation measures identified for the proposed ordinance would be applied to this alternative.

## **ENVIRONMENTAL ANALYSIS**

### **Aesthetics**

Under this alternative, impacts associated with commercial cannabis cultivation operations within the County would occur, similar to the project, but to a lesser degree. Additionally, cannabis operations would be located within more remote areas and would be less visible, countywide, than under the project. The proposed ordinance includes requirements for an eight-foot-tall fence around the entire cultivation area, which would be maintained under this alternative. Due to the presence of potential scenic resources, including the Mokelumne Coast to Crest Trail in the vicinity of larger parcels that would allow for commercial cultivation under this alternative, implementation of Mitigation Measure 3.1-1, as amended through the FEIR would still be required. As a result, impacts to visual character and scenic resources under this alternative would be less than those under the proposed ordinance but would also be less than significant with mitigation.

### **Air Quality/Greenhouse Gas Emissions**

Alternative 4 would further restrict the acceptable zoning under which commercial cannabis operations could be conducted. In general, this would serve to locate cannabis cultivation activities away from developed communities (e.g. Copperopolis, Murphys, etc.) and would reduce potential localized air quality impacts, including odor impacts. Air quality and greenhouse gas emissions associated with construction and operation of commercial cannabis operations would still occur on a regional scale but would be reduced compared to the project by an estimated 45%. This reduction may be less because vehicle trip length for employees travelling to and from commercial cannabis operations would increase. In addition, the location of cannabis-related activities on larger parcels within the County increases the likelihood that electricity service may need to be extended or replaced by alternatives such as solar. As a result, implementation of Mitigation Measure 3.2-2 would still be necessary to ensure that criteria air pollutant thresholds are not exceeded. Therefore, impacts would remain less than significant with mitigation. Additionally, this alternative would not restrict the potential for primary/caregiver grows to be located in residential areas, albeit on larger parcels (due to the increased setback requirement). As a result, the potential for people to perceive cannabis-related odors as a result of personal/caregiver grows would remain, and impacts would

remain significant and unavoidable with implementation of feasible mitigation. Nonetheless, overall, Alternative 4 is determined to have less air quality and greenhouse gas emissions impacts than the project.

### **Biological Resources**

Under Alternative 4, the County would adopt more restrictive, county-specific regulations to guide how cannabis cultivation, processing, and distribution facilities could be constructed/operated. Potential impacts to biological resources would be similar to that of the project, however, the overall land area anticipated to be converted to cannabis-related operations would be less. Cannabis cultivation, processing, and distribution facilities would still be required to comply with RWQCB Order R5-2015-0113, which requires impacts to special status species to be fully mitigated, through implementation of Mitigation Measure 3.3-1. However, impacts to sensitive vegetation alliances could still occur, and implementation of Mitigation Measure 3.3-3 would still be required. As a result, impacts under this alternative would be less than significant with mitigation but would be less than the proposed ordinance.

### **Cultural Resources**

Similar to the project, the County would adopt county-specific regulations to guide how cannabis cultivation, processing, and distribution facilities could be constructed/operated, albeit within lesser zoning designations and with parcel size restrictions. RWQCB Order R5-2015-0113 would still apply to all cannabis-related operations and would require such operations to appropriately address and mitigate cultural resources impacts. As a result, impacts would be less than the project due to lesser overall development within the County but would be less than significant with mitigation.

### **Hydrology and Water Quality**

Under this alternative, the County would implement countywide regulations for commercial cannabis operations similar to the project, albeit with greater zone and parcel size restrictions. The RWQCB order related to medicinal cannabis operations would serve as the primary regulation of water quality. Similar to the project, the County would continue assisting the RWQCB by monitoring and identifying localized problems with particular cannabis operations. With respect to groundwater supply impacts, this alternative would result in a lesser demand for groundwater supplies due to commercial cannabis operations; also, because operations would be confined to larger sites, there is less likelihood that use of groundwater wells would affect adjacent properties. This alternative would further reduce potential groundwater impacts by requiring all commercial operations within Community Centers and Community Plan Areas to be indoor cannabis operations that use utility-provided water. This would require each applicant within these areas to obtain “will serve” letters from the local water purveyor, and thus, ensure adequate water supplies that would not affect groundwater. However, outside of those areas, the potential for localized impacts within the County’s fractured groundwater basin would remain. It is anticipated that mitigation similar to that identified for the project would be required for this alternative. Therefore, although mitigation would still be required to reduce impacts to less than significant, Alternative 4 would result in lesser impacts to hydrology and water quality than the project.

### **Land Use and Planning**

Similar to the project, Alternative 4 is not anticipated to result in the physical division of existing communities. Under this alternative, cannabis operations would be anticipated to occur within the current limits of existing property similar to the proposed ordinance and would not conflict with the goals and policies established in the County General Plan. Overall, impacts related to land use and planning impacts would be similar to the project and less than significant.

### **Noise**

Construction and operational noise associated with commercial cannabis operations would be similar to the project, however, the majority of cannabis-related noise (construction and operational) would be located further away from existing receptors. As a result, noise impacts would generally be

less than the proposed ordinance due to the location of cultivation sites further away from existing property lines, residents, and developed communities. Similar to the proposed ordinance, roadway noise levels may still increase along specific roadways due to employee trips, depending on the number of cannabis-related activities located along a particular roadway. However, due to the parcel size restrictions associated with this ordinance and the related fewer countywide employees due to fewer operations, this increase in roadway noise levels is anticipated to be minimal. Overall noise impacts countywide associated with implementation of this alternative would be less than the proposed ordinance and less than significant.

### **Population and Housing**

Under this alternative, the number of employment opportunities within the County would increase but not to the extent of the project. This alternative would have similar effects (i.e. less than significant), although lesser due to the fewer number of cannabis-related activities that may occur.

### **Transportation and Circulation**

As noted above, this alternative would result in an overall reduction in the number of cannabis operations and associated employee trips. While this alternative would preclude locating cannabis-related activities along Community Center, Community Plan Area, and private subdivision roadways, this alternative could still result in localized concentrations of cannabis grows such that specific roadways could be affected similar to the proposed ordinance, and impacts may still be significant and unavoidable, even with mitigation. However, due to the lesser number of potential cultivation sites under this alternative and the overall decrease in the number of countywide employees compared to the proposed ordinance, this potential increase in traffic volumes is anticipated to be less than the proposed ordinance, and overall impacts to the transportation network within the County would be less. As a result, implementation of Alternative 4 would result in lesser traffic impacts than the proposed ordinance.

## **ACHIEVEMENT OF PROJECT OBJECTIVES**

If approved by the Board of Supervisors, this alternative would involve the implementation of countywide regulations specific to cannabis cultivation, processing, and distribution, and would impose similar restrictions to the proposed ordinance regarding the development of cannabis-related activities. This alternative would achieve the project objectives established for the proposed ordinance and would further limit the potential for air quality, odor, water quality, and transportation impacts but would not reduce potential programmatic impacts to a less-than-significant level. Similar to Alternative 3, although to a greater degree, the amount of funding provided by this alternative would likely be less than that provided by the proposed ordinance for the monitoring of cannabis-related activities to ensure compliance with the County's regulations due to fewer numbers of applicants. This alternative would also necessitate greater effort, time, and costs on the part of County staff due to the discretionary review of applications and associated CEQA documentation, compared to the ministerial review by County staff that would occur with the proposed ordinance and Alternative 3. However, permit fees could be adjusted to compensate for reduced numbers of applications, provided that the fees are used for implementation of the regulatory program; therefore, the County's ability to maintain the health, safety, and well-being of County residents would be similar to the proposed ordinance.

## 6.4 COMPARISON OF ALTERNATIVES

Table 6-1 summarizes the environmental analyses provided above for the project alternatives.

Resource Area	Project	Alternative 1 - No Project	Alternative 2 - Ban on Commercial Cannabis Operations	Alternative 3 - Reduced Zoning Designations Available for Commercial Cannabis Operations	Alternative 4 - Minimum Parcel Sizes and Further Reduced Zoning Designations Available for Commercial Cannabis Operations
Aesthetics	Less than Significant with Mitigation	>	<	<	≤
Air Quality/ Greenhouse Gas Emissions	Significant and Unavoidable (1)	<	<	<	≤
Biological Resources	<del>Significant and Unavoidable (4)</del> Less than Significant with Mitigation	<	<	<	≤
Cultural Resources	Less than Significant with Mitigation	<	<	<	≤
Hydrology and Water Quality	Less than Significant with Mitigation	>	<	<	≤
Land Use and Planning	Less than Significant	<	=	=	≡
Noise	Less than Significant	<	<	<	≤
Population and Housing	Less than Significant	<	<	<	≤
Transportation and Circulation	Significant and Unavoidable (1)	<	<	<	≤

**Symbol Key:** "=": equivalent level of impact; "<": lesser impact than the proposed ordinance; ">": greater impact than the proposed ordinance

Source: Compiled by Ascent Environmental in 2017

As explained above, Alternative 4 is similar to Alternative 3, with minor differences mainly related to setbacks and restricting such activities to larger parcels. Alternative 4 would result in similar environmental impacts as Alternative 3, which has been analyzed in the DEIR. Because the alternative is not considerably different from others previously analyzed and would not clearly lessen the significant environmental impacts of the project, recirculation of the Draft EIR is not required. (See CEQA Guidelines, §15088.5.)

The comments do not suggest additional alternatives that would avoid or mitigate any potentially significant environmental impacts of the proposed ordinance while meeting most of the project objectives, or those that would offer substantial environmental advantages, or be more feasible than the alternatives analyzed in the DEIR (State CEQA Guidelines section 15204[a]). However, the additional alternative (Alternative 4) will be provided to the Board of Supervisors for their consideration as part of the FEIR.

### ENVIRONMENTALLY SUPERIOR ALTERNATIVES

Several comments were received that expressed concern over the presentation of environmentally superior alternatives to the proposed ordinance. While CEQA requires the identification of an environmentally

superior alternative in an EIR, it does not require that a lead agency approve it. Sections 15091 and 15093 of the State CEQA Guidelines require the decision-making agency to consider the feasibility of alternatives based on a variety of factors and to “balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approved the project.” CEQA allows for the approval of a project despite the presence of an environmentally superior alternative as well as unavoidable impacts. The identification of Alternative 2 (Ban on Commercial Cannabis Operations) as the environmentally superior alternative does not result in a requirement for the County to approve it over the proposed ordinance; but, by the same token, the County can choose to adopt Alternative 2 or other alternatives if it so chooses, based on findings it makes at the approval stage. The EIR meets CEQA requirements with respect to identifying alternatives that would reduce the environmental impacts of the proposed ordinance.

CEQA requires that an EIR present sufficient information to understand the environmental impacts of the proposed project and to permit a reasonable choice of alternatives so far as environmental aspects are concerned (*Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal. 3d 376). As explained by the courts, EIR requirements must be sufficiently flexible to encompass vastly differing projects with varying levels of specificity. (See *Antioch v. Pittsburg* (1986) 187 Cal. App. 3d 1325.) When the alternatives have been set forth in this manner as they have been with the DEIR for the proposed ordinance, an EIR is not considered inadequate because it does not consider in detail each and every conceivable variation of the alternatives stated. Of note and with respect to the aforementioned fourth alternative, it would be environmentally superior to Alternative 3 (and the project) but not to Alternative 2, assuming full compliance with Alternative 2.

### 2.2.3 Master Response 3: Employees

Several comments were received regarding the EIR’s assumption that cannabis cultivation activities could require 10 to 15 employees during harvest. In general, the comments received asserted that the number of employees assumed within the EIR was too high and not based on evidence. However, during preparation of the EIR, an assessment of cannabis-related operations within Calaveras County, including discussions with cannabis operators by either consultants or County staff, was made. Based on that assessment, it was determined that a range of employees (10-15) would be conservative yet appropriate as individual operations could vary, including the number of on-site employees from year to year. As drafted, the proposed ordinance would not allow the County to limit the number of on-site employees or provide recourse if the number of employees exceeded those present on-site during previous years.

It is acknowledged that the peak number of employees at cannabis-related operations would be seasonal and not year-round. The EIR states in multiple locations, including on page 2-9 and 2-11, that the number of employees assumed is during the harvest period, which is considered to be the time during which daily activities at a given site would be highest. This accounts for employees that would be involved in trimming, transporting, processing, drying, and packaging of cannabis.

The EIR’s assumption regarding the number of employees is also supported by data provided in the Marijuana Business Daily’s *Marijuana Business Factbook* (2016) as cited in the CalCannabis Cultivation Licensing DEIR (CDFA 2017). As noted in that document and the DEIR for the CalCannabis Cultivation Licensing Program issued by the California Department of Food and Agriculture in June 2017, an average of 10 full-time and four part-time employees are employed at cultivation sites. Therefore, the EIR’s assumption that cannabis-related operations within the County could employ 10 to 15 employees per site is considered reasonable. Of note, comments received regarding the number of employees often expressed concern that potential traffic impacts were overstated and did not account for conditions specific to Calaveras County. Based on information collected by the County, including interviews with Mr. Mark Bolger of Rimrock Farms, LLC, a well-regarded cannabis grow operator (see Comment Letter I4), the EIR assumed that the employees for each site would have an average vehicle occupancy of 2 employees per car and would be employed at an average of two sites, thereby reducing the number of daily vehicle trips. Because the EIR information is

based on actual operations, the EIR's assumptions regarding the number of potential employees per cannabis-related operation is reasonable and appropriate, and the EIR's analysis is considered valid and based on substantial evidence.

## 2.2.4 Master Response 4: Baseline

Several comments were received that questioned the EIR's use of baseline conditions at the time the NOP was issued, which do not take into account additional potential cannabis-related operations that could be permitted through the Urgency Ordinance. In general, and as supported by CEQA Guidelines section 15125(a), baseline conditions are typically those conditions that exist "at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced." At the time the NOP for the proposed ordinance was issued, the Urgency Ordinance had not been approved and no permits had been issued for commercial cannabis activities. Therefore, these conditions (pre-Urgency Ordinance) were reflected as the baseline in the EIR. Additionally, operations that are or would be permitted under the Urgency Ordinance and exceed 1,000 square feet of disturbance would have been required to comply with the CVRWQCB's General Order, which requires protection of water quality, special status species and cultural resources; these same requirements would apply for permits under the proposed ordinance via mitigation measures provided in the DEIR. New projects that would be developed in conformance with the ordinance, if approved, would result in the potential impacts outlined in this EIR, as would changes to non-compliant operations needed to conform to the ordinance.

Neither CEQA nor the CEQA Guidelines mandates a uniform, inflexible rule for determination of existing baseline conditions. Because environmental conditions may vary from year to year, baseline conditions might take into consideration conditions that have existed over a range of time. In this case, during the preparation of the analysis and through release of the DEIR, the County was still in the process of reviewing, approving, and denying various applications that were received pursuant to the Urgency Ordinance. Any denied application was open to appeal to the Planning Commission and then to the Board of Supervisors. In addition, the level of cannabis-related development at each site was highly variable. Taken together, the potential variation in conditions occurring after the NOP, depending on the day, week, or month selected, was considered high. For this reason, speculation regarding the level of cannabis-related development within the County was deemed inappropriate and could potentially result in understated impacts. While conservative, the EIR's analysis and use of baseline conditions at the time of the NOP is considered reasonable and appropriate. Further, the analysis, as it applies to future individual projects prepared under the ordinance, is accurate.

## 2.2.5 Master Response 5: Socio-Economic Analysis

The CEQA Guidelines (14 California Code of Regulations Section 15000 et. seq.) establishes the scope of analysis of social and economic impacts of a project and their indirect effects that is required under CEQA. These provisions, which are described below, provide a framework for considering many of the comments received on social and economic effects of the project, including issues such as health care, job opportunities, property values, and other socio-economic impacts.

CEQA is concerned solely with whether a project may have adverse physical environmental effects. Accordingly, CEQA Guidelines section 15064(e) provides that "[e]conomic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment." Section 15131 of the CEQA Guidelines states that "economic and social effects of a project shall not be treated as significant effects on the environment, [a]n EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from a project to physical changes caused in turn by the economic or social changes."

In evaluating the environmental impacts of a project, an EIR must evaluate indirect physical effects, in addition to the direct effects of a project. Direct effects are effects that are caused by a project and occur in the same time and place. An indirect environmental effect is a change in the physical environment that is not immediately related to a project, but that is caused indirectly by a project. CEQA does not require the analysis of generalized social and economic effects, such as job opportunities and property values, as suggested by many of the comments. A lead agency is also not required to analyze conclusory statements regarding social and economic impacts that are not supported by substantial evidence in the record.

## 2.3 COMMENTS AND RESPONSES

The verbal and written individual comments received on the DEIR and the responses to those comments are provided below. The comment letters and verbal comments made at the public hearing are reproduced in their entirety and are followed by the response(s). Where a commenter has provided multiple comments, each comment is indicated by a line bracket and an identifying number in the margin of the comment letter. Attachments provided by commenters in support of comments made regarding the DEIR's analysis have been included in Appendices A and B of this FEIR.



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
North Central Region  
1701 Nimbus Road, Suite A  
Rancho Cordova, CA 95670-4599  
916-358-2900  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**EDMUND G. BROWN JR., Governor**  
**CHARLTON H. BONHAM, Director**



Letter  
S1

June 13, 2017

Peter Maurer  
Planning Director  
Calaveras County Planning Department  
891 Mountain Ranch Road  
San Andreas, CA 95249

Dear Mr. Maurer:

Subject: MEDICAL CANNABIS CULTIVATION AND COMMERCE ORDINANCE  
PROJECT (PROJECT)  
DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)

The California Department of Fish and Wildlife (CDFW) has received and reviewed the Draft Environmental Impact Report from Calaveras County for the Project pursuant the California Environmental Quality Act (CEQA) statute and guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code (Fish & G. Code).

**CDFW ROLE**

CDFW is California's **Trustee Agency** for fish and wildlife resources, and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on Projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW may also act as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) The Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" of a listed species,

S1-1

<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

**MEDICAL CANNABIS CULTIVATION AND COMMERCE ORDINANCE**  
June 13, 2017  
Page 2

which is defined as hunt, pursue, catch, capture or kill or attempt to hunt, pursue, catch, capture, or kill, any listed species, the Permittee shall consult with the CDFW as outlined in Fish & G. Code section 2081 and shall obtain the required State threatened and endangered species permits as defined under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) CDFW also administers the Native Plant Protection Act, Natural Community Conservation Program, and other provisions of the Fish and Game Code that afford protection to California’s fish and wildlife resources.

S1-1  
cont.

**PROJECT DESCRIPTION SUMMARY**

The Project area includes all lands within Calaveras County that are subject to and thereby potentially approved for Commercial and/or Medical Cannabis Cultivation.

The Project Alternatives include 1) the No Project Alternative, which assumes no change in the County Code would occur and that the current Urgency Ordinance would expire; 2) the Ban on Commercial Cannabis Operations Alternative, which includes the adoption by the County Board of Supervisors of a countywide ban on cannabis-related activities unless expressly allowed by Proposition 64; 3) the Reduced Zoning Designations Alternative, which includes a reduction in the zoning designations that would allow commercial cannabis operation.

Current cannabis cultivation activities within Calaveras County have led to significant environmental impacts, including habitat degradation, loss and fragmentation; burying of streams; diversion of surface waters; and impacts to water quality including sediment, garbage, pesticides and petroleum products.

The preferred Alternative selected is option 2, the Ban on Commercial Cannabis Operations Alternatives, which includes the registration of Medical Cannabis Cultivation sites with the County and requires facilities to be no smaller than 1000 square feet in size, thereby requiring enrollment in the Central Valley Regional Water Quality Control Board General Order R5-2013-0113. The CDFW is supportive of this Alternative, with the following comments and recommendations considered and implemented.

S1-2

**IMPACT ANALYSIS AND MITIGATION MEASURES**

*DEIR Chapter 3 and Chapter 17.95 of the Calaveras County Code*

CDFW is concerned that the proposed Project may result in direct, indirect and cumulative adverse impacts to environmental and Public Trust resources within the Project area. The Project area may be impacted by reducing riparian and terrestrial habitats, including habitats for sensitive species and could result in the direct "take" of State-listed species.

The mitigation measures proposed in the DEIR Chapter 3 and Chapter 17.95 of the Calaveras County Code defer directly to the regulatory structure of the Central Valley Regional Water Quality Control Board (Board) General Order R5-2015-0113 (Order) to satisfy all biological protection measures without recognizing the CDFW’s authority. The CDFW has independent authority granted through the California Fish and Game Code and California Endangered Species Act (CESA). The Boards’ authority is limited to waters of

S1-3

MEDICAL CANNABIS CULTIVATION AND COMMERCE ORDINANCE

June 13, 2017

Page 3

the State and the beneficial uses thereof. While the Board has wide-ranging authority to protect the beneficial uses of waters of the State, it is not responsible for the review, approval and enforcement of mitigation of impacts to wildlife and plant species, especially where there is no connection to waters of the State.

S1-3  
cont.

The CDFW recommends the revision of Chapter 3, including table 3.1 et al., and Chapter 17.95 of the County Code, to recognize the CDFW as a Responsible and Trustee agency, and require a copy of Project applications to be sent directly to the CDFW North Central Region, to ensure early and adequate consultation.

*Wildlife, Threatened, Endangered, and Candidate Species*

As stated in the DEIR, the Project proposes the implementation of a Biological Site Assessment (BSA) under the Board’s General Order. The BSA should be completed by an individual, with sufficient education and field experience to adequately assess the work proposed for the Project. The lead agency shall provide a resume of the selected individual to the CDFW for review and approval prior to implementing surveys.

CDFW recommends the BSA include a complete survey and assessment of the existing biological conditions within the Project area including but not limited to complete and current mapping of the entire proximity of the Project, regardless of footprint; an analysis of endangered, threatened, candidate, and locally unique species; wildlife migratory corridors; and the type, quantity and locations of the habitats, flora and fauna that may be impacted by Project activities.

S1-4

CDFW recommends the use of survey and monitoring protocols and guidelines available at: [http://www.dfg.ca.gov/wildlife/nongame/survey\\_monitor.html](http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html). CDFW recommends that the California Natural Diversity Database (CNDDDB), as well as previous studies performed in the area, be consulted to assess the potential presence of sensitive species and habitats. Additional information regarding survey protocols can be obtained by contacting CDFW.

Species-specific surveys should be conducted in order to ascertain the presence of species with the potential to be present within the Project area. CDFW recommends that the lead agency require survey protocols previously approved by CDFW and that an assessment for rare plants and rare natural communities follow CDFW’s 2009 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. The guidance document is available here: [http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/protocols\\_for\\_surveying\\_and\\_evaluating\\_impacts.pdf](http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/protocols_for_surveying_and_evaluating_impacts.pdf)

*Species Scoping*

Please be aware that the CNDDDB is a positive-occurrence database. The majority of private lands have not been surveyed for special-status species, and thus, will not be accurately represented by the CNDDDB. Species presence/absence is determined by field verification.

S1-5

MEDICAL CANNABIS CULTIVATION AND COMMERCE ORDINANCE

June 13, 2017

Page 4

*Great Gray Owl (Strix nebulosa) (GGO)*

Section 3.3.2, Wildlands lists special-status species that may potentially occur in various described woodland communities within Calaveras County. The State endangered great gray owl (*Strix nebulosa*) (GGO) is not included on any list in this section of the document, however is known to exist in "Coniferous Forest", "Hardwood Forest and Woodland Communities" (foothill and oak woodland), and "wet meadow" habitat types, as described in the DEIR.

Recent survey efforts for the GGO have shown that the species exist in areas outside of current range maps, and are associated with lower elevation areas that exhibit favorable habitat characteristics. Key nesting habitat characteristics include: mid- or late- succession forests, particularly with large snags greater than 24 inches diameter at breast height (dbh); decadent, large black oaks located near grass-forb foraging areas; suitable nesting habitat located within 300 yards of meadows or open foraging areas (Beck and Winter, 2000).

In order to avoid significant impacts, as well as provide protection and appropriate mitigation for the GGO, CDFW recommends the DEIR be revised to accurately disclose which potential "Wildland" communities and/or habitat types (as described in the DEIR) the GGO may exist.

S1-6

*Migratory Birds and Birds of Prey*

Pursuant to the Federal Migratory Bird Treaty Act (MBTA) (16 U.S.C., §§ 703-712) and CDFW Fish and G. Code sections 3503 and 3503.5, it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird except as otherwise provided by the by this code or any regulation made pursuant thereto. This includes nongame birds, birds of prey, their nests and eggs. Potential habitat for nesting birds and birds of prey is present within the Project area. The proposed Project should disclose all potential activities that may incur a direct or indirect take to nongame nesting birds within the Project footprint and its close vicinity. Appropriate avoidance, minimization, and/or mitigation measures must be included in the environmental document. Measures to avoid the impacts should include species-specific work windows, biological monitoring, installation of noise attenuation barriers, etc.

S1-7

*Cumulative Impacts*

The DEIR does not provide a cumulative impact assessment to natural resources and therefore does not adequately determine whether the approval and construction of the various Medical Cannabis Cultivation sites pose significant cumulative impacts. The lead agency should consider the Project's cumulative impacts to natural resources, including present, past, and probable future projects producing related impacts to these resources.

S1-8

Beck, T.W. and Winter, J. 2000. Survey protocol for the great gray owl in the Sierra Nevada of California. Vallejo, CA. U. S. Department of Agriculture, Forest Service, Pacific Southwest Region

**MEDICAL CANNABIS CULTIVATION AND COMMERCE ORDINANCE**

June 13, 2017

Page 5

The lead agency should also consider impacts on vegetation and habitat reductions within the area and their potential cumulative effects, prior to approving each Medical Cannabis Cultivation site. The DEIR should incorporate mitigation performance standards that would reduce the significant impacts as expected.

S1-8  
cont.

*Watercourses and Wetlands*

Section 3.3, page 3.3-3of the DEIR provides a regulatory definition for “stream”, in relation the Fish and Game Code (FGC) 1600 et. seq. CDFW requests the deletion of this definition in the DEIR.

S1-9

The extent of CDFW discretionary areas differ from other agencies such the U.S. Army Corps of Engineers or the Regional Water Quality Control Board Applications. Under CDFW's authority per Fish & G. Code section 1600, these areas include all perennial, intermittent, and ephemeral rivers, streams, and lakes, including ponds and drainages, in the State and any habitats supported by these features such as wetlands and riparian habitats.

Notification to the CDFW may be required, pursuant to Fish & G. Code section 1602 if the Project proposes to: divert, obstruct, or change the natural flow or the bed, channel or bank of any river, stream, or lake; use material from a streambed; or result in the disposal or deposition of debris, waste, or other material where it may pass into any river, stream, or lake.

There is no mention, in the DEIR, regarding the requirement to comply with Fish & G. Code section 1600 et seq. This information, as presented, poses the potential to cause confusion among stakeholders and the general public, as to the requirement to notify CDFW for lake and streambed alteration and water diversion activities. It is unclear, based upon mitigation measures listed in the DEIR, how mitigation of impacts to aquatic and terrestrial resources are to be fully achieved, in the absence of compliance with Fish & G. Code section 1600. Additionally, CDFW stresses the importance of providing complete information regarding all Project related activities, including but not limited to: the entire scope of the intended land use; physical features present; the proximity of the project activities, regardless of footprint, to any lake, pond, or stream; lentic and lotic geomorphology; and species-specific concerns.

S1-10

CDFW recommends the DEIR be revised, to provide clear guidance as to the requirements to comply with Fish & G. Code section 1600 et. seq, and how compliance will support the mitigation measures related to the DEIR and proposed ordinance.

**ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNDDB

S1-11

**MEDICAL CANNABIS CULTIVATION AND COMMERCE ORDINANCE**  
June 13, 2017  
Page 6

field survey form can be found at the following link:  
[http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB\\_FieldSurveyForm.pdf](http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf).

S1-11  
cont.

The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: [http://www.dfg.ca.gov/biogeodata/cnddb/plants\\_and\\_animals.asp](http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp).

**FILING FEES**

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

S1-12

**CONCLUSION**

Pursuant to Public Resources Code §21092 and §21092.2, the Department requests written notification of proposed actions and pending decisions regarding the proposed Project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670.

CDFW appreciates the opportunity to provide comments on the Project and to assist in identifying and mitigating Project impacts on biological resources. CDFW encourages early coordination to determine appropriate measures to offset Project impacts and facilitate future permitting processes. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts. If you have questions regarding this letter or further coordination, please contact Caroline Petersen, Senior Environmental Scientist (Specialist), at [Caroline.Petersen@wildlife.ca.gov](mailto:Caroline.Petersen@wildlife.ca.gov).

S1-13

Sincerely,



Tina Bartlett  
Regional Manager

ec: Jeff Drongesen, [jeff.drongesen@wildlife.ca.gov](mailto:jeff.drongesen@wildlife.ca.gov)  
Jennifer Garcia, [jennifer.garcia@wildlife.ca.gov](mailto:jennifer.garcia@wildlife.ca.gov)  
Caroline Petersen, [caroline.petersen@wildlife.ca.gov](mailto:caroline.petersen@wildlife.ca.gov)  
*Department of Fish and Wildlife*

State Clearinghouse

## 2.4 STATE AGENCIES

<b>Letter S1</b>	<b>California Department of Fish and Wildlife</b> Tina Bartlett, Regional Manager 6/13/2017
S1-1	<p>This comment presents introductory information and summarizes California Department of Fish and Wildlife’s (CDFW’s) potential role as both a responsible and trustee agency for the project, which is acknowledged on page 1-5 of the DEIR. This does not address the adequacy of the DEIR. Therefore, no further response is needed.</p>
S1-2	<p>This comment summarizes CDFW’s understanding of the project. Of note, the DEIR does not identify Alternative 2 as the “preferred alternative” but rather as the environmentally superior alternative. The proposed project evaluated in detail in the DEIR is an ordinance that outlines how the County will uniformly regulate the cultivation, processing, manufacture, and distribution of medical cannabis within its purview.</p>
S1-3	<p>As noted in Response S1-1, the DEIR acknowledges CDFW as a potential responsible and trustee agency pursuant to CEQA. Further, the Central Valley Regional Water Quality Control Board (CVRWQCB) General Order R5-2015-0113 does not limit the requirement of cannabis-related activities to demonstrate mitigation of impacts to wildlife and plant species to only waters of the State. As stated in Item 23 of the order, “[d]ischargers can only receive regulatory coverage under this General Order upon demonstrating... [t]hat any and all impacts to special-status species have been fully mitigated.” Under the order, a discharger is defined as any cultivator over 1,000 square feet, and as required by Mitigation Measure 3.3-1, Calaveras County would require all cultivations to be 1,000 square feet, necessitating coverage under the order. Further, this section of the order requires procurement of agreements from CDFW when appropriate. It is assumed that as part of this process, CVRWQCB and/or each applicant under the proposed ordinance would coordinate with CDFW where/when necessary. Adoption of the ordinance or any alternative would not authorize the “take” of State-listed species.</p>
S1-4	<p>The recommendations regarding the content and methods for evaluating potential impacts to biological resources at each cannabis-related site are noted. Numerous biological site assessments (BSAs) have already been submitted, reviewed, and accepted by CVRWQCB as part of the Urgency Ordinance approved by the Board of Supervisors in 2016. These BSAs included surveys of each site and an assessment of the habitat and potential for sensitive biological resources to occur using appropriate survey methods and protocols, consistent with CDFW’s recommendations in this comment. Based on the BSAs reviewed during preparation of the DEIR, as well as those submitted as attachments to comments on the DEIR, the recommendations suggested in this comment are being met by the BSAs and through compliance with CVRWQCB General Order R5-2015-0113.</p>
S1-5	<p>It is acknowledged that the California Natural Diversity Database (CNDDDB) is a positive-occurrence database, based on reports from prior field surveys. The County acknowledges that the absence of an occurrence at a particular site does not preclude the potential for a sensitive species to occur at the site; rather, the CNDDDB is indicative of <i>potential presence</i> of species in an area. See page 3.3-35 of the DEIR. Surveys would be required, as specified on page 3.3-35 of the DEIR, to determine the actual potential for presence of sensitive species at a site, as well as appropriate mitigation.</p>

- S1-6 The potential for great gray owl (*Strix nebulosa*) to occur within the project area is acknowledged on page 3.2-25 of the DEIR. The information presented in Table 3.3-3 with respect to great gray owl is considered consistent with the information presented by CDFW in this comment. In addition, the DEIR acknowledges that great gray owl is known to occur within the County and that suitable habitat, including the edges of forests/woodlands bordering meadows. As noted in Master Response 1, the DEIR presents a programmatic analysis of the potential resources and effects of the proposed ordinance on those resources. Detailed analysis of specific locations and species is not possible at this time and would be addressed as part of each site's BSA. Revision of the DEIR is not considered necessary.
- S1-7 Both the Migratory Bird Treaty Act and California Fish and Game Code (Sections 3503 and 3503.5) are identified as regulations applicable to the proposed ordinance on pages 3.3-1 and 3.3-3 of the DEIR, respectively. Compliance with these regulations could include site-specific surveys during the nesting season and avoidance of active nests until young have fledged. However, compliance with these regulations as they pertain to common species is not considered a potential impact requiring analysis or mitigation under CEQA. That does not preclude an individual applicant's need to appropriately survey and avoid impacts to nesting birds as required to comply with these regulations, but revision to and/or expansion of the analysis of the DEIR is not considered necessary to address any significant environmental issues that have not been evaluated. Further, the BSAs, which have been prepared for cannabis-related activities seeking coverage under CVRWQCB General Order R5-2015-0113 and permits under the Urgency Ordinance, include site-specific measures, where appropriate, for preconstruction surveys, avoidance, and other appropriate minimization measures to ensure compliance with these regulations, consistent with this comment.
- S1-8 Cumulative impacts to biological resources are addressed in Chapter 4 (Cumulative Impacts) of the DEIR. On page 4-4 of this chapter, the first and second paragraphs of Section 4.3.3 specifically addresses the potential cumulative loss of habitat and sensitive natural communities, consistent with CDFW's request. As noted in this section, mitigation was included in the DEIR, as amended through the FEIR, and would reduce the contribution of the project to less than cumulatively considerable.
- S1-9 In accordance with CDFW's request for removal of the definition of "stream" in this comment, the definition presented on page 3.3-3 has been removed. Refer to Chapter 4, "Revisions to the DEIR" for further clarification.
- S1-10 Section 3.1 of the DEIR describes the various regulations that would apply to development of cannabis operations under the ordinance. Page 3.3-3 of the DEIR describes California Fish and Game Code 1602. These regulations must be followed, whether or not they are part of EIR mitigation; they are the law. Section 1602 of the Fish and Game Code provides clear guidance as to requirements for notification to and agreements with CDFW regarding CDFW's discretionary areas. These requirements are further clarified in other parts of Fish and Game Code Section 1600 et seq., however the initial steps, including notification and the need to procure an agreement, from CDFW are clearly outlined in Section 1602. Further, specific reference to Section 1602 is consistent with the CVRWQCB General Order, and as such, is considered to provide adequate and clear direction regarding when and how coordination with CDFW would be required. It should be noted that the DEIR does not indicate that the remaining sections of Fish and Game Code Section 1600 et seq. would not apply to cannabis-related operations permitted under the ordinance. Revision to the DEIR is not considered necessary to provide clear guidance.
- S1-11 No site-specific surveys were conducted as part of the analysis of the DEIR for the proposed ordinance because of the programmatic nature of this EIR. It is assumed that any sensitive species or habitat identified during compliance with the proposed ordinance, would be reported to CDFW and the CNDDDB, as is common practice.

- S1-12      Should the EIR for the proposed ordinance be certified and the proposed ordinance approved, CDFW filing fees will be paid to the Calaveras County Clerk at the time the Notice of Determination (NOD) is filed. A copy of the CDFW Filing Fee Receipt will also be provided to the State Clearinghouse.
- S1-13      Calaveras County will continue to notify CDFW regarding the project in accordance with CEQA requirements, including the provision of written responses to CDFW's June 13, 2017 comment letter no less than 10 days prior to certification of the EIR.

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN JR., Governor

**DEPARTMENT OF TRANSPORTATION**  
DISTRICT 10  
P.O. BOX 2048, STOCKTON, CA 95201  
(1976 E. DR. MARTIN LUTHER KING JR. BLVD. 95205)  
PHONE (209) 948-7325  
FAX (209) 948-7164  
TTY 711



*Making Conservation a  
California Way of Life*

June 14, 2017

**10-CAL-VAR-VAR  
Calaveras County Medical  
Cannabis Cultivation and  
Commerce Ordinance  
DEIR  
SCH # 2016042019**

Mr. Peter N. Maurer, Director  
Calaveras County Planning Department  
891 Mountain Ranch Road  
San Andreas, CA 95249

Dear Mr. Maurer:

The California Department of Transportation (Caltrans) appreciates the opportunity to review the Draft Environmental Impact Report (DEIR) for the proposed Calaveras County Medical Cannabis Cultivation and Commerce Ordinance (Ordinance). The Ordinance would establish land use regulations concerning the cultivation, manufacture, testing, distribution, transportation, and storage of medical marijuana within Calaveras County in coordination with the implementation of the Medical Cannabis Regulation and Safety Act (MCRSA). The DEIR considers two alternatives in addition to the Ordinance: no action with subsequent expiration of the existing urgency ordinance, and an ordinance to ban commercial cultivation and commerce.

S2-1

The Ordinance creates and the DEIR discusses a class of manufacturing and distribution uses that are not defined or limited by size but that are confined to Industrial zoning districts and subject to Administrative Use or Conditional Use Permits. These uses would be subject to project-level review and mitigation of transportation impacts just like any other discretionary development project. Caltrans requests to review these projects when project size and proximity to the State Highway System warrant our consideration.

The majority of cultivation anticipated under the Ordinance would be grows subject to parcel setbacks and limitations on canopy size and parcel coverage per the Ordinance and MCRSA. This use would be dispersed and any single grow site would be unlikely to require project-specific mitigation for transportation impacts. We do request that any cultivation permits issued for properties with frontage on State highways be referred to Caltrans for review to ensure that any encroachments are permitted and meet current Caltrans standards. We agree that transportation fee based mitigation is appropriate to address the cumulative impacts of cultivation, manufacturing, and distribution of medical cannabis.

S2-2

S2-3

We do not concur with the specific significance conclusions of the transportation analysis in the DEIR. The analysis in the DEIR is not supported by a Traffic Impact Study (TIS), so we do not have any way to validate the results. Some of the assumptions are questionable considering the proposed use: all worker trips are at peak hours with no allowance for transportation facilities

S2-4

*"Provide a safe, sustainable, integrated and efficient transportation system  
to enhance California's economy and livability"*

Mr. Maurer  
June 14, 2017  
2

with off-commute peak hours, no weekend work shifts are considered for businesses concentrating on a time limited harvest, all commutes are within the County and originate from the nearest population center. Caltrans does not use limited duration seasonal peak data to plan for highway capacity. We recommend consideration of these points when scoping a TIS for supporting significance conclusions and proposing mitigation.

S2-4  
cont

Caltrans supports efforts to create a balanced transportation system providing the public with transportation choices to reduce vehicle miles traveled (VMT) and greenhouse gas (GHG) impacts. The DEIR does not discuss the potential for carpooling or improving transit and active transportation to reduce dependence on single occupant vehicle travel either as a transportation or GHG consideration.

S2-5

Contribution to the County Road Impact Mitigation (RIM) fee program is proposed as mitigation for the transportation impacts of implementing the Ordinance. The RIM fee is a county-wide program created in 2004 to address the cumulative impacts of development on the State highways and County road system. The fee should be updated with adoption of the General Plan Update (GPU) to reassess proportional contributions from anticipated development toward the transportation system identified in the GPU. The emphasis in State transportation planning is moving toward system preservation and operational and multimodal improvements in lieu of increasing vehicular capacity, and our comments on the GPU will support this emphasis. Efforts like the current SR 49 Commercial Gateway Corridor Study in San Andreas will define new improvements reflecting this emphasis and provide regional benefits for consideration in a RIM fee capital improvement program (CIP) update.

S2-6

The concentration of existing grow sites on the Mountain Ranch Road and State Route (SR) 26 corridors indicates a potential need for a benefit basin fee to address impacts in this area. As examples, SR 49 and SR 26 are not represented on the RIM fee CIP project list. Contribution to the RIM program is appropriate for commercial uses countywide which create trips in excess of the previously established use. If a TIS and nexus study indicate a new benefit basin fee is warranted, an additional fee could be created for this area.

S2-7

Caltrans concurs that the ban ordinance and no action alternatives would not have significant long-term transportation impacts.

S2-8

If you have any questions or would like to discuss these comments, please contact me at (209) 948-7325 (e-mail: carl.baker@dot.ca.gov)

Sincerely,

CARL BAKER, Chief  
Office of Rural Planning & Administration

- c: Jeff Crovitz, Calaveras County Public Works
- Melissa Raggio, Calaveras Council of Governments
- State Clearinghouse

*"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability"*

<b>Letter S2</b>	<b>California Department of Transportation</b> Carl Baker, Chief, Office of Rural Planning & Administration 6/14/2017
----------------------	---

- S2-1 This comment presents introductory information and summarizes the California Department of Transportation's (Caltrans') understanding of the project. Of note, the DEIR evaluates three alternatives, not two as stated in this comment, in addition to the proposed ordinance. Please refer to Chapter 6, "Alternatives" of the DEIR for further clarification.
- S2-2 Should a new or modified access point be requested by an applicant under the proposed ordinance, the County would recommend as part of its ministerial review of the application that the applicant also procure encroachment permits from Caltrans and contact Caltrans directly, as appropriate.
- S2-3 Caltrans' concurrence with the DEIR's mitigation measure for roadway/intersection impacts as a result of project implementation is noted.
- S2-4 As noted in Master Response 1, the DEIR presents a programmatic analysis of cannabis-related operations that could occur within certain zoning designations throughout the County. Specific locations and characteristics of cannabis-related operations that may be permitted under the proposed ordinance are not and cannot be known at this time. A Traffic Impact Study (TIS) such as the one referred to in this comment would be more appropriate for a project-level analysis; however, because of uncertainties regarding discrete operations that may occur, a reasonably conservative analysis of traffic impacts was developed. This involved the use of Caltrans highway volume data and a projection of peak hour employee trips that could occur under the assumption that the bulk of employees would travel during peak periods. While some employees may not travel during weekday peak periods, the County cannot preclude the potential for employees related to cannabis operations to travel at these times. Further, weekday peak hour weekday travel is generally considered to be the most intense, and therefore, the potential increase in traffic and potential for significant transportation impacts resulting from the proposed ordinance would be greatest during this period. As a result, the assessment of weekday peak period traffic was considered to provide a reasonable worst-case condition for the assessment of project-related impacts using best available data (state highway vehicle data). For these reasons, the assessment of these periods was deemed appropriate and reasonably conservative within the context of the programmatic analysis of the proposed ordinance.
- S2-5 The DEIR does include carpooling as part of its analysis. Based on information received from cannabis-related activities in Calaveras County during preparation of the DEIR, the average number of employees per vehicle was determined to be two. As stated on page 3.9-11, each full-time employee was estimated to generate one one-way trip per day, thereby indicating an average ridership of two per vehicle. With respect to transit, cannabis-related operations are generally anticipated to be located in more remote/rural locations of the County without easily accessible transit opportunities. The County, like Caltrans, supports the use of transit; however, assumptions regarding transit ridership were considered speculative and not considered as part of the DEIR's analysis.
- S2-6 The County is currently undergoing an update to its General Plan. Following adoption of the General Plan update, it will consider revisions to various other County documents and programs, including the Road Impact Mitigation (RIM) fee program, and will coordinate with Caltrans, as appropriate, regarding any changes to the RIM fee program.

- S2-7 The County has not identified the need to implement a benefit basin fee, and contributions to the County's RIM fee program are considered adequate mitigation and commensurate with the level of impact associated with the potential cannabis-related operations.
- S2-8 Caltrans' concurrence with the DEIR's determinations regarding Alternative 2 is noted.



# CALAVERAS COUNTY WATER DISTRICT

120 Toma Court • P O Box 846 • San Andreas, CA 95249 • (209) 754-3543

Letter  
L1

June 13, 2017

Peter Maurer, Planning Director  
Calaveras County Planning Department  
891 Mountain Ranch Road  
San Andreas, CA 95249  
pmaurer@co.calaveras.ca.us

## Re: CCWD Comments on the Draft Environmental Impact Report for the Medical Cannabis Cultivation and Commerce Ordinance Project

Dear Mr. Maurer:

The Calaveras County Water District (CCWD or District) appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the proposed Medical Cannabis Cultivation and Commerce Ordinance Project. We specifically want to acknowledge the efforts of you and your staff in the development of the DEIR, and appreciate the outreach to the community and local utilities by the Board of Supervisors on this very important issue. CCWD has broad-ranging authorities with regard to the development and planning for water resources within the County, and our interests mainly lie within the preservation and protection of our vital water supplies in the present and future. Therefore, CCWD has limited its review to components of the DEIR associated with the assessment of Hydrology and Water Quality impacts of the project alternatives, and other areas that are identified to be specific to water resources in the County.

L1-1

The specific chapters of the DEIR that CCWD staff reviewed are as follows:

- Chapter 3.5 – Hydrology and Water Quality
- Chapter 4.3.5 – Cumulative Impacts: Hydrology and Water Quality
- Appendix B-D – Background Air Quality and GHG Analysis, Biological Resources Review, Sensitive Species review

It's important to clarify that the CCWD Board feels that it is not appropriate for the District to take a position on the selection of a preferred alternative (permanent ordinance, maintained temporary ordinance, or ban ordinance). However, the District does want to provide comments on the specifics of the evaluation completed in the DEIR. There appears to be several conclusions on the impacts of various activities in the DEIR that are based on insufficient analysis or incorrect assumptions. With that taken into consideration, CCWD respectfully offers several comments on the DEIR as an attachment to this letter.

L1-2

[www.ccwd.org](http://www.ccwd.org)

Mr. Peter Maurer  
June 13, 2017  
Page 2

Thank you for the opportunity to comment on the DEIR and your consideration of our comments. If you have any questions, please feel free to contact me at (209) 754-3094 or [peterm@ccwd.org](mailto:peterm@ccwd.org)

CALAVERAS COUNTY WATER DISTRICT



---

Peter Martin  
Manager of Water Resources

Enclosure: *Attachment A: Calaveras County Water District's Comments on the Draft Environmental Impact Report for the Medical Cannabis Cultivation and Commerce Ordinance Project*



## Attachment A: Calaveras County Water District’s Comments on the Draft Environmental Impact Report for the Medical Cannabis Cultivation and Commerce Ordinance Project

*June 13, 2017*

3.	<p><b>Page 3.5-6, “Sustainable Groundwater Management Act of 2014”</b></p>	<p><b>Stockton East Water District is not the Groundwater Sustainability Agency for Calaveras County.</b></p> <p>The document states that the Stockton East Water District has notified the Department of Water Resources (DWR) that it has elected to become a Groundwater Sustainability Agency (GSA) in the Eastern San Joaquin Groundwater subbasin in their boundary service area, “including the portion of the groundwater basin that lies within Calaveras County and the Calaveras County Water District (CCWD) area.</p> <p>This is an incorrect statement. Stockton East Water District can’t file as a GSA outside of the area for which it provides a governance role, and Calaveras County is outside of that area.</p> <p>CCWD filed with DWR as a multi-agency GSA with Stanislaus County and Rock Creek Water District on May 8, 2017. The link to the pertaining documents can be found here:  <a href="http://sgma.water.ca.gov/portal/gsa/print/288">http://sgma.water.ca.gov/portal/gsa/print/288</a></p> <p>Please correct and update the DEIR to reflect this comment.</p>	<p>L1-6</p>
4.	<p><b>Page 3.5-18, “Outdoor, Indoor, Nursery, and Mixed Light Operations”</b></p>	<p><b>There is a grammatical error in the statement about requirements for Outdoor, Indoor, and Mixed Light Operations.</b> The last sentence in the first paragraph states:</p> <p><i>“As a result, any cannabis-related activities within the County would not be required to comply with the orders specific requirements related to erosion, sedimentation, and chemical use.”</i></p> <p>CCWD believes that this is a grammatical mistake, and that there would be requirement for compliance with the Regional Board’s order related to requirements specific to erosion, sedimentation, and chemical use.</p>	<p>L1-7</p>

A-2

## Attachment A: Calaveras County Water District’s Comments on the Draft Environmental Impact Report for the Medical Cannabis Cultivation and Commerce Ordinance Project

June 13, 2017

5.	<p><b>Page 3.5-18, Page 3.5-19, Page 3.5-21, Page 3.5-37,</b></p> <p><i>“Mitigation measures and the 1,000 square foot threshold”</i></p>	<p>In several places the DEIR defers to the same threshold as the Regional Water Quality Control Board (RWQCB) General Order R5-2015-0113 of 1,000 square feet (sq. ft.) with regards to grows requiring mitigation and best management practices. The DEIR states that the majority of the cultivation and activities will be greater than 1,000 sq. ft., and therefore will be covered under the Regional Board’s General Order. The report uses this threshold several times to determine the significance of an activity.</p> <p>Conversely, in several places in the DEIR, by this reasoning the smallest grows would be determined to be the most impactful with regard to water resources of the county. This is just not a logical determination based on the size of the land being disturbed.</p> <p>Furthermore, this is in conflict with the background determinations of R5-2015-0113. Under R5-2015-0113, grows less than 1000 sq. ft. were determined to be <i>de minimus</i>, meaning that they were not deemed to be large enough for consideration of regulatory oversight. This <i>de minimus</i> consideration was based on other regulatory experience from timber, agriculture and stormwater planning by the RWQCB; in addition to industry knowledge gained from these regulatory activities. Of note is that the North Coast Regional Board has a similar regulatory program under Order R1-2015-0023 that uses 2,000 sq. ft as their threshold.</p> <p>CCWD agrees with the RWQCB in their <i>de minimis</i> determination with regard to the covered activities under the General Order. Therefore, any activities that are of less than 1,000 sq. ft should not be considered significant in the DEIR when it comes to construction activities or the minimization of erosion, sedimentation, and chemical transport because the Regional Board has 1) the authority to regulate these discharges and 2) they determined that these smaller activities were not impactful. The County should piggyback on the RWQCB’s determinations of impacts if they are to defer to another regulatory program for cultivation and commerce activities in the region.</p> <p>It should be noted that CCWD recognizes that best management practices should always be required in any permitted construction activity or application chemical pesticides and fertilizers, but requiring regulatory oversight for mitigation of the activities with the smallest footprint would probably not be a good use of County resources given the scope of impacts.</p>
----	---	---

L1-8

A-3

## Attachment A: Calaveras County Water District’s Comments on the Draft Environmental Impact Report for the Medical Cannabis Cultivation and Commerce Ordinance Project

*June 13, 2017*

6.	<p><b>Page 3.5-20</b>  <i>“Groundwater Supply Impacts”</i></p>	<p>The DEIR states <b>“In fractured bedrock environments, it is possible for drawdown at a well in one location to affect groundwater elevations in other – even distant – wells.”</b></p> <p>This statement is an overgeneralization of a very complex issue. Stating that fractured bedrock wells have relationship to distant wells is a statement that can easily be disputed. Suggest that a broader statement is used as follows:</p> <p>“In fractured bedrock environments, the sustainable yield of a well is not easily determined or uniform across a defined geographic area and depends on a wide range of fracture characteristics. The relationships of wells that are in proximity to each other can vary significantly. The effect of wells in fractured bedrock on groundwater elevations is dependent on the connectivity of fracture and joint sets in the bedrock...”</p>	<p>L1-9</p>
7	<p><b>Page 3.5-20</b>  <i>“Groundwater Supply Impacts”</i></p>	<p><b>The District agrees with the finding that the Groundwater supply impacts could potentially be significant.</b></p> <p>However, given the size of the proposed project and the cap on outdoor grows of 22,000 sq. ft. per permitted site the impacts of total water use may not be very big at all for the typical permitted grow site.</p> <p>The State Water Resources Control Board recently released a rulemaking regarding implementation of the Sustainable Groundwater Management Act which amends Chapter 4.5, Division 3 of Title 23 of the California Code of Regulation. In this regulation, the State Water Board uses 2 acre-feet per year as a threshold for <i>de minimus</i> pumping. This threshold was determined to be the level that individual domestic well users would fall below. Many of the described grows of (the example of the 5,000 sq. ft. canopy grow was used) would actually fall below this determination. Meaning that some of the grows would fall below what was deemed typical domestic use for a large land parcel.</p>	<p>L1-10</p>

A-4

## Attachment A: Calaveras County Water District’s Comments on the Draft Environmental Impact Report for the Medical Cannabis Cultivation and Commerce Ordinance Project

*June 13, 2017*

8.	<p><b>Page 3.5-21</b>  <i>“Mitigation Measure 3.5-3: Groundwater monitoring requirements.”</i></p>	<p><b>The suggested ordinance establishing Groundwater Monitoring Requirements for Mitigation Measure 3.5-3 is likely insufficient.</b></p> <p>The requirement of a three consecutive year monitoring program is not long enough to determine long-term trends in a groundwater system, especially in fractured bedrock wells. The climatological cycles in California tend to swing from periods of drought and high precipitation trending over several years. A three year snapshot is not going to guarantee with high confidence a good understanding of the trends of a well in the California foothills.</p>	 <p>L1-11</p>
9.	<p><b>Appendix B: GHG Analysis</b></p>	<p><b>The source of data for the worksheet “Indirect GHGs Associated with Water Consumption for Irrigation” is not appropriate for application on the foothill region.</b></p> <p>The source for estimates of energy use associated with irrigation was the 2006 California Energy Commission report: Refining Estimates of Water-Related Energy Use in California, CEC-500-2006-118. This report focuses on the energy use of supplying water to several large urban and agricultural areas outside of the foothills not dependent on groundwater, but surface water.</p> <p>The DEIR states that most grows would be utilizing local groundwater, so using this background analysis to apply to Calaveras County is inadequate. Greenhouse gas estimates should be revised with further analysis to reflect local impacts of individual water wells or local water and wastewater utilities.</p>	 <p>L1-12</p>

A-5

## 2.5 LOCAL AGENCIES

<b>Letter L1</b>	<b>Calaveras County Water Agency</b> Peter Martin, Manager of Water Resources 6/13/2017
----------------------	---

- L1-1 This comment presents introductory information and identifies which sections of the DEIR were reviewed by Calaveras County Water District (CCWD).
- L1-2 This comment provides a general statement regarding CCWD’s decision to provide comments and to not express preference for the proposed ordinance or an alternative. The comment is noted. Responses to specific comments are provided in Responses L1-3 through L1-12.
- L1-3 This comment provides CCWD’s opinion that illegal grows represent the “greatest threat to water supply and water quality.” The DEIR does acknowledge the potential for illegal cannabis operations to occur, especially within the context of a countywide ban on cannabis-related activities. The proposed ordinance provides a fee structure that is intended to help fund enforcement of both legal and illegal grows.
- Also, refer to Section 6.3.2, beginning on page 6-5 of the DEIR, for further clarification.
- L1-4 The comment states that the DEIR’s analysis assumes that many illegal cannabis operations would come into compliance with implementation of the ordinance. Although no specific reference is given, it is assumed this comment is offered with respect to the DEIR’s statement at the top of page 3.5-17 regarding cannabis operations. To clarify, this statement is referring to the lack of a permanent ordinance that provides comprehensive regulation by the County of cannabis-related activities. Cannabis-related activities, with the exception of dispensaries permitted under Title 17, Chapter 17.91 of the Calaveras County Code, are not a permitted use under County Code (except as provided by the Urgency Ordinance which expires in February 2018). Therefore, within the context of the County, existing cultivation operations, including those that would seek permission under the CVRWQCB General Order, are activities that are unregulated and not permissible by the County. As noted on page 6-6 of the DEIR, it is reasonable within the context of CEQA, to assume regulatory compliance when evaluating the potential physical environmental impacts of a project, however, the DEIR does acknowledge the potential for illegal grows—much like the occur today— that would otherwise not seek permits under the proposed ordinance to continue.
- L1-5 The DEIR, consistent with this comment, acknowledges the potential for localized impacts specific to one or more cannabis-related operations in close proximity to one another (refer to Impacts 3.5-1 and 3.5-2 of the DEIR). The DEIR also identifies compliance with the CVRWQCB order as adequate mitigation to reduce impacts related to localized hydrology and water quality issues.
- L1-6 Consistent with this comment, the second paragraph on page 3.5-6 of the DEIR has been revised to reflect that CCWD filed with DWR as a multi-agency Groundwater Sustainability Agency with Stanislaus County and Rock Creek Water Agency on May 8, 2017. Refer to Chapter 4 for further clarification. This filing occurred after release of the DEIR for public review. This correction does not alter the environmental impact analysis.
- L1-7 Consistent with this comment, the last sentence of the first paragraph has been amended to remove the word “not.” Refer to Chapter 4 for further clarification.

- L1-8 It is acknowledged that the CVRWQCB has determined that impacts from cannabis-related activities less than 1,000 square feet (sf) would be considered *de minimis* (i.e., not deemed large enough to pose a significant threat to water quality). However, in consideration of potential impacts to other resources, including biological resources, cultural resources, etc., a small disturbance area would not preclude potentially significant impacts to those resources, including from a cumulative perspective. As a result, the County determined that the most appropriate, effective, and efficient way to ensure that impacts to other resources would not be significant would be to require compliance with the CVRWQCB order, which addresses impacts to groundwater as well as water quality, biological and cultural resources.
- L1-9 Consistent with the commenter's request, the first sentence of Impact 3.5-3 has been changed to reflect the suggested text. The amended text presents clarifying information and does not constitute substantive new information, and the significance of impacts related to water availability would not be altered. No further response is necessary.
- L1-10 As stated above in Response L1-8, regardless of the determination made by the State Water Board, the County does not consider the use of a *de minimis* threshold appropriate within the context of CEQA, especially as it relates to the potential cumulative water demand of multiple cannabis-related operations within a fractured groundwater basin. The comment is noted, however the DEIR's analysis is considered reasonably conservative and appropriate.
- L1-11 Mitigation Measure 3.5-3 has been amended to reflect a period of five (5) consecutive years, consistent with the commenter's recommendation that a longer monitoring period would allow for a greater level of confidence when determining whether an alternative water source should be procured. While there is no guarantee that all climactic conditions will be captured over a five-year period, this is a reasonably conservative approach to determining whether or not groundwater effects on other wells would occur and need to be mitigated.
- L1-12 While the energy use estimates provided in Appendix B of the DEIR are based on statewide data, they are considered reasonably conservative and appropriate for the purposes of projecting emissions as a result of implementation of the proposed ordinance.

Letter  
01

RECEIVED  
JUN 14 2017  
Calaveras County  
Planning Department

Peter Maurer, Planning Director  
Calaveras County Planning Department  
891 Mountain Ranch Road  
San Andreas, CA 95249

Re: Cannabis Cultivation and Commerce Ordinance Project - Comments on Draft EIR

Dear Mr. Maurer,

I am submitting this comment on behalf of the compliant registrants and members of the Calaveras Cannabis Alliance. Before I start I would like to thank you for all of your work and dedication to our community.

The Draft Environmental Impact Review (DEIR) appears to suffer from a variety of defects. There is a lack of technical analysis supporting the claims regarding the potential traffic impacts (see Attachment 1 Traffic Analysis). There are also numerous internal inconsistencies within the document and the underlying assumptions upon which the analysis is founded. For example, the congestion analysis and the intersection analysis seemingly contradict (see Attachment 1 Traffic Analysis). Additionally, the DEIR relies upon the number of registrants from the UO without accounting for the number of these operations that were part of the baseline existing conditions prior to April 5<sup>th</sup>, 2016, as well as the County’s documented rate of denial to better contextualize the data. These inconsistencies bring into question the overall impact analysis and mitigation recommendations outlined within the DEIR. Furthermore, there is a lack of data supporting many of the assumptions and conclusions contained within the DEIR. There is no figure of the total number of existing cultivation sites within the County as of April 5<sup>th</sup>, 2016. There does not appear to have been any attempt to use applicant’s registration data to ascertain a baseline figure of the size and scope of per-existing cultivation, and the size and scope of subsequent development between April 5<sup>th</sup> and May 10<sup>th</sup>, 2016. Finally, the DEIR’s conclusion that the Ban Alternative (2) is the environmentally superior alternative relative to the proposed regulatory ordinance is out of line with the emerging scientific consensus and the conclusions of the authors of several of the supporting materials cited in the DEIR (see Attachment 2 Bauer et. al 2015, Cahar et. al. 2015).

O1-1

Baseline

The Notice of Preparation was published on April 5th 2016 (DEIR p.1-6). This is the date upon which the DEIR establishes the baseline condition against which all subsequent environmental impacts of the proposed regulatory ordinance and of the various alternatives are to be compared (DEIR p.3-1). Nowhere in the DEIR is there a firm figure of the total number of cultivation sites in existence as of April 5th 2016. This is despite the availability of registrant data and satellite imagery that could have been used to establish an object, or, at least representative baseline against which to evaluate the potential impacts of the regulatory ordinance. It has been stated that based on aerial imagery 1500 cultivation sites existed in the County during the baseline year of 2016

O1-2

(<http://calaverascountyca.iqm2.com/Citizens/FileOpen.aspx?Type=1&ID=1436&Inline=True>). It appears, however, the DEIR does not include any of the 952 cultivation sites registered under the

UO in the baseline analysis. The DEIR repeatedly states the purpose of the proposed project is to bring existing and future cultivation and processing sites into compliance (3.5-16, 3.5-17). This ignores the fact that the Urgency Ordinance has already begun this process and has brought hundreds of sites into compliance while denying the permit applications and requiring the abatement of hundreds of more cultivation sites. The DEIR also bases its projections of future compliance under the proposed regulatory ordinance on the number of applicants under the UO without accounting for how many of these cultivation sites existed prior to April 5<sup>th</sup> and how many have subsequently had their applications denied (DEIR p. 3.5-16).

O1-2  
cont.

There are several flaws to this analysis:

1. The DEIR counts all 952 cultivation sites registered under the UO as new developments without cross referencing this assumption to the available registrant data proving cultivation and grading prior to May 10<sup>th</sup>, 2016, as a condition for compliance with UO.
2. The DEIR also counts the total number of registrants and uses this figure as the basis for the projected number of cultivation sites under the proposed regulatory ordinance but the DEIR never acknowledges that there is only a 34-38% pass rate for commercial applicants under the UO according to planning dept. data (see Attachment 3).
3. This analysis also fails to acknowledge that UO has already brought many of these already existing cultivation sites into regulatory compliance ahead of the adoption of the project and thus the impacts are already being mitigated by existing state and local regulations.
4. There is no quantification of the number of unregistered grows as part of the existing condition and how these unregistered grows differentially impact the local environment relative to registered grows.

O1-3  
O1-4  
O1-5  
O1-6

There are several implications to this flawed analysis

1. The DEIR has overestimated the amount of new development under the project by failing to analyze applicant data to ascertain the number of new developments between April 5<sup>th</sup> and May 10<sup>th</sup> relative to the baseline figure of already existing cultivation sites that registered with county and provided evidence of cultivation and or grading prior to May 10<sup>th</sup>.
2. The DEIR also over estimates the impacts of the regulatory ordinance because it fails to acknowledge the fact that the UO has already brought well over 100 cultivation into compliance with local and state regulations ahead of the enactment and implementation of the proposed regulatory ordinance.
3. The DEIR also over estimates the impacts of the project because it fails to account for the denial rate that ranges between 62-66%. This denial rate represents a significant reduction in the number of cultivation sites in the county relative
4. The DEIR makes inconsistent use of the available data when it bases the projections for the number of future cultivation sites under the project on the number of applicants who registered under the UO without also accounting for the number of denials and withdrawals of these same applicants under the UO. Assuming that because there were 737 total commercial applicants under the UO that the project would result in 750 commercial outdoor cultivation sites and an additional 15 commercial indoor cultivation sites on top of the existing baseline conditions fails to account for how many of those sites already existed and are part of the baseline it also fails to account for the fact that under the UO there is only a total of 250-280 commercial cultivation sites projected given the pass-fail rates that have been documented by the Planning Dept.

O1-7  
O1-8  
O1-9  
O1-10

There is no clear articulation of the number of cultivation sites that represent the baseline total used in the DEIR. While the DEIR does state that there are 740 registered commercial grow sites under the UO as well as a little over 200 personal/caregiver grows, and 500 unregistered cultivation sites in the county (p.6-6, p.2-12). It is never explicitly stated however in the DEIR that this roughly 1400-1500 cultivation sites represent the baseline figure used to evaluate the impacts of the proposed Project. The absence of explicit reference to the total number of cultivation sites in the baseline condition makes any analysis and comment of the impacts of the proposed ordinance extremely difficult.

The DEIR acknowledges the presence of over 1400 already existing cultivation sites in the County (p.6-6, p.2-12). 1400 already existing cultivation sites is a considerably larger figure than the 1015 estimated cultivation sites the DEIR projects that compliance under a regulatory ordinance would encompass (3.5-16). It is unclear how the DEIR can conclude that the Project would result in significant unavoidable impacts even though the number of farms projected under the Project would be 27% fewer in number than those already existing in the baseline.

It is also stated in the DEIR that “proposed ordinance is intended to bring unregulated, illegal cannabis cultivation operations into compliance with existing regulations” leaving aside the fact that the UO already served this function, this seems to acknowledge that a considerable number of the 1015 cultivation sites were already in operation and thus these farms would not represent any new environmental impacts. In fact, bring these farms into compliance with local and state regulations. The DEIR’s own analysis appears, on its face, to indicate the proposed regulatory ordinance would substantially reduce the environmental impacts associated with the baseline cannabis cultivation activities within the County prior to the Notice of Preparation in April 2016.

01-11

On January 31<sup>st</sup> 2017 Planning Director Peter Maurer stated, “There are now at least 1500 growers in the county” (Maurer 2017). The majority of the 1500 cultivation sites, at least 900+, were registered cultivators under the UO who were in existence no later than May 10<sup>th</sup>, 2016. Many of the remaining 500+ plus unregistered cultivations sites were also already in existence before the UO. It is unclear how many of the 1500 cultivation sites were in operation prior to the circulation of the Notice of Preparation back in April of 2016 (p. 3-1)

The DEIR’s baseline analysis is flawed because it fails to acknowledge the existence of hundreds of regulated cultivation sites that have already been brought into compliance by the UO. While the proposed ordinance is intended to bring unregulated, illegal cannabis cultivation operations into compliance with existing regulations, implementation would also result in the conversion of some undeveloped land (including, for example, land zoned for general agriculture, rural residential, and general forest) to outdoor or indoor cannabis grow operations or cannabis processing facilities. (p. 3.5-17 )

The Draft EIR does not appear to include any specific analysis of the baseline impacts of illicit cultivation already existing within Calaveras County. Multiple examples illicit cultivation operating within Calaveras County in 2016 and 2017 have been provided in Attachment 4. An analysis of the impacts associated with these illicit cultivation sites reveals illicit cultivation sites within residential settings, as well as, illicit grows with considerable numbers of people linked to them. These characteristics contradict several of the assumptions regarding illicit cultivation

01-12

under the ban alternative. For example, in the section discussing the ban alternative it is assumed that “the number of employment opportunities within the County would not increase under this alternative” (Draft EIR pg.6.9) This assumption fails to account the employment impacts that illicit and unregulated cultivation has had on the local economy historically. This assumption is also challenged by empirical data showing a single illicit cultivation operation in 2016 where 23 people were arrested. The Draft EIR also assumes illicit cultivation will take place in, “such activities would likely be located in remote areas of the County (because they would not be permitted),” (Draft EIR p.6.6). However, given the data presented below there are illicit cultivation operations within residential settings in the County at present when there are regulations and resources to bring enforcement actions at present. It is unclear how the County will be able to enforce against these illicit cultivation sites when there is no longer any revenue for enforcement under the ban alternative, this is acknowledged in the Draft EIR, “With the implementation of a ban under this alternative, it is possible that illegal cannabis-related activities within the County could persist or increase without sufficient funding to monitor and abate them, which could be provided by the proposed ordinance” (Draft EIR 6-6). Given the evidence of illicit cultivation within residential settings in the existing baseline condition within the County it would appear the assumptions forming the basis of the Draft EIR are unfounded. Finally, there is evidence of significant environmental impacts associated with these illicit cultivation sites relative to the permitted cultivation sites registered under the County’s UO and the State Regional Water Quality Control Board’s Cannabis Cultivation Waste Discharge Regulatory Program. Dangerous illegal pesticides such Carbofuran have been found at illicit cultivation sites within residential settings within the County. In addition to illegal chemicals County Staff have also identified illegal dumping, illegal human waste discharge, theft and diversion of surface water. Failure to adequately assess both the baseline environmental impacts, as well as the future potential impacts, associated with illicit cultivation in Calaveras County undermines the conclusions of the DEIR.

01-12  
cont.

The DEIR should include an analysis of the environmental impacts of illicit cultivation based on existing empirical data. This analysis should assess the impacts of these illicit cultivation sites relative to the existing registered cultivation sites permitted under the urgency ordinance. Furthermore this analysis should address how the lack of funding and mitigation measures under a ban alternative, in light of the well documented trends and environmental impacts of illicit cultivation in Calaveras County and across the California, is the environmentally superior alternative relative to either the proposed Project or the Reduced Zoning Alternative 3. The DEIR’s baseline analysis doesn’t assess the environmental impacts of illegal cultivation sites within the County at the time of the environmental assessment conducted by Ascent Inc. (See Attachment 4). This data should have been evaluated and included the DEIR to provide empirical data for the baseline assumptions upon which the entire impact analysis is completely dependent. Additionally local data available from the Sheriff’s Office, Environmental Health, and Code Compliance should be incorporated into the DEIR baseline analysis. The assumptions in the DEIR regarding baseline cultivation is contradicted by empirical data (see attachment 4), the statements of County Staff (See May 30<sup>th</sup> and June 6<sup>th</sup> 2017 Board of Supervisor Study Sessions), and statewide data (see Attachment 5). The DEIR baseline analysis relies on Cahar et. al. 2015 and Bauer et. al. 2015. The inclusion of general data sets from outside of the region justifies the inclusion and analysis of IERC data regarding the environmental impacts of illegal trespass cultivation sites across the state.

It is also worth considering that both Cahar et. al. 2015, and Bauer et. al. 2015, who's analysis this DEIR relies, come to the opposite conclusion as the DEIR. The authors of these reports both recommend the promulgation of regulations and dedication of resources for enforcement to address the proliferation of illicit cultivation and the detrimental impact unregulated cannabis cultivation has on the environment. It is unclear from the DEIR, as written, how the conclusion that a ban is the environmentally superior alternative is supported when this claim is contradicted by the supporting materials cited in the DEIR, the bulk of the available scientific literature regarding the topic, as well as the Public Statements of County Staff. This apparent contradiction should be addressed.

01-12  
cont.

The DEIR should also include an analysis of the difference between the impacts associated with existing regulated cultivation sites operating within the County under the UO and those illicit cultivation sites operating within the County in violation of local and state regulations. This analysis should draw upon the available empirical data at the local and statewide level. This differential impact analysis is particularly necessary given the claims in the DEIR regarding potential increase illicit cultivation as a result of a lack of funding for enforcement under the Ban scenario, and in light of the county's current budget constraints and the need for new revenue streams just to maintain basic services, the well documented environmental impacts of illicit cultivation, the broadening scientific consensus that a regulatory approach is preferable to the prohibitionist model, and the DEIR's conclusion that despite these clear acknowledgements and this available body of evidence the ban alternative is the environmentally superior alternative.

01-13

#### **Indoor Cultivation Under a Draft Ban Alternative**

The Draft EIR's analysis of Alternative 2 does not address the potential impacts of increased indoor cultivation in full compliance with the ban alternative. Draft EIR indicates 10x10 indoor would be allowable under the ban alternative (Draft Ban Ordinance, Draft EIR). According to County Documents, and the public statements of County Staff there are 600 known illegal cultivation sites additionally 737 commercial cultivation sites were registered under the Urgency Ordinance, and another 215 personal and care giver registrants for a total of 1552 known cultivation sites in the County (May 30th study session, Planning Dept. Registrant Data). Assuming full compliance under the ban alternative these 1552 could move indoors cultivating 100 sq ft of canopy each. This amounts to 155,200 sq ft of indoor canopy. Under the U.O. 52863 sq ft of indoor canopy was registered (Planning Dept. Registrant Data). Full compliance with the ban alternative could result in an additional 102337 sq ft of indoor canopy. Indoor cultivation, particularly indoor grows situated inside of homes which are not designed for indoor cultivation, is extremely energy intensive producing considerable greenhouse gas emissions (Mills 2012). The high intensity energy consumption associated with indoor cultivation has the potential to cause electrical fires, particularly within residential dwellings which are not typically designed with electrical systems nor fire safety systems to mitigate potential fire safety hazards (Garis 2008). The considerable energy consumption associated with indoor cultivation can also adversely impact the energy grid result in the failure of transformers within the grid causing disruption of energy delivery and creating significant fire hazard in a place such as Calaveras County (Crandall 2016). There is also no analysis of unregulated pesticide use within residential dwellings. Under the Project or Alternative 3 compliance with the Regional Water Quality Control Board's and local Environmental Health and Agricultural Department pesticide regulations is required, these regulations do not extend to personal cultivation under Prop 64 (June 6<sup>th</sup> study session, RWQCB General Order). There is no analysis of the local capacity of the

01-14

electrical grid nor is there any analysis of the potential impacts of increased indoor cultivation under the ban alternative on the local grid. There is no analysis of the potential significant environmental impacts of this additional 2.34 acres of additional indoor canopy. There is no discussion of any mitigation strategies for any of these impacts. Finally, there is no comparative analysis of these impacts relative to a baseline, nor to any of the possible alternatives.

O1-14  
cont.

Thank you for your time and consideration,  
Trevor Wittke,  
Executive Director CCA.

# Attachment 1 (Traffic Analysis)

**K E V A N R S H A F I Z A D E H , P h D , P E , P T P , P T O E**  
P.O. BOX 19541 • SACRAMENTO, CA 95819-0541 • (916) 897-6727 • [shafizadeh@surewest.net](mailto:shafizadeh@surewest.net)  
**Transportation and Traffic Engineering Consulting and Expert Services**

June 14, 2017

Edward L. Shaffer  
Archer Norris  
2033 North Main Street, Suite 800  
Walnut Creek, CA 94596

Re: The May 2017 Draft Environmental Impact Report (DEIR) for the Calaveras County Medical Cannabis Cultivation and Commerce Ordinance (SCH# 2016042019)

Dear Mr. Shaffer:

I am a transportation engineer and planner by education and training. I am a registered professional civil engineer (P.E. #70099) in the State of California and a certified Professional Traffic Operations Engineer (PTOE #2208) and a certified Professional Transportation Planner (PTP #362). I have been a transportation engineer and planner for 20 years and have taught courses at the university level related to transportation planning, traffic operations and safety, and transportation facilities design. This knowledge has been used on a wide range of transportation research and consulting projects.

I have been asked to review portions of Chapter 3 (Transportation and Circulation) and Chapter 4 (Cumulative Impacts) of the Calaveras County Medical Cannabis Cultivation and Commerce Ordinance Draft Environmental Impact Report (DEIR). More specifically, I was asked to review the DEIR and provide a brief critique of the analysis as it relates to transportation and traffic impacts. This letter identifies, in no particular order, the areas of concern that I have about the analysis of potential transportation and traffic impacts associated with the proposed Medical Cannabis Cultivation and Commerce Ordinance. As an introductory matter, I was surprised to learn that there is no technical appendix – especially given the lack of supporting information in the text of the DEIR.

O1-15

Project Description

The proposed project is an ordinance addressing regulations concerning the cultivation, manufacture, testing, distribution, transportation, and storage of medical marijuana within Calaveras County. An alternative that is being considered as a part of this EIR is to adopt a ban on cannabis cultivation and other associated commercial activities. Regulations include permitting requirements to reduce conditions that create public nuisances by enacting restrictions on the location, type, and size of marijuana cultivation sites; the location, type, and size of commercial activities involving medical marijuana; and the use of screening, security, and other protective measures to more effectively control the adverse environmental impacts associated with medical marijuana cultivation and commercial activities. The ban alternative would prohibit cannabis cultivation in all zones and limit recreational/medical cultivation to six plants grown indoors.

Trip Generation

The following text highlights how the details of trip generation calculations were explained in the DEIR:

“For the purpose of this analysis new trips are assumed to only be generated by the outdoor, mixed-light, and commercial nursery and indoor commercial grow operations” (p. 3.9-11).

“During the harvest phase of cultivation, crews of up to 15 people per operation would be employed for a period of up to 3 weeks depending on the size of the operation and the number of plants. Based on the total number of applications for outdoor commercial operations received under the urgency ordinance (995 total, of which 740 were commercial) and the anticipated number of applications to be approved, it is estimated that up to 750 applications could be approved by the County, although it is anticipated that approximately half of that would actually occur. Of that number, nurseries are anticipated to represent approximately 1-2 percent” (p. 2-9).

“Based on the number of applications submitted under the urgency ordinance, approximately 2 percent of the total number of applications received involved indoor cultivation.” (p. 2-11)

“As a result, during the peak of the harvest season, potential outdoor mixed-light commercial grow facilities could generate up to 5,625 daily trips countywide; and the indoor grow facilities could generate 113 daily trips countywide. Thus, the implementation of the project could generate a total of approximately 5,738 new daily trips during the harvest period” (p. 3.9-12).

Based on the above information, the following calculations show how I believe the DEIR determined trip generation for the project.

Calculation of New Trips:

Outdoor Facilities:  $\frac{1}{2} \times 750 \text{ sites} \times 15 \text{ employees/site} \times 1 \text{ trip/emp/day} = 5,625 \text{ trips/day}$

Indoor/Nursery Facilities:  $2\% \times 5,625 \text{ trips/day} = 113 \text{ trips/day}$

The transportation profession typically refers to the Institute of Transportation Engineers (ITE) *Trip Generation Manual* for data to help determine the approximate number of vehicle trips that are expected to be generated in association with specifically identified land-use categories. In this case, the *ITE Manual* does not include a specific land use category for the proposed use (cannabis grow facility), and there is also no relatively similar land use category to use as a substitute.

O1-16

In cases where data from the *ITE Manual* is not available, industry practice is to have observations conducted at the same type of use in question (at other locations) to obtain actual vehicle “counts” that can be used to attribute towards analyses of trip generation and roadway/intersection operation. The DEIR recognizes that cannabis-related operations already exist: “Calaveras County has an existing ordinance regulating medical cannabis dispensaries...[T]here are numerous growers currently operating in the County without any express guidance from the County Code” (p. 1-1). These existing cannabis facilities should have been studied, and trip generation data should have been collected to better understand potential impacts and to better justify assumptions made in the DEIR.

O1-16  
cont.

If existing cannabis facilities could not be studied for some reason, there are other agricultural operations in the county, such as vineyards or nut orchards, which could have been studied to provide some comparison to cannabis cultivation and associated commercial activities. The DEIR acknowledges the existence of substantial acreage in grape and nut crops (p. 1-3) but does not attempt any comparison to those operations for purposes of project traffic analysis.

Unfortunately, the DEIR fails to explain or justify many of the critical assumptions and details in the calculation above. Instead, the assumptions used appear to be arbitrary and unsupported by available data or existing planning literature. Specifically, I question the following assumptions or statements in the DEIR:

O1-17

- “Cannabis harvesting activities generally requires a maximum of approximately 10 to 15 people” (p. 2-3). How were these estimates obtained?
- “It is estimated that each full-time employee would generate 1 trip per day during the harvest period” (p. 3.9-11). What data supported this assumption? Is each trip assumed to be a peak-hour trip, and, if so, was it counted as an AM or PM peak trip?
- It is anticipated that approximately half of the applications received would result in a county-approved operation and facility (p. 2-9). How was this assumption reached?
- How does the EIR justify assuming 750 new cultivation sites for impact purposes, if the County anticipates approving half the 740 applications for commercial sites – many of which, I am informed are already are in operation?
- It is assumed that the harvest season would be concentrated into a 3-week period at each site (p. 2-9). How was this time period determined? Is it known how the number of employees or the work schedule may shift during the harvest period? Furthermore, why does this harvest period conflict with the “Transportation and Circulation Impacts” in Chapter 3, which assumes 4 weeks (p. 3.9-11)?

O1-18

O1-19

O1-20

O1-21

Trip Distribution and Assignment

The following text from the DEIR attempts to explain how trips arising from the proposed ordinance were distributed throughout the county and how those trips were assigned to the transportation network:

“Traffic forecasts were then distributed and assigned to the existing transportation network based on the assumed origin, destination, and route of the employee trips. The distribution of trips along the transportation network was determined based on the anticipated location of commercial grow sites within the County, which was determined on locational information from applications received under the Urgency Ordinance” (p. 3.9-12).

“It is assumed that the commercial cannabis grow sites and processing facilities will operate on weekdays during normal business hours (8 a.m. to 5 p.m.) Thus, employees will be traveling to and from the commercial cannabis sites during the am- and pm-peak periods for traffic. For the purposes of this analysis the total daily trips generated by the project (5,738) are assumed to be split evenly between the am- and pm-peak traffic times” (p. 3.9-12).

“It is conservatively assumed that only 50% of employees would be traveling in the same direction as the daily peak-hour, peak-direction shown in Tables 3.9-1 and 3.9-2” (p. 3.9-12).

“The proposed project could add approximately 1,400 pm peak-hour, peak-direction trips to the State highway network in the County during the height of the harvest season (p. 3.9-16).”

The Calaveras Council of Governments (CCOG) is required by California law to adopt and submit an approved Regional Transportation Plan (RTP) to the California Transportation Commission every five years. The 2012 Calaveras County RTP Final Report, produced by Fehr & Peers Transportation Consultants, provides a summary of the PM peak-hour, peak-direction level of service (LOS) and volumes on State highway facilities for baseline existing (2012) and future (2035) conditions. These travel forecasts for the county were obtained by Fehr & Peers using the Calaveras County Travel Demand Model (TDM). The DEIR appears to have added trips generated by projects approved under the proposed ordinance to the future (2035) travel forecasts made in the RTP.

These types of travel demand models assume that employee trips originate from certain types of land uses (such as homes and residences) and travel to major “attractors” within the region (such as local businesses or shopping areas). These models are more typically used in urban areas where trips originate from concentrated residential areas and travel into a central business district area using the primary road networks. This methodology may not be appropriate to model travel within rural areas, particularly for agricultural purposes. For example, these models often ignore local roads, and it is possible that some trips on a limited transportation network could be serviced by local roads, limiting the use of State highway facilities and avoiding the impacts noted in the DEIR.



01-22

It is very difficult to critique the Calaveras County TDM when so little information is available. There are no details provided in the DEIR to determine if it is an appropriate methodology to forecast trips in this context, and there is no indication that the model was validated for this purpose. The DEIR should be a stand-alone document that provides assumptions, sample calculations, tables, maps and technical appendices to explain the analysis that was completed to arrive at the conclusions in the report. This particular DEIR lacks the type of supporting information that one would generally expect to find. The detail in this DEIR is grossly insufficient to check its analysis and verify its results. As a result, the details of this DEIR cannot be critiqued by the general public or verified by a trained industry professional.

O1-23

Because so little information is available, it is difficult to know if the study of transportation and circulation impacts in the DEIR was conducted properly. Specifically, I question the following assumptions or statements in the DEIR:

- It is unclear if cannabis or any similar agricultural facilities operate under traditional business hours. The DEIR simply assumes an “8 to 5” work day without any attempt to explain or justify using that work schedule (p. 3.9-12). I would think that employees start work earlier and end work later during the busy harvest season. If work hours actually are different from the traditional “8 to 5” workday, there may be fewer peak-hour travel impacts from the daily operations. How does this compare with harvest season operations by the county’s vineyards and orchards?
- Is it valid to assume that indoor grow operations have the same harvest seasons as outdoor operations (p. 3.9-12)? In fact, the DEIR recognizes that indoor grows operate with a 3-month cultivation/harvest period and can have multiple harvests per year (p. 2-3), so any increase in workers may not overlap. If the seasons are different, there may be fewer travel impacts from the fall outdoor harvest season.
- Is it valid to assume that employees of cannabis facilities would travel during the peak hour and in the peak direction? How do the projected travel patterns compare with harvest season operations observed at the county’s vineyards and orchards?
- It is unclear how the 5,625 daily trips generated countywide by this ordinance (as shown in the previous section on “Trip Generation”) result in the addition of approximately 1,400 pm peak-hour, peak-direction trips to the State highway network in the County during the height of the harvest season. In other words, 25% of all trips generated for the entire *day* will be traveling in the afternoon peak *hour* and in the peak *direction* of travel. This proportion of daily trips occurring in the peak hour in the peak direction of travel appears to be high – even without considering the questions above suggesting that potentially non-traditional travel during the harvest season should apply. The DEIR must explain and justify these calculations and assumptions.
- The DEIR provides no information regarding when the “peak” traffic period is or how it was determined. Those details may be found elsewhere, but they must be provided and explained in the DEIR text – especially since there is no technical appendix.

O1-24

O1-25

O1-26

O1-27

O1-28

- The DEIR includes no maps showing expected detailed traffic or circulation impacts, such as concentrations of cultivation sites, or of harvest season housing, or of projected travel patterns – all of which makes it very difficult to understand and confirm all the assumptions and conclusions. It is difficult to verify the basic conclusions in this report because they are not provided in a way that is clear and easily accessible to the reader of the DEIR. The only map that is provided as part of the transportation and circulation analysis is shown in Exhibit 3.9-2 (p. 3.9-13), which divides the county into ten large zones, and the percentage of expected permits is shown for each large zone. There are no transportation or circulation impacts shown.

01-29

Cumulative Impacts

The challenge for this DEIR is that travel impacts from the medical marijuana industry are still not well documented. As a result, data collection from existing or similar types of land uses should have been conducted. Compounding the problem, the urban travel demand forecasting methodology, which may not be appropriate in this situation, is also used as a proxy for impacts to local roadways.

“Due to the countywide scope of the project and because the exact locations of new cultivation sites and processing facilities are not known at this time, the analysis does not evaluate specific intersections or local roadways, but addresses general expectations of traffic generation along the State highways and associated environmental effects of the project. Further, quantitative estimates of impacts to State highways are considered to serve as a proxy for impacts to local roadways for which volume data is not available” (p. 3.9-10).

Finally, there seems to be some inconsistency in the DEIR regarding identification of alleged potential impacts. Despite the significant impacts identified along portions of the State highway system in the transportation section, it is *not* anticipated that vehicle trips would result in excessive congestion at intersections.

01-30

“Regarding the potential for CO “hot spots” at local intersections, operational activities at individual sites are not anticipated to generate more than 8 trips per day during harvest time, as explained in Section 3.7, “Transportation and Circulation,” and it is anticipated that no more than half of the commercial cultivation sites would be in harvest at the same time. Moreover, the cultivation sites would generally be spread throughout the county. Thus, it is not anticipated that vehicle trips generated by cultivation sites would result in excessive congestion at any intersection that experiences high volumes of vehicles experiencing long wait times. For these reasons, it is not anticipated that the additional trips associated with new cultivation would contribute substantially to traffic congestion at affected intersections such that localized CO “hot spots” may occur that exceed the CAAQS and NAAQS for CO” (p. 3.2-15).

While it is possible for there to be congestion on a highway section that does not occur at an intersection or on a local roadway, such a conclusion should be explained. Otherwise, it calls into question the claim of roadway congestion impacts.

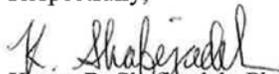
Conclusion

My review of the Transportation and Circulation analysis in the Draft Environmental Impact Report (DEIR) for the proposed Medical Cannabis Cultivation and Commerce Ordinance in Calaveras County revealed issues affecting the potential validity of the conclusions and recommendations presented in that document. Of particular concern are the trip generation forecasts as well as the trip distribution throughout the county – and the concomitant impacts on the State highway infrastructure in the county. Most concerning, however, is the overall lack of detailed information supporting the technical analysis that was completed in the DEIR. This lack of information makes the analysis almost impossible to check to confirm that it was completed correctly.

01-31

If you have any questions regarding this letter, please do not hesitate to contact me directly.

Respectfully,



Kevan R. Shafiqzadeh, Ph.D. P.E., PTP, PTOE  
Transportation and Traffic Engineering Consultant  
P.O. Box 19541  
Sacramento, CA 95819

## 2.6 ORGANIZATIONS

<b>Letter 01</b>	<b>Calaveras Cannabis Alliance</b> Trevor Wittke, Executive Director 6/14/2017
----------------------	--

- 01-1 This comment presents introductory information and summarizes detailed comments made in subsequent comments within this letter. Please refer to Responses 01-2 through 01-31 for detailed responses to those comments.
- 01-2 The comment summarizes assumptions made in the DEIR regarding existing conditions and states that the DEIR ignored information available through the Urgency Ordinance application process. Regarding the establishment of the baseline (i.e., existing conditions), refer to Master Response 4. As described, the Urgency Ordinance was not adopted when the NOP was released and therefore it is not included as part of the baseline, nor are any of the associated applications. The County was in the process of reviewing applications at the time the Draft EIR was prepared, and therefore, the Urgency Ordinance information was used in several instances within the EIR as an indicator regarding the potential number of cultivation sites within the County, as well as the likely distribution of those cultivation sites within the County.
- 01-3 Refer to Master Response 4 and Response to Comment 01-2. Please note that, except for traffic impacts, virtually all the impacts associated with cannabis operations as addressed in the DEIR are site-specific. It is acknowledged that the impacts associated with construction and operation of certain cultivation sites, including potential grading, may have already occurred prior to issuance of the NOP; however, as a programmatic evaluation of the proposed ordinance, which needs to cover future potential applications/operations, the DEIR appropriately and conservatively evaluates the potential impacts that may occur throughout the county, based on available information and taking into account that the pre-existing operations were not regulated by the County. Further, the May 10, 2016 date stated in this comment is after the date of issuance of the NOP, which establishes the baseline condition for the proposed ordinance. The proposed ordinance would also not preclude the sites, referred to in this comment, from changing or increasing operations through construction, and potentially increasing the area of cannabis-related operations to the extent allowable under the proposed ordinance. As a result, the number of registrants under the Urgency Ordinance is not necessarily indicative of the potential impacts if the proposed ordinance is approved.
- 01-4 In accordance with CEQA requirements, the DEIR evaluates the potential impacts associated with the program (i.e., implementation over time of the proposed ordinance). While it is acknowledged that the County has stated on multiple occasions that only one third of the total number of applicants under the Urgency Ordinance were likely to receive permits, the proposed ordinance would represent a long-term implementation tool for the County, and additional cannabis-related operations may apply for permits if the proposed ordinance is approved. Therefore, the initial number of applications received under the Urgency Ordinance was viewed as a reasonable estimate, supported by evidence, of the potential buildout condition of cannabis operations within the County, as allowed by the proposed ordinance. Further, it is worth noting that several cultivation operations that were denied in 2016 or early 2017 under the Urgency Ordinance have continued their cultivation operations. These operations, while considered illegal under existing County Code, could potentially apply for permits under the proposed ordinance, thereby increasing the percentage cited in this

comment. More importantly, as described in Response O1-3, the number of existing operations is immaterial to whether new operations would result in significant impacts.

- O1-5 It is acknowledged that several existing operations through compliance with the Urgency Ordinance would be in compliance with the conditions of the proposed ordinance and the CVRWQCB General Order. If the ordinance is approved and there are no changes in the operation of existing operations, these existing operations would not result in new environmental impacts.
- O1-6 It is acknowledged that the DEIR does not attempt to quantify the number of illegal cannabis operations within the County as part of its impact analysis. The number and size of illegal cannabis grows within the County is not known—they are illegal. The EIR does, however, acknowledge that illegal cultivation may occur under any of the alternatives considered in the EIR, and therefore, for the purposes of comparing the impacts of an alternative to a baseline, the baseline condition includes existing illegal activity. Furthermore, the DEIR acknowledges that there have been illegal cannabis cultivation activities throughout the County for many years and that an analysis of aerial imagery obtained by the County identified over 500 unregistered cultivation sites. Moreover, where relevant, impacts related to illegal activities are discussed in the DEIR.
- Based on information collected during preparation of the EIR, assessment of the potential benefits of the proposed ordinance with respect to reducing the number of illegal cannabis operations within the County is difficult to quantify, except that the provision of additional funding for law enforcement personnel facilitated by the ordinance (as stated on page 1-4) would certainly assist in the identification of illegal operations and the ability to rectify that situation. Section 15064(d) of the State CEQA Guidelines requires CEQA documents to evaluate direct physical changes and reasonably foreseeable indirect physical changes in the environment. Further Section 15064(d)(3) states that “[a]n indirect physical change is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. A change which is speculative... is not reasonably foreseeable.”
- O1-7 Refer to Master Response 4, regarding the establishment of baseline (existing) conditions in the DEIR. The DEIR’s analysis is considered reasonably conservative, reasonably foreseeable and valid.
- O1-8 Refer to Responses O1-5 and O1-7.
- O1-9 Refer to Response O1-4.
- O1-10 Refer to Response O1-4 and Master Response 4. As stated, among other issues, the proposed ordinance would be a long-term program, and while the rate of applications and denials that occurred during the urgency ordinance is interesting, it is not necessarily indicative of a longer-term process that would occur if a regular ordinance was in place. Because the urgency ordinance had a relatively short application period, it is likely that many applications were prepared in haste, resulting in a high rate of denial. Irrespective, the DEIR evaluates potential effects of new operations that would be approved under the proposed ordinance.
- O1-11 Refer to Master Response 4 with respect to the establishment of baseline conditions and why the evolving status of permits under the Urgency Ordinance was not considered as part of the baseline condition within the DEIR. With respect to the potential reduction in environmental impacts associated with unregulated, illegal cannabis operations, refer to Response O1-6 above.

01-12 With respect to the EIR's consideration of unregulated, illegal cannabis operations within the County, refer to Response 01-6. The impacts documented by the comment reflect the need for a well-regulated cannabis cultivation industry, if it is to become a permitted activity. While the EIR is not a document that polices existing activities, even if illegal, the comment suggests that existing illegal activities are prevalent and cause environmental degradation. This is part of the overall existing environment in the County, but it is also not entirely relevant to the impacts associated with compliance with the ordinance. As stated previously, the EIR is focused on impacts of development of cannabis operations under and in compliance with the proposed ordinance.

The DEIR does not dispute that a well-regulated cannabis operation is expected to have fewer—likely substantially fewer—environmental impacts than an unregulated, illegal grow; however, the ability for the proposed ordinance to reduce the potential for illegal cannabis-related activities as referred to in the data and reports referred to and attached to this comment is speculative. It is clear that law enforcement will receive funds as part of the permitting process, and these funds will be used to help enforce existing laws and police illegal grows. However, the degree to which illegal activities can be policed and cleaned up is unknown. It would be speculative to assign specific environmental benefits to this activity, although such benefits could be expected. Moreover, the analysis for the ban alternative compares the potential impacts of a ban on commercial cannabis operations with assumed regulatory compliance but also includes a discussion of potential outcomes associated with illegal cannabis-related operations that may occur in spite of the ban.

01-13 The commenter requests an evaluation of the difference between regulated cultivation sites (constructed to be consistent with the urgency ordinance) and illegal cultivation sites. While this may provide an interesting comparative analysis — illegal grows have been documented in some locations to cause a variety of problems, ranging from use of highly toxic pesticides to erosion, stream dewatering, disregard for adjacent land uses in terms of odors, lighting and other nuisances (Smith 2017) — the purpose of an EIR is to evaluate the effects of a project (the proposed ordinance) on the environment. This is not to suggest that, absent the ordinance, illegal grows will not occur. To the contrary, as acknowledged in the DEIR, prohibition does not typically stop illegal activities if sufficient incentive exists to flaunt laws.

With respect to the EIR's consideration of unregulated, illegal cannabis operations within the County, also refer to Response 01-6 and 01-12. Furthermore, with respect to funding, the DEIR acknowledges in several locations (page 1-4 and Section 6.3.2, beginning on page 6-5, of the DEIR) that the allocation of additional funding and revenue realized by the County with implementation of the proposed ordinance could be used for policing and monitoring of compliance, the extent to which such funding would result in identifiable reductions in illicit cultivation is considered speculative and not appropriate or warranted within the context of the DEIR's programmatic analysis. Further, the analysis of socio-economic activities is generally not required as part of CEQA analysis, as stated in Master Response 5.

The comment regarding whether a regulatory approach is better than a prohibitionist approach is a policy decision outside the scope of the EIR analysis.

01-14 Indoor cultivation under the ban alternative would be allowed within the parameters established by Proposition (Prop) 64, which prohibits local jurisdictions from banning indoor cultivation to the extent allowed by Prop 64. The ability to engage in this type of activity is unaffected by the ordinance. The comment that all outdoor grows will move indoors is speculative. Local jurisdictions have no discretionary authority to fully prohibit indoor cannabis operations, and the allowance for indoor cultivation provided by Prop 64 is appropriately not evaluated as part of the DEIR's analysis of Alternative 2.

- 01-15 This comment and comments 016–031 represent an additional comment letter submitted by the organization regarding transportation impacts. The supporting letter from Kevan R. Shafizadeh was submitted by multiple commenters. As Letter 01 is the first letter to include Mr. Shafizadeh’s comments, specific responses to Mr. Shafizadeh’s comments will be provided as part of the responses to Letter 01 and referred to where appropriate in subsequent letters.
- This comment presents introductory information and summarizes Mr. Shafizadeh’s qualifications and understanding of the proposed ordinance. This comment does not address the adequacy of the DEIR, so no further response is needed.
- 01-16 The comment presents the commenter’s interpretation of how potential vehicle trips associated with cannabis-related operations were quantified. Refer to Master Response 3 for further explanation of the DEIR’s projection of the number of employees and their associated vehicle trips. As explained in Master Response 3, trip estimates were based on information collected by the County regarding actual cannabis grow sites. The analysis of potential impacts of the proposed ordinance appropriately evaluated potential conditions that could reasonably occur within the County as a result of implementation of the proposed ordinance, and was not limited to cannabis-related operations allowed by the Urgency Ordinance. Under the proposed ordinance, commercial cultivation sites would be allowed to cultivate up to one-half acre of cannabis for medicinal purposes. While some of the cultivation sites currently permitted under the Urgency Ordinance cultivate less than one-half acre, they would not be precluded under the proposed ordinance from increasing on-site operations (through the application process) and increasing the number of on-site employees. Further, the County does not consider cannabis-related activities to be an agricultural industry and therefore, the use of information related to agricultural operations within the County was not considered to be a justifiable comparison for the purposes of the DEIR. Moreover, it is clear that cannabis operations (harvesting, removal of cannabis buds, trimming the buds by hand, etc.) is unique to this particular industry, so use of other agriculture harvest examples would not substantiate the estimates of employees and traffic any better than the evidence based approach used here. Therefore, the DEIR presents a reasonably foreseeable analysis of potential cannabis-related activities as would be allowed by the proposed ordinance.
- 01-17 Refer to Master Response 3.
- 01-18 Refer to Master Response 3.
- 01-19 This statement provided was based on and refers to the County’s assessment at the time the DEIR was prepared of applications received and reviewed under the Urgency Ordinance. It is acknowledged that the statement, which was an acknowledgement of the ongoing Urgency Ordinance application process, could be misconstrued and has been amended to provide clarification. Refer to Chapter 4, “Revisions to the DEIR. However, the DEIR assesses impacts based on the projected number of cannabis-related impacts identified in Chapter 2, “Project Description.” Further, all applicants under the Urgency Ordinance would be required to apply separately under the proposed ordinance, if approved.
- 01-20 As noted in Response 01-19, the statement referred to in this comment has been amended because of lack of clarity. The “approximately half” statement was intended to refer to the Urgency Ordinance applications and not to the potential conditions associated with implementation of the proposed ordinance. The proposed ordinance would be in effect, if approved, well into the future. Subsequent applications (in the future) would be expected.
- 01-21 The harvest phase was determined based on a review of literature and discussions with County staff and local medical cannabis cultivators. Page 2-9 has been amended to reflect the correct time period during which employment at each cultivation site would be highest,

which is approximately 4 weeks, and is considered reasonably foreseeable based on different cultivation, harvest, and processing techniques that may be employed at different cannabis-related operations.

01-22 The comment summarizes the commenter's understanding of how future (2035) conditions were evaluated. As the proposed ordinance would represent a new type of use not previously contemplated as part of the Calaveras Council of Governments (CCOG) RTP, the addition of cannabis-related operational trips to the 2035 conditions modeled by Fehr & Peers is considered reasonable and appropriate for the purposes of the DEIR's programmatic analysis of the proposed ordinance.

The assumptions regarding the origin and destination of trips are clearly presented in the DEIR; see pages 3.9-11 and 3.9-12. The analysis was not "modeled"; rather, it is based on the unique conditions associated with dispersed origins of destination of trips. As described, the industry of cannabis cultivation is unique and, as acknowledged by the commenter, there are no documented approaches in the Institute of Transportation Engineers (ITE) manual that can be applied to this circumstance. While the commenter questions the approach (and the questions are addressed in this response), an alternative approach is not suggested. The approach used in this EIR is reasonable.

It is true that some employee trips associated with the proposed ordinance may utilize only local roads and could result in lesser congestion on the regional roadway network, which could reduce impacts on State highway facilities. However, the State highway system within the County provides the primary connections between the county's urban centers and adjacent counties and is considered an accurate proxy for potential programmatic impacts associated with the proposed ordinance. Further, the County cannot preclude the potential for impacts on local roadways to occur.

01-23 The comment provides the commenter's opinion regarding the lack of detail and quantified information available within the DEIR's traffic analysis. Refer to Master Response 1 and Response 01-22. While a single cannabis operation site would have discrete and easily identifiable trip patterns, thereby allowing the evaluation of specific local roadway segments with reasonable certainty, the programmatic analysis of the proposed ordinance must be appropriately broad and consider the dispersed patterns of both operations and residences from where employees may originate. Within that context, the locations of specific cannabis sites that would be permitted by the proposed ordinance are not known and modelling of specific local roadway segments using a typical traffic model is not possible.

01-24 Refer to Response 01-16 regarding the comparison of traffic impacts from agricultural operations to the uses that would be permitted by the proposed ordinance. The comment states it is unclear if cannabis employees follow an 8 a.m. to 5 p.m. (typical) workday; there is no available evidence to suggest typical work hours for cannabis workers. While certain cannabis-related operations may initiate the work day outside of the typical peak periods (7 to 9 a.m. and 5 to 7 p.m.), the potential exists for cannabis-related operations to affect the peak period. To present a reasonably conservative analysis, the DEIR evaluated the potential employee trips associated with uses allowed under the proposed ordinance within the peak period. The County did evaluate the potential for including mitigation that would amend the proposed ordinance to prohibit cannabis-related employee trips within the peak period; however, the measure was deemed infeasible from a monitoring and enforcement perspective by the County.

01-25 It is acknowledged that the harvest seasons of outdoor cannabis operations and indoor cannabis operations may not coincide. However, the potential for simultaneous harvests cannot be precluded, and as a result and to present a reasonably conservative analysis in

- accordance with CEQA requirements, the DEIR evaluates the potential for simultaneous harvests.
- 01-26 Refer to Response 01-24.
- 01-27 The traffic volumes expressed in Tables 3.9-6 (on page 3.9-16 of the DEIR) and 4-4 (on page 4-9) of the DEIR were developed based on the distribution of applications received under the Urgency Ordinance (as shown in Exhibit 3.9-2). As noted above, the number of applications received under the Urgency Ordinance represents a reasonably foreseeable condition of the potential conditions that could occur within the County with implementation of the proposed ordinance. Locational information from the Urgency Ordinance applications also serves as evidence regarding the potential distribution of cannabis-related operations within the County. As stated on page 3.9-12, trip assignment was then determined based on the assumption that all trips would originate within Calaveras County, and employees would be traveling to and from the commercial cannabis sites from the nearest surrounding population centers.
- 01-28 The “peak hour” usually represents an estimate of the heaviest traffic flow which usually occurs between 7 to 9 a.m. and 5 to 7 p.m. This definition is consistent with Caltrans and CCOG methodologies, and is an industry-standard definition.
- 01-29 The lack of detailed traffic or circulation maps identifying specific impacts identified in this comment is because the analysis is programmatic and associated with implementation of a countywide ordinance. Refer to Response 01-23 and Master Response 1 for further clarification.
- 01-30 Excessive congestion within the context of CO “hot spots” is generally interpreted to mean intersections or interchanges experiencing daily volumes in excess of 100,000 daily vehicle trips. If traffic is below this level, CO is generally not generated at a level that would produce dangerous concentrations (hotspots). For this to occur within the County, existing traffic volumes would have to increase by more than 10 times the current level. Thus, congestion can still occur while not resulting in excessive CO emissions.
- 01-31 This comment presents concluding remarks from Mr. Shafizadeh that summarize his detailed concerns addressed in Responses 01-16 through 01-30. Refer to those specific comments and responses for more detailed information. Contrary to Mr. Shafizadeh’s opinion, the DEIR’s programmatic analysis of potential transportation impacts associated with implementation of the proposed ordinance is considered appropriate and valid.



501-F Gold Strike Rd.  
PO Box 1029  
San Andreas, CA 95249  
Phone: (209) 754-1075  
Fax: (209) 754-4244

Letter  
02

May 19, 2017

Peter Maurer  
Calaveras County Planning Director  
891 Mountain Ranch Road  
San Andreas, CA 95249

RECEIVED

MAY 24 2017

Calaveras County  
Planning Department

Dear Mr. Maurer

It is the intent of the Legislature that local child care and development planning councils shall provide a forum for the identification of local priorities for child care and the development of policies to meet the needs identified within those priorities (EC, Section 8499.3). The Calaveras Child Care Council is the local child care and development council for Calaveras County. The overarching priority for Calaveras County is to ensure accessibility, affordability and quality child care and development settings are available for all children and families in the county.

The Calaveras Child Care Council supports and recommends the draft Calaveras County Code Relating to Cannabis Cultivation and Commerce: 17.95.040. Subsection C. Item 13: *"There shall be no cultivation within any private residence containing a child day care as defined by state and/or local law."*

The Calaveras Child Care Council is concerned with past decisions that excluded licensed family child care homes from the definition of "sensitive use" in the County's Medical Cannabis Cultivation Ordinance.

The Calaveras County Urgency Ordinance Code Section 17.95.120(P) clearly states, "Children (minor under the age of 18) are particularly vulnerable to the effects of marijuana use and the presence of marijuana plants or products is an attractive nuisance for children, creating an unreasonable hazard in areas frequented by children (including schools, parks, and other similar locations)."

Sensitive use is further defined in the Calaveras County Code Section 17.91.060(B)(2) Regarding the Operation of Medical Cannabis Dispensaries as an area: "within 1,000 feet of a youth-oriented establishment characterized by either or both of the following: (a) the establishment advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors; or (b) the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors."

The Code further indicates that a "cultivation area of an outdoor or mixed light commercial cannabis cultivation site shall be set back at least seventy-five (75) feet from any property line, shall not exceed 22,000 square feet of total canopy area, and the parcel shall be at least one thousand (1000) feet from any parcel containing a "sensitive use" as that term is defined in Calaveras County Code 17.91.060(B), measured using the shortest distance between the property lines of the respective parcels. Access to the cultivation area shall be controlled to reasonably prevent against access by trespassers.

02-1

[www.calaveraschildcare.org](http://www.calaveraschildcare.org)



501-F Gold Strike Rd.  
 PO Box 1029  
 San Andreas, CA 95249  
 Phone: (209) 754-1075  
 Fax: (209) 754-4244

An outdoor or mixed light cultivation area shall be fully enclosed by a six-foot tall fence of a material and strength that reasonably prevents against access by trespassers and children. Access to the cultivation area shall be secured by a lock of reasonable strength to prevent against access by trespassers and children."

The Calaveras Child Care Council commends the County for including child care centers in the definition of a "sensitive use" area in regards to the subject. However, family child care homes were eliminated from the "sensitive use" area. In Calaveras County, licensed family child care homes provide 280 spaces, equal to 40% of the total licensed child care spaces for children 0-5 years of age, and 83 or 24% of the spaces for children 6-12 years of age (2014, Child Care Needs Assessment Calaveras County). This raises a huge concern for the safety of children in state licensed family child care home settings in our county.

The Calaveras Child Care Council recommends that Calaveras County include licensed family child care homes in the "sensitive use" area in any cannabis ordinance. We feel that licensed family child care homes fit the "sensitive use" definition above for the following reasons:

- Family child care homes must apply for and be granted a license from the California Department of Social Services for the regular care and supervision of children.
- Family child care homes are considered a small business and advertise their intention to provide services to minors.
- The individuals who regularly congregate at a family child care home are predominantly minors.

The Calaveras Child Care Council respects the difficult decisions the Board must make regarding cannabis cultivation. Regardless, of the final ordinance(s) that will permit or prohibit certain cannabis activities, we hope that Calaveras County Board of Supervisors will continue to prioritize the safety of young children and take into consideration our recommendation to include all types of child care in the "sensitive use" definition and prohibit the mixed use of permitted cannabis activities and child care.

For questions relating to the Calaveras Child Care Council, please contact: Kelly Graesch at (209) 754-1075 ext. 102.

Thank you,

The Calaveras Child Care Council

- cc.
- Gary Tofanelli, Supervisor District 1
  - Jack Garamendi, Supervisor District 2
  - Michael C. Oliveira, Supervisor District 3
  - Dennis Mills, Supervisor District 4
  - Clyde Clapp, Supervisor District 5
  - Peter Maurer, Calaveras County Planning Director

O2-1  
 cont.

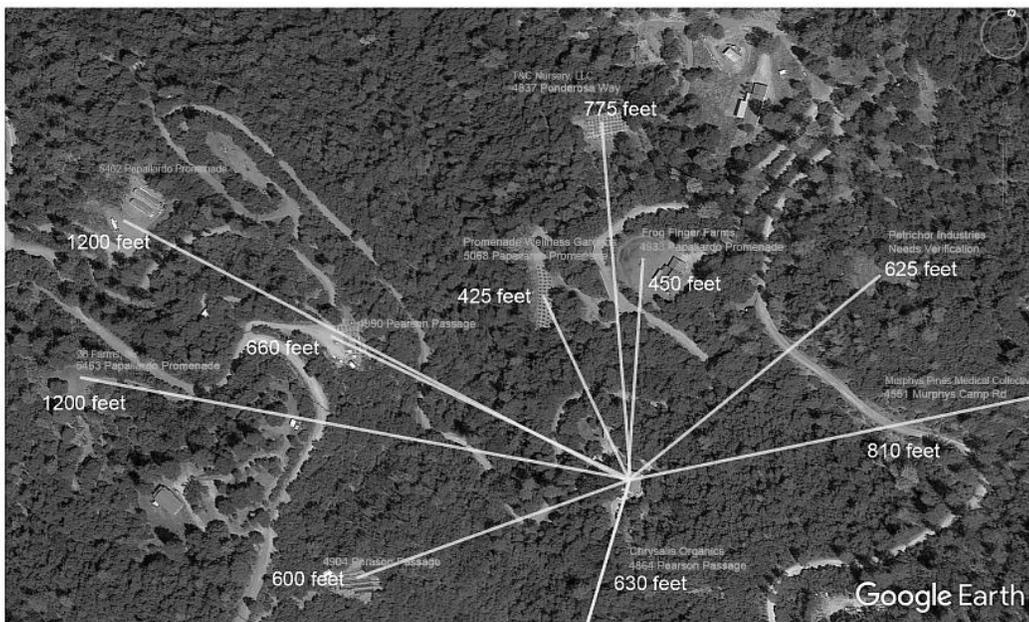
[www.calaveraschildcare.org](http://www.calaveraschildcare.org)

<b>Letter 02</b>	<b>Calaveras Child Care Council</b> 5/19/2017
----------------------	--

- 02-1      The comment expresses the recommendation that the County include licensed family child care homes as sensitive uses under any cannabis ordinance. This is a project design preference, and does not address the contents or adequacy of the Draft EIR. This comment is noted and has been forwarded to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project

Letter  
03

# Comments on the Draft Environmental Impact Report Medical Cannabis Cultivation and Commerce Ordinance Project



*This map shows how one residence is surrounded by 10 cannabis grows.*

Submitted by  
The Calaveras Planning Coalition  
June 14, 2017

Thomas P. Infusino  
 P.O. Box 792  
 Pine Grove, CA 95665  
[tomi@volcano.net](mailto:tomi@volcano.net)

June 14, 2017

Peter Maurer, Planning Director  
 Calaveras County Planning Department  
 891 Mountain Ranch Road  
 San Andreas, CA 95249  
[pmaurer@co.calaveras.ca.us](mailto:pmaurer@co.calaveras.ca.us)  
[PlanningWeb@co.calaveras.ca.us](mailto:PlanningWeb@co.calaveras.ca.us)

(sent by email)

**RE: Comments on the Medical Cannabis Cultivation and Commerce Ordinance DEIR**

Dear Sir:

My name is Tom Infusino, and I am submitting these comments on behalf of the Calaveras Planning Coalition (CPC).

As you know, the CPC is a partnership of member organizations, groups, and individuals. Its mission is to promote public participation in sensible land use and resource planning, ensuring a healthy human, natural, and economic environment.

**I. Summary of Improvements needed in the Final EIR.**

Before the County makes the final decision on this project, we encourage the County to make the following improvements in the Final EIR:

1. In the introduction, either substantiate the claims regarding the insignificance of selected impacts, or analyze those impacts in Chapter 3.
2. In the project description section, clearly identify the aspects of the proposed project that may result in significant impacts, and provide a copy of the ordinance in the Final EIR appendices.
3. In the aesthetics, land use planning, and noise sections; acknowledge the potentially significant impacts and mitigate them. We provide mitigation options for your convenient consideration.
4. In the alternatives section, make a better effort to quantitatively compare those impacts subject to objective estimation. Before a ban alternative is selected, thoroughly address the issues of implementation funding, institutional capacity, and the need for smooth transition to the ban.

03-1

By and large these are not overwhelming tasks. Completing these tasks is well worth the effort to avoid a successful legal challenge on CEQA grounds. Under these circumstances, an ounce of prevention is worth a pound of cure.

03-1  
cont

**II. This is a “both and” not an “either or” decision.**

The proposed project would provide insufficient regulation of commercial cannabis grows in Calaveras County, as would one alternative. Another alternative would try to ban commercial cannabis grows. To date, both the community and the CPC have been divided by debates over these two approaches.

However, this decision need not represent a choice between ineffectively banning or poorly regulating commercial cannabis grows. Ultimately, the County needs to ban commercial cannabis grows in those places and under those circumstances where commercial grows should be banned (e.g. in some residential areas, on small parcels, where converting forest lands, etc.) That ban needs to be effectively enforced. Penalties for violation of that ban need to be sufficient to deter such violations. **In addition**, the County may also chose to regulate commercial cannabis grows in areas and in numbers that provide the most benefits, cause the least harm, and are within the institutional capacity of the County to manage. Thus, this need not be an “either or” decision. When it comes commercial cannabis grows, there is a place for both bans and regulations.

03-2

**III. Zoning answers the questions: Who, What, When, Where and How?**

In preparing to adopt a zoning ordinance, it is useful for the Board of Supervisors to remember what a zoning ordinance does. A zoning ordinance regarding commercial cannabis will determine **who** is eligible to operate a commercial grow. We would hope that only the most reputable people would be allowed to operate a business entrusted with so much responsibility for regulatory compliance. A zoning ordinance regarding commercial cannabis could determine **what** can be done (i.e. growing, processing, distributing) in any particular zone in the county. One would hope that the Supervisors would be very selective about where they would allow activities with such a strong potential for adverse impacts and nuisances. A zoning ordinance regarding commercial cannabis could identify **when** activities are allowed. Generally speaking, the closer that disruptive operations are to neighbors, the more restrictive the time limitations on operations. A zoning ordinance regarding commercial cannabis could identify **where** operations are allowed. Under these circumstances, isolation of the potential nuisance on large parcels with lengthy setbacks may be effective. Finally, a zoning ordinance regarding commercial cannabis could determine **how** (under what circumstances) operations are allowed. The ordinance could impose all sorts of conditions regarding the grading of the land, the use of chemicals, the style of lighting, visual screening, in order to promote public health, safety, and welfare. The ordinance can specify **how many** cannabis grows can be effectively managed given the County’s implementation staff, on Planning Director, one Planning Commission, etc. Or, the zoning ordinance could designate a separate public official and a separate appeals board to meet the additional demand created by commercial cannabis regulation. The ordinance can specify **how much** permit registration will cost. That fee can be low to encourage registration and cover only

03-3

registration costs. Or, that fee can be higher to cover later inspection costs, but with the disadvantage that it discourages registration.

03-3  
cont

**IV. Conditions on use permits can ensure that individual operations protect health, safety, welfare, peace and morals.**

Conditions on use permits can be an effective tool to ensure that individual operations do not compromise public health, safety, welfare, peace or morals. Sometimes, unique operations in unique places require custom conditions. When it comes to land use regulation in Calaveras County, one size does not fit all.

03-4

**V. Please accept feasible mitigation measures.**

Written comments on the DEIR, and hours of public testimony before the Board of Supervisors, have resulted in many proposals to mitigate the adverse impacts that could result from a commercial cannabis ordinance. **Do not casually disregard these suggestions.** You must consider potentially feasible measures. You must adopt feasible mitigation suggestions. And, you must explain why you reject other suggestions as infeasible. (Pub. Resources Code, secs. 21002, 21081, subd. (a); CEQA Guidelines, secs. 15002, subd. (a)(3), 15021, subd. (a)(2), 15091, subd. (a)(1), 15088, subd. (c).) As the California Supreme Court has repeatedly said, “The EIR’s function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been taken into account.” (*Laurel Heights I*, 47 Cal.3d at pp. 391-392; quoted in *Vineyard*, 40 Cal.4th at p. 449; quoted in *Banning Ranch Conservancy v. City of Newport Beach*, p. 26.)

03-5

**VI. Please provide detailed responses to valid concerns.**

Both the public and public officials have raised the issues of funding for implementation and the sufficiency of the County’s institutional capacity. These are valid concerns that will undoubtedly determine the mitigation effectiveness of any zoning ordinance, regardless of whether it is a ban, a regulation, or a combination of both. Unless there is sufficient funding for enforcement, a ban will not protect the human or the natural environment. Unless there are enough people to process permits, inspect grows, issue/deny permits, mediate neighborhood disputes, and hear appeals; then regulations will not protect the human or the natural environment. **Do not tersely disregard these concerns.** In April, the California Supreme Court issued its unanimous decision in the CEQA case of *Banning Rach Conservancy v. City of Newport Beach*. In that case, both the public and public officials had asked the City the same questions “early and often”. The court ruled that the City “owed them a response.” (*Banning*, p. 27.) It is just that simple.

03-6

Sincerely,



Thomas P. Infusino, Facilitator  
Calaveras Planning Coalition

**P.S. Please provide notice of the availability of the Final EIR to all those on the attached list of contributors to these comments.**

03-7

## **Table of Contents**

Cover

Cover letter

Table of Contents

List of Contributors

Section 1 – Introduction

Section 2 – Project Description

Section 3.1 – Aesthetics

Section 3.2 – Air Quality and Greenhouse Gas Emissions

Section 3.3 – Biological Resources

Section 3.5 – Hydrology and Water Quality

Section 3.6 – Land Use Planning

Section 3.7 – Noise

Section 3.9 - Traffic and Circulation

Section 6 - Alternatives

### List of Contributors

Tom Infusino, JD; Bachelor of Science - Environmental Policy Analysis & Planning P.O. Box 792 Pine Grove, CA 95665 tomi@volcano.net	editing
Colleen Platt CA Registered Landscape Architect PO Box 1501 Valley Springs, CA 95252 cplatt1@comcast.net	Introduction, Project Description, Aesthetics, Biological Resources, Hydrology, Land Use Planning, Alternatives
Penny Sarvis, MAT, MA, MDiv PO Box 1737 Murphys, CA95247 pseyeries@gmail.com	Greenhouse Gas Emissions
Joyce Techel kennelnut@att.net	Traffic and Circulation
Rev. Mickey Williamson Bachelor of Science in Education, Master of Arts in Teaching, Master of Divinity PO Box 1737 Murphys, CA 95247 mickeyw46@gmail.com	Aesthetics, Air Quality, Hydrology, Noise, Circulation, Alternatives
Mari Crane crane@caltel.com	Aesthetics, Air quality, Biological Resources, Alternatives

Section 1 Introduction

**Section 1 Introduction**

**Potential impacts Not Adequately Evaluated**

"The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data." (CEQA Guidelines, sec. 15064, subd. (b).) An agency must produce rigorous analysis and concrete substantial evidence to support a determination that the project's impacts are insignificant. (*Kings County Farm Bureau et al. v. City of Hanford* (5th Dist. 1990) 221 Cal.App.3d 692.) "Argument, **speculation, unsubstantiated opinion**, or narrative evidence which is clearly erroneous or inaccurate ... does not constitute substantial evidence." (CEQA Guidelines, sec. 15384, emphasis added.)

At least seven CEQA resource impacts have not been analyzed adequately. **The DEIR states the following resources would not experience any significant environmental impacts from the project, and did not do a detailed analysis:**

- Agriculture and Forestry
- Geology & Soils
- Hazards/ Materials
- Mineral Resources
- Public Services
- Recreation
- Utilities/ Service Systems

Chapter 1 Introduction, 1.2 Scope of Environmental Analysis (pg. 1-2 through 1-5) does not adequately substantiate reasons for excluding the above resource impacts and is based on these questionable assumptions:

- The explanation **uses registration application data from the urgency ordinance (UO) to estimate project impacts—“doubling the acreage is a fair estimate.”** This is already a significant increase in acreage, plus the proposed ordinance is more permissive (no minimum parcel sizes) than the UO, so there could be an even greater increase. Additionally, the County has a poor record of “anticipating” the number of applications. 100-200 applications were anticipated in 2016 but the County received nearly 1,000 applications. The DEIR can’t conclude “no significant impacts” based on dubious assumptions and estimates with no detailed analysis.
- The Geology and Soils, and Hazards and Hazardous Materials explanations **assume full compliance with County and State standards and BMPs, and regular inspection and enforcement.** This is unrealistic. All development under the project will not comply in all resource areas and locations, especially with the severe shortage of County and State resources and personnel to do cannabis inspections and enforcement.
- The Mineral Resource explanation assumes no impacts because development **“would permit grading of up to a half-acre for commercial cultivation”, but the proposed**

03-8

03-9

03-10

03-11

Section 1 Introduction

**ordinance has no limits on the size of areas that may be graded at a project site.** The county has seen very large areas of grading done for various purposes in addition to cultivation, including new buildings and new roads, as a result of commercial cannabis operations. Total areas graded have often been much larger than 1/2 acre.

03-11  
cont.

- **The Public Services explanation assumes anticipated revenues will offset the costs of increased demand for public services. No data was provided to support this statement.** An EIR is inadequate if it simply ignores or assumes a solution to the problem. (*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412.)

03-12

All costs of the increase in services due to the project, including possible costs for additional facilities to house new services, need to be provided, analyzed, referenced, and evaluated to determine the potential public service impacts. Substantial evidence is also needed to support the “anticipated revenue” that offsets the costs.

**The aforementioned resource impacts have not been completely and adequately evaluated due to questionable assumptions, and a lack of detailed information and quantitative analysis for these missing CEQA sections.**

03-13

Section 2 Project Description

**Section 2. Project Description**

**I. “Proposed Ordinance” Project Unclear**

"An accurate, stable, and finite project description is the sine qua non of an informative and legally sufficient EIR." (*County of Inyo v. City of Los Angeles* (3d Dist. 1977) 71 Cal.App.3d 185, 193, [139 Cal.Rptr. 396].) "A curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decisionmakers balance the proposal's benefit against its environmental costs, consider mitigation measures, assess the advantage of terminating the proposal (i.e. the 'no project' alternative) and weigh other alternatives in the balance." (*Id.* at pp. 192-193.) A "curtailed, enigmatic or unstable project description draws a red herring across the path of public input." (*Id.* at pp. 197-198.) An accurate and complete project description is necessary to fully evaluate the project's potential environmental impacts. (*El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (App. 3 Dist. 2004) 122 Cal.App.4<sup>th</sup> 1591.)

03-14

**The DEIR proposed project “Medical Cannabis Cultivation and Commerce Ordinance” is not clear. People are confused.** Many think the DEIR evaluates the County’s existing cannabis Urgency Ordinance or evaluates the proposed Ban Ordinance. Is it one of those ordinances, or a draft ordinance similar to the existing Urgency Ordinance? The DEIR does not make this clear. The Project Description does not make this clear.

Evidence:

**a) The text of the proposed “Medical Cannabis Cultivation and Commerce Ordinance” is not included in the DEIR, in References, or in Appendices, and is not clearly identified or easily found on the County website.**

DEIR Introduction Chapter 1 (pg. 1-1) calls the project “proposed Medical Cannabis Cultivation and Commerce Ordinance” and says “a copy of the draft ordinance is available on the Planning Department’s website.” But there is nothing called “Medical Cannabis Cultivation and Commerce Ordinance” there, either with the CEQA - DEIR documents at the top of the Medical Cannabis web page, or below. If you scroll down the entire Medical Cannabis web page, you eventually find three cannabis ordinances. Immediately below the DEIR documents box is the “Draft Cannabis Ban Ordinance.” After scrolling past Inspections information, you find the “Medical Cannabis Cultivation Urgency Ordinance.” Then if you keep searching down the page, past more cannabis-related informational postings, at the very bottom of the page is a heading called “Permanent Medical Cannabis Ordinance - DRAFT ORDINANCE - DRAFT CALAVERAS COUNTY CODE REGARDING CULTIVATION AND COMMERCIAL USES INVOLVING MEDICAL CANNABIS.” **None of these match the project name in the DEIR.** We had to email the Planning Director to determine which ordinance the DEIR was referring to and evaluating.

03-15

Section 2 Project Description

**b) The Project Description does not adequately describe the Project.**

Chapter 2 Project Description also does not include the proposed ordinance text, and 2.5 Description of the Proposed Ordinance is **vague, with few ordinance details. For example, there is no information whether the ordinance includes minimum parcel sizes.** You have to find the ordinance first and search through it to discover **the proposed ordinance does not include any requirements for minimum parcel sizes.** This is a glaring omission in the project description, and should have been made clear. Is the lack of a minimum parcel size in the proposed ordinance even acknowledged and analyzed in the DEIR? This lack of specificity would allow cannabis cultivation on **very** small residential RR and U-zoned parcels. There are hundreds of RR-0.5 parcels in Rancho Calaveras alone—how many small RR and U-zoned parcels are there in all of Calaveras County--thousands?

03-16

**Please fix the DEIR.** Include the full text of the proposed ordinance. Include details in the Project Description, including the lack of minimum parcel sizes. Ensure this lack of minimum parcel sizes was made clear to consultants and analyzed in the DEIR.

**II. Proposed Project Outdated and Unrealistic**

According to Calaveras County Planning Director Maurer, the DEIR proposed ordinance was prepared in December 2015 and **released in February 2016, over 15 months ago.** This February 2016 draft ordinance was then modified substantially before being adopted by Calaveras County as the ‘Medical Cannabis Cultivation Urgency Ordinance’ in May 2016: 2-acre minimum parcel sizes were added, 30-foot setbacks were increased to 75 feet, and many other requirements were added or strengthened. These changes were made to the draft ordinance to protect the public and the environment. Improvements to the draft ordinance increased restrictions, made the ordinance more realistic, and reduced negative impacts.

**Why weren’t these improvements even addressed in the DEIR?** At least the addition of minimal parcel sizes and the setback increases should have been incorporated into the proposed ordinance for evaluation in the DEIR project. **Why are we even looking at an obviously inferior and outdated draft ordinance?**

03-17

Often DEIR commenters are concerned when an agency produces a “straw man” alternative that reduces impacts, but is incapable of meeting agency objectives. Such alternatives are quickly dismissed in favor of the agency’s preferred project. In this instance, the County has produced a “straw man” project, which the County can easily dismiss in favor of its ban alternative. What people deserve under CEQA is a project and alternatives that inform the decision-making process, not ones that dictate a foregone conclusion as the outcome.

**Please address why we are evaluating an outdated and unrealistic Project.** The proposed cannabis cultivation ordinance with no minimum parcel size is completely unrealistic. **The idea of allowing commercial cannabis cultivation on thousands of very small RR residential parcels with only a 30 foot setback is a non-starter.**

Section 3.1 Aesthetics

**Section 3.1 Aesthetics**

We have concerns with certain DEIR impact analysis statements and conclusions in Section 3.1 Aesthetics. Our concerns and questions follow the Environmental Checklist below.

CEQA Environmental Checklist Factors for Aesthetics:

I. AESTHETICS -- Would the project:

- a) Have a substantial adverse effect on a scenic vista?
- b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?
- c) Substantially degrade the existing visual character or quality of the site and its surroundings?
- d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

03-18

**Impact 3.1-1 Scenic Resources and Mitigation Measure—Concerns**

CEQA requires agencies to adopt feasible mitigation measures in order to substantially lessen or avoid otherwise significant environmental effects. (Pub. Resources Code, secs. 21002, 21081, subd. (a); CEQA Guidelines, secs. 15002, subd. (a)(3), 15021, subd. (a)(2), 15091, subd. (a)(1).)

The DEIR analysis found significant impacts to “designated scenic resources” from cannabis-related operations “located in close proximity” (pg 3.1-6), and suggested Mitigation Measure 3.1-1, requiring a 1,000 foot cannabis cultivation setback from designated resources. **Thank you—this is a good idea.**

We have a concern with scope and application of the mitigation, however. The “County-designated scenic resources” listed are: the Mokelumne Coast to Crest Trail, Ebbetts Pass, Calaveras Big Trees State Park, and the Stanislaus National Forest. We are concerned about other public Calaveras County scenic resources not “designated” and listed. There are many other key public recreational sites in Calaveras County with major scenic resources and views of private lands. Trails in these areas are often adjacent to private property, and sometimes are on easements through private property. **What about New Hogan Reservoir, the Arnold Rim Trail, BLM lands, New Melones Reservoir, and other public lands—will their scenic resources and views be protected in any way from negative cannabis impacts?** The DEIR is not clear whether they would fall under the 1,000-foot setback requirement from any sensitive use. Will the setback apply to cannabis grows near in public parks? If they are not “sensitive uses”, they should be designated by the County as scenic resources so the 1,000-foot setback would apply. **Please address and mitigate cannabis ordinance aesthetic impacts to all significant public recreational areas with scenic resources in Calaveras.**

03-19

Section 3.1 Aesthetics

**Impact 3.1-2 Visual Character—Cannabis-Related Construction Concerns**

An agency must produce rigorous analysis and concrete substantial evidence to support a determination that the project's impacts are insignificant. (*Kings County Farm Bureau et al. v. City of Hanford* (5th Dist. 1990) 221 Cal.App.3d 692.)

We disagree strongly with the DEIR conclusion that new cannabis operations “would not substantially alter the aesthetic of the surrounding environment” and “No mitigation is required.” (pg. 3.1-8). As section 3.1-2 states, the surrounding environment has “high quality rural character and views tend to be sensitive to changes in the landscape...” (pg. 3.1-7). This is relevant, because “the significance of an activity may vary with the setting” and because “an activity which may not be significant in an urban area may be significant in a rural area.” (Guidelines, § 15064, subd. (b); *Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1026.)

Certain cannabis-related cultivation impacts from constructions will be permanent and highly visible from adjacent properties and roadways, and can be very unattractive—certainly not natural or rural in character. Examples: 1) 8-foot tall screen fences made of light-colored or metal panels, and 2) large, multiple plastic “hoop house” greenhouses. See photos below.

**Visual impacts & blight from cannabis-related construction**



Cannabis screen fencing



Cannabis screen fencing

03-20

Section 3.1 Aesthetics



Cannabis hoop houses



Cannabis screen fencing

8-foot tall ugly fences and large plastic hoop houses are not normally found in rural residential or agricultural areas in Calaveras County. These screen fences and hoop houses are allowed with only a 30 foot setback from property lines. Many will be highly visible from nearby locations, including adjacent neighbors, local roadways, and public highways used by tourists and visitors to Calaveras County.

03-20  
cont.



View of cannabis fence from Hwy. 26 (distance: 260 feet)

Section 3.1 Aesthetics



View of cannabis fence from neighbor's driveway (distance: 115 feet)

03-20  
cont.

These highly-visible cannabis-related constructions are not natural to the environment; not consistent with other development; not "similar to historical agricultural uses in the County"; will introduce structural elements that detract from a rural setting; and will interrupt visual patterns and reduce the intactness of views. Allowing more of these cannabis-related constructions has the potential for significant negative impacts to views and tourism, and will potentially degrade the existing visual character of the community and the County.

**Suggested Mitigation Measures:**

- The ordinance should better define enclosures required and prohibit this type of ugly solid screen fencing. Require natural wood or other fencing in natural earth or forest colors.
- Require vegetative screening (shrubs, trees) of solid fencing and hoop houses from public view.
- Set larger minimum parcel size requirements and increase setback requirements for fencing and greenhouses to at least 200 feet

03-21

**Impact 3.1-3 New Source of Light or Glare and Mitigation Measure 3.1-3**

We appreciate the recognition of potential light pollution impacts from new sources of light and glare, and the addition of Mitigation Measure 3.1-3:

"All lighting provided in conjunction with facility security or cultivation activities shall be installed, directed, and shielded to confine all direct rays of light within the boundaries of such facilities."

03-22

Our concern with this and other mitigations proposed is that enforcement would likely be very difficult. The county could not possibly check on all operations all the time, so it would be up to neighbors to make a report of violations. Some resident might have some hesitation to do that when there are grows that are guarded by people with guns and dogs.

Section 3.1 Aesthetics

Also, we are concerned the analysis and mitigation does not cover overall site light intensity, or indirect light glowing up into the sky. This could result in potential negative impacts from light trespass into dark night skies, which are highly valued in rural Calaveras County. In neighborhoods that are away from town boundaries, where night is truly dark, grow lights, especially on a hill that many can see, do adversely impact the experience of residents.

Finally, it's not enough to shield the top of outdoor lighting. It must also be shielded on the sides to prevent horizontal glare which not only adds to neighborhood disturbances, it can also be a safety hazard for local roadway traffic.

**We suggest incorporating wording in the lighting mitigation measure similar to the paragraph below, taken from the people's initiative Measure D:**

“3. Cultivators using supplemental artificial lighting in greenhouses or outdoor gardens shall take measures to prevent artificial light from being directed into the sky or towards adjacent property owners including, if necessary, placing opaque covering over the cultivation site. All outdoor lighting shall be shielded to prevent light trespass into the night sky and glare onto adjoining properties, road rights-of-way, and easements.” (emphasis added.)

03-23

Section 3.2 Air Quality & GHG

**Section 3.2 Air Quality & GHG Emission**

These comments focus on two aspects of the EIR’s presentation concerning greenhouse gas emissions:

- 1) An overlooked impact and its possible mitigation
- 2) The feasibility of the mitigations proposed

These comments also address concerns regarding odor impacts.

**An overlooked impact**

Impact 3.3-3 (p. ES-2) says: “Implementation of the proposed project could result in disturbance or removal of natural land cover, through vegetation removal or grading which could result in the degradation or removal of sensitive natural communities.” The opening of this section includes this impact among those considered “significant and unavoidable; that is, no feasible mitigation is available to reduce the project’s impacts to a less-than-significant level.”

The vegetation removal and grading seriously harm the existing soil on a site. Moreover, many sites seem to keep the ground cleared of vegetation as they grow the plants in containers; that is, the surround is kept bare. The EIR does not address the GHG implications of soil disturbance, beyond mention of the vegetation removal. Various studies indicate that between 30% and 50% of the carbon held on a site is actually sequestered in the soil. Massive disturbance to the soil releases carbon over and above what the vegetation removal causes. And leaving the soil exposed continues the carbon release, even as it – as the report acknowledges – also creates conditions for erosion and sedimentation. [A good source of soil carbon information is [www.marincarbonproject](http://www.marincarbonproject)]

There is a mitigation for the bare soil, if not for the GHG releases at the time of grading and vegetation removal, and that is to require the planting of ground cover on all cleared areas on a site. That would be a simple, inexpensive and positive action against the continued release of GHGs. CEQA requires agencies to adopt feasible mitigation measures in order to substantially lessen or avoid otherwise significant environmental effects. (Pub. Resources Code, secs. 21002, 21081, subd. (a); CEQA Guidelines, secs. 15002, subd. (a)(3), 15021, subd. (a)(2), 15091, subd. (a)(1).)

03-24

**The feasibility of mitigations proposed**

The administrative record must contain substantial evidence supporting the agency's view that the measures will mitigate the impacts. "A clearly inadequate or unsupported study is entitled to no judicial deference." (*Laurel Heights Improvement Association of San Francisco v. Regents of the University of California*, (1988) 47 Cal.3d 376, 422 & 409 fn. 12.) "Because an EIR cannot be meaningfully considered in a vacuum devoid of reality, a project proponent's prior environmental record is properly a subject of close consideration in determining the sufficiency of the proponent's promises in an EIR" (*Laurel Heights Improvement Association of San Francisco v. Regents of the University of California*, (1988) 47 Cal.3d 376, 420.).

03-25

Section 3.2 Air Quality & GHG

Impact 3.2-3 (p. ES-5): “Construction and operation of grow sites permitted under the proposed ordinance would result in a net increase in GHG emissions. This would be a cumulatively considerable contribution to climate change.”

The State has passed a series of measures to reduce GHG levels. The ARB’s proposed 2017 Climate Change Scoping Plan Update “...includes recommendations about how GHGs associated with proposed projects should be evaluated under CEQA. Specifically, it recommends that achieving ‘no net increase’ in GHG emissions is the correct overall objective of proposals evaluated under CEQA if conformity with an applicable local GHG reduction plan cannot be demonstrated.” (p. 3.2-4)

The EIR acknowledges that there will be increases of GHG emissions under the proposed ordinance. There is no way to aim at “conformity with a local GHG reduction plan” because “Calaveras County has not developed a climate action plan or similar GHG emissions reductions plan for GHG emission-generating activity in its jurisdiction.” (p. 3.2-6)

It is not clear that there is any baseline inventory of GHGs for the County. Therefore, that throws into question the first proposed mitigation measure, 3.2-3 (p. ES-5), which calls for “a reduction in annual GHG emissions equivalent to a one-time offset of 17.2 metric tons of CO2e for construction-related emissions and an offset of 5.9 metric tons of CO2e/year for operational emissions or a reduction equivalent to the construction and annual operational GHG emissions associated with the specific cultivation site, as calculated using an ARB-accepted model/technique.”

**Questions:**

- A reduction from what baseline? Table 3.2-8 (p. 3.2-19) provides annual levels of GHGs from grow sites. These numbers are estimates based on modeling, not based on actual monitoring that has been done. Moreover, these are overall estimates. How would they be applied with regard to “annual operational GHG emissions associated with [a]... specific cultivation site”?
- How is that reduction to be measured? Who applies the ARB-accepted model, the County, the grower?
- This measuring is to occur every year. The County, in over a year, has not had the personnel even to certify overall approval for the 750+ grows that have applied for it, let alone to measure GHG emissions.

The implementation of this proposed mitigation relies on two measures (p. ES-5):

3.2-2 1. installation of photovoltaic panels to provide power on site, and

3.2-2 2. purchasing of offset credits from an approved registry, with documentation to be provided to the Planning Department every year.

03-25  
cont.

03-26

Section 3.2 Air Quality & GHG

Mitigation measure 3.2-2 (p. 3.2-18) also calls for prohibiting the use of fossil fuel-powered outdoor equipment at grow sites and processing facilities. “This requirement applies to all off-road equipment including, but not limited to, utility vehicles, tractors, and trimmers. Electric or human-powered versions of these equipment [sic] can be used.”

So the mitigations proposed would involve substantial investments, beyond those for preparation and cultivation, on the part of growers: installation of solar panels, purchase of carbon offsets, and purchase of electric powered vehicles for everything except transportation to and from the site. And all these requirements, presumably, would be monitored by the County.

These mitigations, if enacted, would certainly reduce the GHG emissions from cannabis cultivation, but their financial and manpower feasibility is very questionable. It is unlikely that many growers would be able to afford them. It is also questionable whether the County could afford the manpower to monitor compliance. The danger is that these proposed mitigations would satisfy the requirement for an ordinance to pass muster, but then would then be unlikely to happen on the ground. Public agencies must consider such economic factors in determining whether mitigation measures are feasible. (CEQA Guidelines, sec. 15131, subd. (c).) Please include such a consideration in the Final EIR, or in a separate document.

O3-26  
cont.

**Impact 3.2-4: Exposure of people to objectionable odors.**

A neighbor’s exposure to the odor of cannabis as it is grown and harvested depends a great deal on the siting of the grow in relation to its neighbor. One neighbor of ours (with three young children) has a lot that sits almost directly above a large growing site. The odor is very strong there. Our lot is around a corner from both of those lots, and we do not smell it at all.

While we support Mitigation Measure 3.2-4b, mechanisms to control the objectionable odors, we find it very difficult to believe many growers would actually take this on unless they were reported and forced to do so. Enforcement seems rather overwhelming for a small county.

Finally, if a person can ‘smell’ it, what is the ‘it’ they’re smelling? Are they smelling gases or particulates that are harmful to the human respiratory system? If so, how much is too much? Is the source substantially contributing to a cumulative impact?

O3-27

Section 3.3 Biological Resources

Section 3.3 Biological Resources

I. Problems with Mitigation Measure 3.3-1: Minimum Size of Commercial Cannabis Activities

Mitigation Measure 3.3-1: Minimum Size of Commercial Cannabis Activities (DEIR pg. 3.3-35) amends the proposed ordinance to "require a minimum site size of 1,000 square feet" for any commercial cultivation activities. The intention of the mitigation measure is to reduce potential impacts to Biological Resources, Archaeological/ Historical/ Cultural Resources, and Hydrology & Water Quality. The theory is that by requiring all commercial cannabis applicants to comply with the Central Valley RWQCB (Water Board) Regulatory Program Order R5-2015-0113, all impacts would be "fully mitigated" (DEIR Table ES-1 and Impact Analysis, Mitigation Measure 3.3-1 pg. 3.3-35). The problem is, this is theoretical compliance, not actual compliance. This is deferral of mitigation, not actual mitigation.

03-28

First, as noted in our subsequent comments on Hydrology and Water Quality, the County plans to grant cultivation permits based only on an NOI application "filing" with the Regional Water Board to demonstrate enrollment (DEIR pg. 2-8). Permits will not be dependent upon actual completion of the Water Board NOI application review process, actual approval, or actual compliance with the Order. Once cultivation permits are granted by the County, the applicant will commence with development of the site, clearing and grading, and will begin cannabis cultivation. It may be months before the Water Board is able to process the NOI application and review studies and site management plans. The site may not even be eligible for the Regulatory Program. In the meantime, potentially significant impacts may have already occurred to the site and resources.

Second, as also stated above (see quote from Planning Director Maurer), the Water Board is overwhelmed with statewide cannabis grow applications. Additionally, Calaveras County Supervisor Dennis Mills stated at the May 30, 2017, Board of Supervisors Cannabis Study Session, that while he was on the Calaveras County Water District board in April 2016, he talked to members of the Water Board at a CCWD meeting, "where they admit that they were incapable of performing the inspections and enforcement that was needed."

03-29

It is highly unlikely (if not impossible) that Water Board representatives will be personally visiting Calaveras County's hundreds (or thousands, depending on how many permits are ultimately approved) of commercial cannabis operations to ensure full compliance with Central Valley RWQCB Order R5-2015-0113. Without inspection, monitoring, oversight, and enforcement of commercial cannabis grows by the Water Board, there is no assurance potentially significant negative impacts to Biological Resources, Archaeological/ Historical/ Cultural Resources, and Hydrology & Water Quality will not occur.

II. Chemical Use

The public, decision-makers, and DEIR authors seem concerned about the adverse effects of chemicals used in commercial cannabis operations. If it is so, please explain in the Final EIR

03-30

## Section 3.3 Biological Resources

how cannabis cultivation is more detrimental to biological resources than other agricultural operation such as almonds or grapes. Does the cannabis industry use highly detrimental products that are not used in other agricultural endeavors? Does the cannabis industry detrimentally misuse legal product (or use illegal products) in a greater amount than the rest of the agricultural operations? Does a greater proportion of those in the cannabis industry misuse or illegally use detrimental products relative to the rest of those in agriculture? What is the basis for these claims?

03-30

Section 3.5 Hydrology

**Section 3.5 Hydrology and Water Quality**

**I. Problems with Proposed Regulatory Actions Involving the CVRWQCB**

Under **2.5.2 Outdoor Commercial Cannabis Cultivation**, ‘Proposed Regulatory Actions’ (DEIR, pg. 2-7), outdoor commercial applicants would be required to provide listed information to the County Planning Department before a certificate or permit is granted to cultivate.

One of the required items **for cultivation sites greater than 1,000 square feet** is “a copy of the Notice of Intent...and other documents filed with the Central Valley RWQCB demonstrating enrollment in its Cannabis Cultivation Waste Discharge Regulatory Program...” (pg. 2-8). The County has previously accepted an applicant’s Notice of Intent (NOI) filed with the Central Valley RWQCB (Water Board), as sufficient documentation to issue cannabis cultivation permits.

The problem with this approach is that **mere acceptance of an NOI application by the Water Board is not evidence** of: 1) a complete application (including any reports or plans that may be required), 2) eligibility of the NOI application or project site, 3) actual completion of the Water Board Regulatory Program review process, or 4) actual compliance with the regulatory program or mitigations required by the Water Board.

According to Calaveras County Planning Director Maurer on May 25, 2017, “The Water Board is overwhelmed and consultants are overbooked. The Water Board was accepting applications with the understanding that studies would follow...plans are coming in after the fact” (2016-651 Cannabis Appeal staff report and planning staff testimony, Planning Commission meeting May 25, 2017). The Water Board has been **accepting** NOI applications, and then **months later** finding an application is **incomplete** (e.g. biological & cultural studies and/or Site Management Plans needed), or issuing a “**Notice of Non-Eligibility**” due to surface waters within 100 feet of the project. The County Planning Department accepted cannabis grow applications as complete based on NOI applications filed with the Water Board by a September 7, 2016, but the Water Board did not respond to the above 2016-651 NOI application as “incomplete” until January 2017.

In the meantime, cannabis site development, grading, and cultivation ensued, based on nothing more than a filed NOI application, which was eventually rejected by the Water Board.

**Conclusion: Filing documents and enrolling in a program does not equal NOI application completion, eligibility, or actual project review or program compliance.** A filed NOI with the Water Board is not adequate information on which to base issuance of a certificate or permit for cannabis cultivation.

03-31

**II. Impact 3.5-3: Groundwater supply impacts.**

Those of us that depend on wells for our water source are always anxious about new development. Since the sites are required to have on-site water (I know some that do not...thus

03-32

Section 3.5 Hydrology

the water trucks on our road all summer) and the cultivation is so water intensive, there is concern about area wells going dry. Where we are, it hasn't happened yet, but I have heard of areas where it has. (Mickey Williamson, Personal Observation.)

Once again, we support Mitigation Measure 3.5-3, Groundwater monitoring requirements, but we seriously question the ability of growers to comply and the county to enforce.

03-32  
cont

## Section 3.6 Land Use and Planning

**Section 3.6 Land Use and Planning**

An agency must produce rigorous analysis and concrete substantial evidence to support a determination that the project's impacts are insignificant. (*Kings County Farm Bureau et al. v. City of Hanford* (5th Dist. 1990) 221 Cal.App.3d 692.) Furthermore, CEQA requires agencies to adopt feasible mitigation measures in order to substantially lessen or avoid otherwise significant environmental effects. (Pub. Resources Code, secs. 21002, 21081, subd. (a); CEQA Guidelines, secs. 15002, subd. (a)(3), 15021, subd. (a)(2), 15091, subd. (a)(1).)

**We strongly disagree with the DEIR conclusions of “less than significant” project impacts to Land Use and Planning and “No mitigation is required”** (DEIR pgs. ES-10, 3.6-4, and 3.6-5). Proposed regulations, certificate, and permitting requirements in the proposed “Medical Cannabis Cultivation and Commerce” ordinance are **too permissive and weak** to prevent land use conflicts and public nuisances. **The permitting requirements in the proposed ordinance are MORE LAX than the existing cannabis Urgency Ordinance.** The DEIR proposed ordinance contains **no minimum parcel sizes, allows a 25% canopy area, and only requires 30 foot property line setbacks.** These “requirements” would allow 5,000 sq. ft. commercial cannabis cultivation on 1/2-acre residential lots and 10,000 sq. ft. grows on 1-acre lots, which are not currently allowed under the urgency ordinance. A 30 foot setback from a neighbor is useless to mitigate land use conflicts and nuisance impacts from large cannabis activities. Residents or children with asthma or COPD do not fall into the 1,000 foot buffer requirement under “sensitive uses.” This greater permissiveness would create huge conflicts and public nuisances.

The existing, *stricter* Urgency Ordinance (UO), with its 2-acre minimum parcel size, 15% canopy limit, and 75 foot property line setback requirement, has already caused great environmental havoc in Calaveras County, including adverse impacts to Land Use and Planning. The *stricter* UO *already* generated 740 commercial cannabis registration applications in June 2016 (which still are not processed or inspected) and issued temporary grow permits, which allowed hundreds of cannabis farms to operate in residential subdivisions. The County does not have the resources to oversee and regulate the existing grow problems. Since its passage May 10, 2016, the cannabis urgency ordinance has led to many land use conflicts and incompatibilities, public nuisances, land use conversions, alterations of existing land uses, division of established residential subdivision communities, and has created conflicts with policies of the existing Calaveras County General Plan and Special Plans. **The DEIR’s proposed ordinance is worse than the UO. Because it is more lax than the Urgency Ordinance, the proposed DEIR ordinance would allow even more cannabis applications, larger cannabis grows, on even smaller residential parcels, with miniscule property line setbacks. This seriously flawed ordinance and DEIR is a recipe for disaster, and must be corrected.**

03-33

## Section 3.6 Land Use and Planning

**CEQA Environmental Checklist Factors for Land Use and Planning**

X. LAND USE AND PLANNING. Would the project:

- a) Physically divide an established community?
- b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

**Evidence of Potentially Significant Impacts****a) Division of established communities.**

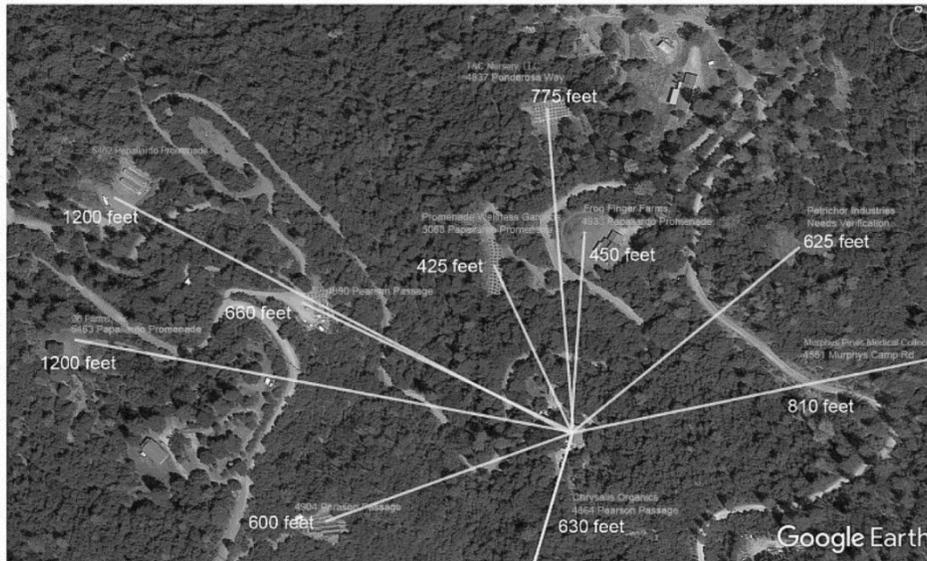
**Yes, there would be potentially significant impacts.** The proposed cannabis ordinance will divide established residential subdivision communities. Impacts of the commercial cannabis farm ordinance include physically removing trees, clearing, excavating, terracing and grading large areas of residential zoned lands for commercial cannabis grows, roads, and structures, and setting up commercial, mostly non-residential operations in residential areas, **thus physically dividing established residential subdivision neighborhoods into residential and non-residential uses.** In addition to the physical impacts, **Commercial Farms are often not inhabited by the residential property owners, further dividing an established residential community.** In these cases, there are no permanent “neighbors” anymore, just business managers.

In fact, these community divisions have already occurred in some subdivisions as a result of the Urgency Ordinance and its allowance of commercial cannabis farms in residential zones. One example is Murphys Pines, an RR-5 zoned subdivision which has been physically divided by commercial cannabis farms, with residences surrounded by commercial grows. From the ‘Murphys Pines Cannabis Blog’<sup>1</sup>, *“My father is the only resident on his street (everyone else is commercial marijuana growers now), so we’re a little alone and outnumbered locally.”* See below Murphys Pines photos and captions from the Murphys Pines Cannabis Blog.

O3-34

<sup>1</sup> <https://murphyspines.wordpress.com/>

Section 3.6 Land Use and Planning



*“Google Earth Map (May, 2016). This map (still the same in 2017) shows how close my father’s place is to 10 growers.”*



*“Five Commercial Cannabis Farms showing How the Land is Cleared. This is taken just above a private residence (not shown) directly next to these farms. Note: the houses in this picture are commercial growing properties not inhabited by the owners/growers.”*

In addition to the physical division of communities, cannabis grows (especially when there is more than one site) can certainly change the character of a neighborhood completely. “I am witnessing that where I live. When I used to walk our road in the mornings, everyone who passed was someone I knew....I had met them, knew where they lived, saw them at meetings. Now, whether walking or driving, I rarely know the people passing. They speed on the road, they do not do our traditional wave and greeting. People are afraid to go for walks because of armed guards at sites during the growing season.” (Mickey Williamson, Personal Observation.) Such social impacts (disruption of

03-34  
cont.

Section 3.6 Land Use and Planning

neighborhood character) can be used to evaluate the significance of the physical impacts (development of grows in residential neighborhoods). (CEQA Guidelines, sec. 15131, subd. (b).)

03-34  
cont.

**b) Conflicts with Calaveras County General Plan, Special Plans, & Zoning**

**Yes, the proposed cannabis ordinance would generate potentially significant impacts through land use conflicts** with Special Plans, the Calaveras County General Plan, and Zoning Ordinance land use conversions and conflicts.

**I. Special Plan Conflicts**

The proposed “Medical Cannabis Cultivation and Commerce” ordinance, allowing commercial cannabis activities on any RR-zoned parcel, **directly conflicts with the existing Rancho Calaveras Special Plan prohibiting commercial uses in the Planning Area, and regulating Rural Home Business.** The Rancho Special Plan is part of the Calaveras County General Plan. See Chapter 3.0 Commercial Land Uses, pages 5-6, in the Rancho Calaveras Special Plan. The Plan specifically prohibits commercial land uses and operations and states “**commercial use would conflict with existing single family residences.**”

The Special Plan allows a **low-intensity “Rural Home Business” subordinate to the residential uses of the site that** “shall not cause any hazards, traffic noise, dust, or change in physical appearance that would detract from, conflict with, or endanger the surrounding residential area.” A large, outdoor commercial cannabis operation with seasonal high-volume traffic, noise, dust, workers coming and going, odors, and changes in physical appearance would detract from, conflict with, and endanger surrounding residences. At the May 30, 2017, Calaveras County Board of Supervisor meeting, County Sheriff Rick DiBasilio discussed problems with the current cannabis ordinance (see County meeting video at approx. 45 min. in). The Sheriff stated there were problems with zoning and minimum parcel size--that there was supposedly a 2-acre minimum, but that people in Rancho Calaveras were growing commercial cannabis on less-than-two-acre lots “consumed with marijuana.” He later listed “Negative Affects to the Community”, which included *firearms, aggressive animals, threats to neighbors, odor, noise, pesticide/herbicide use, dust, and damage to roads.* **Commercial cannabis cultivation and commerce does not meet the Special Plan’s requirement for a low-intensity Rural Home Business that “shall not cause any hazards, traffic noise, dust, or change in physical appearance that would detract from, conflict with, or endanger the surrounding residential area.”**

03-35

Rancho contains hundreds of 3+ acre RR-zoned residential parcels. The 25% canopy limit would allow 22,000 sq. ft commercial cannabis grows on all of these parcels with only a 30-ft. setback (this is a very bad idea). And since the proposed ordinance has no minimum parcel size, the ordinance would also allow cannabis grows on the thousands of

Section 3.6 Land Use and Planning

1/2 and 1 acre parcels in Rancho (this is a terrible idea). **Theoretically, all 3,600 RR lots in Rancho could be potential commercial cannabis grows, which would be a major land use conflict with existing single family homes and the Rancho Calaveras Special Plan.**

03-35  
cont.

**II. General Plan Land Use Chapter Conflicts**

*Businesses in the Home, Residential Subdivisions, and Rural Home Industry*

From the General Plan Land Use Chapter 6, section 6.0 Businesses in the Home:

**“6.0 Businesses in the Home**

A significant number of the business licenses issued each year in Calaveras County are for businesses in the home. The County Zoning Code recognized several types of home businesses, and provides standards to **ensure compatibility between home business activity and the character of the surrounding neighborhood. All home businesses must be secondary to residential property uses. Business activity of greater intensity than the Zoning Code allows for home businesses may be appropriately located in the Rural Home Industry or other commercial or industrial zone.**

**Residential Occupations** are suited for residential areas with predominately small parcels. They are typically service oriented businesses or offices which do not require customer or client traffic to the home, rarely require a sign, generally cause no change to the exterior appearance of the home, and **do not generate traffic above normal levels for single family residences.**

03-36

**Rural Home Businesses** are suited for **larger parcels typically found in rural and resource areas**, which permit greater latitude in the operation of a business in the home. **Larger parcel sizes provide a buffer between neighboring residences, reducing the potential for nuisances to arise. The greater the separation between a rural home business and an adjacent residence, the less likelihood of incompatibility.** [emphasis added]

Followed by this Policy and Implementation Measure:

Policy II-21A: Review proposed businesses in the home for **subsistence to residential use and compatibility with neighboring uses.**

Implementation Measure II-21A-1: Utilize the County Zoning Code to **impose standards for businesses in the home based on factors including parcel size, hours of operation, noise, odor, dust, traffic, waste disposal, and outdoor storage needs.** [emphasis added]

**Commercial cannabis operations in residential subdivisions conflict with the primary land use of the property, which is residential.** Commercial cannabis

## Section 3.6 Land Use and Planning

cultivation operations are not subservient to residential use and are not compatible with neighboring uses due to odor, traffic, dust, light, noise, and other nuisances. Commercial cannabis cultivation operations in subdivisions are conversions of land use from predominantly residential to residential mixed with commercial/ industrial/ ag uses. The Commercial Cannabis Cultivation ordinance also conflicts with many (if not most) existing residential subdivision CC&Rs, which prohibit commercial operations within their subdivisions. **The proposed ordinance creates a significant potential for land use conflicts, conversions, nuisances, and litigation.** See above a) section photos from the Murphys Pines subdivision, showing residential parcels now surrounded by the conversion of multiple residential parcels to commercial cannabis farms.

Even though the proposed ordinance requires a permanent dwelling inhabited by a permanent resident, there is no way to realistically oversee or enforce this “permanent basis” provision. There are already an unmanageable number of registration applications and sites to inspect, with no way to tell who’s a permanent resident, and the proposed ordinance would allow even more grows. Many cannabis farms are non-residential part of the year—growers and workers are there only during the growing season and owners do not live on-site. Residents living next door know this. From the Murphys Pines Cannabis Blog with photos, *“Most cannabis-growing locations shown are non-residential — they are commercial cannabis farms not inhabited by the owner or renter of the property. Most are unattended except for growing and harvesting.”* Cannabis farms not inhabited by owners or renters year-round are non-residential, which conflicts with GP Policy II-21A “Review proposed businesses in the home for subservience to residential use and compatibility with neighboring uses.”

Address General Plan Land Use Chapter 6, 4.0 Industrial Areas, **4.2 Rural Home Industries, Policy II-19A “Require conditional use permits for all Rural Home Industries.”** This policy is mentioned on pg. 3.6-2 of the DEIR, but application to the proposed cannabis ordinance is not explained. Wouldn’t the Conditional Use Permit (CUP) requirement for Rural Home Industries apply to Commercial Cannabis Cultivation, Manufacturing, and Testing? This is not analyzed or applied in the DEIR. In DEIR Table 2-2 and Table 2-3, CUPs are not required for *any* Cannabis Cultivation Type except Nursery, and there is no Rural Home Industry (RM) zone listed anywhere.

**RM-zoned parcels do exist in Calaveras County.** Calaveras County Code Chapter 17.32 - RURAL HOME INDUSTRY (RM) ZONE, 17.32.010\* describes the Purpose, Permitted uses, Conditional Uses with a CUP, performance and site development standards, and more.

**\*17.32.010 – Purpose.**

“Rural home industries are small-scale industries which are secondary to the principal residential use of the property. These industries may process, fabricate or manufacture goods or commodities, but not those which are hazardous or produce excessive noise, dust or traffic. RM zones may be considered on parcels where the consistent residential zone is A1, AP, GF, TP, RA or RR. No RM zone shall be approved without a finding that the use is compatible with neighboring properties.”

03-36  
cont.

Section 3.6 Land Use and Planning

The DEIR should address the County’s Rural Home Industries policies. **Consider applying the Rural Home Industries general plan policy to the ordinance and commercial cannabis operations.** Many commercial cannabis operations could fit into the following general plan 4.2 section’s description, with its policies to mitigate impacts:

“The rural home industry zone provides a basis for small scale industry that is larger than a Rural Home Business in terms of employees, traffic generation, and operations, yet small enough to be compatible with a rural residential lifestyle. A key factor separating a Rural Home Industry from a traditional industrial use is that the owner resides on the same property as the business. A Rural Home Industry is a secondary use to the primary residential use of the parcel. The business must also be compatible with residential uses on adjoining parcels.”

Policy II-19A and 19B **requiring a CUP** and evaluation on a case-by-case basis, and Implementation Measure II-19B-1 would go a long way towards preventing land use conflicts:

Implementation Measure II-19B-1: Consider applications for Rural Home Industries on a case-by-case basis utilizing all of the following criteria:

- The subject property is five acres or larger;
- The proposed Rural Home Industry does not have the potential to become a nuisance;
- The business owner resides on the subject property on a full-time, permanent basis;
- The subject property has frontage and access onto a state highway or any public road meeting county road improvement standards for its functional service classification;
- The road serving the subject property is either publicly maintained or included in a special district or mandatory maintenance association;
- The proposed Rural Home Industry complies with all county, state and federal laws relating to health and safety.

03-36  
cont.

**III. Zoning Land Use Conversions and Conflicts**

Commercial cannabis farms could have potentially significant land use impacts from **conversions of land use through zoning changes.** Zoning Amendment applications have been submitted recently requesting changes—one from RR to RA and the other from REC to A1—that facilitate cannabis grows. **These zoning amendments change the land use focus from primarily Residential or Recreational to Mixed Use Residential with Agricultural and Commercial.** One request was *clearly* to facilitate a cannabis farm, as stated, “for future cannabis cultivation” (staff report for 2016-103 ZA REC to A1, O’Steen, approved October 2016 Planning Commission). Another request from RR to RA was not identified for cannabis cultivation, instead saying “for future agricultural uses”, but the parcel was already growing cannabis inside two greenhouses, and the zone

03-37

Section 3.6 Land Use and Planning

change facilitated both agricultural expansion and future cannabis grows, thus converting a primarily residential-zoned parcel to a parcel with mixed residential and commercial agriculture (2017-006 ZA RR-5 to RA, Richardson, approved May 25, 2017 Planning Commission).

Additionally, **approving Zoning Amendments for the purposes of commercial cannabis and commerce or industrial uses not related to cannabis could lead to community planning and land use zoning conflicts and incompatibilities.** See below Caltrans concerns expressed about land use and zoning (May 2, 2016, NOP comment letter from Caltrans, DEIR Appendix A).

**“Community planning and the coordination of land use and transportation may be affected by coupling decisions about medical cannabis to approvals of Zoning Amendments intended to permit other economically vital uses.**

Adoption of the Cultivation Ordinance would present the potential for approving industrial zoning adjacent to land uses and in transportation contexts that may be **compatible with cannabis cultivation but incompatible with other permitted industrial uses.** Also, the approval of any **Zoning Amendments proposed for industrial uses not related to cannabis may be affected by concerns about potential future cannabis cultivation.** Because of the wide variety of commercial and industrial uses permitted in M4 zoning and the widely varying transportation needs of those uses, **the use of M4 for cultivation should be very carefully considered.”** -- Caltrans NOP comment letter, May 2, 2016

03-37  
cont

**MITIGATION MEASURES SUGGESTED FOR LAND USE & PLANNING**

Amend the proposed “Medical Cannabis Cultivation and Commerce” ordinance:

- Exclude commercial cultivation in all Rural Residential (RR) zoned parcels and in the Rancho Calaveras Special Plan Area
- Exclude ALL residential subdivisions from commercial cultivation
- Set minimum parcel sizes for outdoor commercial cultivation: 10-acre minimums for zoning clearance certificates (ZCC) and administrative use permits (AUP); 5-acre minimums ONLY considered with a CUP & environmental review.
- Require a CUP for commercial cultivation in Residential Agriculture (RA) zones.
- Remove the “25% of parcel size” canopy area limit; stick to the specific maximum square footage commercial license limits set in Table 2-2 and 2-3.
- The Project proposes 30 foot property line setbacks for cultivation and the Urgency Ordinance currently has a 75 foot setback. 75 feet has not been enough to prevent land use conflicts and public nuisances. We recommend *at least* 200-500 foot property line setbacks for cultivation, depending on the type of license and size of the grow (the larger the grow, the greater the setback).
- Consider including the Rural Home Industry (RM) zone.

03-38

Section 3.6 Land Use and Planning

- Carefully review Zoning Amendment requests for potential land use conversion impacts & conflicts.

I 03-38  
cont.

Section 3.7 Noise

**Section 3.7 Noise**

**Impact 3.7-2. Long-term non-transportation operation noise.**

I do not find any mention of the use of generators at grow sites in this analysis. It has been my experience that some growers do use generators as their power source, either all the time or some of the time. There are growing areas that are not connected to an external power source. In a residential neighborhood, say of 5-acre lots, where residents are used to hearing no source of constant noise, this is a significant impact.

One of the faults that seems apparent in the DEIR is the focus (perhaps necessarily) on the overall picture of impacts to the county without looking at what it might mean for individuals and neighborhoods. Nevertheless, when approving projects that are general in nature, agencies must develop and approve whatever general mitigation measures are feasible, and cannot merely defer the obligation to develop mitigation measures until a specific project is proposed. (*Citizens for Quality Growth v. City of Mount Shasta* (3 Dist. 1988) 198 Cal.App.3d 433, 442.).

Therefore, we propose the following mitigation measure: Require that any generator used for more than 30 minutes at a time be housed in a sound-proof structure so that the noise is not heard on neighboring properties.

03-39

**Impact 3.7-3: Long term traffic noise levels**

Again, the assessment here addresses added traffic and noise on state and county roads within the county. There is no mention of neighborhood roads, but many of the growers are located on such roads. I live in a rural residential subdivision of approximately 40 lots, occupied by older retired people and young families. We know of 7-10 grow sites now in our neighborhood; some have applied for permits and some have not. These grows have made a significant impact in our lives and on our roads. Several of these grows are on parcels that were not previously occupied, so they have added traffic simply by being here. But it is not just the owner traffic. These sites have added huge soil trucks, water trucks, and many worker trucks to our very fragile, one-lane, dirt roads. Our homeowner dues barely allow us to do work on the road every few years. Now the roads need work every year. There is an assumption in the section on traffic that workers would likely carpool as they move from grow to grow. I walk our road. The other day four vehicles in caravan came in, two large pickups with trailers, and two smaller pickups, each with one driver and no riders. They were obviously together and going to the same place. Even if each owner is paying the dues for his/her lot, they are creating much more use than the rest of the residents. The traffic noise is an issue for us. I live at the end of the main road and we used to be able to count the number of vehicles that went by every day. Now there are too many and that does add noise to the day, especially as the workers tend to drive much faster than our posted speed limit.

03-40

Suggested mitigation: Bans cultivation (except for personal use) in Rural Residential.

Section 3.9 Transportation and Circulation

**Section 3.9 Transportation/Circulation**

**REGIONAL (Pg.3.9-2)**

**Comment:** The 2016 RTP is discussed as though it exists. As of Sun., May 14, 2017, there is no document available to review. We have been waiting for the draft to be released. The EIR statements are misleading and should be corrected. CCOG has stated that the 2016 RTP will be available this spring.

03-41

**Planned Transportation Improvements** The Circulation Element in the General Plans for each of the jurisdictions in the project area (Calaveras County and the City of Angels Camp) provide lists of roadway improvements anticipated to be needed in each jurisdiction. However, the current Calaveras County general plan was last updated in 1996 and the County has initiated an update to the general plan. The adopted RTP, a cooperative effort between the CCOG, County of Calaveras, City of Angels Camp, Caltrans, and residents of Calaveras, will guide transportation investments in Calaveras County over the next 25 years (2010 – 2035). Additionally, the RTP is consistent with the RTP and the ITIP, and includes involvement and outreach to the general public as well as the Native Tribal Governments within the County (CCOG 2012). **This document identifies a range of improvements to address existing and future transportation deficiencies** including: intersection improvements; improvements that better balance roadway use between motorized vehicles, transit, bicycles, and pedestrians; and safety improvements. Some local roadway improvement plans for the City of Angels Camp also include widening and realignment, road rehabilitation and reconstruction, intersection improvements and bridge reconstruction. (Pg. 3.9-9, emphasis added)

03-42

**Comment:** The 2012 Draft RTP (PG 110) states, “The RTP recognizes that transportation needs exist beyond available revenues. These ‘unfunded’ projects reflect improvements and associated operations, maintenance, and rehabilitation that require funding outside anticipated revenues. The projects are included in Appendix 4M. **Total estimated cost of unconstrained projects is approximately \$672 million.**” (emphasis added.)

**This economic information is the “800 pound gorilla in the room”. This is a new Board of Supervisors making the decisions on this EIR. Please add this pertinent baseline information to assist them in making an informed decision.**

Section 3.9 Transportation and Circulation

Local (PG 3.9-2)

**Comment:** While the 1996 General Plan does have Goals, Policies and Implementation Measures regarding county roads, no Road Impact Mitigation Fees were charged of developers until 2004, after citizen driven litigation. Those fees are not adequate and have not been updated in a timely manner. If the county had matching funds, Calaveras County could use those matching funds to accelerate State level funding and thereby improve our 4 State Highways and maintain and improve existing levels of service on county roads. As an example, the SR 12/26 intersection was recently improved with the help of County RIM Fees.

03-43

The following news article excerpt confirms the need to discuss economics, when discussing roads, projects, and a ban.

“County officials reported this week that the county’s inability to move forward on the projects jeopardizes future federal funding for other projects here and raises the prospect that the county might have to repay as much as \$740,619 in federal grant funding that it has already spent.

The biggest problem: the county does not have the approximately \$10 million needed to pay its share to finish the projects. As a result, it will likely never receive almost \$57 million in federal funding.

A grim-faced Calaveras Board of Supervisors voted unanimously Tuesday to “deobligate” funding for projects.

03-44

“I sit here very embarrassed,” said Board of Supervisors Chairwoman Debbie Ponte. Ponte noted that although the board over the years had approved the various projects, members were caught unaware that the county had bitten off more projects than it could deliver”. (Millions in road projects on hold/ Calaveras Enterprise/ Dana Nichols/ May 30, 2014, emphasis added.)

**Comment:** While the setting material on traffic acknowledges policy from the existing General Plan (Policy III-2C: Require that private roads be constructed to standards adequate to meet the needs of the parcels they serve) there does not seem to be further mention of private roads in relation to cannabis grows. But in our county, these private roads are a crucial factor in transportation to or from grow sites. “Our one lane dirt road is adequate (barely) for residential needs but not for added commercial activity.” (Mickey Williamson, Personal Observation) This is another reason for not allowing grows in rural residential areas.

## Section 3.9 Transportation and Circulation

**EXISTING BIKE AND PEDESTRIAN FACILITIES (Pg.3.9-9)**

Comment: The Arnold Rural Livable Community-Based Mobility Plan has not been adopted and has no EIR according to the 2012 RTP, pg.16.

**While the county has several plans on the shelf, several have not been adopted. To hold these up as documents demonstrating an acceptable level of planning is misleading. The baseline isn't as it might seem. Please correct the information in the Final EIR.**

From 2005 MSR, Calaveras County LAFCO, Page III-2, emphasis added:

*Calaveras County roads are very unforgiving and many are also no longer safe for the motorist or pedestrian or bicyclist or first responders. LOS figures do not reflect that danger. We may look like a rural county but along with a 45,000+ population we have a growing tourist industry which brings 10, 20 or maybe 30 thousand people on a weekend to travel these unsafe roads. Accident rates are a measure of the level of safety on county roads.*

The County had the 55<sup>th</sup> worst ranking out of the State's counties in deaths due to motor vehicle crashes. The County had the 53<sup>rd</sup> worst ranking in alcohol involved fatal and injury motor vehicle crashes.

All of the above information was written before the Butte Fire and the 2016/2017 winter storms. The fire and clean-up caused more damage to roads in the fire footprint. Add to all this the extraordinary number of beetle-killed trees and the road damage done and yet to be done during tree removal over a huge area of county land. The county is still compiling the road damage from this past winter.

Does any current data exist to inform decision makers of how deep the county financial hole is after all these events? Won't we need a path out of this hole before we accept that we might be digging the hole deeper? Both a ban and regulated cultivation have the potential to worsen the situation, but with regulation we will at least have some additional funds to lessen the burden. Any additional traffic has a higher than usual impact when that traffic is going on roads that are currently in such a bad state. No project is not a viable option, we are not what we have been, too much has already happened—there is no going back. We have to find a better, more open future for Calaveras County.

**References:**

2012 RTP

03-45

Section 3.9 Transportation and Circulation

[http://calacog.org/wp-content/uploads/tom-pdf-manager/493\\_FinalRTP\\_2012CalaverasRTP\\_wExecAppend.pdf](http://calacog.org/wp-content/uploads/tom-pdf-manager/493_FinalRTP_2012CalaverasRTP_wExecAppend.pdf)

Millions in road projects on hold/ Calaveras Enterprise/ Dana Nichols/ May 30, 2014

[http://www.calaverasenterprise.com/news/article\\_c4b42ed4-e789-11e3-b01c-0019bb2963f4.html](http://www.calaverasenterprise.com/news/article_c4b42ed4-e789-11e3-b01c-0019bb2963f4.html)

Joyce Techel, Personal Observation

“My name is Joyce Techel and I have been a property owner and a business operator in Calaveras County since 1974. I have been concerned about the poor roads and development in Calaveras County since the early 80’s, when the population was around 15,000. The county allowed growth without instituting the necessary funding to maintain and advance the road system, which brings us to the situation we are facing today – do we ban cannabis or regulate? I am stunned that today we are faced with a network of roads that is so challenged that there is no clear answer. I would select regulation of cannabis. I want the growing out in the open (not figuratively driven underground), located in properly zoned areas, and I want the cultivation heavily regulated and taxed to the maximum allowed. We need to be able to fund the public services and maintain and improve, if possible, our roads.”



O3-45  
cont.

## Section 6 Alternatives

## Section 6 Project Alternatives

**I. A full range of reasonable Alternatives is needed for the proposed Medical Cannabis Ordinance Project EIR.**

"The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decisionmaking." (CEQA Guidelines, sec. 15126.6 subd. (f).)

CEQA requires a "quantitative, comparative analysis" of the relative environmental impacts and feasibility of project alternatives. An inadequate discussion of alternatives in an EIR is an abuse of discretion. (*Kings County Farm Bureau et al. v. City of Hanford* (5th Dist. 1990) 221 Cal.App.3d 692, 730-737.)

"An EIR is required to 'ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official.' (*Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 197 [132 Cal.Rptr. 377, 553 P.2d 537].) Therefore, '[a]n EIR must "[d]escribe a range of reasonable alternatives to the project or to the location of the project, which could feasibly attain the basic objectives of the project and evaluate the comparative merits of the alternatives.'" (Guidelines, § 15126, subd. (d).) The discussion must 'focus on alternatives capable of eliminating any significant adverse environmental effects or reducing them to a level of insignificance, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly. (Guidelines, § 15126, subd. (d)(3).)' (*Kings County Farm Bureau, supra*, 221 Cal.App.3d at p. 733.)" (*Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4<sup>th</sup> 859, 872-873.)

03-46

**An EIR is supposed to contain a full spectrum of Alternatives, not just one extreme (the Project) and the other (the Ban), with just one other simplistic choice (Reduced Zoning Alternative).** The proposed ordinance Project is not acceptable. The 3 Alternatives presented in the DEIR have not explored a full range of reasonable options for mitigating all possible impacts while meeting the goals of the project.

The selection of a cannabis regulation ordinance will have significant impacts on Calaveras County's future. This is a complex issue, with many problems to be solved. Many solutions, modifications, and alternative ordinance ideas offered by both the public and the Planning Director (1/31/17 Board Study Session) have been left out of DEIR Alternatives. Alternatives that further limit operations and reduce Project impacts to an even greater extent are possible. **In order to mitigate all possible impacts plus meet the goals of the project, there needs to be a full range of Alternatives in the EIR to consider.**

Section 6 Alternatives

**The Project**

**The proposed ordinance Project, allowing commercial cannabis activities in residential areas with no minimum parcel sizes, and only a 30 foot setback, would have significant negative impacts to Calaveras County and is unacceptable. The proposed mitigation to increase the setback to 75 feet (the distance currently in the unsatisfactory Urgency Ordinance) is not enough. Assessing County Road Impact Mitigation fees will not mitigate damage to private roads in residential subdivisions.**

03-47

**Alternative 1 – No Project**

Just because the county decides to ‘do nothing’, does not mean there will be no future commercial cultivation activities and that existing grows would either be abandoned or repurposed. Illegal grows will continue. This type of assumption was made in the second paragraph (Pg 6-3), again under “Air Quality/Greenhouse Gas Emissions” (Pg 6-4) and under “Cultural Resources” (Pg 6-4). **Please reconsider these assumptions in the Final EIR.**

03-48

Also, Alternative 1 seems like an invitation to the chaos we had before the Urgency Ordinance. “Let’s just ignore the problem and get on with it.” Everyone would have to know this is a truly bad idea.

**Alternative 2—Ban on Cannabis Operations**

**Alternative 2 proposes to ban all commercial cannabis operations.**

But post Butte Fire and Urgency Ordinance we have huge numbers of growers. Aerial imagery has identified **over 500 unregistered cultivation sites**. At the May 30, 2017, Board of Supervisors Cannabis Study Session, Sheriff Rick DiBasilio stated there are **“600 known unregistered grows and more we can’t see.”** We do not see how a ban would cause them all to just pack up and leave. It would likely drive some deeper into hiding, or invite them to beef up their security with more guns and dogs. The Ban Alternative 2 Environmental Analysis admits illegal cannabis-related activity and operations are likely to occur in spite of the ban and states, *“A potential outcome of a ban...could be the elimination of a source of funding for monitoring and control of illegal activities related to cannabis (the application fee and the Measure C canopy tax).”* (pg. 6-6).

03-49

**Illegal cannabis grows are responsible for the worst environmental degradations, including illegal pesticides / death of wildlife, trash, illegal sewage, water and soil contamination, water theft and impoundment, and destruction of forest lands. We don’t see that those who do leave would be eager to clean up their site before they left. This would leave the county with a HUGE enforcement issue and totally uncertain sources of funding for that. The ban’s elimination of two major funding sources to control the adverse effects of illegal cannabis activities is likely to result in levels of significant impacts not sufficiently disclosed in the DEIR.**

Section 6 Alternatives

Public agencies must consider economic factors in determining whether alternatives are feasible to reduce or avoid the significant effects on the environment identified in the EIR. (CEQA Guidelines, sec. 15131, subd. (c).) Ultimately the County will have to determine if Alternative 2 is financially feasible. "The fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs of lost profitability are sufficiently severe as to render it impractical to proceed with the project." "In the absence of such comparative data and analysis, no meaningful conclusions regarding the feasibility of the alternative could have been reached." (*Citizens of Goleta Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1167, 1181; See also *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 598-599; *San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal.App.4th 656.) Economic feasibility can be assessed in the Final EIR, or in a record document other than the EIR. This analysis is part of the lead agency's duty to review, analyze, and discuss alternatives in good faith. (*Preservation Action Council v. City of San Jose* (2006) 141 Cal.App.4th 1336.)

03-50

Thus, detailed economic analysis is needed to identify both the costs and the revenue sources associated with implementing Alternative 2. The costs of implementing alternative 2 in the near-term and the long-term need to be estimated. If the necessary revenue will come in part from enforcement penalties, that income needs to be estimated in the near-term and the long-term. If the revenue will come in part from grants, the potential sources, the probability of funding, and the likely amounts need to be identified for the near-term and the long-term. Please provide this information in the Final EIR.

Section 6.5 Environmentally Superior Alternative, states "*Of the alternatives identified above, Alternative 2 would be the environmentally superior alternative, assuming full compliance.*" There are at least two problems with this "environmentally superior" statement. First, what is the statement based on? There is **no quantified evidence given to show Alternative 2 is environmentally superior.** In fact, immediately above the statement, Table 6-1 shows environmental impacts of Alternative 2 and Alternative 3 to be identical. (pg.6-12). Second, "**assuming full compliance" conflicts with statements in Section 6.5:** "the length of time and/or feasibility to restore properties to pre-existing conditions is not known" (pg. 6-5), "the level of compliance is uncertain" (pg. 6-6), and "Under partial compliance, the impacts to hydrology and water quality could be reduced in some locations, and increased in others." (pg.6-8). **Please fix these flaws in the Alternative 2 analysis and the 6.5 Environmentally Superior Alternative conclusion.**

03-51

Just because no new commercial cannabis would be allowed under Alternative 2, that does not result in the "cessation of commercial cannabis operations currently allowed under the urgency ordinance and would require the restoration of existing sites to pre-existing conditions"..."at property owners expense" as stated in the DEIR. Those whose grows have been eradicated may just walk away from the devastated land. Law-abiding growers may go out of business and sell their land, but the purchasers may start illegal grows.

Section 6 Alternatives

**Additionally, please include the proposed Draft Cannabis Ban Ordinance in the EIR appendices.**

03-52

**Alternative 3—Reduced Zones / 25% Reduced Operations**

**Alternative 3 is presented as a 25% reduction in cannabis operations scenario. This is an improvement over the proposed Project, but we were disappointed that it made only one change to the proposed ordinance—eliminating RR zones.** *“Based on the percentage of applications received under the urgency ordinance for commercial cannabis operations within property zoned RR, it is assumed this alternative would reduce the potential for commercial cannabis operations within the County by approximately 25%.”* Even if this percentage is accurate, it is not enough. There were over 740 commercial cannabis registration applications received last year. Hundreds more new applications are likely following adoption of a permanent ordinance. 75% of this is too many! The number of cannabis applications and grow sites in the county continues to overwhelm the planning department, code compliance, the sheriff, and is causing tremendous problems, with impacts to residents. **We believe a 25% reduction in cannabis operations is not enough. Additional Alternatives should be presented that offer further restrictions & reductions in the number of potential cannabis grows** (we have suggested more Alternative ideas below).

**Additionally, the 25% assumption is not supported by any data in the DEIR.**

"A conclusory statement 'unsupported by empirical or experimental data, scientific authorities, or explanatory information of any kind' not only fails to crystallize issues [citation] but 'affords no basis for a comparison of the problems involved with the proposed project and the difficulties involved in the alternatives.'" (*People v. County of Kern* (5th Dist. 1974) 39 Cal.App.3d 830, 841-842, quoting *Silva v. Lynn* (1st Cir. 1973) 482 F.2d 1282, 1285.)

03-53

A possible source for the number of RR commercial applications is the County’s “Cannabis Cultivation Registration Public Record Information” list, so we looked at the most recent December 2016 list posted on the Planning Department website. We highlighted all the commercial cannabis registrations, then listed and counted them by Zoning. Our numbers from the County’s registration list did not match the DEIR’s estimate of 25% for RR-zoned operations. We found 14% of commercial registrations listed in RR zoning (106 out of 757 commercial applications). See the Table below.

**December 2016 Commercial Cannabis Registration Count by Zone**

<u>Zoning</u>	<u>No. Commercial Applications</u>	<u>Percentage of Total</u>
Unknown (blank)	497	66 %
RR	106	14 %
U	83	11 %

Section 6 Alternatives

RA	36	5 %
A1 / AP	28	4 %
M/ GF/ T	7	<1 %
<b>Total</b>	<b>757</b>	<b>100 %</b>

This discrepancy may be because the County has a more current list—we don’t know. **There is no footnote or citation telling us the DEIR source, and no data or numbers are given to support the assumption of a reduction in cannabis operations by 25%. Is 25% accurate? Is it accurate enough to base selection of a project Alternative on? Statements, estimates, and assumptions need to be based on data.** A clearly inadequate or unsupported study will be entitled to no judicial deference. (*State Water Resources Control Board Cases* (App. 3 Dist. 2006) 136 Cal.App.4<sup>th</sup> 674.)

03-53  
cont.

**Additional Alternatives Needed**

The cannabis situation in Calaveras County is very complex, with many problems to be solved. We have learned from this past year’s experiences under the Cannabis Urgency Ordinance what works and what doesn’t work. We need an ordinance that helps us fix all possible problems. None of the Alternatives in the DEIR do this.

We need an Alternative with full regulations that are MUCH more restrictive than the urgency ordinance or Alternative 3—and that provides funding to reduce ALL cannabis-related adverse impacts (which have vet to be provided in the EIR). We suggest adding more Alternatives to the EIR that incorporate public and agency suggestions to reduce the number of cannabis grows and to reduce potential negative impacts to the environment and residents. **Additional Alternatives should offer increased reduction and regulation of cannabis activities.**

03-54

If Alternative 3 aims for 25% reduction in proposed cannabis operations, why not aim for more reduction? The real question is how many commercial cannabis operations can Calaveras County realistically manage? Consider processing paperwork in all departments, inspection and oversight of operations, compliance, taxation, complaints, appeals, and enforcement. How many permits can the County handle? **The number of cannabis operations the County can adequately handle needs to be considered—is it 10, 100, or 1000? Set a realistic goal.**

The following are two possible Alternatives, ordered by severity of restrictions and conditions. The ideas suggested are meant to be food for thought and flexible—mix and match, depending on the goal and the percent reduction desired. The ideas below for Alternatives could help make a workable ordinance that meets Project goals and mitigates impacts.

03-55

**Alternative 4—More Restrictive**

For commercial cannabis cultivation:

Section 6 Alternatives

- Remove all RR zones
- Allow RA zones only with a 10 acre min. for outdoor cultivation, 5 acre minimum for indoor cultivation, plus CUP/ CEQA review
- Allow U (Unclassified) zones only with a Zoning Amendment & CEQA review. “U” is not acceptable zoning for commercial cannabis cultivation or operations.<sup>1</sup>
- Remove all lands inside Community Centers / Community Plan Areas unless on public water and inside green houses with odor filters
- Increase outdoor cultivation setbacks to at least 200 feet
- No night lighting at all allowed in residential areas
- Allow cannabis cultivation and manufacturing in Industrial zones only inside greenhouses and buildings with filters for odor control and a 200 foot minimum setback from adjacent residential land uses
- Allow only organic cannabis grow operations (certified by the State), which would reduce or eliminate harmful impacts to wildlife, water quality, and public health.
- Allow in A1, AP, and GF zones only with 10 acre minimum
- All operations to pay RIM fees, but only allow commercial grows on publicly-maintained state highways or public county roads—no operations allowed on CSA / CSD or private subdivision roads (not covered in the RIM program)
- Include tree preservation and mitigation plans in permitting requirements

03-55  
cont.

**Alternative 5—Most Restrictive**

**In addition to Alternative 4 restrictions above,** for commercial cannabis cultivation:

- Remove all RA zones
- Allow in A1, AP, and GF zones only with 50-acre minimum parcel size
- Increase property line setbacks to 500 feet or more
- Allow only one cannabis grow permit per Registrant; no multiple parcels
- Allow only one cannabis grow permit per Property Owner; no multiple parcels
- Require cannabis businesses be owned by the Resident of the business
- Limit the total number of permitted cannabis grows in Calaveras County to what the county can actually manage (and support this number with data)

03-56

**II. Lack of Footnotes or Citations & Unquantified Impact Analyses**

CEQA requires that findings be made for each significant effect identified in the EIR: (1) mitigation has been adopted, (2) the agency lacks jurisdiction to make the changes but others should, and/or (3) specific economic, social, technological, or other considerations make mitigation or alternatives infeasible. (*Sacramento Old City Association v. City Council* (1991) 229 Cal.App.3d 1011; See also *County of San Diego v. Grossmont-*

03-57

<sup>1</sup> From County Code Chapter 17.10 – Unclassified Zone: **17.10.010 - Purpose.**  
The U zone is intended to apply to lands until more precise zoning is adopted. Any projects for which a use permit or subdivision approval is required shall be accompanied by an application for rezoning from the U to a specific zone.

Section 6 Alternatives

*Cuyamaca Community College District (2006) 141 Cal.App.4<sup>th</sup> 86.*) These findings must be supported by substantial evidence in the record. "Argument, **speculation, unsubstantiated opinion**, or narrative evidence which is clearly erroneous or inaccurate ... does not constitute substantial evidence." (CEQA Guidelines, sec. 15384, emphasis added.) "A conclusory statement 'unsupported by empirical or experimental data, scientific authorities, or explanatory information of any kind' not only fails to crystallize issues [citation] but 'affords no basis for a comparison of the problems involved with the proposed project and the difficulties involved in the alternatives.'" (People v. County of Kern (5th Dist. 1974) 39 Cal.App.3d 830, 841-842 [115 Cal.Rptr. 67], quoting Silva v. Lynn (1st Cir. 1973) 482 F.2d 1282, 1285.) A clearly inadequate or unsupported study will be entitled to no judicial deference. (*State Water Resources Control Board Cases* (App. 3 Dist. 2006) 136 Cal.App.4<sup>th</sup> 674.)

03-57  
cont.

A lead agency can conveniently provide substantial evidence by properly citing supporting documentation in the EIR. "The EIR shall cite all documents used in its preparation including, where possible, the page and section number of any technical reports which were used as the basis for any statements in the EIR." (CEQA Guidelines, sec. 15148.)

**Unfortunately, there are no footnotes anywhere in the DEIR. Alleged statements of fact made without footnotes or citations given are merely unsubstantiated opinions or speculation; not substantial evidence. The DEIR also fails to quantify impacts for comparison. Analyses without reference material or quantified data lack the substantial evidence needed to support required CEQA findings of fact.**

Here are two examples, both in Chapter 6 Alternatives:

1) As noted above, Section 6.3.3 "Reduced Zoning Designations" (Alternative 3), states an **assumption that this Alternative would reduce commercial cannabis operations by 25%**: "Based on the percentage of applications received under the urgency ordinance for commercial cannabis operations within property zoned RR, it is assumed this alternative would reduce the potential for commercial cannabis operations within the County by approximately 25%." **But no footnote, reference, or actual numbers of RR-zoned applications compared to other zones are given.**

A possible source for the number of RR commercial applications is the County's "Cannabis Cultivation Registration Public Record Information" list, so we looked at the most recent list from December 2016. We highlighted all the commercial cannabis registrations, then listed and counted them by Zoning. **Our numbers from this county registration data did not match the DEIR's estimate of 25% for RR-zoned operations. We found that 14% of commercial registrations were listed in RR zoning (106 out of 757 commercial applications).**

03-58

This discrepancy may be because the County has a more current list, we don't know. **There is no footnote or citation telling us the source, and no data or numbers are given to support the assumption of a reduction in cannabis operations by 25%.** Is

Section 6 Alternatives

25% accurate? Is it accurate enough to base selection of a project alternative on? Statements, estimates, and assumptions need to be based on data.

03-58  
cont.

2) Section 6.4, Comparison of Alternatives, consists of a Table: “*Table 6-1 summarizes the environmental analyses provided above for the project alternatives.*” If you look at the table, in the three columns comparing impacts of the 3 Alternatives, **you find no quantified numbers—just the symbols “<”, “>”, and “=”,** evidently representing a reduction, increase, or no change in impacts from the Project. **This Alternatives analysis and Comparison chart is not quantified in any meaningful way.** In fact, the Alternative 2 column and the Alternative 3 column have identical symbols, leading to the conclusion that the environmental impacts of Alternative 2 and Alternative 3 are identical. Is this correct? **The Table needs quantified data, references, and analysis.**

03-59

**In fact, the lack of quantitative analysis in section 6.4 Table 6-1 has already created a conflict with the conclusion in section 6.5 Environmentally Superior Alternative.** “*Of the alternatives identified above, Alternative 2 (Ban on Commercial Cannabis Operations) would be the environmentally superior alternative...*” **There is absolutely no evidence or data given to support that conclusion, which conflicts with the Table.**

03-60

“The courts have favored specificity and use of detail in EIRs.” (*Whitman v. Board of Supervisors* (2d Dist. 1979) 88 Cal.App.3d 397, 411 [151 Cal.Rptr. 866].) In *Whitman*, the Court found that the discussion of cumulative impacts lacked “even a minimal degree of specificity or detail” and was “utterly devoid of any reasoned analysis.” The document relied on unquantified and undefined terms such as “increased traffic” and “minor increase in air emissions”. Greater than and less than symbols are similarly vague, and do not provide decision-makers with sufficient information to make a rational decision among alternatives. The answers to the key questions about the alternatives (How much greater of an impact does it have? How much less of an impact does it have?) are missing from the DEIR. “A prejudicial abuse of discretion occurs if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process.” (*Kings County Farm Bureau et al. v. City of Hanford* (5th Dist. 1990) 221 Cal.App.3d 692, 712.)

03-60

<b>Letter 03</b>	<b>Calaveras Planning Coalition</b> Thomas P. Infusino, Facilitator 6/14/2017
----------------------	---

- 03-1 This comment presents introductory information and summarizes detailed comments made in subsequent comments within this letter. Please refer to Responses 03-8 through 03-60 for detailed responses to those comments.
- 03-2 The comment presents the commenter’s opinion regarding the appropriate action that the County should take with regard to countywide regulation of cannabis-related activities. This does not address the adequacy of the DEIR, so no further response is needed.
- 03-3 The comment presents the commenter’s opinion regarding specific conditions within a zoning ordinance that the County evaluate. This does not address the adequacy of the DEIR, which evaluated the proposed ordinance (as drafted in 2016), so no further response is needed.
- 03-4 The comment presents the commenter’s opinion regarding the use of conditions on individual permits issued by the County. This does not address the adequacy of the DEIR, so no further response is needed.
- 03-5 The comment presents the commenter’s opinion and acknowledgement of efforts by County residents, staff, and others regarding the proposed ordinance. Of note, other than the proposed cultivation ordinance and the proposed ban ordinance, County staff has not received additional drafts of ordinances governing cannabis-related activities. Regarding mitigation measures, any mitigation measures proposed in comments on the DEIR are fully considered and addressed in this FEIR.
- 03-6 This comment requests responses to detailed comments made in subsequent comments within this letter. Please refer to Responses 03-8 through 03-60 for detailed responses to those comments.
- 03-7 Upon completion of the Final EIR, the document will be posted to the County’s website and made available in accordance with CEQA requirements to the “List of Contributors” requesting notification.
- 03-8 The comment presents the commenter’s opinion that seven resource impact areas have not been adequately analyzed. No justification for the commenter’s opinion is made in this comment, so no further response is necessary as part of this response. Further, responses to specific points made by the commenter for this opinion are provided in Responses 03-9 through 03-12. As supported by these responses, the conclusions made in Chapter 1, “Introduction” regarding issue areas not requiring detailed analysis as part of the DEIR is appropriate and valid.
- 03-9 The DEIR’s analysis of potential impacts to agricultural lands is considered reasonably conservative and valid as a programmatic analysis of the proposed ordinance. The County’s perceived ability to anticipate the number of applications is considered irrelevant to the potential conditions assessed in the EIR, which is based on the actual number of applications received under the Urgency Ordinance, which constitutes reasonable evidence upon which the analysis of the proposed ordinance in the DEIR can rely.
- 03-10 The comment presents the commenter’s opinion regarding the County’s ability to enforce applicable regulations. Compliance with legal requirements—regulations, mitigation, etc.—is

- appropriate. Otherwise the entire basis upon which land use development occurs and CEQA is implemented would be meaningless. Further, this comment is not supported by evidence. No further response is necessary.
- 03-11 As noted on page 1-4 of the DEIR with respect to mineral resources, the area to be graded for commercial cultivation purposes (i.e., canopy area) would be limited to one-half acre, which based on its limited size would not preclude access to or loss of important mineral resources. In addition, the level of grading and excavation that is anticipated for cultivation and any supporting structures or access roads would be limited in depth (i.e., not likely in excess of a depth of 5 feet) such that grading would not be likely to result in the substantial loss of or access to mineral resources.
- 03-12 Statements made with respect to increased demand for public services in the DEIR were based on interviews with the County Sheriff's Department, who are experts on the need for expanded Sheriff's service and which constitutes evidence under CEQA. Currently, with implementation of the Urgency Ordinance, the Sheriff's Department has been able to increase its staffing to specifically address cannabis-related requests for service. This also constitutes evidence with respect to and corroborates the conclusions of the DEIR. Moreover, the focus of CEQA is on physical effects; there is no evidence that the ordinance would result in the need to construct or expanded public service facilities, the construction of which could result in new environmental impacts.
- 03-13 Refer to Response to Comment 03-8 and Master Response 1.
- 03-14 Contrary to statements made in this comment, the DEIR is consistent and stable in its description of the proposed project as the draft cultivation ordinance that was prepared in 2016 and for which the Planning Department was directed to evaluate pursuant to CEQA. The DEIR does acknowledge and evaluate a ban ordinance, as drafted by County staff in April 2017, as an alternative to the proposed ordinance.
- 03-15 The DEIR and the Final EIR evaluate the potential physical environmental impacts of the draft regulatory ordinance that was prepared in April 2016 and is available on the County's website for download. As shown in the draft regulatory ordinance on the County's website, Chapter 17.95 would be added to the County Code and is titled "Medical Cannabis Cultivation and Commerce," which corresponds directly to the title of the DEIR. The draft regulatory ordinance is summarized in Chapter 2 of the DEIR, and sufficient information is included to understand the nature of the ordinance and its potential effects. While the titling of the ordinance may vary between the DEIR and the County website, the titles between the DEIR and the website are sufficiently similar to allow the commenter to locate it on the website, as was done. Of note, the County's website has recently been updated and the proposed ordinance (i.e., draft regulatory ordinance) is more readily accessible at <http://cannabis.calaverasgov.us/>. No changes to the EIR are necessary as a result of this comment.
- 03-16 As noted in this comment, the DEIR did not include statements regarding minimum parcel sizes within Chapter 2, "Project Description" because the draft ordinance did not set minimum parcel sizes. A project description in an EIR is required to set forth the project as proposed. Because minimum parcel sizes are not included in the ordinance, they are also not included in the project description. It should be noted that the setback requirements established in the draft ordinance would preclude certain parcels identified as allowable for cannabis-related activities (see Tables 2-2, 2-3, and 2-4 on pages 2-8, 2-10, and 2-12 of the DEIR, respectively) from being used. Further, the draft ordinance requires that the total canopy area (limited to no more than one-half acre) not occupy more than 25% of the parcel's total square footage. Carried forward, that would preclude applicants from developing a half-acre cultivation site on parcels less than two acres. Additional clarification

within the DEIR is not considered necessary for the purposes of evaluating the potential physical environmental impacts of the proposed ordinance. The full ordinance is available for review on the County's website, as the commenter is aware (see Comment 03-15) and need not be included in its entirety in the EIR.

- 03-17 The comment presents the commenter's opinion that the DEIR is inadequate because it did not include the same conditions from the Urgency Ordinance into the proposed ordinance (proposed project). The DEIR is required to evaluate the project as proposed, which is the draft ordinance approved for evaluation in April 2016, prior to adoption of the Urgency Ordinance in May 2016.
- It is acknowledged that the draft ordinance and EIR does not include a minimum parcel size requirement; however, the DEIR does include mitigation in the form of an amendment to the draft ordinance that would increase the setback requirement established in the proposed ordinance to 75 feet, which would be consistent with the Urgency Ordinance. This condition was deemed necessary to reduce potential odors perceived at adjacent parcels and off property.
- 03-18 The comment's concurrence with the mitigation measure identified within Impact 3.1-1 of the DEIR is noted.
- 03-19 The uses/public lands identified in this comment are not currently designated scenic resources by the County. As such, parcels wishing to initiate cannabis-related operations within 1,000 feet would not be subject to the requirements of Mitigation Measure 3.1-1 unless, consistent with Mitigation Measure 3.1-1, the County deems such uses/public lands to be scenic resources at a later date, consistent with General Plan policies and implementation programs. Any cannabis-related activities within parcels near the uses/public lands identified within this comment would still be subject to parcel setback and screening requirements established in the proposed ordinance. Language within the draft ordinance, which was specifically considered during preparation of the aesthetics analysis of the DEIR, would require each application to discuss and demonstrate how the proposed cannabis-related operation would be fenced and screened from view from public roads, public lands and properties/parcels containing a sensitive use.
- 03-20 The comment presents several examples of cannabis operations that may have applied for permits under the Urgency Ordinance as examples of changes in visual character that would occur with implementation of the proposed ordinance. Changes in visual character are the inevitable result of any development, whether it is rural or commercial in character. Calaveras County generally is characterized as rural, with a combination of commercial agriculture and open space. The cannabis operations already in existence, as noted in the DEIR on page 3.1-7 and in photos presented in this comment, are not visually inconsistent with other uses, including commercial agricultural operations, elsewhere within the County. Of note, the final photo presented in this comment is considered to be consistent with the older structures (presumably agricultural) located in the background, which are also metallic in nature. The draft ordinance is intended to address the aesthetics of both prior (permitted under the urgency ordinance) and newly permitted cannabis operations. With implementation of the draft ordinance, the County would conduct a ministerial review of each application as it is received to ensure compliance with the draft ordinance. Further, the owner of each property would be required to maintain on-site structures, including building exteriors, in accordance with County Code and thereby International Property Maintenance Code (refer to County Code Section 15.04.050 for further clarification). As noted in Response 03-19, each application would be required to discuss and demonstrate how the proposed cannabis-related operation would be fenced and screened from view from public roads, public lands and properties and parcels containing a sensitive use. This does not imply that there will be no change in the visual quality of the area, but rather that development of new

cannabis operations will reflect a visual character similar to the existing character of agricultural operations.

03-21 The suggested mitigation measures are noted, but not considered to be required to reduce a potentially significant impact related to implementation of the proposed ordinance. With respect to the first measure, the suggested measure would require enclosures to be painted or made of materials existing earth tones. However, this requirement is not made of other uses within the County, including agricultural-related structures and other accessory structures (i.e., storage sheds), within County jurisdiction. Further, any uses permitted under the proposed ordinance would also be subject to Section 8.06.060 of County Code, which prohibits any owner, occupant, tenant, operator, or other person to cause or maintain a public nuisance on any premises. As shown in the photos provided in this comment letter, the enclosures exhibit visual characteristics similar to other uses, including existing agricultural operations, within the County. As such, inclusion of mitigation within the context of CEQA is not considered necessary or appropriate in light of existing visual conditions within the County at the time the NOP was issued.

With respect to the inclusion of a vegetative screening requirement, the proposed ordinance does not preclude the use of vegetative screening. Several cannabis-related operations within the County, because of their individual setback from property lines and intervening vegetation, rely solely on vegetative screening instead of constructed fencing for preventing public views of cannabis cultivation. Inclusion of this measure as mitigation is not necessary to reduce a potentially significant impact to aesthetics.

The suggested measure is not inconsistent with the Alternative Analysis, as provided in Chapter 6, "Alternatives" of the DEIR and amended through the FEIR. However, similar to the previous measures provided in this comment, the additional setback requirement is not considered necessary within the context of CEQA for the reduction of potentially significant aesthetics impacts.

However, the County will consider the suggested measures provided in this comment prior to consideration of the draft ordinance for finalization and may consider inclusion as part of the final ordinance, irrespective of the analysis of visual resources impacts under CEQA.

03-22 The comment identifies a concern regarding enforcement of Mitigation Measure 3.1-3. During review of applications received pursuant to the draft ordinance, County staff would take into consideration any proposed lighting plans for cannabis-related activities. Upon initiation of operation, it is anticipated that any non-compliant operations would either be identified by County inspectors or through confidential (i.e., anonymous) violation reports from residents, similar to the existing noise and odor complaint process within the County. Also, see Response to Comment O2-10 regarding compliance with mitigation measures and ordinance requirements.

03-23 The suggested clarifications to Mitigation Measure 3.1-3 are noted. Mitigation Measure 3.1-3 has been modified to include information from this comment and to clarify that lighting should be angled down and away from nearby property lines. Refer to Chapter 4, "Revisions to the DEIR" for further clarification.

03-24 The comment includes a reference to Impact 3.3-3 pertaining to impacts to sensitive natural communities. The DEIR evaluates the issues addressed in this comment, the potential GHG impacts associated with vegetation removal and soil disturbance, within Impact 3.2-3 and determines impacts would be mitigable through implementation of Mitigation Measure 3.2-3. As a result, Impact 3.2-3, as shown on page 3.2-21 of the DEIR, was determined to be less than significant with mitigation, not significant and unavoidable. Further, compliance with the discharge specifications of CVRWQCB General Order R5-2015-0113 requires all cannabis

cultivators to comply with the CVRWQCB's best management practices (BMP) manual. The sixth condition of the grading and excavation subsection of the BMP manual requires all areas that have been disturbed by grading, excavation, and/or road construction activities to be seeded, mulched, and/or rocked to prevent continued exposure of bare soils, consistent with the request made in this comment. All sites seeking permits under the proposed ordinance would be required to comply with this condition of the BMP manual, and inclusion of mitigation within the context of the DEIR is not necessary.

- 03-25 As noted on page 3.2-15 of the DEIR, "any increase in GHG emission resulting from implementation of the proposed ordinance would be considered a cumulatively considerable contribution to climate change..." The DEIR establishes a threshold of no increases in GHG emissions. The EIR estimated emissions associated with operations and requires they are fully offset. Calculations of existing countywide emissions are not considered necessary to determine impact significance as this is a cumulative, global issue. Further and using outdoor cultivation sites as an example, Mitigation Measure 3.2-3 would require an applicant to either provide documentation of a reduction of 17.9 MT CO<sub>2</sub>e for construction emissions and 5.9 MT CO<sub>2</sub>e for operation or provide an estimate prepared by a qualified professional of the projected emissions for their specific operation to the County, as well as documentation of a corresponding reduction of those operation-specific emissions for their respective application. The applicant would be responsible for demonstration of compliance to the County. Demonstration would be via either submission of an emissions evaluation specific to that application, with documentation of GHG reduction measures/credits consistent with the site-specific study, or submission of documentation of reduction measures/credits consistent with the emission levels identified in Mitigation Measure 3.2-3. The County staff is qualified to review documentation provided by the applicant that clearly documents how GHG emissions were reduced is considered feasible. Fees associated with applications and operations would be sufficient to ensure the County is adequately staffed.
- 03-26 The comment expresses concern regarding the financial feasibility of implementing Mitigation Measures 3.2-2 and 3.2-3 for applicants under the proposed ordinance. With respect to GHG credits, if one were to assume that an applicant would purchase only credits for construction and operation of their respective outdoor cultivation site and that credits for construction and operational emissions would both be purchased in Year One of operation and operational emissions thereafter, that would require a financial investment of \$333.20 (\$14 per credit multiplied by 17.9 credits for construction and 5.9 credits for operation) in Year One and \$118.00 in subsequent years for continued operation (assuming that the cost of GHG emissions credits remain stable in year one but could increase to \$20 per credit in subsequent years.) With respect to implementation of Mitigation Measure 3.2-2, the cost of obtaining most equipment as electric instead of gas-powered would require some initial investment, however, the cost of electric equipment is generally commensurate with gas-powered equipment. Some larger equipment (if purchased new), including electric utility vehicles like those produced by John Deere and Textron, can cost up to \$15,000 compared to similar gas-powered equipment that may cost up to \$10,000. However, this increase is not considered infeasible or prohibitive and could be feasibly implemented by each applicant with minimal monitoring requirements by the County. All commercial operations—cannabis-related or otherwise—require capital, which is either financed or purchased outright. If an operator cannot afford the equipment needed to comply with the ordinance and its mitigation, he or she would not be permitted to operate.
- 03-27 The comment expresses concern regarding the need for enforcement of Mitigation Measures 3.2-4a through 3.2-4c. Similar to the response provided to Comment 03-22, it is anticipated that any non-compliant operations would either be identified by County inspectors or through confidential (i.e., anonymous) violation reports from residents, similar to the existing noise and odor complaint process within the County.

- 03-28 Demonstrated compliance with and acquisition of a Notice of Applicability (NOA) from the CVRWQCB would be required as part of any application submitted to the County under the proposed ordinance. In other words, the County would not issue a permit until the NOA has been issued. As a result, impacts resulting from the proposed ordinance would not occur prior to issuance of an NOA. Rather than deferral of mitigation, this process ensures all operations are properly mitigated in a timely manner.
- 03-29 The comment reflects the commenter's opinion regarding the ability of the CVRWQCB to process applications and enforce requirements established in General Order R5-2015-0113. Similar to any development project, the responsibility for implementation of mitigation and conformance to design specifications during construction typically falls to the applicant. The availability of CVRWQCB staff to inspect each site does not preclude an applicant's need to appropriately construct and operate, including implementation of mitigation, any proposed cannabis-related operation. Further, as noted in the proposed ordinance, inspection by County staff would also occur and would supplement/support any inspections conducted by CVRWQCB staff. Implementation of the proposed ordinance would include the collection of inspection fees that could be used for the provision of additional qualified staff to inspect cultivation-related operations should the need for additional staffing to appropriately inspect, monitor, oversee, and enforce requirements/conditions associated with cannabis-related operations.
- 03-30 Documentation of illegal grows has shown a propensity to use highly toxic pesticides in a manner harmful to the environment. See Response to Comment 01-13. However, the proposed ordinance, as well as California regulations, would not permit this type of pesticide use. Comparison of the various chemicals used during cannabis cultivation and processing to other agricultural operations is not considered germane to the analysis of the proposed ordinance nor is it required by CEQA. An EIR must focus its analysis on the potential physical environmental impacts of a proposed project, which in this case is the proposed cultivation ordinance.
- 03-31 Refer to Response 03-28 regarding the requirement that merely filing an NOI application is not sufficient to demonstrate compliance with mitigation and permit a cannabis operation; the NOA must be issued first.
- 03-32 The comment regarding support for implementation of Mitigation Measure 3.5-3 is noted. Mitigation Measure 3.5-3 would require applicants using groundwater to submit well monitoring reports to the County on an annual basis and if a continuous decline is noted, arrange for an alternative water source. Compliance with this measure would include provision of documentation both of well depth information and information regarding the alternative water source. Further, well monitoring reports would still be required for any well site(s) that is being temporarily put out of service. As noted in Response 03-29, the County would inspect each cultivation-related operation annually, at a minimum, during which compliance with discontinued well use would be monitored/enforced.
- 03-33 Refer to Response 03-16 regarding parcel sizes; see Mitigation Measure 3.2-4c from the DEIR regarding an increase in the setback requirement of the proposed ordinance. This increased setback requirement would be consistent with the Urgency Ordinance. With implementation of the aforementioned mitigation measure and assuming a square, one-acre parcel, up to 2,500 sf would be available for cannabis cultivation, less than the 10,000 sf identified in this comment.
- As noted in Response 03-29, the County would collect additional fees that could be used to increase resources/staffing for the processing, inspection, and enforcement of conditions specific to cannabis-related operations allowed under the proposed ordinance.

- 03-34 The comment expresses concern regarding potential loss of neighborhood character and division of an established community. The proposed ordinance would not involve a change in use such that residential uses would not be located at a cannabis-related operation. The proposed ordinance specifically requires that each parcel maintain a residence. The decision of a particular property owner to rent or otherwise maintain the residence is considered outside the County's purview and not a CEQA issue to be evaluated. The DEIR is required (by CEQA) and does evaluate the potential physical environmental impacts of the proposed ordinance. With respect to the provision of armed security, Mitigation Measure 3.1-1 has been amended to prevent the provision of armed guards within the setback distances established in the proposed ordinance. As amended, the social impacts identified in this comment have been appropriately evaluated in the DEIR within the context of CEQA as required by State CEQA Guidelines section 15131.
- 03-35 The comment expresses the opinion of the commenter that cannabis-related activities with up to 15 employees for approximately 4 weeks during harvest is not to be considered a "Rural Home Business" as allowed by the Rancho Calaveras Special Plan. Agricultural operations, which exhibit similar operational characteristics to commercial cannabis operations, are considered to be closer in type and intensity to potential cannabis-related operations under the ordinance than a Rural Home Business and are a permitted use. As noted in Chapter 1, "Introduction" with respect to hazards, Impact 3.7-2 regarding traffic noise, Impacts 3.2-1 and 3.2-2 with respect to dust, and Impact 3.1-2 with respect to changes in physical appearance, implementation of the proposed ordinance would not result in significant environmental impacts such that a potential conflict with or endangerment to the surrounding residential area would occur. As a result, the proposed ordinance would not represent a conflict with a plan or policy adopted for the purpose of avoiding or mitigating a significant effect. Further, the County would conduct a ministerial review of each application against existing County plans and code to ensure that it conforms with County requirements as part of the application process.
- 03-36 The comment expresses opinion that potential cannabis-related operations would be in conflict with residential uses, citing information provided in the General Plan with respect to Section 6.0, "Businesses in the Home." However, the operational characteristics of cannabis-related sites within the County would not be dissimilar to agricultural and processing and manufacturing uses permitted by the Zoning Code under the Rural Residential (RR) and Rural Agriculture (RA) zones. Therefore, consideration of the proposed operations as potential "Businesses in the Home" within the context of the General Plan is not considered appropriate and potential conditional use permits would not be required. With respect to the comment's statement regarding the lack of a permanent resident, should such cannabis-related operations be identified, they would be considered in violation of the proposed ordinance (refer to Section 17.95.210(L), for example) and subject to Article 4 (Enforcement, Penalties, Fees, & Legal Provisions) of the proposed ordinance. As a result, potential conflicts with GP Policy II-21A would not occur.
- 03-37 The comment expresses concern with respect to Zoning Amendments that may be allowed to allow cannabis operations under the proposed ordinance. The proposed ordinance, with respect to commercial and personal/caregiver cultivation activities, does not also permit zoning amendments. Zoning amendments are discretionary actions that would need to be considered under their own merits; this is independent of the proposed ordinance.
- The comment from Caltrans cited in this comment was interpreted as referring to manufacturing, testing, distribution, and transport facilities. As stated on page 2-13 of the DEIR, this would require project-specific CEQA documentation and separate discretionary consideration if they do not occur within existing facilities on acceptably zoned properties.

- 03-38 The mitigation measures identified by the commenter are noted but not considered necessary for the purposes of reducing a potentially significant impact of the proposed ordinance, as noted in Responses 03-33 through 03-38. It should be noted that the sixth bullet does reference that Mitigation Measure 3.2-4c on page 3.2-22 of the DEIR requires a 75-foot setback, consistent with the Urgency Ordinance.
- 03-39 Mitigation Measure 3.2-2 prohibits portable generators at cannabis-related operations under the proposed ordinance. As a result, consideration of the comment's suggested mitigation measure is not necessary.
- 03-40 The comment reflects the commenter's concern regarding potential transportation noise as a result of cannabis-related operations on local roads. The DEIR acknowledges that traffic along local roadways may increase, however, the increase would not be sufficient to substantially increase traffic noise. Substantial levels of traffic are needed to generate sufficient noise to violate noise standards and an overall doubling of traffic is needed in order for a substantial increase in noise levels to occur. As noted on page 3.7-9, traffic volumes along local and regional roadways are not anticipated to double nor is the proposed ordinance anticipated to result in the use of heavy trucks that could generate elevated noise levels. Inclusion of the suggested mitigation measure is not considered necessary to reduce a potentially significant environmental impact, and no changes to the DEIR are necessary.
- 03-41 The comment refers to the 2016 Regional Transportation Plan (RTP) being prepared by CCOG. The DEIR's relevant discussion relates to the adopted 2016 Regional Transportation Improvement Program, which is separate from the RTP. No further response is necessary.
- 03-42 The comment is noted. This comment, as part of the FEIR, will be provided to the Board of Supervisors during their consideration of the EIR for certification, consistent with the comment's request.
- 03-43 The comment expresses opinion regarding the relative adequacy of the County's RIM fee program and is noted. No further response is necessary.
- 03-44 As shown on page 3.9-18 of the DEIR, impacts with respect to roadways, including local roadways was determined to be significant and unavoidable. However, each applicant under the proposed ordinance would be required to contribute to the County's RIM fee program, of which funds could be used to improve capacity of existing local roadways and reduce area-specific impacts to less-than-significant levels.
- 03-45 The DEIR acknowledges on page 3.9-9 that the two mobility plans identified on the aforementioned page have not been adopted, consistent with this comment's request. Revision of the text of the DEIR is not considered necessary. The comment also expresses personal opinion regarding roadway conditions within the County and the need for roadway improvements. No further response is necessary.
- 03-46 Refer to Master Response 2 regarding a range of reasonable alternatives to the ordinance.
- 03-47 The comment is expressed the commenter's opinion regarding the proposed ordinance and the feasible mitigation measures identified in the DEIR and is noted. The DEIR evaluates the potential physical environmental impacts of the proposed ordinance and provides reasonable and feasible mitigation to reduce the impacts associated with its implementation. No further response is necessary.
- 03-48 Without adoption of the proposed ordinance, cannabis-related activities, with the exception of medical cannabis dispensaries and what is guaranteed through passage of Prop 64, would not be considered a permissible use by the County. Under this alternative, the Urgency

- Ordinance would sunset and the County would not consider any applications related to cannabis cultivation, processing, manufacture, or transport. It is acknowledged that unregulated, illegal cannabis grows may continue, however the extent to which such grows may continue, increase, or decrease is not known. Also refer to Response O1-6.
- 03-49 Refer to Response O1-6 regarding the potential continued proliferation of illegal grows, absent an ordinance.
- 03-50 As noted in Response O1-6, the extent to which illegal cannabis activities would continue under Alternative 2 or the proposed ordinance is considered speculative. As part of the analysis of Alternative 2 and as stated on page 6-6, the DEIR does acknowledge the potential for loss of funding for monitoring and control of illegal activities. Funding determinations would be made as part of the annual budgeting process by the County and could be adjusted to address a particular need, including policing of illegal cannabis-related activities. This information is considered speculative, not reasonably foreseeable, and outside the scope of the EIR. However, this request, as part of the FEIR, will be provided to the Board of Supervisors for consideration.
- 03-51 Refer to Response O1-6 and Master Response 2. Of note, there is a specific requirement within the draft ban ordinance for any cultivation sites permitted under the Urgency Ordinance to restore their property. The DEIR acknowledges that compliance with this requirement may not occur in all cases. For this reason, the DEIR's analysis of Alternative 2 includes several statements regarding what would happen with partial compliance with the draft ban ordinance.
- 03-52 Refer to Response O3-15. The draft ban ordinance is available for public review on the County's website.
- 03-53 Contrary to assertions made in this comment, the assumed 25% reduction in commercial cannabis operations assumed in the DEIR for Alternative 3 was based on the percentage of applications received under the Urgency Ordinance that fell within an RR zone. This information was based on County records related to the Urgency Ordinance as of February 7, 2017. The assumptions made regarding this alternative and its potential reduction in countywide commercial cannabis operations are considered valid, appropriate, and in accordance with CEQA requirements.
- 03-54 Refer to Master Response 2 for a description of how alternatives were determined within the context of the DEIR. The extent to which the County can appropriately "handle" permitting under the proposed ordinance is dependent on staffing, which is tied to funding. With additional cannabis-related operations permitted under the proposed ordinance, the County would realize additional funding through permitting and inspection fees, as well as tax revenue. Therefore, the establishment of a bright-line threshold for an absolute number of permits is not considered appropriate within the context of the DEIR, as none is established in the proposed ordinance. The DEIR does provide a reasonable estimate of the number of cannabis-related operations that could occur within the County as a result of implementation of the proposed ordinance, as well as a reasonable range of feasible alternatives that could reduce the significant impacts of the project.
- 03-55 The environmental effects associated with implementation of the proposed ordinance and alternatives have been analyzed in the DEIR. A range of alternatives is presented in Chapter 6, "Alternatives" of the DEIR, pursuant to Section 15126.6 of the State CEQA Guidelines. As stated in the Draft EIR, page 6-1, "Section 15126.6(a) of the State CEQA Guidelines requires analysis of a range of reasonable alternatives to the project, or to the project's location, that would feasibly attain most of the project's basic objectives, but would avoid or substantially lessen any of its significant effects."

Impacts of three different alternatives to the proposed ordinance are evaluated in the DEIR. The analysis identifies the potentially significant impacts that would still occur in each alternative, even with application of the mitigation measures for the proposed ordinance.

Similar to Alternative 3 in the DEIR, the alternative presented in this comment would reduce the number of parcels available for cannabis-related activities. The elements of the alternative suggested in this comment that would be different from Alternative 3 would be related to setbacks and restricting such activities to larger parcels. Because this alternative raises some important differences compared to Alternative 3 and its impacts, on the surface, may be different, a new alternative that reflects the issues raised in the comment has been added to this EIR, as Alternative 4. It has been added to Master Response 2 regarding Alternatives and is included in Chapter 3, "Revisions to the DEIR."

- 03-56 Alternative 5, as proposed in this comment, is noted but not considered necessary for the purposes of presenting a reasonable range of alternatives within the EIR because it is substantially similar to the Alternative 4 evaluated above and falls within the envelope of alternatives already analyzed in the Draft EIR. Refer to Master Response 2. However, the suggested alternative will be provided to the Board of Supervisors for their consideration as part of the FEIR.
- 03-57 The comment expresses opinion that the DEIR does not include footnotes or citations. Contrary to assertions made in this comment, the DEIR, where appropriate, provides parenthetical citations (not footnotes) to support impact analysis and conclusions made.
- 03-58 Refer to Response 03-53.
- 03-59 The table (Table 6-1) presented in Section 6.4 of the DEIR uses greater-than, less-than, and equal-to symbols to summarize and compare the impacts of the three alternatives to the proposed ordinance, as described and analyzed in detail in Section 6. While the symbols for Alternatives 2 and 3 within Table 6-1 are the same, the analysis contained prior to that and within Section 6.5 provide the comparison requested in this comment in accordance with CEQA requirements. Inclusion of additional data, references, and analysis is not considered necessary or appropriate.
- 03-60 The comment requests additional specificity regarding the identification of the environmentally superior alternative on page 6-12 of the DEIR. By virtue of prohibiting cannabis-related activities within the County under Alternative 2, no impacts with respect to ground disturbance or the growing, harvesting, processing, manufacturing, or transport of cannabis would occur (assuming full compliance) compared to Alternative 3, which would allow some cannabis-related operations although within a lesser area than the proposed ordinance. The reasoning and justification for selection of the environmentally superior alternative within the DEIR are considered appropriate and valid for a programmatic evaluation of the proposed ordinance pursuant to CEQA.

Letter  
04

**From:** Calaveras Residents  
**To:** Peter Maurer  
**Cc:** Michael C. Oliveira; Dennis Mills; Gary Tofanelli; Clyde Clapp; Jack Garamendi; Diane Severud; Annette Silva  
**Subject:** EIR Comments  
**Date:** Wednesday, June 14, 2017 3:16:52 PM

Please distribute to all Planning Commissioners, as well.

**Calaveras Residents Against Commercial Marijuana**

June 14, 2017

**To:** Peter Maurer, Calaveras County Planning Department  
cc: Calaveras County Planning Commissioners, Calaveras County Board of Supervisors

**From:** Calaveras Residents Against Commercial Marijuana (CRACM)  
Submitted by: Susan Morse and Vicky Reinke  
Email: CalaverasResidentsACM@gmail.com

**Re:** CRACM Comments to Calaveras County Draft Environmental Impact Report – May 2017

The CRACM Committee hereby submits the following comments concerning the EIR referenced above:

- Given that the current Board of Supervisors re-directed staff away from a regulatory ordinance and to prepare a ban ordinance, CRACM questions whether an EIR was even required from that point forward. [CRACM suggests loss of time and money could have been avoided had the EIR effort been stopped then.]
- However, given that the EIR effort was extended and a draft EIR prepared, it is important to note that of three alternatives considered by the independent consultants, a **ban on marijuana cultivation was found to be the “environmentally superior” alternative.**

04-1  
04-2

In conclusion, CRACM recommends and Calaveras County residents demand\* the Board move forward with ban ordinance Chapter 17.95 with all due dispatch.

\* That a demand for a marijuana ban is called for by the residents of Calaveras County is supported by, among other things, the facts that (1) on two separate occasions they, in the first case, over 3500 signatures were collected and, in the second case, over 5200 petitions were signed calling for ballot measures supporting a full ban, (2) voted against and defeated Calaveras County Measure D, a regulatory ordinance, and (3) voted against state Prop. 64, statewide recreational marijuana use.

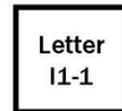
Calaveras Residents Against Commercial Marijuana  
P.O. Box 785  
Altaville, CA 95221

Facebook Page:

<https://www.facebook.com/Calaveras-Residents-Against-Commercial-Marijuana-700835196731816/>

<b>Letter 04</b>	<b>Calaveras Residents Against Commercial Marijuana</b> Susan Morse and Vicky Reinke 6/14/2017
----------------------	--

- 04-1      The comment questions whether an EIR was required once the Board of Supervisors directed staff to prepare a ban ordinance. CEQA requires that public agencies consider the potentially significant adverse environmental effects of projects over which they have discretionary approval authority before taking action on those projects (PRC Section 21000 et seq.). As ordinances are inherently a discretionary action, they are subject to CEQA. While an ordinance banning an activity is focused on prohibiting certain activities, it is nonetheless a discretionary action subject to CEQA. This determination and the preparation of this EIR, however, does not preclude the County from finding that any action it takes is not subject to CEQA.
- 04-2      The comment notes that the cultivation ban alternative was determined to be the environmentally superior alternative in the Draft EIR. The comment also recommends that the Board of Supervisors move forward with a ban ordinance. This is a project design preference, and does not address the contents or adequacy of the Draft EIR. This comment is noted and has been forwarded to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.



**From:** [Planning Web Account](#)  
**To:** [Peter Maurer](#)  
**Subject:** FW: EIR comments  
**Date:** Wednesday, June 14, 2017 4:03:01 PM

---

**From:** NFC Inc [<mailto:nfcfarms@gmail.com>]  
**Sent:** Wednesday, June 14, 2017 3:53 PM  
**To:** Planning Web Account  
**Subject:** EIR comments

Hello,

I have been trying to review the EIR and have been making slow progress, but in light of the deadline today I wanted to submit a couple of quick comments. I apologize for the informality or lack of technical expertise, this is a bit outside my purview.

|  
|  
| I1-1  
|

First of all cannabis isn't necessarily a "water intensive" plant. With proper mulching and careful monitoring of weather conditions cannabis requires less water than my mom's vegetables and considerably less than my neighbor's flower garden.

Secondly, there are a lot of assumptions about farm management, site construction and harvest activities that are wildly inaccurate - at least for our farm. We are a 22K sq ft farm that is run entirely by us - the husband and wife team that live on site in our home. We didn't remove any vegetation or construct new structures (aside from the county-required fence) on our site, in fact we have added/encouraged growth of native vegetation since we began cultivating cannabis here. We have **no** employees unless you count our two family members that visited from out of the area last year, stayed for a week in our own home and helped out on the farm (though that was not the purpose of their visit). We are significantly mechanized/automated and work hard at maximizing our efficiency. We also don't use any off-road equipment during harvest, just our own legs and arms!

|  
|  
| I1-2  
|

I have more comments about what I have been reading in this document but I know the deadline is now and I have not had enough time to read this EIR thoroughly, so I don't want to submit comments on something I only halfway understand.

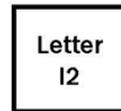
Thanks for your time and dedication to this process, we all really appreciate it.

Aimee - resident of RRF, Calaveras County  
209-791-0244

## 2.7 INDIVIDUALS

<b>Letter I1</b>	<b>Aimee</b> 6/14/2017
----------------------	---------------------------

- I1-1 The comment disagrees with the characterization of cannabis as a water intensive plant. The analysis in Impact 3.5-3 of the DEIR notes that water demand for cannabis plants varies considerably, and that there is no well-established estimate of water consumption. Thus, the analysis relies on estimates received from Kevin Wright, Agricultural Commissioner for Calaveras County, as well as information collected by the Planning Department during preparation of the DEIR. The intensity of water use for cannabis cultivation is considered variable depending on the techniques employed by specific operations. The comment does not provide additional information or estimates to support its disagreement with the characterization of cannabis as a water intensive plant.
- I1-2 The comment notes that many of the assumptions used in the DEIR regarding farm management, site construction, and harvest activities are inaccurate as compared with the commenter's farm. While the comment provides details regarding the practices of the commenter's farm, the DEIR analyzed practices typical of the commercial cultivation industry as supported by the material cited in the DEIR.



**From:** Anthony Applewhite  
**To:** Peter Maurer  
**Cc:** Gary Tofanelli; Jack Garamendi; Michael C. Oliveira; Dennis Mills; Clyde Clapp  
**Subject:** Comments on Draft EIR on Medical Cannabis Cultivation and Commerce Ordinance Project  
**Date:** Monday, May 08, 2017 9:28:52 PM

Submitted by:  
Anthony Applewhite  
650-743-3151  
[azapplewhite@mac.com](mailto:azapplewhite@mac.com)

Dear Mr. Maurer, the Draft EIR, while quite extensive, has some shortcomings that I would like to bring your and the Board of Supervisors attention. I hope the can be addressed prior to completion of the final report. These issues are summarized as follows:

**Impact 3.1-2: Substantially degrade the existing visual character or quality of the project area.** The assessment that this impact is “Less than significant” before mitigation is questionable. The statement “Cannabis grows permitted under the proposed ordinance would generally conform to existing land uses - commercial mixed light and outdoor use would occur in rural areas,...” either overlooks, or ignores, commercial cultivation taking places in communities with Rural Residential-5 Zoning. These are residential areas that are dramatically impacted. In fact, county regulations mandate that the visual character be degraded. Commercial cultivators in our residential neighborhood are REQUIRED to submit: "a security plan describing how the cultivation area would be secured against access by trespassers, including a description of all fencing, screening, gating, locks, lighting, cameras, and alarms” How can this not be considered a SIGNIFICANT impact?

12-1

**Impact 3.2-2: Long-term operational emissions.** The assessed impact assumes that emissions are increased just during the harvest season when in fact, mixed light and indoor cultivation sites can be and in fact are located off the grid (off of the electrical grid) and require daily, if not constant electricity. The proposed mitigation step: “refrain from using portable generators” is insufficient to achieve a “Less than significant” efficacy as it allows a loop hole by limiting the application to: “outdoor power equipment” and “portable generators”. While there is no agreed upon definition of “portable generator” a general consensus is that it does not include “generators intended to be pulled by vehicles, and standby or stationary generators that are permanently connected”. As such, an off grid commercial cultivator can avoid this regulation simply by having a stationary generator installed in an enclosure and hardwired. The mitigation measure must be expanded to expressly prohibit the use of any and all fossil fuel powered generators for the cultivation of cannabis for a “Less than Significant” mitigation to be achieved.

12-2

**Impact 3.2-3: Generation of greenhouse gas emissions.** The proposed Mitigation Measure does not take into account the higher emissions associated with indoor cultivation on off-grid (off the electrical grid) sites. If the loop hole described above in impact 3.2-2 is not closed, and electricity production with fossil fuel powered generators is allowed, the greenhouse gas impact is massive. Indoor grow lights require as much as 1kW per plant requiring in excess of 150 kW of constant electrical consumption and massive commercial generators are required for off grid sites. These generators run exclusively on fossil fuel and could be required to run 24/7/365. The amendment of an annual offset of 5.9 metric tons of CO2e/year to the proposed ordinance for mixed light cultivation and 56.5 metric tons of CO2e/year to the proposed

12-3

ordinance for indoor cultivation is insufficient to compensate for the emissions of generators. Restriction of mixed light and indoor cultivation to just those sites that are connected to the vastly cleaner electrical grid should be considered and evaluated as a mitigation measure.

I 12-3  
cont.

**Impact 3.5-3: Groundwater supply impacts.** The proposed mitigation measure appears to address the concern of long-term draw down of groundwater but could benefit from additional clarity and strengthening:

- Wording suggests that those with a un permitted well water supply need not comply. Consider explicitly stating that commercial cultivation shall only use ground water from permitted wells.
- It is stated that “nearby” wells need to be monitored but no definition of “nearby” is provided. Clarify what is meant by “nearby”, is it just wells on adjacent parcels, all wells within a certain radius, a select sample of “nearby” wells as established by the county approved hydrologist, etc. etc.
- Consider explicitly stating that the applicant is responsible for all costs associated with undertaking the well monitoring program.

I 12-4

**Impact 3.6-1: Potential for physical division of an established community.** It is difficult to understand how a “less than Significant” impact” was established. As mentioned previously, the proposed ordinance allows commercial cultivation in Rural *RESIDENTIAL* (RR) Zoned parcels, key word being “residential”. Historically, Calaveras county land use plans have been highly restrictive of commercial activities in RR zoned parcels, an excerpt of the current county code is as follows:

The RR zone is intended to provide lands for personal ranches in which *residential use* is the primary land use. The RR zone is established to permit small-scale farming primarily for personal use and not as the primary use for the property

I 12-5

Even an activity as benign as “incidental agricultural support uses”, while allowed, required the approval and validation of a conditional use permit. We are in fact actively experiencing the gross disruption of our *residential* communities by large scale commercial activities. This disruption includes, but is not limited to; visual blight of what used to be forested lands, constant noise including audible generators running all night, substantially increased traffic, dust generation, substantially increased wear and tear on Private roads. The determination of a “Less than significant” impact to the potential for physical division of an established community from allowing large scale commercial activity, much of it by outside parties hastily moving into a rural residential neighborhood needs to be revisited and justified.

**Impact 3.7-2: Long-term non-transportation operational noise.** The assessment that “the use of mechanized equipment would be temporary and periodic in nature” does not take into account the constant operation of massive generators for mixed light and indoor cultivation sites in off grid locations as described in comments to 3.2-2 and 3.2-3 above. Even if photovoltaic panels are used, they can only provide adequate power during daylight hours when there is a high sun angle. This means they can be running from well before dusk to well after dawn, and of course, all night long. And while the generators may well comply with the county noise ordinance, I am skeptical that it was intended as an acceptable, constant, 24 hour a day noise level. The county requirements (60 dB max in day time, 50 dB max in the evening) merely limit loud noise, these levels are far from silent and completely contradictory to the environment and experience that one seeks and can rightfully expect choosing to live

I 12-6

“rural” zoned parcel. Note that the EIR points out that 50 dB allowed night time noise emission is equivalent “quiet URBAN daytime” or a “Dishwasher in the next room” The reality of the situation is that these generators emit an audible low frequency hum, that while compliant with county regulations, is fully audible by neighbors 100’s and even many 100’s of feet away, depriving neighbors of the peace and tranquility that they and rightfully expect. The EIR impact needs to be revisited given that generator operation for indoor cultivation is neither temporary nor periodic in nature. It strikes me that the only way a “less than significant” evaluation could be fairly arrived at, at least for those operations in a residential area, is to add a mitigation measure that to operation of equipment related to cultivation shall be inaudible between dusk and dawn, when measured at the property line.

12-6  
cont.

**Impact 3.9-2: Long-term increase in traffic.** The impact notes significant impact to state and local roadways but does not consider the impact on private roads nor propose any mitigation measure. Private roads running through subdivisions have traditionally been community maintained and was largely equitable as community members all received the same benefit and all used the road(s) on a similar level. Introduction of large scale commercial activities into the community creates a vast disparity in road usage and associated wear and tear among the community. Mitigation measures need to be established for the impact to private roads in a similar manner as is being done for state and county roads.

12-7

**6.3.2 Ban on Commercial Cannabis Operations Alternative (Alternative 2).** Proposition 64 allows residents of California to cultivate up to six plants at their residence, with no restriction on their placement (either indoors or outdoors). But the proposed ordinance seeks to restrict cultivation to indoors only. Indoor cultivation is energy intensive and will result in substantial increase in the generation of greenhouse gas emissions, even more so in off grid residences within the county that use fossil fuel powered generators for the production of electricity. The impact of increased emissions and noise due to the restriction in the proposed ban needs to be assessed by the EIR and as well as the simple and Mitigation Measure of allowing outdoor cultivation which would likely reduce GHG emissions to “Less than significant”.

12-8

**6.5 Environmentally Superior Alternative.** As stated above, the assessment of the ban (Alternative 2) did not include the impacts associated with forcing cultivation to be indoors only and this is a major omission in the EIR. This is particularly significant as outdoor cultivation has vastly reduced greenhouse gas emissions and as such calls into question the validity of the conclusion of the ban as the “environmentally superior alternative”. The conclusion should be revisited after a more complete impact assessment of the ban alternative is made.

12-9

Thank you for your time and consideration,  
Anthony Applewhite

<b>Letter I2</b>	<b>Anthony Applewhite</b> 5/8/2017
----------------------	---------------------------------------

- I2-1      The comment questions how commercial cultivation could be expected to result in less-than-significant impacts to existing visual character (Impact 3.1-2) when they are required to submit a security plan describing how the cultivation area would be secured against unauthorized access, including a description of fencing, screening, gating, locks, lighting, cameras, and alarms.
- The discussion in Impact 3.1 notes that outdoor, mixed light, and nursery commercial cannabis cultivation activities would be located at least 1,000 feet from any parcel containing sensitive uses and would be set-back a minimum of 75 feet from any property line, with implementation of Mitigation Measure 3.2-4c. The threshold of significance for this impact is whether the project would substantially degrade the existing visual character of the project. Due to setbacks and site restrictions in the proposed ordinance, security features would be located away from viewers from adjacent parcels. Because security features would be subject to the same regulations applicable throughout the county, features would be limited in height and outdoor lighting would be required to be shielded. As a result, the change in visual character is not considered a substantial degradation. Further, cannabis-related activities, including security measures, permitted under the proposed ordinance would be relatively low intensity uses, similar to existing or permitted agricultural activities. For all of these reasons, the DEIR concluded that impacts from the proposed ordinance would not substantially degrade the existing visual character or quality of the area.
- I2-2      The comment requests amendment of Mitigation Measure 3.2-2 as written to ensure that larger generators that consume fossil fuels are not used. Mitigation Measure has been amended in response to this comment. This revision supports and clarifies the intent of the mitigation measure. Refer to Chapter 3, “Revisions to the DEIR” for further clarification.
- I2-3      The comment states that Mitigation Measure 3.2-3 does not account for the higher emissions associated with indoor cultivation for off-grid sites and recommends that mixed light and indoor cultivation should be restricted to sites that are connected to the existing utility grid. Mitigation for Impact 3.2-3 includes implementation of Mitigation Measure 3.2-2, as amended through Response I2-2, consistent with the request made in this comment.
- I2-4      The comment suggests text revisions to strengthen and clarify Mitigation Measure 3.5-3 regarding groundwater monitoring requirements. An unpermitted well water supply is not considered a legal water source, and the proposed ordinance requires either a copy of a permit from the Division of Water Rights or a description of a site’s “legal water source” (see Condition 12 under Section 17.95.200 of the proposed ordinance). Further, the responsibility for implementation of the well-monitoring program, as required by Mitigation Measure 3.5-3, is noted in the aforementioned mitigation measure as being the sole responsibility of the “[a]pplicants.” Further, the qualified well driller, hydrologist, or hydrogeologist approved by the County shall determine, on a case-by-case basis, the extent to which nearby wells need to be monitored, as stated in Mitigation Measure 3.5-3. The suggestions are noted but not considered necessary to reduce the significance of Impact 3.5-3 to less than significant.
- I2-5      The comment disagrees with the conclusion in Impact 3.6-1 that the proposed ordinance would not have a significant impact related to physical division of an established community. The comment states that the ordinance would allow commercial activities to be conducted in close proximity to residential communities. As discussed in Impact 3.6-2, the proposed

ordinance would amend the Calaveras County Code to specify the location, type, and size of commercial cannabis operations so as to minimize impacts to the community. Additionally, the ordinance would require applicants to obtain zoning clearance certificates, administrative use permits, or conditional use permits from the Planning Department for all commercial cannabis activities. These features, along with regulations specifying buffers from sensitive land uses, would restrict commercial cannabis operations to areas where impacts on incompatible land uses would be minimized. Further, the operations would not create a barrier that physically divides a community (an example of such a barrier is a freeway). As such, the DEIR concluded that impacts related to the physical division of an established community would be less than significant.

- I2-6 The comment states that while generator noise may not exceed the County noise limits, the noise from generators deprives neighbors of the peace and tranquility they expect in Calaveras County. The comment is noted, however, the use of generators would not be permissible with implementation of the proposed ordinance, as amended by Mitigation Measure 3.2-2 (see Response I2-3). The DEIR's analysis of noise impacts initially takes into consideration the pre-mitigation condition, which is why Impact 3.7-2 discusses the potential use of generators for cannabis-related activities. Further revision of the DEIR or the proposed ordinance is not considered necessary to address this issue.
- I2-7 The comment notes that Impact 3.9-2 of the DEIR does not consider the impact on private roads. Because private roadways are outside the jurisdiction of Calaveras County, the County does not have the authority to impose mitigation related to the use of private roads. Rather, like a shared driveway, the issue of private roads and their maintenance is a legal matter between private parties and/or the community. Maintenance of private roads is not an environmental issue that is within the purview of the County's EIR. Further, the characterization of potential cannabis-related activities as large-scale commercial activities is considered inappropriate. As noted in the transportation section, a commercial cultivation activity, as evaluated in the DEIR, would result in up to 15 employees travelling in personal occupancy vehicles to a site during the harvest period with an average vehicle ridership of 2. As a result, peak hour traffic and daily traffic during harvest would increase by up to 8 and 15 trips, respectively, which is not considered a large-scale commercial activity.
- I2-8 The comment states that the impact of increased emissions and noise because of restrictions under the ban ordinance alternative need to be analyzed in the EIR. Refer to Master Response 2 for information regarding the analysis of alternatives. The amount of energy required for the cultivation of up to six indoor plants within a residence is considered minimal and within the range of energy usage for residential uses within the County. As a result, no additional impacts are anticipated. Further, the draft ban ordinance (Alternative 2) involves the prohibition of cannabis cultivation to the extent allowed with the passage of Proposition 64. Under Prop 64, the County has no discretion over a resident's decision to cultivate up to 6 plants indoors.
- I2-9 The comment states that Alternative 2 is not the environmentally superior alternative because the analysis did not include consideration of impacts from growing being limited to indoor operations. Refer to Response I2-8 and Master Response 2 for information regarding the selection and analysis of alternatives.



different as well as the surrounding topography.

Please consider other alternatives and compromises to allow RR zoning for cannabis. RR zoning in calaveras currently allows agricultural activity, and cannabis is considered an agricultural product. So it seems like that would be a difficult line to draw in the sand. Another option: Possibly placing a cap on the number of farms allowed to cultivate, or a lottery could take place if there are already too many accepted applications. If the zoning becomes an issue, it may be less of an environmental impact to allow more farms to reasonably apply for a zoning change so not to cause more impact to new areas.

I understand that not everyone will be happy and compromises can be difficult to reach, but look at where the funding will come from.

Needless to say. The tax revenue for this county would be used to help calaveras get back on its feet and allow for enforcement and compliance to keep us all safe and moving forward towards a positive future.

Thank you for your time. Jessica Benson

Sent from my iPad

I 13-2  
cont.

13-3

13-4

<b>Letter I3</b>	<b>Jessica Benson</b> 6/14/2017
----------------------	------------------------------------

- I3-1 The comment states the opinion that the DEIR did not provide a sufficient number of alternatives. Contrary to the comment, the alternatives analysis evaluated more than a ban alternative; it also examined a no project alternative and an alternative that considered prohibiting commercial cannabis in the RR zone. However, a fourth alternative has been prepared to expand the range of alternatives and provide additional information to the decision makers. Refer to Master Response 2 for information regarding the selection, range, and analysis of alternatives and for the supplemental analysis of the fourth alternative.
- I3-2 The comment notes that every cannabis cultivation operation is different in terms of employees, traffic, grading, and water. The DEIR notes on several occasions that statistics regarding cannabis cultivation vary greatly, and the DEIR analysis utilized the best available data. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I3-3 The comment urges the consideration of additional alternatives. Of note, the County specifically denotes that cannabis-related operations are not considered to be an agricultural activity, despite similarities in the type and manner of operation. Further, the EIR, as amended through the FEIR, presents a reasonable range of alternatives. As noted in Master Response 2, the options of restricting cannabis-related operations are limitless, and are all basically variations on a theme already addressed in the EIR. Further, within the context of the programmatic evaluation of physical environmental impacts associated with implementation of the proposed ordinance as presented in the DEIR, the alternatives presented in this comment would not reduce the significant impacts of the project to less than significant. Refer to Master Response 2 for information regarding the selection and analysis of alternatives.
- I3-4 The comment expresses support for the ordinance due, in part, to tax revenue that would be generated for Calaveras County. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter  
I4

**From:** [mark bolger](#)  
**To:** [Peter Maurer](#)  
**Subject:** Fw: DEIR  
**Date:** Wednesday, June 14, 2017 3:01:14 PM

Peter,

Sorry for the jumbled thoughts... I tried to make this as coherent as possible. I hope all is well.

Mark

Sent from Yahoo Mail on Android

On Wed, Jun 14, 2017 at 2:54 PM, Mark Bolger  
<[mbolger2259@gmail.com](mailto:mbolger2259@gmail.com)> wrote:

### Rimrock Farms Inc. Draft EIR Comments

ATTN: Peter Maurer, Planning Director and Ascent Environmental

Thank you for taking the time to consider my comments on this matter. As, you well know, Ascent Environmental was able to tour my farm in the summer of 2016 in the hopes of witnessing a commercial cannabis farm in action, as well as to gain a better understanding into the site development and day to day operations. Follow up conversations also occurred in the late fall and early winter in regards to water usage, pesticide and fungicide application, and employment data. I must say the Draft EIR recommendations seems to deviate significantly from the conversations we had throughout the process, specifically the impacts of an operation on the environment. I remember vividly being told that grading was the only significant issue that was observed and that requiring grading permits and the accompanying BMPs would greatly reduce any negative impacts.

I4-1

I understand that new information may have come to light after our conversations, but I am severely dismayed that information I provided may have been misinterpreted or not understood, leading to false assumptions in the Draft EIR. I sincerely apologize if any answers I gave led to any confusion in regards to the operations on a commercial cannabis farm. If after this comment period ends, or if the county does pursue a regulatory scheme in the future, I will make myself available to clarify or elaborate on any data.

I will say that I think the inability of Ascent Environmental to make a site visit during October, which was offered as a follow up to our mid-summer tour, seriously discredits any comments/assumptions regarding the odor issues associated with a cannabis operation. I understand that work schedules don't always allow for constant field trips but I feel the inability to witness an operation during harvest greatly reduced the ability to make suggestions regarding odor mitigation, or rather the inability to do so.

I4-2

**Assumption of 15 Workers per Farm:**

As an operator with the largest allowable area, and one the more highly productive farms in the county, this estimate seems high. Last year I had 5 full time employees including myself. One of them did the work remotely out of county. I had 6 contract workers who worked specifically on the cannabis operation and were only there for a roughly 10 week period on and off. Several of these contract laborers have other jobs and spent a very minimal amount of time on site. There may have been all persons on site together only several days throughout harvest, the rest of the time we would only have between 6 and 9 people.

14-3

With the advent of mechanical trimmers, widely used throughout the industry and ubiquitous on any large commercial site, staffing numbers are drastically reduced. An assumption of 15 employees per operation, is quite high in my opinion.

**Travel During Peak Hours:**

My crew starts at 7 am throughout the year, meaning they are driving at 6am to 7am. We work 8 hour days so they leave the farm at 3pm. Several of my employees live close by, several live within county 20/30 minutes away. All my contractor workers live within county save for 1 gentleman that lives in Stockton. During harvest, when my contractors would be on site, the gentleman from Stockton would leave his house at 5am to be on site at 630/7 am. Often during harvest we are working 12 to 14 hour days so folks would not be leaving till between 6 and 8 o clock, give or take.

14-4

Most sites do not adhere to conventional work day hours. Workers live on site and don't commute or they stay a couple days to work then come back at a later date. Most farms have owner/operators that are many times couples that live on site and would therefore not be commuting at all, this is my personal situation and that of many farmers I know. The assumption that each worker would be driving a vehicle seems unlikely as well, I never had more than 4 vehicles arrive even on the few days where 11 total people were present. As this industry progresses towards conventional AG processes I believe that harvest crews will more closely resemble labor contractor groups that bring buses of workers, much like during the grape and cherry harvests in the Central Valley, this has already started to take hold in this industry.

The Draft EIR states "Impact 3.9-2: Long-term increase in traffic. Upon adding trips associated with the project to existing traffic levels, the project would cause the LOS on nine State highway segments and potentially other local roadways to degrade to unacceptable levels." Has a thorough review of the current status of county maintained roads been performed to establish a baseline of road quality, specifically in District 2 where the majority of cultivation is taking place? Our roads are already obliterated in many areas due to lack of funding or manpower from Public Works. The vast majority of current

damage to our roadways ensued after the Butte Fire and the cleanup crews that followed.

I 14-4  
cont.

**Direction of Traffic:**

Almost 70% of commercial operations are in district 2, where there are almost no other jobs, so theoretically, if people were commuting from out of the area or in lower elevations they would be going against the flow of the rest of commuters that leave the county for the valley/bay area etc. The residents of District 2 that have jobs within county but not in this industry are more than likely driving down to San Andreas, Angels Camp, or Valley Springs, again, the opposite of a cannabis farm worker driving up to District 2.

I 14-5

**Timing of Harvest:**

The Draft EIR does not take into account that many operations will be switching over to light deprivation greenhouse, already fairly common, in which harvest is throughout the year. So instead of a three month solid period in the fall, it would be several week harvests throughout the year. Still probably same amount if work, just not concentrated during those months. I believe that this will be the industry standard under permanent regulations; the only reason it is not currently the most widely used cultivation method is because of the immense amount of capital infrastructure required

I 14-6

**Duration of Harvest:**

Although the total harvest, drying, processing and curing phase may take several months there is significant downtime in between. A large operation may take one to two days to harvest all of the plants of a certain varietal but that is followed by a 6 to 9 day drying period in which the operation is at a standstill. This will be repeated several times throughout the season. This means that assuming full employment of an operation during the two to three month "harvest season" is not correct because of the down time in between where work is carried out by a minimal crew.

I 14-7

**Use of Gas Powered Equipment:**

To break from a professional tone here for a minute.... Come on Guys! This is ridiculous!... I fully understand that the use of generators as a primary power source is unacceptable both from an emissions standpoint as well as a noise nuisance for neighboring parcels. But to recommend no gas powered equipment is taking it too far. The use of ATVs and tractors is absolutely essential to any agricultural operation and can't be replaced by an electric vehicle. Necessary tractor uses include, mixing of soil, transport of soil, removing pallets from trailers, maintaining roadways to prevent erosion and sedimentation, fire safety, mowing, and the list goes on. Gas powered weed eaters are necessary on parts of large properties that do not have power and are much safer than running extension cords in dry grass over long distances. ATVs are essential part of harvesting and transporting materials throughout the season as well as serve to mitigate exhaust from larger vehicles that are necessary on larger parcels to travel from one are to another. Chainsaws are necessary for

I 14-8

property upkeep, fire safety and prevention, and accessing roads in woodland areas where trees or their branches may fall. In short, I understand the need to curtail emissions and not cause auditory nuisances, but this is completely unworkable for any agricultural operation, especially one located in remote areas of the county.

I4-8  
cont.

**Odor:**

I stand by my claim that by not visiting a site in October to experience the smell of a blooming cannabis field discredits any assumptions or accusations about odor impacts being significant and unavoidable. I do agree that there are odors associated with cannabis plants, but taking the stance they can't be mitigated through setbacks or acreage limits is false. Many residents do not find the smell of cannabis objectionable and I would ask Peter Maurer or other county staff that were on a site inspection of my farm in October to please weigh in. Until Ascent Environmental, or any other agent of theirs working on this EIR, visits a cannabis field in full bloom a determination on odor is fabricated.

I4-9

**Area of Cultivation in Acres:**

The DEIR states that 226 acres of cannabis was registered under the Urgency Ordinance. While it admits that many of these farms will be denied, and that there are illicit farms present in the county, it assumes twice the amount of acreage of what was registered. In looking at trends of denials and withdrawals, as well as a ramped up enforcement program for this summer against illicit sites, we will most definitely be looking at a decrease in actual acreage cultivated. This does not take into account the market pressures as well as taxation models, both at a county and state level which will absolutely decrease the number of viable farms and therefore overall acreage.

I4-10

The state draft guidelines for cultivation from CDFA also will limit the number of Class 3 license type, which is anything over 10,000 sq ft. Seeing that the average canopy of a farm is around 15,000 sq. ft.(per Planning Dept), it is safe to assume that some, if not many will have to downsize their operations. This was not accounted for in the EIR.

**Lack of Biological and Cultural Protection:**

Registered, compliant farms were all required to register with the Central Valley Water Quality Control Board under their Cannabis Wastewater Discharge Regulatory Program. This program not only implements an additional layer of regulatory oversight, it also required Biological Site Assessments and a Cultural Resource Inventory to be completed for any Tier 2 or 3 site that was developed. In the reports prepared for my property a detailed analysis was included that identified any sensitive areas for biological or cultural resources. In the absence of regulation this would not be a requirement and is most definitely not adhered to by illicit sites although it is currently required under state law.

I4-11

The DEIR states "Impact 3.3-3: Degradation or removal of sensitive natural communities. Implementation of the proposed project could result in disturbance or removal of natural

land cover, through vegetation removal or grading which could result in the degradation or removal of sensitive natural communities.” Is this not the exact reason for these BSAs? Sensitive natural communities are identified and must be avoided to be in full compliance with the WQCB and therefore the county.

I4-11  
cont.

**Assumes Full Compliance Under a Ban:**

The assertion that a ban would be the environmentally friendly alternative does not take into account the mass proliferation of illicit farms in a scenario where there is no significant amount of code and law enforcement. The assumption of full compliance is not at all reasonable considering that even though there is currently an ordinance in place there are already almost double the amount of non-compliant, unregistered operations. This shows us that full compliance is not an attainable goal in a scenario where enforcement efforts can't be funded.

I4-12

**Conclusion:**

While I understand and appreciate the importance of preserving the vast resources we are blessed to have in the state of California, the Draft EIR comes to a misguided conclusion that by simply saying we will be rid of the agricultural commodity that has become the backbone of our economy that our environment will be better off. I believe that the Alternative that would truly protect our natural resources and environment is the Alternative that has yet to be considered. The Draft EIR was on the right path with Alternative #3, specifically identifying residential zoning as an inappropriate location for commercial activity.

I4-13

By increasing Zoning requirements as well as acreage minimums we can help to mitigate many of the issues that are associated with a commercial operation encroaching on a residential neighborhood. The main factor that can be mitigated with these changes are the potential for odors to upset neighboring parcels if the residents do not care for them. This also helps to alleviate any potential for scenic obstruction, or a blight on the view from one parcel to another. If the acreage is large enough and the setbacks are sufficient these issues cease to exist.

I4-14

By eliminating generators as a main power source we force off grid operations to utilize solar systems for their power supply, this not only lowers overall emissions, it also mitigates valid noise complaints from neighboring parcels. This also has the potential to significantly reduce the possibility of fires started by poorly constructed electrical wiring to these generators.

I4-15

The implementation of Road Impact Mitigation fees for commercial cannabis businesses, as identified in the DEIR, will help to repair roads that are utilized by cannabis farms. As I stated earlier, the roads in District 2 are already, and have been for quite some time, in a heavily deteriorated state, much in need of repair not solely from cannabis commerce.

I4-16

Thank you for considering my comments on this matter and please feel free to reach out to me for any clarification on these comments or any data that I have provided in the past.

Sincerely,

Mark Bolger

Rimrock Farms Inc.

<b>Letter I4</b>	<b>Mark Bolger</b> 6/14/2017
----------------------	---------------------------------

- I4-1 The comment expresses concern that information provided by the commenter during preparation of the DEIR may have been misinterpreted. The commenter was instrumental in providing information that was used in assessing the potential environmental impacts for an individual grow, which, in general, are acknowledged as relatively small and discrete. However, the DEIR, as a programmatic evaluation of potential permissible cannabis-related activities within the County with implementation of the proposed ordinance, is required to consider the potential environmental impacts that could occur as a result of the County's approvals of numerous applications submitted pursuant to the proposed ordinance. Further, as a programmatic evaluation (see Master Response 1), the DEIR is required to evaluate the potential impacts that are reasonably foreseeable to occur and not just those that may occur at one or even several sites deemed appropriate for cannabis cultivation. The particular operation referenced in the comment was well-run and, as an individual operation, appeared relatively devoid of environmental impact. This does not, however, imply that all operations would be similarly well run or developed to minimize environmental impacts.
- I4-2 The comment expresses the commenter's opinion regarding visitation of the EIR preparer to his property during the harvest season and is noted. However, as noted above, the EIR needed to consider the potential impacts of the entire program, including where applications may be approved for sites in less rural areas and where site conditions differ from Rimrock Farms.
- I4-3 Refer to Master Response 3.
- I4-4 Refer to Response S2-4 regarding employee trips. The comment provided regarding the current condition of County roadways is noted. A formal assessment of roadway conditions on local roadways within the County was not conducted as part of the DEIR; road conditions are not considered environmental issues.
- I4-5 The comment provides personal observations regarding the current distribution of cannabis-related operations within the County under the Urgency Ordinance. These observations are not dissimilar to the distribution map provided in Exhibit 3.9-2 on page 3.9-13 of the DEIR, and essentially support the analysis in the DEIR.
- I4-6 The comment provides the commenter's opinion regarding a shift in cultivation type that may occur to indoor activities. However, this opinion is considered speculative in light of the data collected from applications submitted under the Urgency Ordinance. The DEIR does assess potential impacts from indoor cultivation activities, as noted on pages 2-9 through 2-11 and throughout the impact analysis sections of the DEIR, and if approved, the County would monitor the potential for a shift in the type and severity of impacts to occur. However, as explained in the comment, the predominant issue would be that the assumption regarding the peak harvest period may need to be modified, but the impacts of the peak—employee traffic—would not change.
- I4-7 It is acknowledged that the number of employees required on-site may differ depending on the time of year, size of the cannabis-related operation, and type of activity (harvesting, pruning, processing, etc.) being conducted; however, the DEIR presents a reasonably conservative and appropriate programmatic analysis of the potential impacts that may occur with implementation of the proposed ordinance. Moreover, the comment does not suggest a change in assumptions regarding peak employment (which results in peak traffic); rather, the

- comment suggests some days will have peak traffic, others may not. Refer to Master Response 3 for further clarification regarding the DEIR's assumptions pertaining to on-site employees.
- I4-8 This comment expresses concern regarding the feasibility of implementing Mitigation Measure 3.2-2 as proposed in the DEIR. The comment is noted, however, the potential use of electrical equipment (motorized, corded, and cordless) was evaluated during preparation of the DEIR, including from a feasibility and cost perspective. Refer to Response to Comment 03-26 for a discussion of initial cost estimating. The use of electrical motorized equipment, including cordless, handheld equipment, is considered feasible, especially the use of equipment such as that cited on page 3.2-18 of the DEIR. The equipment identified as part of the DEIR's analysis is considered equivalent to and useable for cannabis-related activities. It should be noted that this measure has been amended (refer to Chapter 3, "Revisions to the DEIR") to clarify that it would only apply to operational activities. However, these comments will be reviewed and considered by the Board of Superiors in their deliberations over the ordinance.
- I4-9 The perception of odors is inherently subjective. While the odors observed during a site visit to Rimrock Farms were minor in the EIR analysts' opinions, the County has received numerous complaints regarding cannabis-related odors and could not preclude the potential for new cannabis-related operations allowed under the proposed ordinance to be perceived as substantial by other County residents. The EIR's analysis is based on reasonably foreseeable impacts resulting from implementation of the proposed ordinance.
- I4-10 The comment presents the commenter's opinion regarding market trends and potential limits on cultivation operations that could be approved/processed within the County, and is noted. However, the DEIR's use of the number of applications received under the Urgency Ordinance as the metric for potential conditions with implementation of the proposed ordinance is considered reasonable and appropriate, and takes into consideration localized conditions/markets as well as potential future conditions. Further, the Draft PEIR issued by the California Department of Food and Agriculture (CDFA) notes that the number of medium-sized cultivation licenses would be limited to one per person under the current draft statewide guidelines (refer to page 3-23 of the Draft PEIR issued by CDFA) (CDFA 2017). This limitation does not require revision to the DEIR. No other limits regarding medium cultivation sites are noted within CDFA's draft guidelines.
- I4-11 It is acknowledged that site-specific biological site assessments (BSAs) are required as part of the NOI process. However, sensitive vegetation alliances, including those noted within Calaveras County, do not always include special status species. As the CVRWQCB order is specific in its requirements that impacts to "special-status species have been fully mitigated," the DEIR determined that potential impacts to sensitive vegetation alliances could occur, which may not be evaluated as part of the BSAs carried out in compliance with the CVRWQCB order. The DEIR's analysis is considered reasonably conservative, appropriate, and accurate.
- I4-12 The commenter's opinion regarding potential conditions under a ban ordinance is noted. The DEIR acknowledges that implementation of a ban ordinance could result in impacts should illicit/illegal cannabis-related activities occur. This comment will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I4-13 The comment expresses support for an alternative like Alternative 3. The comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

- I4-14 The comment expresses support for an alternative that involves increased zoning requirements/acreage limitations. The comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I4-15 The comment expresses support for the use of solar versus portable generators at cannabis-related operations. The comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I4-16 The comment expresses support for participation by cannabis-related operations in the County RIM fee program. The comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter  
15

May 10, 2017

Peter Maurer, Planning Director  
Calaveras County  
891 Mountain Ranch Road  
San Andreas, CA 95249

RECEIVED

MAY 17 2017

Calaveras County  
Planning Department

RE: Comment on Cannabis Draft Environmental Report

Dear Mr. Maurer:

I am writing to strongly urge that you recommend to The Board of Supervisors that a total permanent ban be enacted on the widespread, commercial cultivation of "medical" marijuana here in Calaveras County, for many reasons. The very future of the quality of life in our lovely, rural county is at stake...and the wrong decision by The Board would have dramatic negative consequences that could harm us as citizens for generations to come.

15-1

First, let me state that I am not opposed to a legitimate usage of marijuana for medical purposes. Although not a personal proponent (nor user) of such, there seems to be some evidence that some folks may benefit from its application on some medical/emotional levels. Therefore, I can see our county allowing for some reasonable growing of personal plants (6? 10?) in legitimate cases. I could also see the usefulness of 1-2 properly-regulated dispensaries (One uphill? One in Valley Springs?) for legitimate users who can't grow their own plants.

What I am most concerned about, and what I believe most citizens are as well, is the widespread commercial cultivation of marijuana on our landscapes, with the attendant problems it creates environmentally, legally, law enforcement-wise, and ethically. Let me expand on each of those:

Environmentally: Your recently-completed draft EIR asserts that a complete ban of commercial cultivation is the "environmentally superior alternative" to others forms of regulation. The long-term negative impacts on aesthetics, air quality, biological resources and water quality are very real concerns, and I ask you to "take to heart" the conclusions of this study you authorized.

15-2

Legally: Supposedly this industry would create lots of fee and tax revenue for the county, but none of these funds can legally deposited into a bank, nor into any kind of investment account (my industry). Healthy, attractive business/industry exists on the concept of multiplication/synergy, whereby the funds pass through various levels of an economy. The nature of marijuana-related monies virtually assures that they will never be fully integrated into our local economy, and opens the county to ownership/influence of world powers that operate with Calaveras County's well-being as the least of their concerns/goals.

15-3

(Peter Maurer, May 10, 2017, Page 2)

Law Enforcement: The last few years has shown the true nature of this industry, whether regulated or not: violent, non-transparent, untruthful, etc. With few exceptions, virtually all of the applications for permitting have been denied, due mainly to manipulated data/photos. Existing grows have been sites involving murders and thefts. Proponents of the industry say that the taxes and revenues will be great sources of funding for law enforcement. I believe history would indicate that the extra costs for trying to regulate/police this industry would far outstrip whatever revenues were hoped for. Even legalization would create an “assumed approval” for any grows, and the coat-tailing of illegal growers behind legal ones would be monstrous in size. It’s far better to simply declare that all widespread cultivation is banned, and then have the county use all available resources (locally, state-sourced and federally) to see through its abolishment.

15-4

Ethically: Cannabis is still considered a *Schedule 1* substance...for a reason! The science surrounding cannabis is still very controversial. Apart from the few medically-related exceptions mentioned above, my own observation of regular users (both adult and youth alike) is that they have been greatly compromised regarding clarity-of-thinking, industriousness, willingness to engage in risky activities, etc. It is certainly not clear whether cannabis is a “gateway” drug to other substances, or if it’s a solution to many medical ills...but that does not mean that from a land-usage point of view, that we need to be wholly “sold out” to this industry. Despite the pleas of (perhaps) “well-intentioned” local young cultivators, long-term there is nothing about this industry that promotes the type of place in which mainstream citizens want to recreate, nor relocate to. Our county is known for many wonderful opportunities for outdoor recreation, and the substantial risks associated with cannabis cultivation make it mutually exclusive to the rest of existing county economic and social activity.

15-5

Mr. Maurer, history is full of accounts where a people were promised wonderful riches, or a panacea to solve all (economic) ills...only to find out later that the very source of their eventual downfall was in fact the decision to compromise their foundational values. **I believe that this is such a time for Calaveras County.** I urge the Board of Supervisors to seek a total and permanent ban on widespread commercial cannabis cultivation for the reasons mentioned above. In the meantime, you can count on us, the vast preponderance of citizens, to promote healthy, synergistic economic activity, and support the various governmental (and NGO) agencies already here serving the county at large.

Sincerely,



David Bowman  
PO Box 345  
Murphys, CA 95247  
dbowman@goldrush.com

<b>Letter 15</b>	<b>David Bowman</b> 5/10/2017
----------------------	----------------------------------

- 15-1 The comment expresses the recommendation that the Board of Supervisors enact a permanent ban on commercial cultivation because of environmental, legal, law-enforcement, and ethical issues. This is a project preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- 15-2 The comment recommends that the Board of Supervisors move forward with a ban ordinance as it is the environmentally superior alternative. This is a project preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- 15-3 The comment expresses concern that revenue from commercial cultivation cannot be legally deposited into banks. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- 15-4 This comment states that the extra costs of regulating and policing the commercial cannabis industry would outweigh revenue from the program. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- 15-5 The comment recommends a permanent ban on commercial cultivation. This is a project preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

**Dennis and Marie Bullock**  
**P.O. Box 277, 9399 Live Oak Lane**  
**Mountain Ranch, CA 95246**

Letter  
16

05/11/2017

Director: Mr. Peter Maurer  
Calaveras County Planning Dept.  
County of Calaveras  
Government Center  
San Andreas, California 95259

RECEIVED  
MAY 11 2017  
Calaveras County  
Planning Department

Dear Sir,

My wife and I bought in Oak Ridge Subdivision in 1978 (39 years ago). It was a new subdivision with large acre parcels that was already General Plan Zoned Rural Residential and it was beautiful. We own lot 4 (RR-82.58 acres) and lot 6 (RR-42.38 acres). We built our home here and are now are retired.

Oak Ridge Subdivision is divided into RR-20, RR-40, RR-60 and RR-80 acre parcels where the owners have paid premium prices for premium property and have expensive homes and ranches.

Oakridge Subdivision now has seven Residential lots growing Commercial Cannabis (POT) on them.

Why would county government issue Permits to Commercial Marijuana growers when the General Plan was already Zoned Rural Residential ?

We feel our property rights have been violated!

When the growers first started there were bright lights on at night. We smell skunk (POT) sometimes all day long, We hear gas engines day and night. Large water trucks and delivery trucks with green tanks for fertilizers/chemicals. Trucks hauling large steel storage ship containers. Strange vehicles driving all hours on private Oakridge Subdivision roads that are homeowner maintained not county. Roads are now ruined.

Our water is a major concern for drinking and for just having, and hopefully not with pesticides and fertilizers leaching in the ground from dope growers.

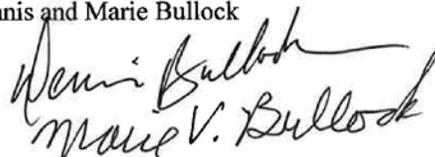
Marijuana is also against Federal law. Ask any D.E.A. agent.

Please do Calaveras County right, Just say **NO** to any type of commercial cannabis!

We want to go on record as highly objecting to and totally opposing any form of Cannabis, Marijuana, Pot, or any other types of Narcotics.

Sincerely,

Dennis and Marie Bullock



I6-1

<b>Letter I6</b>	<b>Dennis and Marie Bullock</b> 5/11/2017
----------------------	--

I6-1            The comment discusses the lighting, odor, noise, roadway, and water quality impacts currently experienced by the commenters. These items are discussed in the appropriate sections of the DEIR. The comment does not question the analysis or conclusions on these topics.

The comment also recommends that the Board of Supervisors move forward with a ban ordinance. This is a project preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter 17
--------------

**From:** [Planning Web Account](#)  
**To:** [Peter Maurer](#)  
**Subject:** FW: Dont let this happen in calaveras county  
**Date:** Tuesday, June 13, 2017 8:06:48 AM

---

Annette Silva  
Administrative Assistant, II  
Calaveras County Planning Department  
209-754-6620  
209-754-6540 Fax

-----Original Message-----

From: [Trstujesus@icloud.com](mailto:Trstujesus@icloud.com) [<mailto:Trstujesus@icloud.com>]  
Sent: Tuesday, June 13, 2017 8:04 AM  
To: Planning Web Account  
Subject: Dont let this happen in calaveras county

Please support the ban on commercial marijuana and dispensaries. Dont let this happen to us.

Lori and Randy Caires  
District 2

<https://lostcoastoutpost.com/2017/jun/12/hardin-failure-humboldt-countys-medical-marijuana/>

Submitted By:

Name:: Lori and Randy Caires  
Email:: [Trstujesus@icloud.com](mailto:Trstujesus@icloud.com)

I 17-1

<b>Letter 17</b>	<b>Lori and Randy Caires</b> 6/13/2017
----------------------	---

- 17-1            The comment recommends that the Board of Supervisors move forward with a ban ordinance. This is a project preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

FROM : r

PHONE NO. : 2097956779

Jun. 13 2017 01:03PM P1

Letter  
18

Anne Calderwood  
PO Box 2244  
Murphys, CA 95247  
209-728-1250

June 12, 2017

Calaveras County Planning Director  
891 Mountain Ranch Road  
San Andreas, CA 95249  
[PMaurer@co.calaveras.ca.us](mailto:PMaurer@co.calaveras.ca.us)

Dear Mr. Mauer,

I am writing to comment on the DEIR conducted by Ascent Environmental of the Cannabis Cultivation And Commerce Ordinance Project for Calaveras County. I have reviewed the EIR and have the following comments and concerns:

18-1

Social Impacts of the alternatives to Cannabis regulation appear to have been ignored by the individuals conducting the EIR. It is unclear if a social scientist was a part of the team evaluating the project. I would expect that this would be a significant component of any EIR given the legalization of Cannabis and the activities taken in good faith by those who registered with the County to legally grow marihuana under the Emergency Ordinance. I would strongly recommend that the following social impacts be considered:

1) Impact Equity: The Ban that was identified as the "superior" alternative creates an undue hardship for particular members of our County. Specifically, these groups include: Butte fire victims who have had negative impacts to the value of their land that have been mitigated by the purchase of property for cannabis farming (this can be verified by talking with local realtors), young adult farmers who are typically involved with this type of agriculture (review average age of grower's), medical marihuana users who would lose access to local dispensaries, and those who have followed the rules and invested in land and improvements required by the permitting process. The report's requirement that legal growers remove the grow site infrastructure that was put in to be compliant with County ordinance rules, would serve to penalize and alienate growers who have been working in good faith with the sheriff's department, and pose an undo hardship. The negative socioeconomic impacts of this approach and the potential discrimination issues are not adequately evaluated.

18-2

2) Changing laws and political climate: 67.47% of County residents voted for the taxation of cannabis, and 48.84% voted for allowing commercial cultivation. This obviously is an area of controversy within the County. Banning outdoor cannabis farming does not position the County to resolve this issue or to move forward in planning for the future. While the EIR acknowledges that if growing is banned, illegal grows can be expected to continue, it does not address the negative social impacts of essentially forcing out the legal growers and rewarding the illegal growers who will then dominate the Calaveras cannabis market. Law enforcement has repeatedly stated that they will not have the resources to eliminate illegal growing. Again, a sociological evaluation is absent which might provide social policy guidance in shifting from an orientation wherein marihuana is illegal to it's legalization. Recommendations could be made in this area to facilitate this change, such as creation of a shareholder's group or committee to mitigate social conflicts.

18-3

FROM : r

PHONE NO. : 2097956779

Jun. 13 2017 01:04PM P2

3) **Employment/Economic Impacts:** The report seems to ignore or minimize the positive employment effects identified in the University of Pacific Center for Business And Policy Research which estimates that cannabis related agriculture has created 2,600 local jobs and a \$251.5 million dollar contribution to the local economy. This is a significant impact on our small county with a 5.6% unemployment rate and limited employment opportunities. Through the passage of Measure C, there are significant economic benefits to our cash strapped county. The findings of this report are important to consider in policy development. The local economy is made up of primarily small businesses and it would seem important to consider how to maintain that small business culture in planning for cannabis cultivation. The author's summary dismissal of the option of limiting outdoor cultivation to smaller "cottage" grows did not seem warranted given it's compatibility with the existing environmental and sociocultural norms. Other suggestions that I did not see mentioned and that would be worthy of discussion and consideration include the potential impacts of limiting the number of total growing licenses or having a residency requirement.

18-4

In reading through the EIR, it would appear most all of the impacts evaluated could be resolved with identified mitigation activities. The report states that the growing of marihuana is consistent with other agricultural activities in the County. In fact, it is a crop compatible with the topography and climate of the county. It is therefore of concern that the agricultural impacts of marihuana farming are seemingly being held to a different standard than other agricultural and commercial activities. For instance, is marihuana more water intensive than crops such as grapes or nut orchards? Does marihuana, particularly, in the relative small acreage under consideration of approximately 350 total acres, create more traffic and roadway impacts than the recreational economy or logging trucks? How do the air quality, fossil fuel use, and odor impacts of marihuana compare with ranching activities? Are County and State water agencies monitoring the water pollution impacts of tree farms, vineyards, and ranching? How does legal marihuana farming compare with these other agricultural activities? How does planting marihuana in the Butte fire burned area where 30% of the grows are located constitute a "significant" contribution to global warming? It seems counterintuitive that growing a plant would necessitate carbon offsets in a County that is heavily forested and where forest thinning, lot clearing, and prescribed burns are routinely conducted. Why are the authors of the report recommending that tools powered by fossil fuels be prohibited in this agricultural practice while they are permitted in other agricultural practices? If the authors are going to promote the use of non-fossil fuel and non-pesticide/chemical use practices, it would seem these environmental considerations could be promoted in all agricultural practices or that regulations could be structured in such a way as to reward the use of solar and organic practices.

18-5

In regards to the ban alternative, the authors do not demonstrate why growing up to 6 plants for personal use must be restricted to indoor growing. This would seem to conflict with the environmental analysis given that indoor growing would require artificial lighting and therefore more use of energy, including generators. The odor issue of concern would be intensified for personal growers who are limited to indoor growing. It would seem significantly more attention should be paid to planning for growing for personal use given the recent state law changes and the availability of agricultural land in this rural county so as to create reasonable recommendations for outdoor growing regulations and so as to avoid creating new conflicts.

18-6

While I did not find it in the EIR, it is my understanding that the Board is also considering closing down the local marihuana dispensaries as part of the ban. Again, this would pose a hardship for

18-7

FROM : r

PHONE NO. : 2097956779

Jun. 13 2017 01:05PM P3

medical marihuana uses who would have to travel out of the area and does not seem consistent with the changes in state law. There is no evaluation of the impact of a ban on resident's medical care or the increased use of fossil fuels and traffic impacts of traveling to out of the county dispensaries. A dispensary ban would be unduly punitive to legal businesses who have complied with the County's licensing requirements.

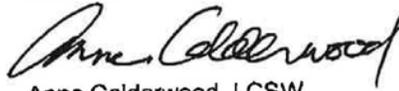
18-7  
cont.

I would suggest that the wellbeing, and safety goals of the EIR are not best met by a ban but by thoughtful, collaborative regulations that are consistent with other agricultural practices. There is a vast difference between the growers who are making the effort to follow the rules and be a part of the community, and those who are conducting illegal grows. I believe County residents are significantly safer with growers who are working with law enforcement that has the needed funding to monitor the grows, and are developing a level of trust and cooperation. Similarly, legal growers following the environmental rules are less likely to cause negative impacts to soil and water than illegal growers. Legally, I am very concerned that the County avoid a course of action that is discriminatory in nature and could likely result in legal suits by those negatively impacted by a ban. I do not see the evidence in the EIR for the designation of the ban as a "superior" alternative and believe it is inadequate in addressing the above identified concerns.

18-8

Thank you for your time and consideration of this important matter.

Sincerely,



Anne Calderwood, LCSW

<b>Letter 18</b>	<b>Anne Calderwood</b> 6/13/2017
----------------------	-------------------------------------

- 18-1 The comment states that social impacts of the alternatives were not evaluated in the DEIR. Refer to Master Response 5 for information regarding socio-economic analysis.
- 18-2 The comment states that the negative socioeconomic impacts of the ban ordinance were not disclosed in the DEIR. Refer to Master Response 5 for information regarding socio-economic analysis.
- 18-3 The comment states that while the DEIR acknowledges that illegal growing activities would be expected to continue under a ban ordinance, the DEIR did not address the negative social impacts of a ban ordinance. Refer to Master Response 5 for information regarding socio-economic analysis.
- 18-4 The comment states that the DEIR did not address the positive employment effects associated with cannabis-related agriculture. Refer to Master Response 5 for information regarding socio-economic analysis and Response 13-3, above, regarding alternatives.
- 18-5 The comment requests a comparison of the potential impacts of agricultural activities to cannabis cultivation and questions why the DEIR recommends that machinery powered by fossil fuels be prohibited for commercial cannabis operations, but it is not prohibited for other agricultural practices. The EIR, as required by CEQA, analyzes and proposes mitigation measures for potential impacts caused by the project, not agricultural operations generally. The potential application of mitigation measures identified in the EIR, as well as the requirements of the proposed ordinance, to agricultural activities is considered outside the scope of the EIR, and no further response is necessary.
- 18-6 The comment states that for the ban ordinance alternative, the DEIR does not demonstrate why growing up to six plants for personal use must be restricted to indoor growing. As discussed on page 6-5 of the DEIR, per Proposition 64, as approved on November 8, 2016 by California voters (California Health and Safety Code Section 11362.2 (b)(2)), the County may not completely prohibit residents from growing marijuana indoors and must allow residents the ability to cultivate up to six indoor plants (although reasonable regulations can be imposed). By restricting cultivation to a maximum of six indoor plants, the ban alternative seeks to maintain the health, safety, and well-being of County residents and the environment while complying with Proposition 64.
- 18-7 The comment states that if all dispensaries in Calaveras County are closed residents would be forced to travel greater distances to dispensaries, resulting impacts related to fossil fuel consumption and traffic. Neither the proposed ordinance nor the draft ban ordinance include a component/condition for the closure/removal of existing dispensaries from the County.
- 18-8 The comment expresses the opinion that a ban is not the superior alternative and does not address the socio-economic concerns expressed in the prior comments. Under CEQA, the environmentally superior alternative is the alternative with the fewest significant environmental impacts. Refer to Master Response 5 for information regarding socio-economic analysis.

Letter  
19

**From:** [Planning Web Account](#)  
**To:** [Peter Maurer](#)  
**Subject:** FW: Cannabis regulation  
**Date:** Wednesday, June 14, 2017 4:03:19 PM

---

-----Original Message-----

From: Jayne Henning Childress [<mailto:wildgeese@wildblue.net>]  
Sent: Wednesday, June 14, 2017 4:03 PM  
To: Planning Web Account  
Subject: Cannabis regulation

To whomever it may concern,  
Regulation of the cannabis industry is important to me. The reasons are:  
Protection and safety for our environment, Safety for people, Education for growers, Revitalization of our county.

I  
19-1

A ban would discourage young people from living here.

Thank you for considering.  
Jane Henning Childress  
18609 Rainbow Rd.  
Mokelumne Hill  
95245

<b>Letter 19</b>	<b>Jane Henning Childress</b> 6/14/2017
----------------------	--

- I9-1            The comment expresses support for the regulation of the cannabis industry. This is a project preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter I10
---------------

**From:** [Planning Web Account](#)  
**To:** [Peter Maurer](#)  
**Subject:** FW: Cannabis Regulation  
**Date:** Wednesday, June 14, 2017 4:25:15 PM

---

-----Original Message-----

From: [tysphotos@wildblue.net](mailto:tysphotos@wildblue.net) [<mailto:tysphotos@wildblue.net>]  
Sent: Wednesday, June 14, 2017 4:05 PM  
To: Planning Web Account  
Subject: Cannabis Regulation

To whom it may concern,

I support regulating the cannabis industry/agriculture in our county rather than banning it outright. The jobs that will become available will encourage young people to settle in our aging community. I've lived on this spot for 38 years, and have seen down times when the mills closed and there was no reason for kids to hang around. I think it will boost employment.

There are downsides: odors, loud music, lights; so we definitely need to create some clear regulations that also protect adjacent land owners. It would be a nightmare if cannabis were banned without the funds to enforce the ban. Talk about the wild west. Please, sensible (larger parcel sizes), and limit the permits tended.

Thank you,

Tyler Childress  
Ty Childress Photography  
18609 Rainbow Rd  
Mokelumne Hill, CA

I10-1

<b>Letter I10</b>	<b>Tyler Childress</b> 6/14/2017
-----------------------	-------------------------------------

- I10-1      The comment expresses support for regulation of the cannabis industry, particularly for requiring large parcel sizes and limited the number of permits issued. This is a project preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter  
I11

Date: June 14, 2017.

To: Peter Maurer, Planning Director  
Calaveras County Planning Department  
891 Mountain Ranch Road  
San Andreas, CA 95249

From: MATTHEW CLARK  
520 N. Main St., #201  
Angels Camp, CA 95222

RE: COMMENT ON:  
CALAVERAS COUNTY DRAFT ENVIRONMENTAL IMPACT REPORT: MEDICAL  
CANNABIS CULTIVATION AND COMMERCE ORDINANCE PROJECT, MAY 2017

RECEIVED  
JUN 14 2017  
Calaveras County  
Planning Department

Dear Mr. Maurer, or whom it may concern,

I am writing to comment on the Draft Environmental Impact Report (DEIR) identified in the subject line above.

I have had the pleasure of working with Dr. Patrick Sullivan on his comments to the ordinance. Although his comments are lengthy, I would recommend that you please take the time to consider them thoroughly, as they represent a substantial amount of research.

I11-1

While Dr. Sullivan’s work is largely focused on flaws in the data and analysis of the DEIR, my personal comments regard other matters, namely alternatives and economics.

I have been working with a group called the Calaveras County Regulatory Coalition (CCRC), and we have identified several alternatives that are not listed here. Among them are:

- Creating “urban” buffers for Valley Springs, San Andreas and other residential communities.
- Requiring some sort of enclosure to reduce smells during the flower season.
- Limiting employees on rural residential areas to reduce traffic load.
- Creating a license to operate a trimming, curing and drying facility on commercial and industrial zones to reduce employees in rural residential areas.
- Using the state’s many license categories to create a scaled system based on parcel size (with larger parcels allowing larger grows).

I11-2

Please be aware that I am not *recommending* these alternatives for a permanent ordinance, just to *identify* what I see as a large range of alternatives that the EIR did not consider. I understand that the county supervisors have had meetings and discussions on alternatives, but I would like to see those analyzed more thoroughly by an environmental consultant and recorded in an official EIR.

In addition to these comments on alternatives, I would like to point out that the DEIR is not analyzing the effects of a *proposed* land use. To the contrary, it analyzes the effects of an *existing* land use, since many of these cannabis cultivation sites have been operating for potentially decades. By mandate of the Urgency Ordinance, they have been operating since at least May 10, 2016. This is a very odd situation for a DEIR: analyzing the impacts of a project after it has already begun.

111-3

Because of the unusual pre-existing nature of the impacts, I think it is important to analyze the economic effects of a ban. I have seen and read the University of the Pacific report on the economic outlook for our county under a ban, and it is grim. Although this seems like an economic issue and not an environmental one, unregulated cannabis presents a significant threat to the environment in ways that regulated cannabis does not. With unregulated cannabis, there is no Water Quality oversight, no pesticide application licensing, no Biological Assessments for run-off and habitat destruction. I believe that critical to any decision on cannabis in our county is an analysis of the effects of unregulated cannabis, an analysis of whether unregulated cannabis will grow or shrink under an alternative such as the ban, and an economic report on how a ban or any alternative will be funded.

Finally, although I mentioned the CCRC, I wish to be clear that I am making this statement as a private citizen and resident of Calaveras, and not on behalf of CCRC or any of its members.

Thank you for the time in considering my comment.

Sincerely,



Matthew Clark

<b>Letter I11</b>	<b>Matthew Clark</b> 6/14/2017
-----------------------	-----------------------------------

- I11-1 The comment recommends that Calaveras County thoroughly consider the comments submitted by Dr. Patrick Sullivan. Dr. Sullivan's comments are located in Letter I52, and responses are provided later in this chapter of the Final EIR.
- I11-2 The comment identifies several alternatives that were not considered in the DEIR. Refer to Master Response 2 for a detailed response regarding the range of alternatives analyzed in the DEIR.
- I11-3 The comment states that the DEIR does not analyze the effects of a proposed land use, but rather, the effects of an existing land use because many cannabis operations have been operational for many years. Refer to Master Response 4 for a detailed response regarding baseline conditions.

June 6, 2017

Calaveras County Planning Department  
Peter Mauer, Calaveras County Planning Director  
891 Mountain Ranch Road  
San Andreas, CA 95249

Letter  
I12

Dear Mr. Mauer,

My name is Marti Crane. I live in Rancho Calaveras (Calaveras County District 5) and have been actively involved in the whole community of Calaveras for 25 years, so I have a fairly broad understanding of many issues that face us and how we have strived to address them over the years.

Having studied the Draft Environmental Impact Report (DEIR) for Medical Cannabis Cultivation and Commerce Ordinance Project released May 2017, I first want to thank all who participated in pulling this/these reports together and acknowledge the focus and dedication that was required for this important task.

We tend to make decisions and approve projects one at a time with little consideration to the cumulative effect on the environment, economy, natural habitat, the quality of life for those who call this home, and how it all affects our budget challenges and available funds moving forward. I am grateful for the various discussions within the DEIR document on specific subject matter that provide clarification to the reader. I am hopeful that the final EIR will be significantly improved to benefit the residents of Calaveras County and all who benefit downstream from the health and vitality of the forests and watersheds here in the foothills. Experts in various collaborative partner agencies, residents, voters and decision makers must have *accurate, complete and impartial* information.

**One of my concerns is that in several places**, statements were made that drew conclusions in favor of the Ban Alternative, which in my opinion and after reading all the material, did not appear to be a forgone conclusion.

**3.1.3 Environmental Settings**

**Lighting – Mitigation:** It’s not enough to shield the top of outdoor lighting. It must also be shielded on the sides to prevent horizontal glare which not only adds to neighborhood disturbances, it can also be a safety hazard for local roadway traffic.  
**Please add this clarification to the list of Mitigation Measures.**

**3.2.2 Air Quality Conditions**

Interesting that the ‘odor’ issue with respect to cannabis cultivation is deemed more serious than when it relates to a hot-batch asphalt plant in the middle of a residential neighborhood. If a person can ‘smell’ it, what is the ‘it’ they’re smelling? Particulates in the air. The question should then be, are those toxic particulates and perhaps harmful to the human respiratory system? How much is too much? Cumulatively speaking, how harmful is one drop of poison every day over the course of three to twelve months or more? So again, what is ‘it’ we’re smelling - the aroma of cannabis (such as lilacs, roses, dairy cattle, onions in the field) or the chemicals used in the production of asphalt?

**4.3.3 Biological Resources**

How is cannabis cultivation more detrimental to Biological Resources than any other Agricultural operation such as almonds or grapes? Does the cannabis industry use illegal or highly detrimental products that are not used in other agricultural endeavors?  
**If chemicals/pesticides are the concern, please work with the cannabis community to develop strict controls and regulations.**

I12-1

I12-2

I12-3

I12-4

**4.3.8 Population and Housing**

It was reported in the DEIR that the ‘project’ would produce a “less-than-significant cumulative impact” as it relates to growth stimulation (housing, local governmental facilities or utilities infrastructure) in any one region. It was also reported in the DEIR that the project would not contribute to substantial population growth or be considered growth-inducing.

Further, the acknowledgement of additional jobs/employment was also noted and that most of those employees are “current residents of the region”. In my opinion, this should be shown as a **positive** significant and unavoidable cumulative impact.

**Please include this in the final EIR.**

I12-5

**5.4.1 CEQA Requirements**

“It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.”

**Please acknowledge in the final EIR that the environment is part of the big picture, includes and is impacted by the job market.**

I12-6

**6.3.1 No Project (Alternative 1)**

Just because the county decides to ‘do nothing’, does not mean there will be no future commercial cultivation activities and that existing grows would either be abandoned or repurposed. Illegal grows will continue. This type of assumption was made in the second paragraph (Pg 6-3), again under “Air Quality/Greenhouse Gas Emissions” (Pg 6-4) and under “Cultural Resources” (Pg 6-4).

**Please re-think these assumptions because on the surface they appear biased.**

I12-7

We tend to deny projects that offend our sensibilities and support those that align with our ideology or current understanding of planning, the community and the wants and needs of the residents.

**Please set policies that provide fair and balanced opportunities for everyone.**

I12-8

**NOTE: The STARS project would be a welcome tool** for all who consider developing or investing in Calaveras County. (STARS: State Approval Requirements project – **see below**)

I12-9

**6.3.2 Ban on Commercial Cannabis Operations Alternative (Alternative 2)**

Just because no new commercial cannabis would be allowed under Alternative 2, that does not result in the “cessation of commercial cannabis operations currently allowed under the urgency ordinance and would require the restoration of existing sites to pre-existing conditions”....” at property owners expense” With no regulations in place, many law-abiding residents who are legally permitted and possibly organic growers may sell and leave the county. The question then is who will purchase their land and then ‘do what’?. With no regulations in place, it is thought that more illegal growers will flood into the county. Those whose grows are eradicated may just walk away from the devastated land. We should not expect that they will pay their property taxes. The time it takes to realize a property tax lien to recover abatement costs, together with the lien position makes the lien process ineffective in the short run.

**For the illegal operations, what incentive do they have to comply?** Perhaps heavy fines would be a disincentive to participate in illegal activities. They may not pay their property taxes or fines but it might help stop the destructive, illegal activity.

I12-10

An unfunded and therefore unenforced ban would appear to encourage the type of destructive activities we are trying to address.

**How will a Ban Ordinance be funded? Please provide supported, factual data.**

**AirQuality Green House Gas Emissions**

(Paragraphs 1, 3, & 6 – Page 6-7) No Ban equals No Enforcement Money = unfettered, rampant illegal grows. This appears to be an irresponsible assumption and again reflects possible DEIR bias.

**Please address the ramifications of permitting a grow, followed by revoking that permit, and then requiring the land owner to return the land to its pre-grow natural condition. What happens to the registration (etc) fees the legally permitted operation paid?**

**Please address these concerns (all impacts including environmental, economical, etc), and provide factual data to support.**

I12-11

**Achievement of Project Objections (BAN) –**

(Pg 6-9) This appears to be an unfounded statement considering there would be no enforcement dollars. Having rampant illegal grows does *not* maintain the health, safety, and well-being of county residents and the environment.

**Please address concerns noted herein and make the suggested changes in the final EIR.**

Thank you again for preparing this document for public review. When our County staff works together with the public and those with interest and expertise, we are better prepared to find the most successful outcomes on behalf of all the residents of Calaveras County.

I12-12

I12-13

Thank you for your time and consideration. Our Calaveras Sierra Foothills, watersheds and quality of life are in danger. We need your expertise and input into this process.

Thank you again,

Marti Crane, District 5, Calaveras County  
209-256-0183

P.O. Box 63,  
Valley Springs, CA 95252

See below...

## **State Approval Requirements (STARS) Project**

*(The following summation of the need for and benefits of a STARS Project was presented to the Calaveras County Board of Supervisors in an open, filmed, regularly scheduled meeting by Land Use Attorney Tom Infusino and is shared here for your review and convenience. )*

### **The Problem:**

“Many economic development activities involve some discretionary land use approval by a State or local government agency. For example, a major residential subdivision requires the approval of a subdivision map. (Government Code, secs. 66473-66474.)

Many industrial and commercial activities require use permits. Public works projects must be approved by the County, or the water district, or the sanitation district. These decisions must be consistent with state law requirements. In some cases, these requirements create strict limitations on project approvals (e.g. water availability for very large residential subdivisions).

In other cases, state law requires the county to evaluate and to feasibly mitigate the significant adverse effects these discretionary project approvals. (Public Resources Code, sec. 21000 et sec.)

The list of impacts evaluated covers a broad range of public interests including aesthetic impacts, agricultural land loss, air pollution, energy shortages, land use conflicts, housing affordability, waste management, mineral resource loss, public facility limitations, traffic, recreation needs, water shortages, water pollution, noise, public safety hazards, soil erosion, biological resource impacts, and loss of open space.

Although these state laws have been on the books for four decades, the County has yet to develop uniform standards for evaluating each impact and simple policies and programs for mitigating each impact.

As a result, investors are met with a difficult choice. They can try to help the County to follow the state requirements at great expense, and then try to compete against others in the marketplace who have not done so. Or, they can try to get the County to approve their project even though it does not meet state requirements, and hope that they do not get sued by project opponents.

Similarly, County residents also face a difficult choice. They can protect their property values, their communities, and their environment by spending large amounts of time and money opposing harmful projects. Or they can let these harmful projects get approved, and suffer the detriment to their property values, their communities, and their environment.

The result of this dysfunctional system is that mere investors are compelled to become outlaws, and mere residents are compelled to become land use activists.

Too many projects are approved with adverse side effects that could have been avoided.

Too many projects are denied because they had side effects that could have been avoided.

Too many projects take too long to process because each mitigation package is custom made.

Too many projects have public opposition.

Property values, communities, and the environment are not protected properly because the County policies and programs are not in place. Ultimately, because this chaos poses a serious financial risk, many responsible investors are discouraged from investing in Calaveras County.”

**“The Solution:**

The purpose of our State Approval Requirements (STARS) Project is to use the County’s current General Plan Update Process to set Calaveras County on the path to developing the policies and programs to facilitate project applicant compliance with development approval requirements.

The General Plan is the top of the land use hierarchy. It is the constitution for land use development. The STARS project will identify interim standards for impact mitigation for inclusion in the County general plan for as many of the approval requirements as possible. We will do so in consultation with local, regional, state, and federal agencies responsible for resource protection. The STARS project will identify a menu of feasible impact mitigations for as many of the approval requirements as possible.

The STARS project will work with the Planning Department and the Board of Supervisors to seek agreement on these interim standards and mitigation measures. Where needed, the STARS program will identify general plan policies and programs, to be developed by the County over the next decade, to implement long-term standards and mitigation measures for more effective long-term solutions.

Attached is the table listing the California Government Code sections listing the state approval requirements for a general plan, a specific plan, and a subdivision map. The relevant code sections are also attached.

**In the left hand column** are the issues the County is must address in the General Plan Update, to the degree they are relevant. In the next column to the right are the Government Code sections that correspond to each issue.

**In the next column over to the right** there is an “x” by each issue that must be considered in a California Environmental Quality Act (CEQA) review whenever the Board of Supervisors and/or the Planning Commission exercises discretionary authority to approve a big specific plan like Oak Canyon Ranch, or a smaller subdivision map, or a conditional use permit for a business. **Note that all 17 issues to be addressed in a general plan are also addressed in the CEQA review of projects.**

**In the next column over to the right**, I have listed the Government Code sections that require findings of fact for the approval of a specific plan. The findings requirements correspond to particular General Plan and CEQA issues. **Note that 13 of those 17 CEQA and General Plan issues** are addressed in the findings the County adopts to support a specific plan approval.

**In the next column over to the right**, I have listed the Government Code sections that require findings of fact for the approval of a subdivision map. **Note that 14 of the 17 issues listed** relate to the findings the County adopts to support a subdivision approval.

**There are a few points to make about this chart.**

**1)** The issues that state law encourages us to resolve in the General Plan Update, if not so resolved, will come up again, and again, and again whenever the Board of Supervisors or the Planning Commission wants to make findings to certify an EIR, to adopt a negative declaration, to approve a specific plan, to approve a subdivision, or to approve a conditional use permit for a business. There is no avoiding these issues.

**2)** A General Plan is not called general because it is supposed to be superficial and vague. It is called general because it is supposed to be comprehensive and decisive. By dealing with these issues effectively in the General Plan, the County can make it easier to process and approve development applications in the future, and avoid harm to our communities and environment.

3) The General Plan can and should put in place clear interim standards for those issues for which no clear standards are currently in place in the County Code. For example, issues like sheriff impact mitigations. It can and should be a place for identifying feasible means for project applicants to use to meet these standards. For example, things like interim mitigation fees. When necessary, the General Plan Update should identify efforts that will be completed to establish long-term standards and impact mitigation options.

**Who will benefit from this?**

- Land owners and investors will benefit by knowing more precisely what is needed to secure project approval. Property values will increase as our communities do a better job of maintaining their infrastructure, their attractiveness, and their economies.
- New businesses will find it easier to come here and more attractive when they get here.
- Local taxpayers will benefit because the county's project review and approval mechanisms will be more efficient and more effective. The County will also have the seed money it needs to leverage state and federal grants. Thus, money that was taxed out our communities can come back to be spent on the things we need, rather than shipped to big cities and spent there.
- The County's planning staff will benefit because project applications will be easier to process.
- Neighborhood advocacy groups will benefit because their concerns regarding all these community issues will be mitigated.
- The Planning Commission and the Board of Supervisors will benefit because they will have the factual foundations they need to approve the housing and business developments they want to approve. "

## State Approval Requirements (STARS)

Approval/ Topics	I	GeneralCEQA Plan (GC)	(Checklist)	Specific Plan (GC)	Subd. Map (GC)
Aesthetics		65302(a) 65302.4	x		
Ag/Forestry		65302(d)	x	65451(a)(3)	66474.4
Air Quality/ GHG		65302(d)	x	65451(a)(3)	
Energy & Utilities		65302(b)	x	65451(a)(2)	66473.1 66473.3 66473.6
Land Use		65302(a)	x	65451(a)(1)	66474(a)
Population/ Housing		65302(c) 65580-589.8 65913.1	x		66474(b)
Hazardous &Solid Waste		65302(a)	x	65451(a)(2)	
Mineral Resources		65302(d)	x	65451(a)(3)	66474(a)
Public Servi- ces/Facilities		65302(a) 65352.2	x	65451(a)(2)	66474(c&d) 65970-974
Transportation		65302(b)	x	65451(a)(2)	66474(d)
Recreation		65302 (a&e)	x	65451(a)(1)	66474(b,c,g)
Water Supply & Wastewater		65302(a&d) 65352.5	x	65451(a)(2)	66473.7 66474(c&d) 66474.6
Noise		65302(f)	x		66474(b)
Public Safety		65302(g) 65302.5 65302.6 65304	x		66474(c&f) 66474.02
Soils		65302(d)	x	65451(a)(3)	66474(c) 66490-491
Open Space		65302(e) 65560 - 570	x	65451(a)(1)	66474(g) 66474.4
Biological		65302(d)	x	65451(a)(3)	66474(e)
Cultural		65560(b)(3) 65352.3-352.4	x		66474(c)

<b>Letter I12</b>	<b>Marti Crane</b> 6/7/2017
-----------------------	--------------------------------

- I12-1 The comment expresses disagreement with the DEIR's conclusions regarding the ban ordinance alternative. The comment also expresses the hope that the Final EIR will be significantly improved. As required by CEQA, the Final EIR includes all comments received on the DEIR, responses to these comments, and any changes made to the DEIR in response to these comments.
- I12-2 The comment suggests adding that outdoor lighting should also be shielded on the sides to prevent horizontal light pollution. Refer to Response 03-23.
- I12-3 The comment questions whether odor impacts should be focused on whether there are toxic particulates in the air and how those impact human health. As discussed in Section 3.2, Air Quality and Greenhouse Gas Emissions, of the DEIR, odors are generally regarded as an annoyance rather than a health hazard, though an individual's reaction to odors may be manifest as psychological or physiological. Section 3.2 of the DEIR includes analysis of air pollutant emissions that could pose a risk to human health. The comment also questions how the odor impacts of cannabis compare to the odor impacts of asphalt, a reference to a prior proposed project in the County. This EIR is focused on the issues attendant with the proposed ordinance, not a separate project.
- I12-4 The comment asks how cannabis cultivation is more detrimental to biological resources than any other agricultural operation. CEQA does not require the comparative evaluation of one land use type to another but the evaluation of a project (the proposed ordinance) and its potential impacts to the existing physical environment. The predominant impacts to biological resources that would occur as a result of implementation of the proposed ordinance are related to potential land-clearing impacts associated with the construction of individual cannabis-related operations. The potential operational impacts are largely controlled/mitigated through existing regulations imposed by the County, CVRWQCB, and other agencies, similar to agricultural impacts.
- I12-5 The comment requests that the DEIR's less-than-significant cumulative impact determination regarding growth inducement be revised to indicate that the commercial cannabis ordinance be characterized as a positive significant and unavoidable impact because it would create employment opportunities in Calaveras County. State CEQA Guidelines Section 15126.2(d) provides: "[i]t must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment." Thus, the EIR's analysis must focus on whether the impact would be a significant environmental effect, regardless of whether it would have beneficial or detrimental impact on employment. Therefore, the requested change is inappropriate as it does not comport with CEQA requirements.
- I12-6 The comment requests that the Final EIR acknowledge that the environment is part of a bigger picture which includes the job market. Refer to Master Response 5 for information regarding socio-economic analysis.
- I12-7 The comment requests that the County reassess the assumption made as part of the No Project Alternative. Refer to Master Response 2 regarding alternatives.
- I12-8 The comment requests that the County set policies that provide fair and balanced opportunities for everyone. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning

- Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I12-9 The comment states that the STARS project would be a helpful tool for those considering developing or investing in Calaveras County. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I12-10 The comment questions the ability to require and enforce clean up requirements of existing cannabis operations under a ban ordinance. As stated on page 6-6 of the DEIR, the environmental analysis of Alternative 2 acknowledged that illegal cannabis cultivation could occur despite the ban ordinance and the EIR discusses this possibility as part of the environmental analysis. It is also acknowledged that some operations may be abandoned and blighted under a ban ordinance.
- I12-11 The comment requests that analysis be included regarding impacts of permit revocation for once-permitted operations. The DEIR's discussion of Alternative 1 evaluates the impacts of the expiration of the existing Urgency Ordinance, noting that existing grows would be abandoned or repurposed and considering the potential impacts associated with such a condition. Alternative 2 also evaluates the potential impacts associated with no cannabis-related operations being permitted by the County, but also assesses the potential physical environmental impacts, as required by CEQA, of compliance and partial compliance with the draft ban's requirement for maintenance/restoration of each site. Thus, the environmental analysis of Alternatives 1 and 2 in the DEIR address the situation posed in the comment.
- The comment also questions what happens to the permit fees that were collected under the emergency ordinance. The application fees paid by registrants under the urgency ordinance was for the processing of the registration applications and used for the implementation of the cannabis cultivation registration program. The ordinance clearly states that the registration confers no entitlement or permanent approval to cultivate cannabis (refer to Section 17.05.165.B). The funds collected with the registration applications have been expended in the review of applications and enforcement of the provisions of the ordinance. Registrants are not due any refund and there was no expectation that the one-time registration fee granted any expectation of continuing cultivation beyond the term of the urgency ordinance.
- I12-12 The comment states that illegal grow operations would not maintain the health, safety, and well-being of Calaveras County residents and the environment. Under the draft ban alternative, cannabis operations would be prohibited, which would maintain the health, safety, and well-being of Calaveras County residents and the environment.
- I12-13 The comment asks the County to address all concerns and make suggested changes in the Final EIR. The responses to individual concerns are presented above.

Calaveras County

Letter  
113

Medical Cannabis Cultivation and Commerce Ordinance Project  
Public Meeting, Calaveras County Board of Supervisors Chambers  
Comment Sheet

May 22, 2017

Name: Richard DeGarmo

Organization: Self

Mailing Address: 1119 Husband Rd Sheep Ranch CA 95276

Email: \_\_\_\_\_

Comment: The medical aspect of cannabais is  
important - The limits the ban enacts  
are unreasonable and indoor cultivation  
is impossible in some situations

113-1



RECEIVED

JUN 14 2017

Calaveras County  
Planning Department

Please use reverse side of page or use additional sheets as needed

<b>Letter I13</b>	<b>Richard DeGarmo</b> 6/14/2017
-----------------------	-------------------------------------

- I13-1      The comment expresses the opinion that the ban ordinance limitations are unreasonable. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

RECEIVED

Calaveras County

JUN

Letter 114

Medical Cannabis Cultivation and Commerce Ordinance Project

Public Meeting, Calaveras County Board of Supervisors Chamber of Commerce

Comment Sheet

Calaveras County Planning Department

ATTEN: PLANNING DIRECTOR  
PETER

May 22, 2017

Name: ANDRES T. DELHERRERA (22 YRS)  
Organization: RETIRED CORRECTIONAL OFFICER / ELDER / SUPERVISOR (25 YRS) / MOKE HILL CHURCH  
Mailing Address: P.O. BOX 427 MOKEHUMME HILL, CA. 95245  
Email:

Comment: DEAR SIRRS, GATE KEEPERS (5) OF CALAVERAS COUNTY, MY FAMILY & I HAVE BEEN RESIDENTS HERE FOR (42 YRS) AND AGAINST COMM. MARIJUANA / DISPENSARIES IN OUR COUNTY. MEDICAL MARIJUANA IS COVERED IN PROP. 64 AND IS THE ONLY REGULATION AT THIS TIME. I AM 70 YRS OLD AND HAVE SEEN THE EFFECTS ON MARIJUANA ON THE PERSON FIRE IN VIETNAM (USMC. 1967) LACK OF CONCENTRATION AND MOTOR SKI AND RESPONSE. MARIJUANA IS A GATE WAY DRUG, MULE CREEP PRISON HAS THE FULL LINE IN EVERY FOLD. (THOSE ADDICTED TO DRUGS IN MOKE HILL CHURCH), PARENTS HAVE APPROACHED ME SAYING PEOPLE ARE GIVING OUR KIDS FREE DRUGS (IN THE PAST YRS.) A ONG STRUGGLE WHICH REQUIRES CONSTANT VIGILANCE TO KEEP CRIME AND CRIMINAL ACTIVITY AT BAY. BEING ALSO A FIRE VICTIM, MANY NON-RESIDENT PEOPLE HAVE COME TO OUR COUNTY AS OPPORTUN TO TAKE ADVANTAGES OF COMMERCIAL CANNABIS CULTIVATION AND HAVE NO REGARD FOR RESIDENT PEOPLE. CRIME HAS INCREASED MY SON, A VICTIM OF THEFT, HIS (37 FT) 5<sup>TH</sup> WHEEL STOLEN FROM WENDEL'S (MOKE HILL) 2 MONTHS AGO. THE COMMERCIAL MARIJUANA LIES ABOUT FUNDS TO OUR COUNTY IS LIKE LETTING THE MAFIA RUN OUR COUNTY AND TEACH OUR CHILDREN AND GRANDCHILDREN IF THIS IS ALLOWED TO DEVELOP. POW BANNED (MEASURE B) WAS CALAVERAS

RECEIVED

114-1

(c)

THE FEDERAL GOVERNMENT WILL HELP AND THE FUNDS ARE AVAILABLE TO THOSE BANNING COMMERCIAL MARIJUANA. (JEFF SESSIONS)

- THE INTIMIDATION FACTOR ALONE, THE SLASHING OF TIRES AND TRYING TO RUN PEOPLE OFF THE ROAD, GUN TOTTING THUS HOLDING UP TRUCKS, ALSO ON ROADS. THIS MUST BE STOPPED - THIS IS NOT A POLITICAL DECISION. (THIS IS THE FUTURE FOR OUR CHILDREN AND GRANDCHILDREN, A SOCIETY TO COME) WHILE JUST PRINCIPLES AND ACTIONS PRESERVE, EVEN EXALT A SOCIETY, THEIR ABSENCE SHAMES A SOCIETY. (PROVERBS 14:34) RIGHTEOUSNESS MAKE A NATION GREAT, SIN IS A DIS TO ANY NATION.

THIS IS ALL HAPPENING ON YOUR WATCH AND YOU ARE ACCOUNTABLE TO THE MAJORITY OF THE PEOPLE YOU REPRESENT AND ALSO TO THE LORD. (2 CHRONICLES 16:9) THE LORD KEEP WATCH OVER THE WHOLE WORLD TO GIVE STRENGTH TO THOSE WHOSE HEARTS ARE LOYAL TO HIM. (TO HIM WHO ACT FOOLISHLY WILL ALWAYS BEAT WITH HIMSELF AND OTHERS - (EVIL VS GOOD)

LISTEN TO THE RESIDENT PEOPLE WHO NEED YOUR HELP - PLEASE, SAVE OUR FUTURE AND CHILDREN, WHO ARE LOOKING TO YOU.

RESPECTFULLY SUBMITTED

*Andi T. D. A.*

114-1  
cont.

<b>Letter I14</b>	<b>Andres T. DeHerrera</b> 6/7/2017
-----------------------	--

- I14-1      The comment expresses support for a ban ordinance. This is a project alternative preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

RECEIVED

Calaveras County

JUN 7 2017

Letter 115

Medical Cannabis Cultivation and Commerce Ordinance Project  
Public Meeting, Calaveras County Board of Supervisors Chamber

Comment Sheet

Calaveras County  
Planning Department

May 22, 2017

Name: Gailan McLehman

Organization: Mom & Grandma

Mailing Address: PO Box 427 Mokille Hill, CA. 95245

Email: To all Supervisors please help us.

Comment: I want our county back we are

country people with country values we live on

way of life. We lost our home in the

'Battle Fire' everything we worked for

that's over 40 yrs but now we are here

all we see now are this huge commercial

growers all around us they have taken

over, it is heartbreasing to see. Huge

grow light people who we don't know

crime hate up even murders have

occured. You can't sit out side turning

around time the smell is terrible.

your children + grand kids can't ride

there horses or your wheelers around

with out fear of someone carrying a

gun to protect their grow and dogs

running wild this is all real and

why do we want this for our loved one

Please protect the people you serve

think you so much, this is not good

for us.

115-1

Please use reverse side of page or use additional sheets as needed

### CALAVERAS RESIDENTS AGAINST COMMERCIAL MARIJUANA

#### DO YOU REALLY WANT THE MARIJUANA TAX MONEY AND ALL THE THINGS COMMERCIAL MARIJUANA CULTIVATION BRINGS WITH IT?

It comes with all this BAGGAGE!!!

- Criminals
- Crime
- Homelessness
- Extra burden on county resources
- More illegal grows
- All cash business that largely goes unreported to the Feds
- Its Federally illegal and is a schedule 1 DRUG
- Business that operate with a large risk factor and largely with no insurance thereby eliminating pretty much any recourse for damage or injury they cause to you
- Transients from all over looking for work in marijuana industry because of their backgrounds such as felonies that hinder them from obtaining jobs with employment applications
- Investors setting up commercial marijuana cultivation operations under LLC's to take advantage of our county while they themselves live in some other county or state. They don't want to live near the grows, have their name associated, to it or bear the liabilities.
- Thugs protecting commercial grows
- Turns neighborhoods into industrial zones that are protected by security patrol, cameras, dogs
- Tearing up the infrastructure of our county
- Tearing up small community roads with heavy equipment haulers, water trucks and increased
- Gun toting thugs
- Guard dogs chained at commercial grows
- Environmental contamination
- Exploiting our streams, rivers and ground water
- Contamination of drinking water
- People who have no regard for the law
- Increase of commercial marijuana cultivation in residential neighborhoods
- Continuous malodorous odors that keep surrounding neighbors from enjoying their own property for months on end
- Homeless encampment style tent housing for workers
- Garbage piles outside
- Human waste going on the ground
- Intimidation
- Terrorism
- Over-fertilized water feeds algae blooms and turns ponds green.
- Bulldozers mowing down trees
- People who have no care for the environment
- People who have no care for their community, they're just in it for a buck.
- Few of them bother to obey the rules regarding construction permits, electrical wiring, or water
- the legalization movement in recent years has dramatically grown the pot industry
- Assault weapons
- Loss of rural way of life for many
- Cartels

115-1  
cont.

- Residents feeling the loss of safety on their own property
- Residents experiencing the loss of full use of their property
- Likely decrease in home value due to disclosure requirements of commercial grows
- Loss of family and friends that are hesitant or reluctant to visit because of the commercial marijuana industry and it's unpredictable nature

The environmental violations of pot cultivators can be utterly shocking. They've stolen tons of water, illegally cleared acres of forests, built scores of unpermitted sheds and other ramshackle structures, and liberally dumped tons of fertilizer on their pot plants, according to Humboldt County records.

In response, law enforcement agencies are using an aggressive new tactic to fight illegal marijuana cultivation in Humboldt County, the largest source of illegal cannabis in California. Law enforcement officers are charging cultivators with violating local and state environmental laws as well as criminal laws. Estelle Fennell, a member of Humboldt County's Board of Supervisors, told *USA Today*, "The problem we have to address are the people who have no care for the environment, and I would argue, no care for their community. They're just in it for a buck."

I15-1  
cont.

<b>Letter I15</b>	<b>Gailan DeHerrera</b> 6/7/2017
-----------------------	-------------------------------------

- I15-1      The comment expresses support for a ban ordinance. This is a project alternative preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Planning Director Peter Maurer:

RECEIVED

JUN

Letter  
116

Calaveras County  
Planning Department

(ENVIRONMENTAL IMPACT) MAY 21, 2017

BAN COMMERCIAL CULTIVATION  
OF MARIJUANA (ALSO DISPENSARIES)

I BEEN LIVING IN MORELUMNE HILL AREA FOR 42 YRS AND DO NOT WANT TO BE EXPOSED TO ALL THE CRIME AND ASSOCIATED VIOLENCE THAT THIS BRINGS TO OUR COUNTY. MY CHILDREN AND GRAND-CHILDREN (HIGH SCHOOLERS) ARE BEING HIGHLY EXPOSED TO THIS BREAK DOWN OF OUR CULTURAL SOCIETY IN OUR COUNTY. I'M A RETIRED CORRECTIONAL OFFICER OF 25 YRS IN LAW ENFORCEMENT AND KNOW IF THIS CONTINUES (POT COMMERCIAL CULTIVATION WITH DISPENSARIES MORE CORTELS & CRIME WILL EVADE OUR LIVELY HOOD) (FAMILY & GRAND CHILDREN)

- EXAMPLES OF NEGATIVE IMPACTING OUR FAMILY ALREADY:

1. NON RESIDENT PEOPLE DRIVING RADICALLY ON THE ROADS.
2. MY SON'S 37' FOOT 5<sup>TH</sup> WHEEL STOLEN IN FRONT OF WENDERS IN MORE HILL,
3. BRIGHT SHED HOUSES LIGHTS ON ALL NIGHT.
4. AUTOMATIC RIFLE FIRING AT DIFFERENT

116-1

TIMES.

5. WE ARE BEING TOLD BY OUR LOCAL SHERIFF TO KEEP OUR CHILDREN IN DOORS DURING HARVESTING TIME.

6. WE WERE RAILROADED ON MEASURE B TO LET A OUTSIDE JUDGE FIND "LANGUAGE MISLEADING"? THIS IS CRIMINAL, & "WE THE PEOPLE" SIGNED THE PETITION TO VOTE & WE THE PEOPLE WANT THE COMMERCIAL CULTIVATION OF MARIJUANA STOPPED. AS SUPERVISORS YOU MEN ARE ACCOUNTABLE TO THE PEOPLE AND TO GOD FOR THE RESULTS OF THIS MESS ALLOWED. THE FEDERAL GOVERNMENT MUST STEP IN IF YOU ARE UNABLE TO DO WHAT IS RIGHT & THE TRUTH & CONSEQUENT OF THIS PROBLEM IN OUR COUNTY.

I16-1  
cont.

"RETIRE  
ELDER/PASTOR  
PINE HILL  
CONG CHURCH

Sincerely  
Gust. DEVEREAUX  
CSMC & CORRECTIONAL  
- 70 YRS OLD OFFICER  
(209) 418-4139

<b>Letter I16</b>	<b>R. DeHerrera</b> 6/7/2017
-----------------------	---------------------------------

- I16-1      The comment expresses support for a ban ordinance because of concerns regarding crime, lighting, and noise. This is a project alternative preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

**Letter  
I17**

**From:** [Planning Web Account](#)  
**To:** [Peter Maurer](#)  
**Subject:** FW: Cannabis Cultivation DEIR  
**Date:** Tuesday, June 13, 2017 4:03:08 PM

---

*Annette Silva*  
*Administrative Assistant, II*  
*Calaveras County Planning Department*  
*209-754-6620*  
*209-754-6540 Fax*




---

**From:** [markdyken@comcast.net](mailto:markdyken@comcast.net) [mailto:[markdyken@comcast.net](mailto:markdyken@comcast.net)]  
**Sent:** Tuesday, June 13, 2017 3:48 PM  
**To:** Planning Web Account  
**Subject:** Cannabis Cultivation DEIR

To: Calaveras County Planning Department  
 Re: Cannabis Cultivation Draft Environmental Impact Report

After reading the above referenced DEIR I am convinced it is a nearly useless report with very little reliable data, drafted to support a conclusion rather than give an impartial, factual, scientifically based analysis of the impact of cannabis cultivation in Calaveras County.

It is also apparent the cannabis industry is being held to a standard that is not met by the wine grape or cattle industry in the county.

I urge you to disregard this seriously flawed document and commission a truly scientific study of the issue, using available real time data without bias toward ideological resistance to cannabis.

The one takeaway I got from reading the DEIR is there are no negative impacts of cultivation that can't be resolved with solid, thoughtful regulation. A ban on cultivation will not stop the practice, but will discourage law abiding, fee and tax paying growers and encourage the illegal grows, which will continue, unregulated.

Thank you,  
 Mark Dyken  
 Vallecito, California

|  
 | I17-1  
 |  
 |  
 | I17-2  
 |

<b>Letter I17</b>	<b>Mark Dyken</b> 6/13/2017
-----------------------	--------------------------------

- I17-1      The comment questions the impartiality and factual basis of the DEIR. However, the comment does not provide specific examples of items of concern, nor does it provide any factual evidence to contradict the materials and analyses in the DEIR. Therefore, it is not possible to provide additional details in this response. As lead agency, the Board of Supervisors of Calaveras County will evaluate the adequacy of the EIR prior to taking any action on the proposed project.
- I17-2      The comment states the opinion that there are no negative impacts of cultivation that cannot be resolved through regulation, but does not provide any examples of regulations or mitigations. Therefore, it is not possible to provide additional details in this response.

Letter  
118

**From:** Planning Web Account  
**To:** Peter Maurer  
**Subject:** FW: EIR FEEDBACK  
**Date:** Thursday, June 15, 2017 7:53:09 AM

-----Original Message-----

From: brockestes@yahoo.com [mailto:brockestes@yahoo.com]  
Sent: Wednesday, June 14, 2017 5:22 PM  
To: Planning Web Account  
Subject: EIR FEEDBACK

this address did not work from my computer, so, trying another way:

PlanningWeb@co.calaveras.ca.us.

-----

here is what I got when I tried the above address:

-----

There was a problem!

The recipient info doesn't seem quite right. Please look it over and try again.

-----

here is my comment:

I attended the Monday night meeting with two presenters from the group that did the EIR.

The younger guy with the mop of hair was totally unhelpful. As any question was asked of him, he suggested using this format to ask the question (rather than answering it on the spot). That alone should disqualify the EIR.

Fortunately, the guy without much hair must have sensed that the younger guy was blowing it and he answered "some" questions.

His answer to two of my questions brought responses which invalidate the EIR.

#1. He made clear that for the purposes of the EIR, "compliance" on the part of all growers was assumed.

This makes the EIR a nonsensical document since no one assumes that any of the illegal rural cartel grows will cease or be reduced.

#2 He made clear that "allergies" were never considered.

Since Calaveras has an aging population with likely MORE allergies than one might find in a younger community, this failure also invalidates the EIR. Especially since we know that smells and odors will likely be strong wherever grows are allowed

- Brock Estes

"Believe me, there IS a third way to do this - think about it, people."

I18-1  
I18-2  
I18-3

Submitted By:

Name:: brock estes

Email:: brockestes@yahoo.com

<b>Letter I18</b>	<b>Brock Estes</b> 6/15/2017
-----------------------	---------------------------------

- I18-1 The comment states that the EIR consultant did not answer specific questions that were asked at the DEIR public meeting. The comment also expressed the opinion that the EIR should be disqualified. Under the requirements of CEQA, all comments made on the DEIR are to be responded to in the Final EIR. Written comments received by the County at the public meeting and their responses are included as part of this chapter of the FEIR (refer to comment letters labeled PM). As the lead agency, the Calaveras County Board of Supervisors will review the entire EIR, which includes all comments received and responses, before determining the legal adequacy of the document. Certification of the EIR must occur prior to the lead agency taking action on the proposed project.
- I18-2 The comment questions the validity of the compliance assumptions. For more information regarding the assumptions used for evaluation of the project alternatives, Refer to Master Response 2.
- I18-3 The comment notes that the DEIR should be invalidated because the analysis did not include evaluation of allergies. The prevalence of allergens, such as hay fever, is common in the environment and is not an environmental impact under CEQA. Rather, air quality analysis is based on potentially-harmful emissions such as smog, carbon monoxide and greenhouse gases.

Letter  
119

**From:** [gacamper@aol.com](mailto:gacamper@aol.com)  
**To:** [Peter Maurer](#); [Planning Web Account](#)  
**Cc:** [Michael C. Oliveira](#); [Gary Tofanelli](#); [Dennis Mills](#); [Clvde Clapp](#)  
**Subject:** EIR Draft  
**Date:** Tuesday, June 13, 2017 9:50:45 PM

Hi Peter and Staff,  
 I have read the Draft EIR and I commend you for all of your time and effort, along with Ascent Environmental, in preparing this document.

In reading the various project alternatives, I agree that "The EIR supports the clear intent and direction of the Board to adopt a **ban** of cannabis cultivation in the county. " I also agree that "The DEIR identifies **significant** impacts in the following CEQA environmental issue areas: aesthetics and visual resources; air quality; biological resources; cultural resources; greenhouse gas emissions; hydrology and water quality; transportation and circulation; and cumulative effects."

I119-1

However, I **strongly disagree** with the conclusion "As described in the DEIR many of these impacts can be fully mitigated.." There is no proof of these impacts being fully mitigated. There are no citations of peer reviewed published studies with statistically significant sample sizes to verify this conclusion in each environmental issue area. Therefore, **all** of these impacts are **not** mitigated until it's proven that the proposed mitigations actually work. All of these significant impacts to our environment have already occurred in our county and will continue to occur until cannabis is fully eradicated.

I119-2

There is a false statement on page 3.3-35 "Because the exact locations of commercial cannabis operations is unknown at this stage, it is not known which specific habitat would be affected". The Planning Dept.knows the exact location of 750 operations. So, the specific habitat is known and should have been studied in all 750 locations.

I119-3

Questions: How many current Calaveras County cannabis grow sites were studied for this DEIR?  
 What percentage is this number of the total number of grow sites that have applied for approval? Is this percentage statistically significant?

I119-4

In conclusion, I agree that a county wide **ban on commercial cannabis cultivation is the "environmentally superior alternative" to cannabis regulations.**

I119-5

Thank you for your service to our county,  
 George Farley

P.S. Please correct a few typos: 1)Under the Table of Contents page iii Table 3.8-3 should read "Calaveras County" not "Yolo County"  
 2)Page 2-9 1st sentence of 4th paragraph "390 gallons of water per half acre per year" should be 390,000 gallons

I119-6

I119-7

<b>Letter I19</b>	<b>George Farley</b> 6/13/2017
-----------------------	-----------------------------------

- I19-1 The comment expresses agreement with the conclusion that the EIR supports a ban on cannabis cultivation. This is a project alternative preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I19-2 The comment expresses disagreement with the conclusion that many impacts of a cultivation ordinance could be fully mitigated. The comment further states that the EIR lacks citations to peer-reviewed studies of statistically significant sample sizes. The DEIR notes the scarcity of scientific information regarding cannabis cultivation and relies on other sources as needed and cited in the document, such as Regional Water Board methods to mitigate impacts. Other measures rely on logical application (such as avoidance measures) or other methods that have been applied through many years of practice. CEQA does not require citation to studies proving that mitigation measures would work; CEQA does require that such measures are enforceable and proportionate to the impact they are addressing. See CEQA Guidelines Section 15126.4. As lead agency, the Board of Supervisors of Calaveras County will evaluate the adequacy of the EIR prior to taking any action on the proposed project.
- I19-3 The comment expresses disagreement with the statement on page 3.3-35 of the DEIR which states that the exact location of commercial cannabis operations was unknown at the time of EIR preparation. Refer to Master Response 1 for a complete response regarding program-level versus project-level analysis.
- I19-4 The comment asks how many Calaveras County cannabis grow sites were studied for the DEIR, how many sites have applied for approval, and whether this amount was statistically significant. Master Response 1 includes a detailed response to program-level versus project-level analysis. The EIR relied on site investigations, a visit to a grow operation and observation of other operations, aerial photographs, and various applicable published studies. The number of sites that have applied for approval and the statistical significance of that number do not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I19-5 The comment expresses agreement with the conclusion that a ban ordinance would be the environmentally superior alternative. This is a project alternative preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I19-6 The comment suggests a correction on page iii of the DEIR. The DEIR has been amended, consistent with the request made in this comment. Refer to Chapter 4, "Revisions to the DEIR" for further clarification.
- I19-7 The comment suggests a revision to the text of the DEIR on page 2-9. The DEIR has been amended, consistent with the request made in this comment. Refer to Chapter 4, "Revisions to the DEIR" for further clarification.

Letter 120
---------------

**From:** [Plan Comm](#)  
**To:** [Peter Maurer](#)  
**Subject:** FW: Send to All  
**Date:** Tuesday, June 13, 2017 8:04:59 AM

---

Annette Silva  
Administrative Assistant, II  
Calaveras County Planning Department  
209-754-6620  
209-754-6540 Fax

-----Original Message-----

From: [trishfrazier00@gmail.com](mailto:trishfrazier00@gmail.com) [<mailto:trishfrazier00@gmail.com>]  
Sent: Monday, June 12, 2017 7:35 PM  
To: Plan Comm  
Subject: Send to All

In my previous email, I neglected to include my contact information:

Trisha Frazier  
147 Rocky Ridge Lane  
Angels Camp, CA 95222  
(209) 401-3202

I have lived in and loved this county for over 21 years (Arnold and Angels Camp). I cry about the significant increase in crime in Calaveras, the environmental and social blight we have allowed through our inaction to stop the commercial growth of marijuana. You have the opportunity to save our county. Please do the right thing.

Again, I thank you,

Trisha Frazier

Submitted By:  
Name:: Trisha Frazier  
Email: [trishfrazier00@gmail.com](mailto:trishfrazier00@gmail.com)

120-1

<b>Letter I20</b>	<b>Trisha Frazier</b> 6/12/2017
-----------------------	------------------------------------

- I20-1      The comment expresses concern about impacts associated with commercial cannabis operations. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.



<b>Letter I21</b>	<b>Trisha Frazier</b> 6/12/2017
-----------------------	------------------------------------

- I21-1      The comment expresses concern about growers who show little or no concern for the peace, security, or beauty of their neighbors. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

<b>Letter</b> <b>122</b>
-----------------------------

**From:** [Planning Web Account](#)  
**To:** [Peter Maurer](#)  
**Subject:** FW: Mr. Peter Maurer - Re: Cannabis DEIR  
**Date:** Tuesday, June 13, 2017 8:06:10 AM

---

Annette Silva  
 Administrative Assistant, II  
 Calaveras County Planning Department  
 209-754-6620  
 209-754-6540 Fax

-----Original Message-----

From: tomgriffing13@gmail.com [<mailto:tomgriffing13@gmail.com>]  
 Sent: Monday, June 12, 2017 6:24 PM  
 To: Planning Web Account  
 Subject: Mr. Peter Maurer - Re: Cannabis DEIR

To: Mr. Peter Maurer

I think it would be in the best interest of Calaveras County government, as well as the taxpaying residents to extend the public comment period for the DEIR For the Calaveras County Medical Cannabis Cultivation and Commerce Ordinance Project.

It is my belief that extending public comment will ultimately hasten the creation of a viable final draft.

Poring over this obtusely written 240 page document is no small task for the lay person. As I read through the document, I find it so broadly and fundamentally flawed, that as presently written, it can't stand the light of day.

Without significant revision, I suspect it would likely be vulnerable to challenges on numerous fronts, from its nebulous baselines to its dubious conclusions.

I believe likely challenges might be avoided with sufficient public input, and appropriate revision.

If it is still possible to do so, I encourage the extension of the comment period for this DEIR.

Thank you for your attention and consideration.

Best regards,

Tom Griffing

Submitted By:

Name:: Tom Griffing  
 Email:: tomgriffing13@gmail.com

122-1

<b>Letter I22</b>	<b>Tom Griffing</b> 6/12/2017
-----------------------	----------------------------------

- I22-1      The comment expresses the opinion that the DEIR is too broad and requires significant revisions to baselines and conclusions. Refer to Master Response 4 regarding baseline conditions as used for the analysis in the DEIR.

<b>Letter 123</b>
-----------------------

**From:** [Planning Web Account](#)  
**To:** [Peter Maurer](#)  
**Subject:** FW: Please reply to acknowledge receipt of this email - Comments on DEIR for Calaveras County Medical Cannabis Ordinance  
**Date:** Wednesday, June 14, 2017 3:36:02 PM

---

**From:** Tom Griffing [mailto:[tomgriffing13@gmail.com](mailto:tomgriffing13@gmail.com)]  
**Sent:** Wednesday, June 14, 2017 3:21 PM  
**To:** Planning Web Account  
**Subject:** Please reply to acknowledge receipt of this email - Comments on DEIR for Calaveras County Medical Cannabis Ordinance

6/14/2017

To: Calaveras County Planning Department  
[PlanningWeb@co.calaveras.ca.us](mailto:PlanningWeb@co.calaveras.ca.us)

From: Tom Griffing, Mokelumne Hill resident  
 POB # 164, Mokelumne Hill, CA 95245  
[tomgriffing13@gmail.com](mailto:tomgriffing13@gmail.com)

Re: DEIR for Calaveras County Medical Cannabis Ordinance

Following are my comments regarding the DEIR for Calaveras County Medical Cannabis Ordinance.

As I review the draft report, I find more and more erroneous assumptions, leading to more and more faulty conclusions. I would have liked more time for comment, as this document clearly needs substantial input and revision. However, it appears the county government has opted not to extend the comment period. With that said, I submit what comments time allows before the deadline.

These comments are focused primarily on section 6.3.2 of the DEIR - Proposed ban alternative 2.

Here is a brief bullet point summary of ways in which the DEIR fails to serve its purpose as a useful informative document to assist the general public and county policy makers in making sound decisions regarding critical environmental impacts. I elaborate in greater detail below.

- The language describing the ban alternative as it relates to Prop 64 is misleading.
- Completely fails to consider or analyze obvious new impacts created by the proposed ban alternative.

123-1

- The "full compliance" with a ban ordinance scenario is neither credible or feasible.
- "Partial compliance" implies a range of conditions so broad as to be effectively meaningless.
- Baseline conditions and new impacts are predicated on misinformed assumptions.
- Fraught with blatant contradictions.

I23-1  
cont.

For these reasons, I request that the county revise the DEIR to address those failures, and circulate the revised DEIR for review and comment prior to moving forward on adoption of an ordinance governing cannabis cultivation.

I23-2

Furthermore, I request that if county government chooses to move forward with a ban ordinance, that it be informed by an EIR with that as its focus.

I23-3

Following are my comments detailing the above assertions:

*According to the DEIR section 6.3.2: "Per Proposition 64, as approved on November 8, 2016 by California voters (California Health and Safety Code Section 11362.2 (b)(2)), the County may not completely prohibit residents from growing marijuana indoors and must allow residents the ability to cultivate up to six indoor plants (although reasonable regulations can be imposed)."*

In the above paragraph, this report misleads the reader by giving the impression that under prop 64, the 6 plants allowed must be cultivated indoors.

While the language of the proposed draft ban ordinance to replace chapter 17.95 of county code (if passed as written) would mandate that all plants must be cultivated indoors, Prop 64 certainly does not.

I23-4

Point of fact: Under Prop 64, a municipality has the option of limiting the cultivation of those 6 plants to indoors, but unless language doing so is included in the ordinance, those 6 plants can be grown outdoors.

Prop 64 (AUMA) Section 3 (m) reads: *"Allow local governments to reasonably regulate the cultivation of nonmedical marijuana for personal use by adults 21 years and older through zoning and other local laws, and only to ban outdoor cultivation as set forth in this Act"*

The following is one of the gross oversights of this report regarding the ban alternative:

I23-5

**Impacts from indoor cultivation???**

The absence of any such heading in the DEIR’s consideration of a ban (“option 2”) is both striking and telling. Furthermore, in this DEIR there is zero analysis of the impacts associated with, and even directly caused by indoor cultivation.

This one of many glaring omissions is powerful testament to the fact that the ban alternative along with this DEIR are not ready for prime time.

In order to be given equal consideration to the Feb 2016 regulatory framework for which the DEIR was originally drafted, a ban ordinance should require an EIR with a ban as its central focus. At the least, a more thorough analysis of the impacts of an alternative being considered for adoption.

Using a DEIR originally crafted to analyze the impacts of the proposed ordinance from February 2016, then adding a hastily drafted retrofit nearly a year into later to support a ban under a politically driven false sense of urgency is unacceptable governance.

If any such urgency actually existed, and the original UO failed to address it, a more expeditious approach might be to adopt a new UO banning commercial cultivation without need for an EIR to support it.

I23-5  
cont.

**Baseline assumptions and new impacts:**

Baseline assumptions were supposedly predicated on conditions existing as of April 5, 2016 (the date the NOP for the EIR was issued).

It appears that the DEIR treats all applicants as new impacts. The vast majority of these sites were known to be in operation prior to this date, therefore part of the baseline, rather than new impacts.

I23-6

**Comments specific to each subsection of: 6.3.2 Ban on Commercial Cannabis Operations Alternative (Alternative 2)**

**ENVIRONMENTAL ANALYSIS**

**Aesthetics**

The DEIR states: *“With the implementation of a ban under this alternative, it is possible that illegal cannabis-related activities within the County could persist or increase without sufficient funding to monitor and abate them, which could be provided by the proposed ordinance. However, as it pertains to aesthetics, such activities would likely be located in remote areas of the County (because they would*

I23-7

*not be permitted), away from viewers and designated scenic resources that are publicly accessible. As a result, in the event of an increase in illegal cannabis-related activities under this alternative, impacts would still likely be less than that of the proposed ordinance.”*

The first sentence of this paragraph is sound reasoning, the rest... Not so much.

As almost any resident can attest, illegal growers have become ever bolder about growing out in the open. The best cover for their activity is the sheer number of illegal sites coupled with the county’s failure to abate a significant portion of them to date.

As the first sentence of the quoted paragraph points out, this condition would be exacerbated by losing funding for enforcement by eliminating the only sites voluntarily subjecting themselves to scrutiny and regulation, not to mention being the very mechanism by which enforcement can be funded!

I23-7  
cont.

**Air Quality/Greenhouse Gas Emissions**

The first sentence of this subsection claims: *“With a ban on commercial cultivation, processing, and distribution activities, no emissions associated with commercial cannabis construction and operation would occur.”*

Then goes on to contradict itself in the following paragraph: *“but the illegal activities likely would be located in more remote areas of the County, thereby resulting in greater employee vehicle miles travelled and air quality emissions associated with travel to and from each site.”*

One of the two sentences cited above could not be true if the other were.

According to the DEIR: *“impacts would be less under this [ban] alternative than the project, and overall air quality/greenhouse gas impacts are not anticipated to occur with full compliance with this alternative.”*

Re: *“With full compliance with this alternative”*???

There is no evidence supporting the assumption that illegal growers would comply with a ban, and acres of evidence to the contrary.

Their activities are already banned under the UO. Yet their numbers are legion, and growing. (Pun intended)

Non-compliance is why we refer to them as illegal. The county has identified some 500 or so of these operations. What the county has not, and cannot do, is tell us how

I23-8

I23-9

many more there are, or would be under the proposed ban.

I 123-9  
cont.

DEIR 6.3.2 states: "*With respect to potential increases in illegal cannabis-related activities under this alternative, the total number of cannabis-related activities (legal and illegal) would likely be less than anticipated under the proposed ordinance*"

I 123-10

The above referenced sentence treads the ragged edge of self-contradiction.

From DEIR 6.3.2: "*Therefore, under full and even partial compliance with the ban, the impact to air quality would be reduced compared to the proposed ordinance.*"

The DEIR repeatedly use the phrase "partial compliance". I find no parameters in this DEIR for "partial compliance." Partial could mean anywhere in the range of 0.0001% to 99.999% compliance. For all practical intents and purposes, this phrase is meaningless.

I 123-11

I challenge the assumption that absent the revenue stream provided by measure C taxes and registration fees under "the project" that the ban alternative would significantly reduce the number of illegal operations. It is more than likely some would move indoors. This comes with its own set of impacts that this DEIR fails to consider at all.

It is also likely that if some illegal operations were abated, the operation would simply move to another location, creating a whole new set of impacts. This could effectively multiply impacts from illegal operations, rather than reducing them. This DEIR fails to consider this scenario as well.

I 123-12

The draft ban alternative stipulates that all cannabis must be "*grown inside the private residence or in an accessory structure thereto;*"

Any honest comparison of the impacts of indoor vs outdoor cultivation of 6 plants per household will reveal that greenhouse gas emissions are substantially greater from any indoor cultivation model.

No matter the energy source used for indoor lighting and climate control, it is inherently less efficient and creates more greenhouse gasses than plants grown in the ambient sunlight. The indoor model more than negatively offsets the would-be benefits of carbon consumption and sequestration by the cannabis plants being cultivated outdoors.

I 123-13

Calaveras County is widely known for having a favorable climate for outdoor cannabis cultivation. This is what has attracted so much outdoor growing in the first place, leading to the conditions that gave rise to the need to craft sensible regulation

in response.

I 123-13  
cont.

This DEIR fails entirely to consider the emissions stemming from the energy intensive indoor cultivation model, manufacture and transportation of materials and supplies used for indoor cultivation, including materials and labor to build accessory structures for the purpose.

I 123-14

- Biological Resources**
- Cultural Resources**
- Hydrology and Water Quality**
- Land Use and Planning**
- Noise**

In the interest of brevity, I'm commenting on these 5 subsections of 6.3.2 together:

The first scenario the DEIR outlines for each of them is the "full compliance" scenario. As stated elsewhere in my comments, this is patently absurd, and its inclusion in the report as a viable scenario serves only to discredit the document, and highlights the need for a revised DEIR to be done.

As is acknowledged repeatedly throughout this section of the DEIR, under the ban alternative, illegal operations will continue. Hazardous materials including banned and highly dangerous pesticides are found at illegal sites impacting biological resources, water quality, fish and wildlife, and the humans using and/or cleaning them up.

I 123-15

As I point out in comments on other parts of 6.3.2, the ban scenario will likely primarily impact registered sites that have either been in operation for some time and are therefore among the preexisting baseline conditions; or sites that are subject to compliance with RWQCB Order R5-2015-0113 mitigating new impacts, not to mention oversight by the county ag department regarding application of pesticides.

**Population and housing**

According to the DEIR: *"Because no additional employment opportunities would occur under this [ban] alternative, this alternative (under full and partial compliance, as described above) would have lesser impacts than the project, and no impact would occur."*

I 123-16

This DEIR completely fails to consider potentially significant impacts on local housing created by the ban ordinance as presently written. The proposed ban alternative mandates that all cannabis must be *"grown inside the private residence or in an accessory structure thereto;"*

The passage of Prop 64 fully legalized personal cultivation of 6 plants per household for all adults over 21. Under the proposed ban alternative, it is more than likely that the number of households cultivating indoors will increase exponentially, thus occupying many of the spare rooms within households, potentially displacing roommates and tenants from private households, thus impacting the available rental housing market, which is already scarce in the aftermath of the Butte Fire that displaced many residents.

I23-16  
cont.

**Transportation and circulation**

The DEIR looks only at direct employment as the sole factor impacting transportation and circulation, and fails to consider potential increases in traffic driven by the huge increase in the number of households likely to engage in indoor cultivation under the ban alternative. This is likely to include delivery of all the materials and supplies necessary, construction and electrical contractors and their laborers, as well as inspectors from the county to approve all of these new cultivation sites. However, traffic from county inspections might be partially mitigated by the ban proposal, as the building department has stated that they would have to lay off employees due to registration fees and measure C tax funding under a ban scenario.

I23-17

**ACHIEVEMENT OF PROJECT OBJECTIVES**

The DEIR claims: *“This [ban] alternative would comprehensively regulate cannabis within the County and seek to maintain the health, safety, and well-being of County residents and the environment.”*

The only way I can imagine making this unlikely claim is if it is predicated on the equally unlikely premise of full compliance. The one group likely to comply with a ban, are the registrants already in compliance with the UO, and therefore all other applicable agencies.

I23-18

As stated above, I’ve see no evidence to support the idea that the already illegal growers would suddenly come into compliance voluntarily, and acres of evidence to the contrary.

Thank you for your consideration,  
I await your response.  
Best regards,

Tom Griffing

<b>Letter I23</b>	<b>Tom Griffing</b> 6/14/2017
-----------------------	----------------------------------

- I23-1 The comment provides summary information regarding specific comments made in Comments I23-4 through I23-18. Specific responses to the detailed comments are provided below.
- I23-2 The comment requests revision and recirculation of the DEIR. However, upon review of the comments received and written responses to all comments, revisions to the DEIR that would trigger recirculation pursuant to CEQA Guidelines section 15088.5 (addition of substantial new information such as a new unmitigated significant impact) have not occurred and recirculation is not considered necessary.
- I23-3 The comment requests that the County prepare an EIR that evaluates the proposed ban alternative if selected by the Board of Supervisors. As allowed under CEQA, the Board of Supervisors can select an alternative in the FEIR if it deems the alternative is feasible, and the evaluation is sufficient to address the alternative's potentially significant environmental impacts.
- I23-4 The comment objects to the wording shown on page 6-5 related to the proposed ban alternative and what is allowable pursuant to Prop 64. However, the draft ban issued by the County prior to issuance of the EIR includes a ban on all outdoor cultivation of cannabis, which is allowed under Prop 64. As a result, the EIR's statement is considered as it relates to Calaveras County.
- I23-5 The allowance within the ban for indoor cultivation of up to 6 plants is an acknowledgement of the limitations placed on the County by approval of Prop 64. In other words, the County has no discretionary authority over the indoor, non-commercial cultivation of up to 6 plants. There are no known significant environmental impacts associated with growing these plants indoors, other than potential increased energy use, and none are raised in the comment. With regard to increased energy use, see Response to Comment I23-13.
- I23-6 While some cultivation was occurring in the County prior to the release of the NOP, contrary to statements made in this comment, the vast majority of sites for which the County received applications under the Urgency Ordinance were not in cultivation, and no cultivation operations had been permitted or authorized to operate by the County prior to issuance of the NOP. The degree to which cultivation occurred prior to issuance of the NOP was not precisely known—the County estimates that over 500 unpermitted (and illegal) grows may be in operation. Therefore, to present a reasonably conservative and defensible analysis of the potential environmental impacts associated with the proposed cultivation ordinance, the impacts of implementation of the proposed ordinance assumed the development of up to 750 outdoor and 15 indoor commercial cultivation operations.
- I23-7 Refer to Response O1-13, which addresses the EIR's discussion of potential illegal cannabis-related operations and alternatives, including the draft ban ordinance, to the proposed ordinance.
- I23-8 Contrary to statements made in this comment, the first quoted sentence pertains to the potential impacts associated with implementation of a ban and compliance with that ban, whereas the second sentence identifies the potential (should compliance not be achieved) for air emissions associated with illegal, illicit cannabis activities in more remote areas and acknowledges the potential for such activities to result in greater air emissions associated

- with travel to and from each site (albeit from illicit and illegal cannabis cultivation sites). The DEIR's statements do not conflict with each other.
- I23-9 The commenter expresses an opinion regarding the potential for illicit, illegal cannabis operations under Alternative 2 and acknowledges, in his opinion, that is not possible for the County to predict the level of compliance. Refer to Response to Comment O1-6 for further response.
- I23-10 The comment raises no environmental issues. No further response is necessary.
- I23-11 Refer to Response O1-13, which addresses the EIR's discussion of potential illegal cannabis-related operations and alternatives, including the draft ban ordinance, to the proposed ordinance. The statements regarding "partial compliance" made in the DEIR are specific to the restoration requirements of the draft ban and refer to a cessation of cannabis-related activities but no restoration to pre-project conditions.
- I23-12 The degree to which illicit and illegal operations would increase from a ban and the degree of related environmental impacts cannot possibly be known. Any estimate would be entirely speculative. Refer to Response O1-6 for further response.
- I23-13 The evaluation of indoor cultivation of up to 6 plants, as allowed by Prop 64, is considered a personal cultivation, outside the County's jurisdiction, and not subject to evaluation by the County as part of the contemplated ban alternative. The degree of cultivation guaranteed by Prop 64 is not considered enough to support a commercial operation. Further, whether a ban would result in increased indoor grows of 6 plants or less is speculative and, therefore, the degree to which such indoor growing could increase overall energy use in the County is unknown and cannot be known. Any estimates would be sheer speculation. Because indoor cultivation of up to 6 plants, with its associated energy use, is permitted by law and the County has no discretion to ban it, indoor growing is not a project under CEQA. (A lead agency must have discretionary authority to consider an activity a project under CEQA; see Section 15378 of the CEQA Guidelines.) I23-14. The comment states that the DEIR's analysis does not evaluate the potential impacts associated with construction of accessory structures. The mention of accessory structures within the proposed ban alternative refers to existing structures. It is impossible to guess whether development of accessory structures under Alternative 2 would increase or whether the construction of those structures would have environmental impacts. However, it is considered unlikely that large accessory structures (as suggested in this comment) or structures greater than 100 sf would be constructed to allow for indoor cultivation of up to six plants, as permitted by Prop 64 (even under the draft ban alternative), and the potential for impacts, due in part to the limited size of potential accessory structures, would be minimal.
- I23-15 Compliance with existing regulations is typically assumed within a CEQA analysis (i.e., compliance with Building Code requirements, etc.) and statements to that effect within the DEIR do not discredit the document. The DEIR acknowledges that evidence does exist that illicit, illegal cannabis activities could continue under a ban alternative and discusses those potential effects. If these effects were to occur, they would be illegal and punishable by fines, etc. Revision and recirculation of the DEIR are not considered necessary in response to this comment.
- I23-16 The comment presents the prospect that, under a ban ordinance, residents will choose to displace other household residents by growing marijuana in bedrooms. While the County supposes this could hypothetically occur, it would be speculative to assume this type of behavior would be widespread. It is also speculative to assume people will displace residents to instead grow marijuana in bedrooms. Refer to Response I23-5.

- I23-17 The assessment of impacts related to passage of Prop 64 and the further regulation of such activities is outside the County's purview and, appropriately, not evaluated as part of Alternative 2. Refer to Response I23-12 for further clarification.
- I23-18 The comment expresses the commenter's opinion and doubt for compliance with a ban on cannabis cultivation and is noted. This comment will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.



DEIR COMMENTS 14 JUNE 2017

Cannabis were passed in an atmosphere of hysteria (“Reefer Madness”) mistakenly implicating the substance as a cause of instant insanity in foreigners and other dark-skinned users. In fact, at the hearings for the 1937 Marihuana Stamp Tax Act, the first federal law on Cannabis, one Dr. Woodward of the American Medical Association expressed wonderment that there was no scientific testimony cited, only unverified newspaper headlines that carried no demonstrable scientific validity. This Cannabis DEIR is on a par with that level of effort, I would point to the absence of, 1) reference to or data from any program of site-specific investigations at currently permitted sites in Calaveras County, 2) reference to any Tier 1, 2, or 3 Site Reports and Biological Site Assessments submitted to the California Regional Water Quality Control Board from actual operating Cannabis farms, or contaminated sites undergoing remediation, 3) any data from allegedly “contaminated” illegal grow sites, and, 3) any outreach to counties where the Cannabis industry is being successfully fostered by the local government agencies.

Unfortunately, despite multiple scientific findings to the contrary, and even the eventual declaration of the 1937 legislation as unconstitutional by the Supreme Court in 1969, the legal strictures remained. Per the Scientific American, 1 October 2016: **The DEA’s Decision to Keep Pot Restrictions Perpetuates Hypocrisy.** As a result of Cannabis prohibition, the value of this plant was artificially elevated and a criminal infrastructure was created to satisfy the market for the product. By any measure of rational evaluation, this criminal infrastructure is by far the most damaging societal impact of Cannabis. It is a very positive development that with the elimination of Cannabis prohibition, this criminal infrastructure is being dismantled. Even a cursory review of the trajectory of alcohol prohibition and its ultimate repeal demonstrates the positive impact that elimination of prohibition has on concomitant illegal activities.

It is instructive to note that the DEIR does warn that the “Environmentally Superior Alternative,” Alternative 2 which bans commercial Cannabis activities, will eliminate funding for, “...monitoring and control of illegal activities related to cannabis...” As a career water quality professional, it is abundantly clear to me that a system of regulation is far preferable to an unenforceable “ban.” For example, Calaveras Sheriff DiBasilio recently bemoaned the presence of a banned pesticide, Carbofuran, at an illegal grow site. A robust permitting and inspection program clearly would go a long way towards preventing such occurrences by providing staff and resources for enforcement.

124-2  
cont.

**SPECIFIC DEIR COMMENTS**

-Page 1-2 and 1-3-

**AGRICULTURE AND FORESTRY RESOURCES**

*“...Based on registration applications for commercial cannabis cultivation registration, applications have been received for 226 acres of cultivation. Although much of this is likely to be denied (based on preliminary processing records), there is also an equal amount of land area devoted to cannabis cultivation that is unregistered (meaning that either no application was received for this acreage or that the application was denied or rejected but cultivation activity*

124-3

## DEIR COMMENTS 14 JUNE 2017

*continues), and an ordinance may allow additional land to be placed in regulated cultivation. For the sake of analysis, doubling the acreage is a fair estimate..."*

## &lt;Comment&gt;

**The authors could have provided up-to-date information on the actual status of permits but did not. The statement, "...doubling the acreage is a fair estimate..." perfectly exemplifies the lack of attention to detail in this DEIR; citations for the database from which the estimate is extrapolated and the basis for the calculation needs to be included.**

I24-3  
cont.

**-Page 1-4-**

*"...Further, any development related to cannabis cultivation and processing would be required to adhere to the Department of Pesticide Regulations Legal Pest Management Practices guidance and inspection by the County's Agricultural Department for proper use and storage of pesticides and fertilizers such that the release or exposure of people to hazards and hazardous materials would not occur. In addition, no hazardous wastes have been identified with cultivation activities..."*

## &lt;Comment&gt;

**See comment from Sheriff DiBasilio, Page 2, paragraph 3; permitting would provide staff and resources to police growers and protect public health, Alternative 2 would withdraw those resources and deprive Calaveras County of vital protection. This point is further stressed in the subsequent section on Page 1-4, PUBLIC SERVICES, quoted below:**

*"...The project, by design, would afford additional funding and resources for the County Sheriff's Department to assist in the management and enforcement of regulations related to cannabis cultivation that are already occurring within the County. Per the County Sheriff's Department, additional funding for resources (e.g., deputies) are needed within the County with or without the proposed ordinance. The Sheriff's Department, as of the date of release of this EIR, has 4 positions open and anticipates a total of 20 are needed (DiBasilio, pers. comm., 2017). It is anticipated that the additional funding afforded by the project would be used for fulfilling the Sheriff's Department's need for additional deputies and staff, partly to monitor cannabis cultivation and commerce, but additional facilities would not be required as a result of the project.*

I24-4

*"...In addition to law enforcement, other services may experience an increase in demand, including fire protection, schools, and other governmental services. Each cultivation site is required to maintain a residence. Where no residence exists, a new one must be constructed with associated impact fees for fire, schools and other services. Increases in property tax and Measure C tax revenue would be expected to offset the costs of the increase in services. Sales tax and increase valuation of property associated with manufacturing and other commercial activities would also provide additional local revenue..."*

DEIR COMMENTS 14 JUNE 2017

<Comment>

Agreed, the point that going forward with a permitting and monitoring program will provide Calaveras County with resources unavailable under a “Ban” cannot be stressed enough.

I 124-4  
cont.

-Page 2-1-

**2.1.1 Medical Cannabis Use Context**

*“...A variety of federal laws have addressed the pharmacological uses of cannabis in the United States. Notably, the use of marijuana became regulated under federal law in 1937, when congress passed the Marijuana (sic., actual spelling in law, Marihuana) Tax Act. The Marijuana Tax Act was repealed through passage of the Controlled Substances Act in 1970, which scheduled or categorized therapeutic goods. Through the Controlled Substances Act, marijuana was deemed to be a Schedule 1 substance, meaning that it has no valid medical uses and a high potential for abuse...”*

<Comment>

As mentioned on page 1, there was no scientific basis for prohibition put forth when the Marihuana Tax Act was passed. Many serious students of history believe that the primary motivation for the law was to ensure continued employment of prohibition agents, with a secondary intent to ensure that new developments in hemp harvesting (invention of the decorticator) would not allow hemp to supplant wood fiber for newspaper production. A major player of the day, and proponent of “Yellow Journalism,” now known as “fake news,” newspaper tycoon William Randolph Hearst, was instrumental in creating and spreading the sensationalized fictional accounts attributing madness to marihuana, while being focused on protecting the value of his timber holdings.

I 124-5

The precise sequence of events leading to the current federal status of Cannabis is not well known and is here detailed:

- 11 May 1937- Marihuana Tax Act, drafted by Harry J. Anslinger, Director of the Federal Bureau of Narcotics was introduced by Representative Robert L. Doughton, (D-NC).
- 2 August 1937- Marihuana Tax Act signed into law by President Roosevelt.
- 19 May 1969- Marihuana Tax Act declared unconstitutional by unanimous Supreme Court Decision, state laws remained in effect.
- 1 May 1971- Controlled Substances Act with five levels reflecting levels of perceived danger of drugs takes effect, Cannabis placed in Schedule 1 as a temporary measure pending the scientific review that was not performed in 1937.

DEIR COMMENTS 14 JUNE 2017

**22 March 1972-Report from the National Commission on Marihuana and Drug Abuse (Shafer Commission) released; report recommends that Cannabis be regulated as alcohol is, and that it be removed from the Controlled Substances Act. President Nixon rejects the scientific consensus, reportedly, for political purposes, e.g., to criminalize anti-war and civil rights protesters.**

I24-5  
cont.

**Page 2-3 Paragraph 1**

*"...Based on local data, for every 1,000 square feet (sf) of canopy, water demand varies between 100 gallons per day (gpd) to 320 gpd..."*

<Comment>

**There are no citations or data tables supplied as a foundation for this statement.**

I24-6

**Page 2-3 Paragraph 2**

**HARVESTING ACTIVITIES**

*"...Cannabis harvesting activities generally requires a maximum of approximately 10 to 15 people..."*

<Comment>

**There are no citations or data tables supplied as a foundation for this statement. This is one data point that could easily have been substantiated through contact with permitted growers.**

I24-7

**Page 2-3 Paragraph 3**

**PREPARATION FOR SALE**

*"...Harvested and trimmed cannabis is typically vacuum-sealed in plastic bags. Tinctures and other products may also be prepared using solvents, such as alcohol and olive oil, to extract active chemicals from harvested plant materials. No more than 15 people are required for large-scale operations..."*

<Comment>

**See previous comment. Also, we note that the arbitrary and apparently unsubstantiated number of "15 people" is now pegged as the maximum per grow. As this is a very important assumption in the context of road and other impacts, more detail on the derivation of this assumed labor force is necessary.**

I24-8

**Page 2-6 Paragraph 1**

DEIR COMMENTS 14 JUNE 2017

**Urgency Ordinance Regulating Medical Cannabis Cultivation and Commercial Uses Involving Medical Cannabis**

*Cultivation sites are required to be fully enclosed by a six-foot-tall fence, and shielded from public view.*

I24-9

<Comment>

See Section 17.95.210(G) of the Calaveras County Code, "...The cultivation area shall be fully enclosed by an eight-foot tall fence..."

Page 2-9 Paragraph 4

**REASONABLY FORESEEABLE COMPLIANCE RESPONSES**

*...Operation of mixed light and outdoor cultivation operations would require up to approximately 390 gallons of water per half acre per year..."*

I24-10

<Comment>

Typo, per Page 2-2, number should be 390,000 gallons.

Page 2-9 Paragraph 5

*"...During the harvest phase of cultivation, crews of up to 15 people per operation would be employed for a period of up to 3 weeks depending on the size of the operation and the number of plants. Based on the total number of applications for outdoor commercial operations received under the urgency ordinance (995 total, of which 740 were commercial) and the anticipated number of applications to be approved, it is estimated that up to 750 applications could be approved by the County, although it is anticipated that approximately half of that would actually occur. Of that number, nurseries are anticipated to represent approximately 1-2 percent..."*

I24-11

<Comment>

This entry does not have the specificity, citations, or level of detail expected in a DEIR.

Page 2-12

**2.5.4 Personal and Primary Caregiver Cultivation**

*"...Based on the number of applications submitted under the urgency ordinance, approximately 26 percent of the total number of applications received involved personal and/or primary caregiver cultivation. Assuming a similar ratio would apply to the proposed ordinance,*

I24-12

DEIR COMMENTS 14 JUNE 2017

*approximately 200 personal and/or primary caregiver operations may occur. It should be noted that personal and/or primary caregiver applications would be necessary for County residents that pursue outdoor cultivation of cannabis within their property...*

<Comment>

The DEIR clearly envisioned that personal and caregiver cultivation would continue to be allowed outdoors. Nowhere in this section, or anywhere else in the DEIR is there an analysis of projected environmental impacts that would result from the proposed ordinance governing personal cultivation, Section 17.95.140(C)(7), "...Cannabis cultivation shall only occur within a single designated area of a dwelling or within a single accessory structure thereto with solid walls and a ceiling, roof or top and which complies with all local ordinances, codes, regulations, and permitting requirements for the accessory structure's type, size, and intended use. The cultivation shall be subordinate, incidental, and accessory to the residential use..."

I24-12  
cont.

There is no doubt that there would be substantial environmental impacts that would accrue from requiring nearly 300 personal grow locations to move from outdoors to indoors. And, as the proposed "Ban" ordinance does not place a ceiling on how many such projects would be permitted, that number would be expected to increase. This proposed ordinance requirement is not supported by the DEIR and the potential impacts of construction and increased carbon footprint and increased electrical, water, and pesticide use occasioned by indoor cultivation for the personal/caregiver category have not been considered therein. The DEIR does state on page 3.2-15:

**ISSUES OR POTENTIAL IMPACTS NOT DISCUSSED FURTHER**

*"...The establishment and operation of personal/caregiver grow sites is not expected to involve the use of heavy, emissions-generating equipment for construction or operation but instead involve the same types of hand tools and simple power tools typically used in home food gardens. Moreover, the establishment and operation personal/caregiver grow sites would only result in a nominal number of vehicle trips, if any, and, therefore, would not result in additional mobile-source emissions of criteria air pollutants, precursors, and GHGs..."*

I24-13

<Comment>

The description of this potential impact does not incorporate the proposed requirement for construction and operation of indoor grow sites, consequently there is no support for 17.95.149(C)(7) in this DEIR.

Page 2-12-13

**2.5.5 Commercial Cannabis Manufacturing, Testing, Distribution, and Transport**

I24-14

**REASONABLY FORESEEABLE COMPLIANCE RESPONSES**

DEIR COMMENTS 14 JUNE 2017

*Commercial cannabis manufacturing, testing, distributing, or transporting would occur within buildings generally located in commercial and industrial areas. The majority of indoor use permits may require construction of large warehouses, which may require some earth-moving construction activities (tree removal, vegetation clearing, grading). Transport to and from the site would occur during the typical harvest season (September through November), during which up to 15 employees would travel to and from each of the sites on a daily basis. Generally, indoor processing sites would appear as unremarkable structures with obscured or no windows. These facilities would primarily be located in more urban areas of Valley Springs, San Andreas, and Murphys. Demand for utility services (water, electricity) would be typical of industrial warehouse uses. As part of this analysis, these facilities are anticipated to occupy existing buildings on parcels zoned for commercial or light industrial land uses. If the development of a new processing facility were to occur, it would be subject to discretionary review and its own project-level CEQA review where it would be evaluated for potential project-specific impacts, including construction noise, operation noise, and contribution to traffic noise levels. Because the type, size, and location of these activities would be dependent on the number of contributing commercial cultivation sites and their individual outputs, specific impacts related to these activities cannot be reasonably foreseen at this time. However, where appropriate and reasonably foreseeable in Section 3.1 through 3.9, impacts associated with the commercial cannabis manufacturing, testing, distributing, or transporting of medical cannabis are evaluated (e.g., air quality impacts, including odors).*

I24-14  
cont.

<Comment>

**There is nothing put forth in this section of the DEIR that even raises the hint of an environmental issue with manufacturing, testing, distribution, or transportation of Cannabis products. Consequently, there is no support in this DEIR for proposed ordinance Section 17.95.040(B) for environmental impact reasons. I would note that environmental laboratory testing of Cannabis requires de-minimus quantities of product, so it is questionable what purpose is served by prohibiting that particular activity.**

CLOSING THOUGHTS

**In closing I urge the Calaveras County Supervisors to take a deep breath, get past the emotions, and please consider the potential benefits to all your citizens of allowing a well-regulated industry to flourish. If a “Ban” is adopted, I would request that, a provision for “Special Agreements” be included to allow for case-by-case variance from the onerous requirement for only indoor cultivation.**

I24-15

<b>Letter I24</b>	<b>Julio Stanford Guerra</b> 6/14/2017
I24-1	The comment states general concerns regarding site-specific information. Refer to Master Response 1 for a complete response regarding program-level versus project-level analysis.
I24-2	The comment details the legal status history of cannabis and notes the lack of site-specific information included in the DEIR. No specific comments regarding the content of the EIR are provided, so no further response is possible.
I24-3	The comment expresses the commenter's opinion that the DEIR did not provide enough detail as part of its analysis. Due to the programmatic nature of the DEIR, which is necessary for the evaluation of a countywide document like an ordinance or the County General Plan, some estimation of impacts based on reasonably foreseeable conditions is necessary and appropriate. The comment criticizes the assumptions regarding acreage assumed dedicated to marijuana cultivation, but provides no evidence suggesting another acreage total is appropriate. It must also be remembered that the ordinance, if approved, would be applicable into the future. While currently proposed applications may provide a window into potential cultivation, this does not define the potential for long-term cultivation in the County. Refer to Master Response 1 for a complete response regarding program-level versus project-level analysis.
I24-4	The comment emphasizes that Alternative 2 would leave Calaveras County without funding or resources to manage and enforce regulations related to cannabis cultivation that are already occurring in Calaveras County. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
I24-5	The comment includes a detailed history regarding the legal status of cannabis. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
I24-6	The comment notes that no citations or references were included to support the water demand data on page 2-3 of the DEIR. This data was collected by the Planning Department from local cannabis-related operations, as well as from estimates received from Kevin Wright, Agricultural Commissioner for Calaveras County.
I24-7	Refer to Master Response 3 regarding employees per grow site.
I24-8	Refer to Master Response 3 regarding employment.
I24-9	The comment points out that page 2-6 of the DEIR states the requirement that cultivation sites be fully enclosed by a six-foot-tall fence but that Section 17.95.210(G) indicates that an eight-foot-tall fence is required. The requirement on page 2-6 of the DEIR is the current requirement under the Urgency Ordinance, while the proposed ordinance would require eight-foot-tall fencing under Section 17.95.210(G) of the proposed ordinance, as stated on page 2-9 of the DEIR.
I24-10	Per Response I19-7, the number has been updated to correctly reflect 390,000 gallons per year.

- I24-11 The comment states that discussion on page 2-9 of the DEIR does not contain the specificity, citations, or level of detail expected in an EIR. Refer to Master Response 1 for a complete response regarding program-level versus project-level analysis and the level of specificity required for a programmatic analysis. Further, the number of applications received under the Urgency Ordinance are considered to provide substantial evidence in support of the potential compliance response that would occur under the proposed ordinance and is referred to appropriately in the DEIR, contrary to the comment's assertions.
- I24-12 The comment states that the DEIR did not evaluate the potential impacts associated with personal/caregiver grows and that the number of personal grow locations would be expected to increase under the ban because the ban ordinance does not place a ceiling on the number of such operations. Contrary to the opinions provided in this comment, the DEIR does evaluate the potential impacts associated with personal/caregiver grows where appropriate (e.g., the second paragraph on pages 3.2-15 and the last paragraph on page 3.3-34 of the DEIR). The DEIR specifies where it is addressing commercial cultivation activities and personal/caregiver activities separately, however, where differentiation is not made, the analysis appropriately applies to both as part of the proposed ordinance.
- I24-13 The comment refers to the DEIR's lack of "support" for 17.95.149(C)(7). It is unclear what the comment is referring to because there is no Section 17.95.149 within the proposed ordinance. Further, the evaluation of personal/caregiver grows is specific to outdoor or within a greenhouse-like structure, as stated on page 2-12 of the DEIR. No further response is possible.
- I24-14 The comment questions the reason for prohibiting the manufacturing, testing, distribution, or transportation of cannabis products. This comment relates to a project element, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I24-15 The comment expresses support for regulated cannabis cultivation in Calaveras County. This is a project alternative preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

**Letter  
125**

**From:** [Planning Web Account](#)  
**To:** [Peter Maurer](#)  
**Subject:** FW: cannabis  
**Date:** Tuesday, June 13, 2017 8:05:58 AM

---

*Annette Silva*  
*Administrative Assistant, II*  
*Calaveras County Planning Department*  
*209-754-6620*  
*209-754-6540 Fax*



---

**From:** Julie Hall  
**Sent:** Monday, June 12, 2017 4:57 PM  
**To:** [Planning Web Account](#)  
**Subject:** cannabis

I do not believe cannabis cultivation is beneficial for Calaveras County. Chemical runoff from cultivation will pollute our beautiful rivers and streams. Cultivation of cannabis will also bring in an increase of criminals and criminal activities. I work with children at mental health and we are already seeing an increase in children as young as elementary school consuming cannabis especially as an "edible" prescribed cannabis product. I definitely am in favor of a ban even if the county has to pay back those whose paid for their licenses. Thank you, Julie Hall LMFT

125-1

<b>Letter I25</b>	<b>Julie Hall</b> 6/12/2017
-----------------------	--------------------------------

- I25-1      The comment expresses support for a ban ordinance. This is a project alternative preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

<p>Letter 126</p>
-----------------------

*Jason Hauer*  
3242 Sunset Ridge, Murphys CA 95247

June 12, 2017

Peter Maurer, Planning Director  
Calaveras County Planning Department  
891 Mountain Ranch Road  
San Andreas, CA 95249

Re: Cannabis Cultivation and Commerce Ordinance Project - Comments on Draft EIR

Dear Mr. Maurer:

I respectfully request explanation, clarification, reasoning and the legal basis for the following comments and omissions in the Draft Economic Impact Report (hereinafter, "EIR").

Alternative 2, a total ban on commercial cannabis cultivation in Calaveras County, fails to adequately address the impacts of eliminating this industry on our community.

Banning cannabis cultivation in Calaveras will likely result in our largest industry to shutter<sup>1</sup>. Currently, twenty percent of our economy and twenty percent of our workforce is supported by the cannabis industry<sup>2</sup>. Removing this from our community will certainly have impacts on the well being of Calaveras. I request that the impacts stemming from increased unemployment be studied and analyzed in the final version of the EIR.

#### Unemployment

What happens during an economic downturn, and 15% unemployment in Calaveras? The authors of this draft EIR do not have to guess, there is clear data that can help predict the results of significant unemployment and economic recession in Calaveras: During the Great Recession, beginning in 2008, our County's unemployment rate reached nearly 16% and our economic output was also significantly diminished<sup>3</sup>. When local employment opportunities are scarce, working families commute long distances or leave Calaveras altogether to seek employment elsewhere, while the unemployed who stay in Calaveras become a drain on our community.

#### Working Families Leave Town

When a working family moves away from Calaveras, they take their economic output with them, along

- 1 An Economic Impact Assessment of the Cannabis Cultivation Industry in Calaveras County, Feb 2, 2017 [http://www.pacific.edu/Documents/school-business/BFC/CannabisStudy/Calaveras%20Cannabis%20Cultivation%20EIS\\_2017.pdf](http://www.pacific.edu/Documents/school-business/BFC/CannabisStudy/Calaveras%20Cannabis%20Cultivation%20EIS_2017.pdf)
- 2 An Economic Impact Assessment of the Cannabis Cultivation Industry in Calaveras County, Feb 2, 2017 [http://www.pacific.edu/Documents/school-business/BFC/CannabisStudy/Calaveras%20Cannabis%20Cultivation%20EIS\\_2017.pdf](http://www.pacific.edu/Documents/school-business/BFC/CannabisStudy/Calaveras%20Cannabis%20Cultivation%20EIS_2017.pdf)
- 3 Federal Reserve Economic Data (Fred) <https://fred.stlouisfed.org/series/CACALA9URN>

126-1

***Jason Hauer******3242 Sunset Ridge, Murphys CA 95247***

with their children. On average, working families contribute more to our economy than retired and fixed income families. They pay more taxes, spend more locally, participate in a broader cross section of our economy and community than a retired or convalescent resident. Additionally, as our working families leave town, our school enrollment drops resulting in reduced education funding. The draft EIR fails to assess these impacts despite data on historical school enrollment figures, unemployment data, and historical sales tax revenue data. I can attest that the loss of working families had a significant impact on the success of my retail businesses, and greatly diminished my tax contributions to the County.

**Unemployed that Stay in Calaveras**

The unemployed who stay are more likely to commit crime and environmental harms. There is a correlation between long-term unemployment and property and violent crimes. Crime statistics are readily available through the FBI and the Department of Justice. A quick study of crime rates in Calaveras during the Great Recession reveals a correlation between our unemployment rate and increased violent and property crimes. Given that crime increases when work is scarce for long periods of time, a negative impact on our economy and environment will likely result.

**Workers Commute to Employment**

Those fortunate enough to find employment elsewhere will commute long distances, further impacting our environment, air quality, and traffic and road maintenance and safety.

Currently, forty percent of Calaveras workers commute to work outside of our county<sup>4</sup>. Thousands of additional unemployed workers will likely cause this percentage to increase, along with the environmental impacts.

Thank you for addressing these issues and omissions.

Respectfully,



Jason Hauer  
Calaveras Business Owner

<sup>4</sup> An Economic Impact Assessment of the Cannabis Cultivation Industry in Calaveras County , Feb 2, 2017  
[http://www.pacific.edu/Documents/school-business/BFC/CannabisStudy/Calaveras%20Cannabis%20Cultivation%20EIS\\_2017.pdf](http://www.pacific.edu/Documents/school-business/BFC/CannabisStudy/Calaveras%20Cannabis%20Cultivation%20EIS_2017.pdf)

126-1  
cont.

<b>Letter I26</b>	<b>Jason Hauer</b> 6/12/2017
-----------------------	---------------------------------

I26-1            The comment states that the DEIR did not adequately evaluate socio-economic impacts of a ban ordinance. Refer to Master Response 5 for information regarding socio-economic analysis within the context of CEQA.

**From:** [Planning Web Account](#)  
**To:** [Peter Maurer](#)  
**Subject:** FW: E I R q's  
**Date:** Tuesday, May 30, 2017 8:54:54 AM

Letter  
127

*Annette Silva*  
*Administrative Assistant, II*  
*Calaveras County Planning Department*  
*209-754-6620*  
*209-754-6540 Fax*



**From:** Peter Hertzog [mailto:[petezog2@gmail.com](mailto:petezog2@gmail.com)]  
**Sent:** Sunday, May 28, 2017 7:05 PM  
**To:** Planning Web Account  
**Subject:** E I R q's

What do you believe it will cost the county if it were to raid a 22 thousand square foot grow. Also how would that be paid for. What would you project would gather more funds for the county to use? The ban or taxing the more than 700 regulated grows? Also do you believe that all of the funds from the initial registration were used appropriately or do you think they could have been used to better regulate or ban? How does this affect the personal income of all of the council members with a ban and with regulations?

127-1

<b>Letter I27</b>	<b>Peter Hertzog</b> 5/28/2017
-----------------------	-----------------------------------

- I27-1      The comment questions the funding for dealing with illegal grows and how regulations or a ban would affect elected officials. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.



# Buchalter

1000 Wilshire Boulevard  
Suite 1500  
Los Angeles, CA 90017  
213.891.0700 Phone  
213.896.0400 Fax

File Number: C0273-0002  
213.891.5355 Direct  
jhitchcock@buchalter.com

June 9, 2017

**VIA E-MAIL (PMAURER@CO.CALAVERAS.CA.US) & FEDEX**

Peter Maurer  
Planning Director  
Calaveras County Planning Department  
891 Mount Ranch Road  
San Andreas, CA 95249

Re: Calaveras County Draft Environmental Impact Report Medical Cannabis  
Cultivation and Commerce Ordinance Project - SCH # 2016042019

Dear Mr. Maurer:

Thank you for the opportunity to submit comments regarding the above-referenced Calaveras County Medical Cannabis Cultivation and Commerce Ordinance Project Draft Environmental Impact Report (“Draft EIR”).

Buchalter represents Calaveras County Innovative Health (“CCH”), which manages cultivation operations on registered properties in Calaveras County, with respect to land use matters arising from Calaveras County’s proposed Medical Cannabis Cultivation and Commerce Ordinance to permanently regulate the cultivation, manufacture, testing, distribution, transportation, and storage of medical marijuana in Calaveras County (“Proposed Ordinance”), which is the proposed ordinance that is the subject of the Draft EIR. In the interim, our client manages operations on properties that have applied for licensing under Calaveras County’s Urgency Ordinance Regulating Medical Cannabis Cultivation and Commercial Uses Involving Medical Cannabis which was adopted by the Calaveras County Board of Supervisors on May 10, 2016 (“Urgency Ordinance”). We understand the Urgency Ordinance will end upon the Board of Supervisors’ adoption of the Proposed Ordinance or the Ban Ordinance.

128-1

Our client has some concerns about the County’s draft regulations under the Proposed Ordinance and questions the adequacy of the Draft EIR analysis of the environmental impacts associated with the Proposed Ordinance, as further discussed below. Our client has even greater concerns regarding the County’s most recent efforts to avoid any real analysis of the reasonably

buchalter.com

Los Angeles  
Napa Valley  
Orange County  
Sacramento  
San Francisco  
Scottsdale

BN 28812851v6

# Buchalter

Mr. Peter Maurer  
June 9, 2017  
Page 2

foreseeable consequences associated with its latest proposal to ban *all* cultivation and commercial activities associated with medical cannabis in Calaveras County (the “Ban Ordinance”) – a proposal which is identified as “Alternative 2” in the Draft EIR.

128-1  
cont.

On behalf of CCIH, we hereby submit the following comments regarding the Draft EIR and object to the County’s efforts to rely upon the Draft EIR to address the environmental impacts of the Ban Ordinance. As we explain further below, the Draft EIR fails to meet the minimum requirements of the California Environmental Quality Act (Public Resource Code §§ 21000 *et seq.*) (“CEQA”) and the CEQA Guidelines (14 Cal. Code Regs. §§15000 *et seq.*) with respect to the Ban Ordinance, and thus it must be substantially revised and recirculated for further public review and comment before the County is allowed under law to proceed with the Ban Ordinance.

128-2

While our client is concerned with some aspects of the Proposed Ordinance and its treatment in the EIR, our client supports the County’s efforts to regulate, rather than outright ban, commercial cannabis cultivation in Calaveras County. Consequently, we believe a better approach would be for the County to amend the Proposed Ordinance to further minimize and mitigate the potential impacts of regulated commercial cannabis cultivation in the County (the “Proposed Amendments”) and evaluate the amendments to the Proposed Ordinance as a mitigated alternative in the Final EIR (“Mitigated Alternative”). The Mitigated Alternative would be based on four Proposed Amendments focused on further mitigating the potential environmental impacts of commercial cannabis cultivation, as further discussed below under the “Mitigated Alternative” section of this letter.

128-3

To assist the County in its review of our client’s comments, first we have summarized the concerns with the Draft EIR primarily focused on the County’s improper attempts to rely on this document for the adoption of the Ban Ordinance, and then we discuss our Proposed Amendments to Proposed Ordinance in the form of a new alternative that we request be added in the Final EIR as, the “Mitigated Alternative.”

### **Background Regarding County’s Commercial Cannabis Regulations**

Calaveras County has an existing ordinance regulating medical cannabis dispensaries, but has not yet adopted permanent regulations for cannabis cultivation and other cannabis-related activities. Notwithstanding the current lack of permanent regulations, the County is currently considering four different schemes to collect money and regulate such businesses without fully disclosing to the decision makers and the public the consequences of its decisions/actions.

128-4

First, in May, 2016, the County adopted the Urgency Ordinance as Chapter 17.95 of the Calaveras County Code until it could complete the environmental review and preparation of regulations necessary to permanently regulate Medical Cannabis Cultivation and Commercial

BN 28812851v6

# Buchalter

Mr. Peter Maurer  
 June 9, 2017  
 Page 3

Uses Involving Medical Cannabis under the Proposed Ordinance (see May 10, 2016 Board of Supervisors Report, “Medical Cannabis Cultivation and Commerce Urgency Ordinance). In November 2016, Calaveras County voters approved a second ordinance, Measure C, requiring the payment of a Commercial Cannabis Activity Tax (“Measure C Tax”) adopted as Chapter 3.56 of the County Code.<sup>1</sup> After the County started preparing the Draft EIR in order to evaluate the environmental impacts of the permanent regulation of medical cannabis cultivation and commercial uses set forth in the Proposed Ordinance, the County began work on yet another ordinance to ban all cannabis cultivation and other related commercial activities except to the extent allowed by State law (“Ban Ordinance”).

128-4  
 cont.

Rather than prepare a new EIR for the Ban Ordinance, however, the County instead tried to cobble together an analysis of the Ban Ordinance in the Draft EIR that was intended to evaluate the environmental impacts of the Proposed Ordinance, without considering the interrelationship between the Measure C Tax and either option. In taking this approach, the County created an unstable project description, and failed to adequately evaluate the environmental impacts of the Ban Ordinance in violation of the requirements of CEQA.

128-5

**CEQA requires that the County thoroughly disclose the Project’s environmental impacts.**

Informed decision making and public participation are fundamental purposes of the CEQA process (see e.g., *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553; *Laurel Heights Improvement Ass’n v. Regents of Univ. of Cal.* (1988) 47 Cal. 3d 376)). One of CEQA’s basic purposes is to inform public agency decision makers and the public about the potential significant environmental effects of proposed projects (14 Cal. Code Regs. 15002(a)(1)). An EIR is also used to disclose to the public the reasons for approving a project that may have significant environmental impacts (14 Cal. Code Regs. § 15002(a)(4)).

128-6

CEQA requires that an EIR include adequate information to ensure informed decisions are made about a project (14 Cal. Code Regs. §§ 15151). CEQA further requires that the lead agency provide a reasonable, good faith disclosure and analysis of the environmental impacts of the proposed project (14 Cal. Code Regs. §§ 15144, 15151; *Laurel Heights Improvement Ass’n v. Regents of Univ. of Cal.* (1988) 47 Cal. 3d 376; *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal. 4th 412)), and evaluate whether or not a proposed project will result in a significant environmental impact based on substantial evidence. Under Public Resources Code Section 21082.2(c), substantial evidence is defined as “enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached” (14 Cal. Code Regs.

<sup>1</sup> The County claims Measure C Tax is an activity tax levied on anyone engaged in commercial medical cannabis businesses in the unincorporated area of Calaveras County. The County says it is not a sales tax (per Calaveras County Code§ 3.56.070) but rather a “general tax” per Calaveras County Code§ 3.56.030.

BN 28812851v6

# Buchalter

Mr. Peter Maurer  
June 9, 2017  
Page 4

§ 15384(a)). Substantial evidence includes “facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts” (Pub. Res. Code §§ 21080(e), 21082.2(c)).

128-6  
cont.

An agency may abuse its discretion under CEQA either because it failed to comply with CEQA or because it reached factual conclusions unsupported by substantial evidence (Pub. Res. Code § 21168.5; see e.g., *Banning Ranch Conservancy v. City of Newport Beach* (2 Cal.5th 918)). That is the case here; the County’s Draft EIR failed to meet CEQA’s minimum requirements as least with respect to the Ban Ordinance, and the County left the public and decision makers with the daunting task of trying to figure out the analysis for themselves.

**Both the Proposed Ordinance and the Ban Ordinance are activities directly undertaken by the County for purposes of triggering CEQA review.**

128-7

CEQA applies to activities that meet the definition of a “project” under CEQA (see e.g., 14 Cal. Code Regs. § 15378). Determining whether an activity is a “project” is based on a two-prong test. First, the activity must be directly undertaken by a public agency. Secondly, the activity (such as the adoption of an ordinance) must cause either a direct physical change or a reasonably foreseeable indirect physical change to the environment. As is the case with the County’s Proposed Ordinance and Ban Ordinance, an ordinance prohibiting mobile medical marijuana dispensaries has been found to be an activity directly undertaken by a public agency (see e.g., *Union of Medical Marijuana Patients, Inc. City of Upland*, 245 Cal. App. 4th 1265 (2016)). Regarding the second prong of the analysis, information contained in the County’s Draft EIR demonstrates that there will be direct impacts of the Proposed Ordinance and reasonably foreseeable indirect impacts of both the Proposed Ordinance and the Ban Ordinance so as to demonstrate that CEQA review must be completed before the County can make any further decisions regarding the Project.

**The Draft EIR fails to meet the minimum requirements of CEQA and must be revised and recirculated for further public review and comment if the County intends to adopt the Ban Ordinance.**

128-8

The Draft EIR fails in its efforts to address the environmental impacts of the Project. At the last minute, the County attempted to include the Ban Ordinance in the Draft EIR, but the environmental impacts of this alternative ordinance were hardly considered or discussed in the document itself. Although we have some questions about the County’s analysis of the Proposed Ordinance, we remain primarily concerned that the Draft EIR fails to adequately evaluate the environmental impacts of the Ban Ordinance as noted below.

**Page 1-1: Section 1.1 - Purpose and Intended Uses of this Draft EIR**

128-9

The Draft EIR states in the third paragraph of Section 1.1, that the EIR is intended to be a



# Buchalter

Mr. Peter Maurer  
June 9, 2017  
Page 6

also would not be significant for the Ban Ordinance. As we note below in our comments on the EIR alternatives, the Draft EIR omitted *any* discussion of these categories of potential impacts regarding the Ban Ordinance in violation of CEQA. (See e.g., *Banning Ranch Conservancy v. City of Newport Beach* (2 Cal.5th 918), where the court rejected an EIR and ruled that the city abused its discretion by failing to include relevant information when it ignored consideration of a project’s impacts on environmentally sensitive habitat areas under the Coastal Act).

128-11  
cont.

The following aptly illustrates the problems with the County’s approach for five of the seven identified environmental topics for the Proposed Ordinance and the Ban Ordinance:

- *Agriculture and Forestry Resources.* The County assumes 452 acres of land zoned for agricultural use would potentially be subject to cannabis cultivation under the Proposed Ordinance, which would result in potentially 0.12% of the total available agricultural land in the County being used for cannabis cultivation. The Draft EIR fails to include any evidence to support such an estimate. Moreover, the Draft EIR states that cannabis cultivation tends to occur on steeper slopes and soil types that do not support traditional agricultural pursuits, but this information was not addressed or considered at all in the geology and soils section of the EIR.

128-12

Additionally, the Draft EIR states on page 1-3 that the Proposed Ordinance would result in the potential loss of approximately 5,000 acres of timberland, or 1.7% of the total timber resources in the County. Other sections of the Draft EIR suggest that only 226 acres of land would be cultivated, making it both entirely unclear how the County could have calculated its 5,000 acre estimate for lost timberland and potentially also reflecting that the Draft EIR itself is internally inconsistent. In addition, it appears the Draft EIR reflects an unstable project description with respect to the Ban Ordinance (which the EIR sometimes suggests could be the “Project”). Moreover, the Draft EIR fails to include any estimates of, or analysis of, the loss of agricultural or forestry resources due to unregulated cannabis cultivation activities under the Ban Ordinance, even though that is a clear and foreseeable consequence of the ban according to the Draft EIR.

- *Geology and Soils.* The Draft EIR concludes, without any support, that implementation of the Proposed Ordinance would result in less than significant geologic and soils impacts even though it notes in its agriculture impact discussion (above) that cannabis cultivation tends to occur on steeper slopes, where geologic and soils impacts could be significant. Moreover, the Draft EIR fails to include any analysis whatsoever of the potential impact of unregulated cannabis cultivation activities under the Ban Ordinance.

128-13

- *Hazards and Hazardous Materials.* The Draft EIR concludes that implementation

128-14

BN 28812851v6

# Buchalter

Mr. Peter Maurer  
June 9, 2017  
Page 7

of the Proposed Ordinance would result in less than significant impacts because the activities would be subject to environmental regulations that would minimize the potential for impacts arising from hazardous materials used in connection with cannabis cultivation. We request that the County review the EIR to identify the types and scope of the regulated activities that would result in impacts under the Proposed Ordinance. Also, the Draft EIR fails to set forth any analysis of hazardous materials-related impacts which may result from unregulated cannabis cultivation activities under the Ban Ordinance. Thus, if the County intends to use the EIR to adopt the Ban Ordinance, the EIR violates CEQA because it fails to disclose the significant hazardous materials impacts resulting from the Ban Ordinance, particularly with respect to the foreseeable hazardous materials impacts arising from unregulated cannabis cultivation activities.

128-14  
cont.

- *Public Services.* The Draft EIR concludes that implementation of the Proposed Ordinance would result in less than significant impacts to public services because the Measure C tax revenue would be expected to offset the costs due to the increased demand for public services associated with the Proposed Ordinance. Although the Draft EIR identifies a possible increase in demand for fire protection, schools, and other governmental services, the EIR does not quantify the demand associated with cannabis cultivation activities and commercial activities under the Proposed Ordinance based on the inconsistent development assumptions indicated below. Additionally, the Draft EIR does not include any analysis of the demand for any governmental services or impacts to the provision of existing services which may result from unregulated cannabis cultivation activities under the Ban Ordinance. In this regard, the EIR does not evaluate the secondary impacts associated with Alternative 2 - Ban Ordinance based on the reasonably foreseeable inability of the County to provide any necessary governmental services to address unregulated cannabis cultivation activities. See e.g., *El Dorado Union High Sch. Dist. v. City of Placerville* (1983) 144 Cal. App. 3d 123, where the court held that increased school enrollment causing overcrowding and the need for new school was an effect that EIR should have evaluated). These impacts would be further exacerbated under the Ban Ordinance by the County’s need to refund registration fees paid under the Urgency Ordinance as well as the Measure C tax revenues already paid, and which were intended to fund the provision of general governmental services. Thus, the EIR violates CEQA because it fails to disclose the significant impacts to public services resulting from the Ban Ordinance, particularly with respect to the services impacts arising from unregulated cannabis cultivation activities. Further, there is no analysis of the Ban Ordinance’s reasonably foreseeable secondary impacts associated with the inability to fund the governmental services needed to address unregulated cannabis operations, as the County will no longer be eligible

128-15

BN 28812851v6

# Buchalter

Mr. Peter Maurer  
June 9, 2017  
Page 8

for State funding under Proposition 64. Thus, if the County intends to use the EIR to adopt the Ban Ordinance, the EIR violates CEQA.

128-15  
cont.

- *Utilities and Service Systems.* The Draft EIR concludes that implementation of the Proposed Ordinance would result in less than significant impacts to utilities and services systems associated with the Medical Cannabis Cultivation Activities because proposed activities would be required to comply with existing regulations and permitting requirements. The Draft EIR does not include any analysis of the demand for utilities and services systems or impacts to the provision of existing utilities (e.g., water, septic, landfill) which may result from unregulated cannabis cultivation activities under Alternative 2 - Ban Ordinance, however. These impacts would be further exacerbated by the County’s need to refund registration fees under the Urgency Ordinance as well as Measure C tax revenues received by the County. Thus, the EIR violates CEQA because it fails to disclose and quantify the significant impacts to utilities and services resulting from Alternative 2 – Ban Ordinance, particularly with respect to the impacts generated from unregulated cannabis cultivation activities. Similar secondary impacts also could occur due to the loss of State funding under Proposition 64.

128-16

We believe that there is sufficient information in the public record (including the Draft EIR) to indicate that the effects found not to be significant in the Draft EIR for the Proposed Ordinance may be found to be potentially significant under the Ban Ordinance due to the scope and extent of unregulated cannabis cultivation activities in the County under existing conditions. Consequently, the County must revise the Draft EIR to evaluate *all* of the foreseeable environmental impacts of the Ban Ordinance so that the decision makers and the public are presented with information regarding the consequences of both proposed ordinances before, and then recirculate the EIR for additional comment prior to taking any further action to approve the Ban Ordinance.

128-17

**Page 2-1: Section 2.1 - Introduction**

The Draft EIR states in paragraph 1 that,

“This EIR could be used to serve as the appropriate CEQA document for adoption of an ordinance banning said uses in the unincorporated areas of the County.”

128-18

Even though the Proposed Ordinance is identified as the “Project,” the Draft EIR suggests that the County could rely on it to support the adoption of the Ban Ordinance, thereby effectively substituting the Ban Ordinance for the Proposed Ordinance as the applicable “Project.” CEQA requires that an EIR include an accurate and stable project description so that the public and decision makers have enough information to “ascertain the project’s

# Buchalter

Mr. Peter Maurer  
June 9, 2017  
Page 9

environmentally significant effects, assess ways of mitigating them, and consider project alternatives” (*Sierra Club v. City of Orange* (2008) 163 Cal. App. 4th 523, 533). Because the Draft EIR suggests that the Project could be the Ban Ordinance, the reader is left to wonder whether the true Project being evaluated is the “Proposed Ordinance” or the “Ban Ordinance.” Given that the Draft EIR suggests the County can adopt either ordinance in reliance upon this EIR, we believe the EIR fails to define a stable project description as required.

Even if the decision makers could properly determine the Draft EIR adequately evaluates the Ban Ordinance as the Project, the Draft EIR analysis would still fail to support the County’s adoption of the Ban Ordinance because the EIR is so deficient as to render it meaningless. For example, the Draft EIR includes only a general discussion of potential categories of impacts that may occur as further discussed below, and does not include any quantifiable analysis of the Ban Ordinance. As such, the public is deprived of a meaningful opportunity to review and comment on the consequences of enacting the Ban Ordinance. Thus, the County must revise the Draft EIR to include a level of analysis commensurate with the Project Description and then recirculate the revised EIR for meaningful public review and comment before the County were to adopt the Ban Ordinance.

128-18  
cont.

### **Page 2-9: Reasonably Foreseeable Compliance Responses**

The Draft EIR included a confusing discussion about the development assumptions used to support the Draft EIR’s analysis of the Proposed Ordinance. CEQA requires that an environmental document be based on substantial evidence.

The fifth paragraph under the “Reasonably Foreseeable Compliance Responses” indicates that the Draft EIR assumes that of the 995 applications for outdoor commercial operations submitted under the Urgency Ordinance, an estimated 750 applications could be approved, but *only half* the approved operations would actually occur. Nurseries would represent 1-2% of the operations. The Draft EIR did not include any evidence for this development assumption upon which the EIR relies. Moreover, the assumptions regarding the level of development under the Proposed Ordinance are internally inconsistent and contradict the assumptions relied upon in other Sections of the Draft EIR regarding the impacts associated with outdoor commercial operations in particular. Here are some examples of the conflicting assumptions in the Draft EIR regarding the Proposed Ordinance:

128-19

- Page 1-2 states that applications were received for a total of 226 acres of cultivation, but “much of this is likely to be denied.”
- Page 1-3 states that 452 acres of land zoned for agricultural use would potentially be subject to cannabis cultivation under the Proposed.

BN 28812851v6

# Buchalter

Mr. Peter Maurer  
June 9, 2017  
Page 10

- Page 3-1 states that it is anticipated that “several” applications for cultivation sites will be denied.
- Page 3.2-19 claims that greenhouse gas emissions (GHG) are based on operations on a “projected 750 outdoor grow sites and 15 indoor grow sites.”
- Page 3.3-32 (Section 3.3.3) states that up to 22,000 square feet of land would be cultivated per parcel and up to 750 grows are expected for a total of 375 acres of disturbed land that would be impacted.

128-19  
cont.

We request that the County address any inconsistencies or provide further clarification regarding the basis for the apparent differences in assumptions.

When it comes to the Ban Ordinance in Alternative 2 (see below), the Draft EIR did not provide the reader with any quantifiable data to be able to compare this alternative to the Project, leaving the public and decisionmakers guessing as to the potential impacts of a ban. Moreover, the EIR does not articulate any of the assumptions upon which the County relied to support the qualitative analysis contained in the Draft EIR, and it fails to document the reasonably foreseeable consequences associated with the Ban Ordinance (consequences the EIR qualitatively describes in other chapters). If the County intends to adopt the Ban Ordinance, we request that the County correct these errors and: (1) provide the information upon which it relied to support the assumptions used in the Draft EIR; (2) correct the significant inconsistencies littered throughout the Draft EIR; and (3) recirculate a revised Draft EIR which contains an analysis that is based on substantial evidence.

128-20

### **Page 2-13: Reasonably Foreseeable Compliance Responses**

On Page 1-1, the Draft EIR indicates that it is a program-level environmental impact report under CEQA Guidelines Section 15168. When a lead agency relies upon a program EIR, it must, however, consider whether or not a project-specific activity is covered by that Program EIR or whether further environmental review will be required at the time of the next project action. Here, the Draft EIR indicates that only the development of a new processing facility which would be subject to discretionary review would require a project-level CEQA analysis. We believe that based on the nature of the potential future actions allowed under the Proposed Ordinance, project-level environmental review may nonetheless be required for other types of subsequent discretionary actions to the extent regulated activities result in new significant or substantially greater environmental impacts.

128-21

### **Page 3-1: Section 3.1 - Approach to the Environmental Analysis**

Regarding its discussion concerning the “environmental setting,” the Draft EIR should clarify what evidence supports the assertion that “several” of the applications submitted under

128-22

# Buchalter

Mr. Peter Maurer  
 June 9, 2017  
 Page 11

the Urgency Ordinance will be denied. This assumption appears to be pre-decisional and a violation of the licensee’s procedural due process rights since the County has yet to complete the processing of the lion’s share of pending applications. This is particularly problematic, and we question the County’s apparent disregard for the ongoing registration process that hundreds of applicants paid \$5,000 in registration fees to participate in, particularly when the County has been collecting the Measure C tax in the interim despite knowing that the licensees’ applications may very well be denied. We also request that the County address any inconsistency between the assumption made about many applications being denied as compared to the EIR’s assumptions in other sections regarding the number of applications processed under the Proposed Ordinance.

128-22  
 cont.

**Pages 3.2-17 – 3.2.-211: Section 3.2 - Air Quality/Greenhouse Gas Emissions**

The Draft EIR assumes that 750 outdoor grow sites and 15 indoor grow sites would generate a combined 5,245 MT CO2e/year. No estimates are provided for the air pollutant or GHG emissions associated with personal and primary caregiver cultivation, manufacturing, testing distribution or transport facilities. The Draft EIR should be revised to clarify that these activities would not contribute to significant air quality or GHG impacts.

128-23

**Pages 3.3-35 - 3.3-39: Section 3.3 - Biological Resources**

The Draft EIR purports to evaluate impacts to special status species that may result from grading of natural habitat, tree/vegetation removal (Impact 3.3-1), modification of streamside habitat and aquatic features (Impact 3.3-2), and degradation or removal of sensitive natural communities (Impact 3.3-3) associated with regulated commercial cannabis operations. Because the Draft EIR claims the exact locations of commercial cannabis operations are unknown, rather than describe the nature of the impacts or attempt to estimate the impacts based on the assumptions made according to the applications that were filed under the Urgency Ordinance, the EIR assumes that the impacts will be potentially significant without actually evaluating whether or not any special status species habitat or the individual species in fact will be impacted.

128-24

Then to mitigate the alleged impacts from future unknown disturbances, the Draft EIR requires that the County amend the Proposed Ordinance to require a minimum site size of 1,000 square feet. The rationale that the Draft EIR provides for this measure is that if the sites are 1,000 square feet or greater, then they will be subject to the Central Valley RWQCB Order R5-2015-0113. But the EIR fails to explain how this measure will actually mitigate the impacts of all of the future activities subject to regulation under the Proposed Ordinance (not only outdoor cultivation). The Draft EIR fails to include any discussion of how Mitigation Measure 3.3-1 will mitigate Impacts 3.3-2 and 3.3-3, as well, particularly because the EIR only discusses how impacts to watercourses would be addressed and not how mitigation will actually address impacts to the disturbance or loss of wildlife migratory corridors in that impact section. We

BN 28812851v6

# Buchalter

Mr. Peter Maurer  
June 9, 2017  
Page 12

request that the County include in the Final EIR (1) information upon which it relied to support the assumptions used in the Draft EIR, (2) the explanation of why the projected impacts to biological resources would be less-than-significant, or (3) identify any additional measures required to mitigate the impacts to a less-than-significant level. Regarding the Ban Ordinance, the County must provide a further analysis and recirculate a revised Draft EIR with an adequate analysis of impacts to biological resources based on substantial evidence before it adopts the Ban Ordinance.

128-24  
cont.

**Pages 3.4-14 - 3.4-18: Section 3.4 - Archaeological, Historical, and Tribal Resources**

The Draft EIR purports to evaluate impacts to archaeological, historical, and tribal cultural resources due to grading on undeveloped lands and/or near historic resources (Impact 3.4-1) and disturbing unique archaeological resources (Impact 3.4-2). Rather than describe the nature of the impacts or attempt to estimate the impacts based on the assumptions made according to the applications that were filed under the Urgency Ordinance, the EIR instead again fails to include any analysis. Consequently, the Draft EIR assumes that the impacts will be potentially significant without actually evaluating them. Just as with the other impact categories, the Draft EIR requires that the County amend the Proposed Ordinance to require a minimum site size of 1,000 square feet as a way of mitigating the impacts. The EIR, however, fails to explain how this measure will actually mitigate the impacts of all of the future activities subject to regulation under the Proposed Ordinance. We request that the EIR be revised to include a discussion of how Mitigation Measure 3.3-1 will in fact mitigate the impacts.

128-25

We request that the County include in the Final EIR (1) information upon which it relied to support the assumptions used in the Draft EIR, (2) the explanation of why the projected impacts to cultural resources would be less-than-significant, or (3) identify any additional measures required to mitigate the impacts to a less-than-significant level. Regarding the Ban Ordinance, the County must provide a further analysis and recirculate a revised Draft EIR with an adequate analysis of impacts to cultural resources based on substantial evidence before it adopts the Ban Ordinance.

**Page 3.5-17: Section 3.5 – Hydrology and Water Quality**

The Draft EIR states that, “the proposed ordinance is intended to bring unregulated, illegal cannabis cultivation operations into compliance with existing regulations....” Nonetheless, neither the Ban Ordinance nor the Proposed Ordinance would do anything to curb unregulated, illegal cannabis cultivation activity in Calaveras County. To the contrary, given the previously cannabis-friendly policies of the County that cultivators have relied upon to establish their ranches and businesses, the Ban Ordinance likely would result in currently “compliant” businesses continuing to operate illegally after implementation of the ban according to the Draft EIR.

128-26

# Buchalter

Mr. Peter Maurer  
June 9, 2017  
Page 13

**Pages 3.5-17 - 3.5-22: Section 3.5 – Hydrology and Water Quality**

The Draft EIR purports to evaluate water quality impacts (Impacts 3.5-1 and -2), groundwater supply impacts (Impact 3.5-3) and flooding impacts associated with regulated commercial cannabis operations (Impact 3.5-4) and surface drainage impacts on riparian habitat (Impact 3.5-6). Although the Draft EIR at least quantifies the anticipated scope of the operations covered under the Proposed Ordinance, the actual impacts associated with the commercial cannabis operations themselves are not quantified. And once again, the Draft EIR fails to explain how Mitigation Measure 3.3-1 measure will actually mitigate the impacts of all of the future activities subject to regulation under the Proposed Ordinance.

128-27

For the abovementioned reasons, the County must (1) provide the information upon which it relied to support the assumptions used in the Draft EIR; (2) provide an actual analysis of the projected impacts to hydrology and water quality for the Ban Ordinance; (3) identify any additional mitigation measures required to mitigate the impacts to a less-than-significant level; and (4) recirculate a revised Draft EIR with an adequate analysis of impacts linked to the Ban Ordinance based on substantial evidence.

**Pages 3.7-7 - 3.7-8; Pages 3.9-16 - 3.9-18: Section 3.7 – Noise; Section 3.9 – Transportation and Circulation**

The Draft EIR purports to evaluate noise impacts associated with the operation of a cannabis grow site (Impact 3.7-1). The Transportation and Circulation chapter suffers from the same questions and concerns as the other sections. The Draft EIR does not quantify the anticipated scope or extent of reasonably foreseeable illegal operations covered under the Ban Ordinance, nor does it describe the actual noise or traffic impacts associated with all of the commercial cannabis operations that could arise under the Ban Ordinance. The County must (1) provide the information upon which it relied to support the assumptions used in the Draft EIR; (2) provide an actual analysis of the projected noise and transportation impacts; (3) identify any additional mitigation measures required to mitigate the impacts to a less-than-significant level; and (4) recirculate a revised Draft EIR with an adequate analysis of impacts of the Ban Ordinance based on substantial evidence.

128-28

**Pages 4-2 – 4-11: Cumulative Impacts**

The cumulative impacts discussion in Chapter 4 of the Draft EIR suffers from the same deficiencies that the Project impact analysis suffers from primarily with respect to the Ban Ordinance. Because there is no quantifiable analysis for the full extent of the Project and the various activities regulated under the Proposed Ordinance, the scope of the cumulative impacts is lacking. For example, how many acres of undeveloped land would be converted to cannabis cultivation and related operations under the Proposed Ordinance and what are the combined

128-29

BN 28812851v6

# Buchalter

Mr. Peter Maurer  
June 9, 2017  
Page 14

cumulative impacts of those activities? Notably, the Draft EIR does not address that issue.

I 128-29  
cont.

**Pages 6-5 – 6-12: Section 6.3.2 - Alternative 2 - Ban Alternative**

Although the Draft EIR states that it has selected project alternatives for “detailed analysis” (See Section 6.3), the Draft EIR fails to address in any detail the impacts of Alternative 2 – the Ban Ordinance. The Draft EIR’s insistence that illegal activity “may occur in spite of the ban” (See 6-6) is like saying a sunburn may occur in spite of not wearing sunscreen. The Draft EIR proceeds with a perfunctory analysis related to the Ban Ordinance that largely dismisses the impacts on aesthetics, air quality, land use, noise, population and housing, and transportation and circulation because the illegal activity allegedly would occur in remote areas. Although the Draft EIR indicates that the Ban Ordinance could result in more substantial impacts on biological resources, cultural resources, and hydrology and water quality, none of the EIR’s conclusions relating to the impacts of the Ban Ordinance are supported by data or rigorous analysis as we noted above. This is particularly concerning given the Draft EIR’s improper efforts to dismiss altogether the reasonably foreseeable consequences of illegal activities under the Ban Ordinance. In this case, the EIR simply makes bald statements such as, “water demands associated with the illegal activities would likely be satisfied by drawing from nearby surface waters and/or the use of alternative water sources” (see e.g., page 6-7). If the County is going to openly speculate about the nature of illegal activities under the Ban Ordinance, then it must substantiate its analysis with substantial factual support.

I 128-30

**Page 6-12: Add new Section 6.3.4 –Mitigated Alternative (Alternative 4) in the Final EIR.**

We request that the County add Alternative 4 and a new Section 6.3.4 that includes a new Mitigated Alternative in the Final EIR that consists of the following description:

This alternative would involve four amendments to the Proposed Ordinance that would reduce the number of zoning and land use designations that allow for commercial cannabis operations through either an administrative use permit, zoning clearance certificate, or conditional use permit. As with the Reduced Zoning Designations Available for Commercial Cannabis Operations Alternative (Alternative 3), Alternative 4 would remove the Rural Residential (RR) Zoning as an acceptable zone within which outdoor and indoor cultivation could occur. This alternative also includes the following key components:

I 128-31

1. Prohibit commercial cannabis cultivation in RR Zones and prohibit commercial cannabis cultivation on parcels that are less than 20 acres in size;
2. Require background checks of all employees or visitors with access to the property undergoing cannabis cultivation;

BN 28812851v6

# Buchalter

Mr. Peter Maurer  
June 9, 2017  
Page 15

- 3. Establish a County-created track and trace program; and
- 4. Facilitate accessible registration/licensee information.

Under this alternative, all commercial cultivation of cannabis – indoor, outdoor and outdoor mixed/light cultivation would be *prohibited* on all RR-zoned properties properly subject to County regulation. This would be achieved, for example, by amending the chart set forth in Section 17.93.180(E) of the permanent ordinance or Section 17.95.180(D) of the urgency ordinance to prohibit commercial cultivation in all “RR” zones of the County. This amendment would not affect personal or caregiver cultivation on such properties. Second, under this Alternative, the County would establish a minimum lot size of twenty acres for all commercial cultivation activities. The original permanent ordinance did not set a minimum lot size, and the urgency ordinance established a 2-acre minimum lot size for commercial cultivation. The words “two acres” in Section 17.95.165 of the Urgency Ordinance would be amended to read “twenty acres” and Section 17.93.210(E) of the original permanent ordinance would be amended to insert a 20-acre minimum parcel size requirement for commercial cultivation.

128-31  
cont.

We also request that the County include in the Final EIR a discussion of how the Mitigated Alternative would actually reduce some of the environmental impacts associated with the Proposed Ordinance. With these changes and the various additional background checks, track and trace and accessibility to registration information, the County would be able to minimize potential environmental impacts by reducing the area under cultivation and tracking the operators to assure that they maintain compliance with the County’s regulations.

**While the County may proceed with the Final EIR Before Approving the Proposed Ordinance or the Mitigated Alternative, the County must revise and recirculate the Draft EIR before the County proceeds with the Ban Ordinance.**

While we understand the County’s desire to regulate the commercial cannabis industry under the Proposed Ordinance, we request that the County consider the Mitigated Alternative as a feasible way to regulate the industry while further minimizing potential impacts and addressing the County’s concerns regarding future commercial cannabis cultivation. For all of the reasons noted above, we continue to object to the County’s efforts to rely on the EIR to support its adoption of the Ban Ordinance. Should the County ultimately adopt the Ban Ordinance, the EIR must be revised and recirculated for further public review and comment before the County legally may adopt the Ban Ordinance. If the County nonetheless decides to proceed in adopting of the Ban Ordinance *without* conducting any further environmental review and properly disclosing the impacts of this alternative, please be advised that our client will be left with no other option but to continue to oppose the County’s efforts as a matter of State law.

128-32

Our client looks forward to working with the County in the adoption of the Proposed

BN 28812851v6

# Buchalter

Mr. Peter Maurer  
June 9, 2017  
Page 16

Amendments to the Proposed Ordinance reflected in the Mitigated Alternative. Finally, please forward notice of any future public workshops, meetings or hearings regarding this item, and send us a copy of the revised environmental document when it is available for public review.

128-32  
cont.

Very truly yours,

BUCHALTER  
A Professional Corporation



By

J. David Hitchcock

cc: Calaveras County Innovative Health

BN 28812851v6

<b>Letter I28</b>	<b>J. David Hitchcock</b> 6/9/2017
-----------------------	---------------------------------------

- I28-1 This comment presents introductory information and summarizes concerns regarding the analysis of the EIR, as they relate to potential impacts of the proposed ordinance and Alternative 2, which are expounded upon in subsequent comments within this letter. Please refer to Responses I28-2 through I28-32 for detailed responses to those comments.
- I28-2 This comment voices concern over the County’s potential use of the EIR to approve the ban ordinance evaluated as Alternative 2. Upon review of the comments received and written responses to all comments, none of the circumstances requiring recirculation pursuant to CEQA Guidelines section 15088.5 has occurred; no significant new information including the introduction of new significant impacts that cannot be mitigated was introduced in comments. Further and as allowed under CEQA Guidelines section 15126.6 and 15091, the Board of Supervisors could elect to utilize the FEIR to approve the draft ban ordinance if it deems the alternative is feasible, and the evaluation is sufficient to address the alternative’s potentially significant environmental impacts.
- The determination as to whether an alternative is feasible is made by the lead agency’s decision-makers (California Public Resources Code, Section 21081[a][3]; State CEQA Guidelines, Section 15091[a][3]). Calaveras County, as the lead agency under CEQA, is responsible for environmental review of the proposed project and for ensuring that the EIR reflects the independent judgment of the County. The project approval process can only occur after certification of the FEIR and is procedurally separate from the environmental review process. In making that determination, the lead agency’s decision-makers independently weigh the relative advantages and disadvantages of the proposed project and its alternatives, and then may choose to approve, modify, or disapprove the project as proposed, or may choose to adopt one of the alternatives presented in the document, if determined feasible (California Public Resources Code, Section 21081[a][3]; State CEQA Guidelines, Section 15091[a][3]). The DEIR informs and provides evidence that could substantiate the decision-makers’ findings, but does not itself make such findings.
- I28-3 The comment identifies the commenter’s preference for a mitigated alternative identified later in Comment Letter I28 (see Comment I28-31). Responses are provided in Responses to Comments I28-21.
- I28-4 This comment presents introductory information and summarizes the commenter’s understanding of the sequence of cannabis-related regulation in the County. The comment is noted and no further response is warranted.
- I28-5 Refer to Response I28-2. The project description in the EIR is not “unstable” because of the ban ordinance’s consideration as an alternative, and no information is provided to support this claim.
- I28-6 The comment presents a general opinion that the DEIR did not meet CEQA’s minimum requirements with respect to Alternative 2. Contrary to the opinion offered in this comment, the DEIR, as a programmatic evaluation of countywide regulation, evaluated potential alternatives to the proposed ordinance, consistent with Section 15126.6 of the State CEQA Guidelines. More detailed responses are provided to more specific comments, below.

- I28-7 The comment states that both the proposed ordinance and the alternative ban ordinance are projects, under CEQA. The County agrees, and addresses them as projects (one as an alternative to the project) in the DEIR, including the alternatives analysis.
- I28-8 The comment generally states the DEIR fails to evaluate impacts of the ordinance but provides no specific comments, so no further response is necessary.
- I28-9 The comment states, without providing evidence, that DEIR does not fully disclose impacts of the ordinance. The DEIR evaluates and quantifies the potential impacts associated with the proposed ordinance based on reasonably foreseeable circumstances. For example, the DEIR provides reasonably foreseeable compliance responses as part of Chapter 2, "Project Description" to establish parameters (number of cannabis-related operations for each use type, number of employees, etc.) for the analysis of impacts. Further, these parameters are carried through each section of the EIR, and adequately quantify/describe the potential impacts of the proposed ordinance.
- I28-10 The comment provides a broad statement regarding perceived inadequacy of the DEIR's programmatic analysis without provision of specific analyses that are deficient or evidence contrary to the conclusions of the DEIR. The DEIR's analysis is considered appropriately accurate and based on reasonably foreseeable circumstance such that the Board of Supervisors could make an objective and informed decision, consistent with CEQA requirements. No further response is possible.
- I28-11 Contrary to statements made in this comment, the DEIR presents evidence/information related to agricultural resources, geology and soils, hazards and hazardous materials, mineral resources, public services, recreation, and utilities and service systems as part of its discussion on pages 1-2 through 1-5 of the DEIR, including information from County staff involved in the evaluation of applications received pursuant to the Urgency Ordinance.
- Section 15126.6 of the State CEQA Guidelines requires the evaluation of alternatives that would avoid or substantially lessen any of the potentially significant environmental effects of the project, and of those alternatives selected, a discussion of potential new significant effects under those alternatives "in less detail than the significant effects of the project as proposed." Thereto, an alternatives evaluation/discussion of a project can be limited to those issue areas that would reduce or avoid the potentially significant impacts of the project. Should significant impacts be reasonably foreseeable with respect to an alternative, those should also be discussed, however, none (beyond the issue areas evaluated in detail in the DEIR for the proposed ordinance) were identified for the three alternatives presented in Chapter 6, "Alternatives."
- The following discussion of the CEQA issue areas identified by this comment is provided for information purposes regarding potential impacts associated with implementation of and compliance with the draft ban.
- ▲ With respect to agriculture and forestry resources, the draft ban (Alternative 2) would preclude cannabis-related operations from occurring within the County and agriculture and forestry resources from being affected by their development. As a result, no significant agriculture and forestry impacts would occur.
  - ▲ With respect to geology and soils, Alternative 2 would prohibit the clearing of land and require the removal of existing cannabis-related operations. As a result, potential impacts related to loss of topsoil and seismic hazards would not occur. With respect to hazards and hazardous materials, similar to geology and soils, additional lands would not be developed with cannabis-related uses and existing operations would be returned to a more natural condition. The potential use and need for appropriate storage of pesticides,

fertilizers, and herbicides would not occur under Alternative 2, and as a result, impacts would be minimal.

- ▲ With respect to mineral resources, the removal of existing cannabis-related operations and prevention of future cannabis-related development would not result in the loss of availability of or preclude the recovery of mineral resources.
- ▲ With respect to public services, recreation, and utilities and service systems, implementation of Alternative 2 would not increase demand for public services, parks, and utility services as it would not increase the level of development within the County nor would its implementation increase the service area for local fire, sheriff, or parks departments nor would it increase utility service demand for solid waste, water, or wastewater.

It bears noting that many of the comments included in this letter ask the County in its EIR to speculate on the degree to which illegal activities would occur under a ban. The analysis of the ban alternative (Alternative 2) does include a general discussion of potential outcomes associated with illegal cannabis-related operations that may occur in spite of the ban to the extent those outcomes are reasonably foreseeable. However, it is not reasonable to speculate on the degree to which people will behave illegally under a ban alternative. A ban ordinance does not place unreasonable demands on people to the degree they cannot comply. Cannabis cultivation has been illegal for decades, with recent exceptions. It is difficult to reasonably argue that a ban on cultivation is, in any way, infeasible. The very nature of illegality is disregard for the law. This is a social issue that is completely unpredictable with any precision. Thus, while it is clear, based on evidence, that illegal cannabis cultivation could occur under a ban ordinance, anything other than a general acknowledgement of this fact and the attendant general impacts is beyond the scope of this EIR. Further speculation is not necessary nor supported under CEQA. As acknowledged in the Draft EIR, illegal cannabis activities are already occurring under existing “baseline” conditions and even if such activities were to continue under the ban alternative (if approved), those activities would not result in additional environmental impacts over baseline conditions. In other words, impacts associated with illegal activity already exist and would not necessarily—and certainly not predictably—change as a result of the ban. Estimates regarding the extent to which illegal activities could increase under the ban alternative would qualify as speculation.

I28-12

The analysis of agriculture and forestry resources provided in the DEIR was based on County applications received under the Urgency Ordinance as a metric for applications and the potential associated impacts to agriculture and forestry resources that would be received under the proposed ordinance. This analysis has been clarified as shown in Chapter 3, “Revisions to the DEIR,” to amend the acreage estimates for forestry resources impacts to be consistent with agriculture acreage estimates. These clarifications represent a reduction in the potential impacts to agriculture and forestry resources stated in the DEIR, but do not alter the conclusions provided therein. Further, the degree of potential loss of agricultural or forestry resources as a result of unregulated, illicit, and illegal cannabis activities under the Urgency Ordinance as compared to the proposed ordinance is speculative. As stated on page 6-6 of the DEIR, it is estimated that over 500 unregistered (“illegal”) grow sites exist in the County. This is the environmental baseline. The DEIR, in the same place, acknowledges that illegal grows could occur with the project or other alternatives.

There is no reason to assume additional acreage would be developed under a ban ordinance, and the commenter provides no information that would suggest this assumption is incorrect. These activities are illegal, and it is impossible to guess the degree to which people would act illegally, and if they would increase (or decrease) illegal activity under a ban ordinance. Refer to Responses I28-11 and O1-6 for further clarification.

- I28-13 Contrary to the statements made in this comment, the DEIR appropriately relies on the continued implementation of the County's grading and erosion control standards and Calaveras County Grading, Drainage, and Erosion Control Manual, as well as the need for applicants under the proposed ordinance to obtain a grading permit from the County. With respect to the statements regarding "steeper slopes," the statements made in the DEIR regarding steeper slopes were a comparison between land that may be considered for cannabis cultivation versus traditionally desired and flat agricultural land. With respect to the DEIR's evaluation of the draft ban ordinance (Alternative 2) and speculation regarding illicit, illegal cannabis operations, refer to Responses I28-11 and O1-12.
- I28-14 The comment requests that the County review the EIR to identify the types and scope of regulated activities that would result in impacts under the proposed ordinance. This is the County's EIR, and reflects the County staff's views on the types of impacts associated with the project including hazardous materials in light of existing regulations both at the state, regional, and local levels. With respect to the DEIR's evaluation of the draft ban ordinance (Alternative 2) and speculation regarding illicit, illegal cannabis operations, refer to Responses I28-11 and O1-12.
- I28-15 The comment states that the DEIR does not consider potential implications of implementation of the draft ban ordinance to public services. The evaluation of Alternative 2 assesses impact significance based on compliance with applicable regulations within the County, which is industry standard and appropriate within the context of CEQA documents. The analysis also includes a discussion of potential outcomes associated with illegal cannabis-related operations that may occur in spite of the ban to the extent those outcomes are reasonably foreseeable. The County notes that it may not have the funding to expand policing of illegal cannabis operations if they proliferate under a ban ordinance, and consequently may need to make tradeoffs with respect to law enforcement. However, as noted in Response I28-11, the EIR appropriately does not speculate regarding the extent to which illegal activities may or may not increase or decrease. Moreover, environmental effects would be tied to increased demands on services that result in the need for new facilities, the construction of which could result in a significant environmental effect. (See CEQA Guidelines Appendix G, item XIV). The County cannot foresee any circumstances that would lead to the need to construction new Sheriff facilities. As a result, the expansion of County facilities (which could cause environmental effects) is not foreseeable under a ban ordinance (or in any of the alternatives). Because it would require speculation, it is not considered necessary to provide significance conclusions related to the potential impacts of illegal and illicit activities. With respect to the DEIR's evaluation of the draft ban ordinance (Alternative 2), refer to Responses I28-11, I28-12, and O1-12.
- I28-16 The comment states that the DEIR does not consider potential implications of implementation of the draft ban ordinance to utilities and service systems. Refer to Response I28-15.
- I28-17 The comment expresses the commenter's opinion regarding potential impacts of the draft ban ordinance and requests revision/recirculation of the EIR prior to consideration of the draft ban ordinance for approval by the Board of Supervisors. The DEIR has been prepared in accordance with CEQA requirements and revision/recirculation of the document is not required; the draft ban ordinance is sufficiently addressed in the EIR to facilitate consideration of the project and its alternatives by the Planning Commission and the Board of Supervisors.
- I28-18 The comment expresses concern that readers of the DEIR may be confused regarding the proposed project, as evaluated within the DEIR by referring a statement about a project alternative made in the third paragraph of page 1-1. The comment further asserts that this may result in an unstable project description. However, the first paragraph, as well as

Chapter 2, “Project Description,” clearly states that the proposed project is the proposed cultivation ordinance and not the draft ban ordinance, which is evaluated as an alternative. Regarding the draft ban ordinance, a clear and separate analysis is provided in Section 6.3.2 of the DEIR, which focuses entirely on the significance of impacts associated with this alternative. The DEIR has been prepared in accordance with CEQA requirements and revision/recirculation of the document is not required prior to certification and consideration for approval of the proposed ordinance or the draft ban ordinance by the Planning Commission and the Board of Supervisors.

- I28-19 The comment claims that there are inconsistencies regarding the level of development anticipated under the project. The comment also requests clarification regarding the acreages reflected in the DEIR’s analysis. With the exception of the DEIR’s discussion of agriculture and forestry resources, the acreage assumptions carried through the DEIR’s analysis were consistent, despite the commenter’s statement. Further, the discussion of agriculture and forestry resources has been clarified regarding the potential acres of forestry resources that could be affected by implementation of the proposed ordinance (Refer to Response I28-12). As noted above, this clarification does not alter the conclusions of the DEIR.
- I28-20 The DEIR’s analysis of Alternative 2 assumes cessation of legal cannabis-related activities within the County (except for growing 6 indoor plants is allowed), and it does not assume changes to the baseline, in which illegal growing currently occurs. Because the draft ban ordinance would require that current permitted and legally proposed cannabis-related activities cease, no impacts associated with new cannabis-related activities would occur, assuming full compliance. The DEIR does, however, acknowledge that illicit, illegal cannabis activities could continue under a ban alternative and discusses those potential effects. As a result, the DEIR’s analysis of Alternative 2 is considered consistent, appropriate, and in accordance with CEQA requirements.
- I28-21 The comment offers opinion that subsequent environmental documentation for cannabis-related operations may be required. As acknowledged in the DEIR, subsequent environmental documentation may be required for processing and manufacturing facilities proposed under the proposed ordinance. Under the proposed ordinance, the County’s action would involve processing applications and, typically, issuance of either a Zoning Clearance Certificate or Administrative Use Permit, which are considered ministerial actions by the County and would not require additional CEQA review. However, compliance with CVRWQCB General Order R5-2015-0113 includes review by the CVRWQCB regarding CEQA. It is possible that the CVRWQCB could determine that additional CEQA documentation is necessary and may choose to serve as lead agency depending on the proposed cannabis-related activity seeking coverage under CVRWQCB General Order R5-2015-0113. Should future cannabis-related activities seeking coverage under the proposed ordinance be required to obtain a conditional use permit, such an action would necessitate review of the proposed activity as a discretionary action (project) under CEQA.
- I28-22 The DEIR’s observation on page 3-1 regarding the potential for applications under the Urgency Ordinance to be denied was based on the County’s ongoing review of applications received pursuant to the Urgency Ordinance at the time of preparation of the DEIR. Evidence supporting this statement includes documents posted by the Planning Department to the County’s website regarding the current status of the County’s application review process and Board of Supervisors meeting summaries regarding applications and appeals of denials. The DEIR’s acknowledgement of these proceedings is considered reasonable and appropriate.
- I28-23 The requested clarification is already provided in the DEIR on page 3.2-15, in the second full paragraph. No further response is necessary.

- I28-24 Contrary to the assertions made in this comment, the requested information regarding how compliance with the CVRWQCB order would reduce specific impacts is provided within the subsection titled “Significance after Mitigation” associated with the impacts identified in this comment. Further, as noted in Master Response 4, the County was still in the process of reviewing, approving, and denying various applications that were received pursuant to the Urgency Ordinance and site-specific impacts associated with individual applicants were evaluated but not used as the basis for the analysis because of uncertainties regarding the ongoing status of specific applications. As a programmatic evaluation of the proposed ordinance, which needs to cover future potential applications/operations, the DEIR appropriately evaluates the potential impacts to biological resources that may occur based on available information regarding biological resources in the County. Applicants under the proposed ordinance may differ from applicants under the Urgency Ordinance, including with respect to applicant and/or location, and the EIR needed to take into consideration potential new applicants that might not have submitted applications as part of the Urgency Ordinance process. With respect to the DEIR’s evaluation of the draft ban ordinance (Alternative 2), refer to Responses I28-11 and O1-12.
- I28-25 Refer to Response I28-24 regarding the appropriate level of analysis of impacts to cultural resources provided in the DEIR. As noted on page 3.4-16, site-specific studies would be required as part of CVRWQCB Order R5-2015-0113 compliance and would include appropriate and site-specific measures to avoid the disturbance, disruption, or destruction of cultural resources.
- I28-26 The statement in this comment refers to applicants under the Urgency Ordinance, which prior to implementation of the Urgency Ordinance, were considered to be unregulated cannabis cultivation activities by the County. The statement that the County, if it were to adopt a ban ordinance, would result in the continued operation of previously permitted cannabis operations is the opinion of the commenter, and is also speculative. It is not reasonable to forecast potential future illegal activities resulting from any ordinance.
- I28-27 Refer to Response I28-24 regarding the appropriate level of analysis of impacts to hydrology and water quality provided in the DEIR.
- I28-28 The comment provides a general statement regarding concerns about the traffic analysis provided in the DEIR. Contrary to the general assertion made in this comment, the DEIR, as a programmatic analysis, evaluates the potential impacts of the proposed ordinance, in accordance with CEQA requirements, and identifies mitigation measure where necessary and feasible to reduce impacts associated with implementation of the proposed ordinance. With respect to the DEIR’s evaluation of the draft ban ordinance (Alternative 2), refer to Responses I28-11, I28-12, and O1-12.
- I28-29 The combined activities associated with cannabis cultivation and related operations associated with implementation of the proposed ordinance that are referred to in this comment are evaluated within Sections 3.1 through 3.9 of the DEIR as potential impacts of the project. The potential acreage impacts associated with implementation of the proposed ordinance are provided throughout the DEIR, including within Chapter 2, “Project Description;” however, the degree to which different land types (e.g., developed, undeveloped, agricultural, etc.) would be developed will depend on the sites seeking County approval under the proposed ordinance. As such, provision of such a number is not considered feasible or reasonable within the context of the DEIR’s programmatic analysis. Further, an EIR’s cumulative analysis needs to consider the potential cumulative effects of the proposed ordinance, as well as other discretionary approvals within the cumulative context, which is provided in Chapter 4 of the DEIR, consistent with CEQA requirements.

- I28-30 The DEIR's discussion of potential illicit, illegal activities under the draft ban ordinance (Alternative 2) are provided in attempt to facilitate informed decision making. However, the County agrees with the commenter that assessing significance based on such estimates of illegality is speculative, which is why significance is determined based on compliance with the draft ban alternative compared to baseline conditions which include existing illegal activities. In other words, the analysis acknowledges that illegal activities already occur in the county and that those activities may continue under the ban alternative. Refer to Response O1-12 for further clarification. The DEIR's analysis of Alternative 2, as a programmatic document of a countywide regulation, is considered reasonably appropriate, and in accordance with CEQA requirements to determine the comparative significance of impacts.
- I28-31 The comment suggests an additional alternative for consideration by the County. As proposed in this comment, this alternative would represent a refinement of Alternative 3. This alternative, if implemented, would reduce the potential for commercial cannabis operations within the County by approximately 74% (only 197 applications for commercial operations were received for parcels over 20 acres and not in the RR zone) compared to the proposed ordinance and would represent a 65% reduction in the potential for commercial cannabis-related operations compared to Alternative 3. This would result in a reduction of the reasonably foreseeable compliance response for commercial cannabis operations to 197 outdoor commercial cultivation sites and 4 indoor commercial cultivation sites.
- This proposal is substantially similar to Alternative 3 (which is analyzed in the DEIR) and Alternative 4 (which is analyzed in this FEIR) and would not substantially reduce any significant environmental impacts compared to those alternatives or any others to the point where mitigation would no longer be required. Notably, the proposal would not reduce any impacts that were identified as significant and unavoidable for the proposed project to less than significant. With respect to odors and transportation, limiting the overall number of cannabis-related operations would likely reduce the environmental effects but cannot preclude the potential for significant localized effects. For example, if several cultivation operations were to be located along one local roadway, the potential traffic impacts along that particular roadway (and potential connecting roadways) could be significant. Further, depending on the location of those operations in relation to other non-cannabis-related properties, odor impacts could occur, similar to the proposed ordinance. Accordingly, and as noted in Master Response 2, it is not necessary to analyze the proposal further in the EIR. This comment will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I28-32 Refer to Response I28-8.

Letter  
129

**Comments: Environmental Impact Report titled "Medical Cannabis Cultivation and Commerce Ordinance Project" dated May 2017**

RECEIVED

Karen Hoza  
Wilseyville, CA  
District 2

JUN 14 2017

Calaveras County  
Planning Department

- 1. Provide the differentiation between medical cannabis cultivation and other types of cannabis cultivation. 129-1
  - 2. The document uses both the terms cannabis and marijuana throughout the document, please be consistent with the use of the word cannabis only. 129-2
  - 3. Impact 3.4-2, Define "objectionable" and explain why livestock smells and other agricultural practices are not regulated. 129-3
  - 4. Impact 3.3-3, There are regulations in place now that outlaw the removal of sensitive environments. Explain how the County will fund the enforcement of the existing laws. 129-4
  - 5. Correction, Long-term Traffic Impact is Impact 3.9-2 not 3.8-2. In reality, most of the roads in Calaveras County are at Level of Service E or worse. Implementing a RIM will improve the quality of our roads. 129-5
  - 6. Explain why "Alternative 2 would reduce impacts to a greater extent than Alternate 3". This statement is made with no back-up and completely wrong. 129-6
  - 7. Why does the document not include the history of other California Counties that have banned the cultivation? 129-7
  - 8. Why does the report not include the increased environment damage due to the lack of an ability to enforce abatement? 129-8
  - 9. Section 6.5 states "assuming full compliance". Explain, in detail, how the county will achieve full compliance? 129-9
  - 10. Define the Project's objectives. Are they the same as Section 2.4? 129-10
  - 11. Section 2.5.6, Why is there no "Reasonable foreseeable Compliance Responses" for the ban alternative? 129-11
  - 12. Nowhere in the document is there information from the cultivators. Many assumptions are made that are inaccurate and false. For example, most "trimmers" do not have vehicles or ride share. Typically, trimmers do not come and go to a farm on a daily basis. 129-12
- I protest the adoption of this report on the basis that it is fatally flawed with misinformation and faulty assumptions. The report is focused on regulation and does not accurately identify the negative effects of a ban on cannabis cultivation. 129-13

6/14/2017  
Karen A. Hoza  
P.O. Box 284  
West Point, CA 95255

PO BOX 477  
WEST POINT 95255

Comments on the Environmental Impact Report titled "Medical Cannabis Cultivation and Commerce Ordinance Project" dated May 2017.

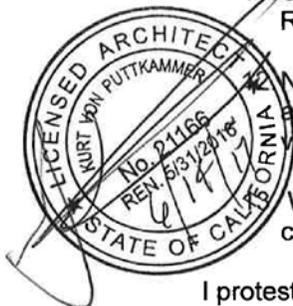
RECEIVED

JUN 14 2017

Calaveras County  
Planning Department

- 1. Provide the differentiation between medical cannabis cultivation and other types of cannabis cultivation. I 129-14
- 2. The document uses both the terms cannabis and marijuana, be consistent, pick one. I 129-15
- 3. Impact 3.4-2, Define "objectionable" and explain why livestock smells and other agricultural practices are not regulated. I 129-16
- 4. Impact 3.3-3, There are regulations in place now that outlaw the removal of sensitive environments. Explain how the County will fund the enforcement of the existing laws. I 129-17
- 5. Correction, Long-term Traffic Impact is Impact 3.9-2 not 3.8-2. In reality, most of the roads in Calaveras County are at Level of Service E or worse. Implementing a RIM will improve the quality of our roads. I 129-18
- 6. Explain why "Alternative 2 would reduce impacts to a greater extent than Alternate 3". This statement is made with no back-up and completely wrong. I 129-19
- 7. Why does the document not include the history of other California Counties that have banned the cultivation? I 129-20
- 8. Why does the report not include the increased environment damage due to the lack of an ability to enforce abatement? I 129-21
- 9. Section 6.5 states "assuming full compliance". Explain, in detail, how the county will achieve full compliance? I 129-22
- 10. Define the Project's objectives. Are they the same as Section 2.4? I 129-23
- 11. Section 2.5.6, Why is there no "Reasonable foreseeable Compliance Responses" for the ban alternative? I 129-24
- 12. Nowhere in the document is there information from the cultivators. Many assumptions are made that are wrong. For example, most trimmers do not have vehicles or ride share. Typically, trimmers not come and go on a daily basis. I 129-25
- 13. Why does the Preparers of the Environmental Documents not include any cultivators? I 129-26
- I protest the adoption of this report on the basis that it is fatally flawed with misinformation and faulty assumptions. The report is focused on regulation and does not accurately identify the negative effects of a ban of cannabis cultivation. I 129-27

DISTRICT 2



<b>Letter I29</b>	<b>Karen Hoza 6/14/2017</b>
-----------------------	---------------------------------

- I29-1 The comment requests differentiation between medical cannabis cultivation and other types of cannabis cultivation. Within the context of the EIR, the analysis of impacts is limited to the direct and indirect effects of implementation of a project, which in this case is a countywide ordinance for medical cannabis cultivation. This comment does not address the adequacy of the DEIR, and no further response is necessary. However, this comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I29-2 The comment notes that the DEIR uses cannabis and marijuana interchangeably, and requests that the document be consistent in using only cannabis. However, in society and documents reviewed as part of the DEIR's analysis, the terms are often used interchangeably, and revision to the text of the DEIR is not considered necessary.
- I29-3 The comment asks for a definition of the term objectionable as it relates to odors, and requests an explanation as to why livestock operations and other agricultural practices are not regulated. As it is used to describe odors, objectionable is defined as odors that are offensive and could lead to considerable distress among the general public. On page 3.2-10 of the DEIR, it is noted that odors from livestock, water treatment facilities, and other processing facilities may be sources of complaints in Calaveras County. Section 14.02.040 of the Calaveras County Municipal Code describes the circumstances under which existing or future agricultural operations may be deemed a nuisance. Therefore, while the DEIR is unable to regulate odors from livestock or other agricultural operations, municipal code provisions regarding nuisance do apply to such operations.
- I29-4 The comment questions how Calaveras County will fund enforcement of existing regulations that prohibit the removal of sensitive environments. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I29-5 The comment notes a correction that long-term traffic impacts are Impact 3.9-2, not 3.8-2. However, the comment did not include a page number where this correction is needed and a search of the DEIR document did not locate the error.
- The comment also notes that most roads in Calaveras County operate at level of service (LOS) E and states that a RIM would improve road quality. The comment does not provide any citations or evidence to support the statements, so no changes to the DEIR are warranted.
- I29-6 The comment expresses disagreement with the statement that Alternative 2 would reduce impacts to a greater extent than Alternative 3, though the comment does not specify to which impacts it is referring. Without more specific information, a response cannot be provided.
- I29-7 The comment questions why the DEIR does not include the history of other California counties that have banned cultivation. Such information is not required by CEQA. Furthermore, the DEIR includes discussion of potential impacts in Calaveras County under Alternative 2, but does not and is not required to include analysis of similar actions in other jurisdictions.

- I29-8 The comment asks why the DEIR does not include evaluation of increased environmental damage because of lack of enforcement. The environmental analysis of Alternative 2 does note that illegal cultivation could occur and would have environmental effects.
- I29-9 The comment asks for a detailed explanation of how full compliance would be achieved. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I29-10 The comment asks whether the project objectives are the same as listed in Section 2.4 of the DEIR. It is assumed that the comment refers to references to the project objectives in Chapter 6, Alternatives, of the DEIR. In that case, the project objectives referenced in Chapter 6 are the same as the project objectives listed in Section 2.4 of the DEIR.
- I29-11 The comment asks why there is no discussion of reasonably foreseeable compliance responses for the ban alternative. Under the ban alternative, the reasonably foreseeable compliance response is identified in Section 4.3.2. The DEIR identifies potential impacts with full compliance, as well as non-compliance with the restoration requirements of the draft ban. Also refer to Master Response 2 for information regarding the selection and analysis of alternatives.
- I29-12 The comment questions why the DEIR does not include information from cultivators and states that many assumptions in the DEIR are inaccurate. The materials referenced and conclusions reached in the DEIR are based on publicly available data. In cases where documented information is unavailable, the DEIR references personal communications that provide information necessary for the analysis. As the comment does not list specific impact conclusions that may be inaccurate, additional response cannot be provided regarding this comment.
- I29-13 The comment states that the DEIR is focused on regulation and does not accurately identify the negative effects that would occur under a ban ordinance. The comment does not provide sufficient detail to allow a detailed response. As lead agency, the Board of Supervisors of Calaveras County will evaluate the adequacy of the EIR prior to taking any action on the proposed project.
- I29-14 The comment duplicates a previous comment from this letter. Refer to Response I29-1.
- I29-15 The comment duplicates a previous comment from this letter. Refer to Response I29-2.
- I29-16 The comment duplicates a previous comment from this letter. Refer to Response I29-3.
- I29-17 The comment duplicates a previous comment from this letter. Refer to Response I29-4.
- I29-18 The comment duplicates a previous comment from this letter. Refer to Response I29-5.
- I29-19 The comment duplicates a previous comment from this letter. Refer to Response I29-6.
- I29-20 The comment duplicates a previous comment from this letter. Refer to Response I29-7.
- I29-21 The comment duplicates a previous comment from this letter. Refer to Response I29-8.
- I29-22 The comment duplicates a previous comment from this letter. Refer to Response I29-9.
- I29-23 The comment duplicates a previous comment from this letter. Refer to Response I29-10.

- I29-24 The comment duplicates a previous comment from this letter. Refer to Response I29-11.
- I29-25 The comment duplicates a previous comment from this letter. Refer to Response I29-12.
- I29-26 The comment asks why no cultivators were included as preparers of the environmental document. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I29-27 The comment duplicates a previous comment from this letter. Refer to Response I29-13.

<b>Letter 130</b>
-----------------------

*Letter to Calaveras Planning Department and Board of Supervisors*

June 11th 2017

I would like to make the following comments on the Cannabis Cultivation Program, to be **filed in the record** for: Both **EIR & Cannabis Ban Ordinance**.

The Urgency Ordinance adopted May 10 2016 added:  
**CHAPTER 17.95 - Medical Cannabis Cultivation and Commerce**  
 and is in direct conflict with:

**CHAPTER 8.06 - Property Maintenance and Administrative Enforcement Procedures;**  
 Specifically, 8.06.060 - **Public nuisances prohibited.**

It shall be unlawful for any owner, occupant, tenant, operator, or other person to cause or maintain a *public nuisance* on any premises.

Please reverse the significant mistake by the previous Board of Supervisors and BAN all Commercial Cannabis Cultivation within our once great county. Please ensure these public nuisances are removed from our county and restore our once peaceful rural lifestyle and full use of our properties, back to its original state prior to the creation of the urgency ordinance. Ensure further legal actions are not necessary to achieve our once peaceful rural lifestyle.

Cannabis requires massive amounts of water. A single plant needs up to 8 to 15 gallons of water every day depending on environment and temperatures. Allowing such a crop that does not create food is insane. **Cannabis is not compatible within any residential zoning including residential/agriculture zoning areas.** The decreased property values of adjacent and nearby properties due to the smell of dead skunks, the negative criminal elements of the drug and traffic, is an unavoidable impact. These growers have been illegally growing and selling, even though it has been illegal to do so. These growers will not follow the laws, regulations and ordinances to regulate them legally. Even with potential legalization, the lure of additional profit through circumventing the payment of taxes and cost of the legally regulated production will continue the criminal elements of the growers with the black market continuing to thrive. Marijuana growers are often heavily armed and operate with little or no regard for the environmental impacts of their operations.

Marijuana grow sites harm surrounding habitats in other ways, too. Cultivators use fertilizers, pesticides, herbicides and rat poison, which wash into waterways and leach into groundwater contaminating the water supply. The use of excessive pesticide, herbicide and rodenticide, poisons used to keep rodents away from plants have lethal effects on fish and wildlife. They also produce large amounts of trash and non-biodegradable waste. The air pollution created is extremely noticeable without the use of air testing equipment. Cultivation of marijuana presents a clear danger to the public health, safety and the environment; regulation will not fully mitigate this reality.

We have owned our 5-acre property for 22 years. We, as well as the several surrounding properties, now cannot use or enjoy our outdoor areas of our properties; due to Calaveras "cannabis" County allowing a one-half acre grow site at an adjacent property, as well as more than 700 other sites in the county. We no longer feel safe on our own property. Under California law we must disclose this, if we were trying to sell our property. According to property appraisers, we now have lost more than 30% property value. How will that be mitigated? We know firsthand of the numerous negative effects involved with cannabis cultivation. We want our neighborhoods back!

We also have to bear the cost of our own water well testing and don't know what we will do when the test come back with contamination, as it is our only water source.

Sincerely, Calaveras County Long-time Homeowners and Residents,

Cynthia and Steven Judson

130-1

<b>Letter I30</b>	<b>Cynthia and Steven Judson</b> 6/11/2017
-----------------------	---

- I30-1      The comment expresses support for a ban ordinance. This is a project alternative preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter  
I31

**From:** [dustinandlondon](#)  
**To:** [Peter Maurer](#)  
**Subject:** From paul knier  
**Date:** Thursday, June 15, 2017 10:20:22 AM

Regarding section 3.5 hydrology and water quality:

3.5.2: the draft TIR refers to several agencies which for many decades have had various responsibilities in terms of "protecting human and Aquatic Life" and to maintain and existing where it is to support fishing conditions. This describes my own property in Mountain Ranch. NPDES, established under the Clean Water Act, regulates "municipal and Industrial discharges including point... And Nonpoint.. source waste discharges"

In order to properly Monitor and regulate any additional problems caused by cannabis cultivation, it seems obviously necessary that Baseline levels be established. Such data should be readily available now because of the long-standing regulations and the responsibility of the various agencies.

Has the county and the Planning Commission taken the existing water quality into account in order to properly enforce the new regulations?

For example, if my aging and faulty memory serves at all, I seem to remember a lot of discussion a few years ago about the discharges of herbicides by SPI. That data should be available.

Re: 3.5.5: under the ground water management Act of 1992(!) : "The intent of the ACT is to encourage local agencies to work cooperatively to manage groundwater resources within their jurisdictions.."

And the sustainable groundwater management Act of 2014 "the legislature intended to provide local agencies with the authority and the technical and Financial assistance necessary to sustainably manage groundwater Within their jurisdiction"

As the citizens of this state are painfully aware the groundwater especially in the Central Valley has been shamefully overdrawn during the recent drought without any adverse consequences to those who planted unsustainable tree crops. Has the county of Calaveras done a better job then those in the Central Valley to protect our precious groundwater? Did we receive in fact the above-mentioned technical and financial assistance from the State? In my small neighborhood in Mountain Ranch we share our groundwater one with another in a neighborly fashion. End of problem. Can we not just "Jawbone"(as LBJ would say) our neighbors where possible to secure their voluntary cooperation. Plenty of anecdotal evidence suggests at least to me that those cannabis Growers who are trying to comply with the laws and the regulations are also trying to fit in in their new community, those who are recent arrivals. Those who flout those rules of law and neighborliness should be shunned or subject to citation or penalty of law.

End of problem.

"Can't we all just get along?"

I31-1

I31-2

<b>Letter I31</b>	<b>Paul Knier 6/14/2017</b>
-----------------------	---------------------------------

- I31-1      The comment asks whether certain items were included in the baseline conditions. Refer to Master Response 4 for information regarding the baseline conditions used for the environmental analysis.
- I31-2      The comment makes several observations and poses multiple questions regarding groundwater. The comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter 132
---------------

**From:** [Planning Web Account](#)  
**To:** [Peter Maurer](#)  
**Subject:** FW: Peter maurer  
**Date:** Monday, June 12, 2017 2:42:50 PM

---

-----Original Message-----

From: Jeanne\_95531@yahoo.com [[mailto:Jeanne\\_95531@yahoo.com](mailto:Jeanne_95531@yahoo.com)]  
Sent: Monday, June 12, 2017 2:13 PM  
To: Planning Web Account  
Subject: Peter maurer

We are against any form of marijuana cultivation in calaveras county.  
It has done nothing positive to our county, only negative. Crime is up, murders are up, burglary and robbery is up.  
They have devistated our landscape and eco system.

I 132-1

Submitted By:  
Name:: Ken and jeanme koll  
Email:: Jeanne\_95531@yahoo.com

<b>Letter I32</b>	<b>Ken and Jeanne Koll</b> 6/12/2017
-----------------------	---

- I32-1      The comment expresses disagreement with any form of marijuana cultivation in Calaveras County. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter  
133

**From:** [Fernando Leyva](#)  
**To:** [Peter Maurer](#)  
**Subject:** Ban Cannabis in Calaveras County  
**Date:** Wednesday, May 31, 2017 8:00:47 AM

---

Mr. Maurer,

I was not able to attend last night's cannabis discussions with the Board of Supervisors, however I do want to stress both my and my neighbors (the residents of M24 based upon a vote that was 5 to 1 in members opposed to commercial cannabis grows in areas zoned RR). The peace, safety, health, and well being of our residents, not only those in M24, but in all of Calaveras County need and want this rush to wealth to stop. For all the talk the cannabis alliance gives to wanting to be a community player, I have yet to see it. The cannabis growers in our association speed on our roads, have diesel generators that create both noise and odor pollution, bring in outside workers to help with their crop which increases security concerns, have built unsightly hoop houses to cultivate their crop (it is my understanding that a hoop house would allow for up to 4 grows in a year), and have a total disregard for their community. They have brought frivolous lawsuits against our association, which costs the association, made up of volunteer board members, to spend money on attorneys and spend an extraordinary amount of time to address their legal actions.

133-1

Just yesterday as I was driving on Railroad Flat towards Mountain Ranch, I was stopped while trees were being cleared along the road. Suddenly the odor of cannabis hit me, a person in a car ahead of me was smoking a joint.

We don't need or want this in our community, Please consider supporting the ban, it is the best thing for Calaveras County.

Sincerely,

Fernando Leyva  
Resident of Calaveras County

<b>Letter I33</b>	<b>Fernando Leyva</b> 5/31/2017
-----------------------	------------------------------------

- I33-1      The comment expresses support for a ban ordinance. This is a project alternative preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter  
134

**From:** [Gordon Long](#)  
**To:** [Peter Maurer](#)  
**Cc:** [Gordon Long](#)  
**Subject:** Public Response to DEIR of medical cannabis cultivation in Calaveras County  
**Date:** Wednesday, June 14, 2017 6:09:12 AM

---

Mr. Maurer,

This is an official and public response to the DEIR put forth by the County of Calaveras.

As the executive director of a wildlife advocacy 501c3 non-profit corporation based in Calaveras County, I find fault in several matters within the DEIR.

The most serious misgivings are associated with:

- Impact 3.3-1 Impacts to Special Status Species
- Impact 3.3-5 Disturbance or Loss of Wildlife Migratory Corridors
- Impact 3.5-5 Surface Drainage Impacts on Riparian Environments

While I have issues with other sections of the DEIR, these three represent the most serious misgivings. Simply put, the mitigation measures proposed for these three topics are insufficient to address the environmental damage that could occur if a commercial cannabis program is allowed in our County.

I put forth this basic response to be part of the Public Record for this DEIR. If a commercial cannabis program proceeds, I will be given the opportunity to comment further at a later date, according to state law.

Considering the environmental impacts (insufficiently addressed within the DEIR) that a sanctioned medical cannabis program could pose to our County, the best and only viable alternative would be to enact a full, and complete ban of medical cannabis growing in Calaveras County.

Gordon Long  
3233 Golden Gate Drive, San Andreas, CA 95249  
209-584-3013

--  
Onwards and Upward,

Gordon Long- Executive Officer  
The CalFauna Foundation  
PO Box 1146, San Andreas, CA  
"Building a Better Future for Native California Wildlife"

134-1

<b>Letter I34</b>	<b>Gordon Long</b> 6/14/2017
-----------------------	---------------------------------

- I34-1      The comment expresses concern that the mitigation measures proposed for Impacts 3.3-1, 3.3-5, and 3.5-5 are insufficient to address the environmental effects of a commercial cannabis program. The comment does not provide additional details to support the statement. As lead agency, the Board of Supervisors of Calaveras County will evaluate the adequacy of the EIR prior to taking any action on the proposed project.

TO: Peter Maurer, Planning Director; PlanningWeb@co.calaveras.ca.us  
 FROM: Holly Mines, resident of Wilseyville, District 2, [hymines@yahoo.com](mailto:hymines@yahoo.com)  
 DATE: June 10, 2017  
 SUBJECT: Comments on the Draft Environmental Impact Report for Calaveras County Medical Cannabis Cultivation and Commerce Ordinance Project

Letter  
135

Thank you for the opportunity to comment on the above referenced Draft EIR. For a “layperson,” navigating the 6 major chapters with their accompanying Exhibits and Tables is a daunting task. Just trying to figure out the page numbering system presents an obstacle to reading the document since it’s often necessary to flip back and forth between topics addressed, so I’d like to make the following request:

I-35-1

- Please use sequential page numbering (in the center of the bottom of each page) to make reviewing the Final EIR document less cumbersome.

An unusual feature of this DEIR is that it is proposing a project as well as examining alternatives that are put in jeopardy by the fact that the Notice of Preparation (NOP) went out *after* the large scale cultivation of cannabis had begun to take place. There is a long history of illegal growing in small, rural counties that do not have budgets to fund eradication of unpermitted activity. Furthermore, after the county had decided to create a legal grow ordinance, many people growing openly began to show an example of responsible stewardship and cooperation with local authorities. The NOP was issued in April, 2016, and an Urgency Ordinance (UO) to establish a temporary regulatory framework for growers while the DEIR was being prepared, was passed by the Board of Supervisors in May, 2016 to make sure that those growing would follow a temporary permitting procedure and seek legal status. Most EIRs analyze proposals for *future* projects; that is, scenarios in which no work begins until final approval of the EIR. Thus, Ascent Environmental had to make decisions about how they would establish “Existing Conditions” in the county knowing that cultivation was already taking place. This has meant that a “No Project” Alternative has little meaning because it presupposes that no cultivation has taken place. While the DEIR attempts to explain this, the text is confusing and many who read the document are unaware that there are two ordinances, only one of which is being considered in this document (i.e. the Proposed Project, not the Urgency Ordinance.) This fact presents several serious problems in the analysis of the proposed and alternate projects.

I35-2

Chapter 2 includes an extensive description of indoor and outdoor cultivation processes, and the history of the state’s cannabis related bills and acts, but I could find nowhere in the document a quantitative description of the number, size, location and distribution of existing permitted commercial grows (or those with pending permits) in Calaveras County. While these grows were permitted under the Urgency Ordinance (rather than the “project ordinance”) they are an excellent source of information for an evaluation of the proposed ordinance. This information is available from the Planning Department and should be a part of this report. It’s called the PRAdatabase.pdf and can be found on the Planning Department website. Therefore, I urge you to:

I35-3

- Cite and use the existing database referenced above to provide a clearer picture of cannabis cultivation in Calaveras as a basis for an improved analysis of the environmental impacts for this DEIR. The information can be cited without using names of land owners. Please include in your Reference Section the extent to which you visited legal grows and interviewed cultivators. There is no “on the ground” description of how legal growers are complying with environmental regulations.

Chapter 3. Impacts and Mitigation Measures, states on page 3-1 in the Environmental Setting that the date of the NOP is the appropriate one to establish *existing conditions*, but acknowledges the UO passed in May when applications were received from growers. The description of the Environmental Setting ends with,

“Therefore, for the purposes of this analysis, the EIR generally assesses the reasonably foreseeable compliance responses identified in Chapter 2 (Project Description) as *new development* under the proposed ordinance, unless otherwise noted.” The Project Description fails to note that many people are already growing while they wait for permission and further notes that one of the Alternative Projects being analyzed is a complete ban of cultivation and commercial activities, declaring that this DEIR can be used to adopt either the “proposed grow project” or the “complete ban.”

I35-3  
cont.

- Please clarify this confusing discrepancy from the traditional meaning of “existing setting” or “existing conditions” or explain the utility of defining a setting that ignores the problems of already established grow sites, both legal and illegal. This clarification should appear in Section 2.2 (page 2-3), and on page 3-1, last paragraph.

The same problem occurs in assessing the level of impacts of each of the alternative projects. Since *No Impact* is defined as “no change from existing conditions (no mitigation required)” serious potential impacts resulting from a Complete Ban Ordinance will be ignored because existing grows are part of “existing conditions.” It’s no surprise that the Complete Ban Ordinance will prove to be the environmentally superior choice if current “sanctioned” growing practices are ignored. In fact, it is hard to believe that the DEIR was not designed to prove the Ban superior given the decision to assume complete compliance. Don’t turn a blind eye to this inconsistency which undermines the validity of the analysis. How can we improve on the existing state of affairs if we ignore it? In this sense, the DEIR fails to contribute to an improvement on where we are starting from.

I35-4

Chapter 3 begins the Environmental analysis of all applicable resource categories for the proposed project. Section 3.3 examines the potential effects of project implementation on common vegetation and habitat types, sensitive plant communities and special-status plant and animal species.

- Please provide an improved Land Cover map (Exhibit 3.3-1) Agriculture, Montane Riparian, Riverine and Seasonal Wetlands are not displayed (or at least not visible on the map.) The map, without any graphic representation of these land cover categories, serves no useful purpose. You may have to provide enlarged maps that, when printed out can be folded over to fit into print versions of the Final EIR.
- Please provide an overlay of the location of grows on Exhibit 3.3-1 (using the PRAdatabase.pdf, cited above.) Overlays on all relevant maps that show where grow sites already exist are important information to be included in the analysis. This will help us understand grow areas of particular sensitivity.
- Please provide text or a graphic to show where CNDDDB and Critical Habitat plant and animal species would be in danger of impacts to grow sites.

I35-5

I35-6

I35-7

Chapter 3, section 3.5 examines Hydrology and Water Quality

- Please provide an overlay or other graphic or attached text segment to show grow locations as they relate to Rivers and Watersheds on Exhibit 3.5-1 Surface Hydrology

I35-8

Alternative 2, A Ban Ordinance, assumes “full compliance” of both formerly permitted growers and Illegal Growers in the County. Section 6.3.2 states

“This alternative would result in the cessation of commercial cannabis operations currently allowed under the urgency ordinance and would require the restoration of existing sites to pre-existing conditions. The responsibility, including all expenditures, for restoration to pre-existing conditions, would be borne by the individual property owners.

Because the revenue source that motivated individual property owners to invest in property modifications would no longer be available under the ban, the length of time and/or feasibility to restore properties to pre-existing conditions is not known....illegal cultivation is likely to occur under any of the alternatives considered in this EIR. Thus, for the purposes of comparing the impacts of an alternative to a baseline, the baseline conditions includes existing illegal activity.”

135-9

- Please provide documentation of the potential impacts of a Ban Ordinance with “assumed regulatory compliance” compared with the impacts of continued unabated cannabis-related operations (that will surely happen in the event of a complete ban. The notion that people will comply, stop growing and return their properties to pre-existing conditions is shown to be unlikely by prior examples in counties putting in place bans under similar circumstances.

Aesthetic conditions under a Ban. It is asserted that over time, former cultivation and processing sites would return to a “more natural condition.” Is this a common term used in EIRS? What if the grow borders on a sensitive plant or animal community? And what if equipment and empty containers of fertilizer or pesticides are left on abandoned sites? Would those items “slowly revert to a ‘natural’ condition?” The report goes on to claim that “even with partial compliance with the ban, impacts to biological resources would be reduced, compared to the proposed regulatory ordinance.” These conclusions are based on no evidence. The authors of the DEIR do not demonstrate with any precision that the ban will be a relative improvement environmentally over a regulated regime.

135-10

- Please provide more concrete evidence that a complete plan is the environmentally superior alternative.

Chapter 8 lists References relied upon in preparation for this ban that do not include interviews or visits to existing cannabis grows in Calaveras, even though mention was made that sites were visited and growers interviewed. The reference list includes Sheriff Dibasilio, Kevin Wright, Ag. Commissioner, and Peter Maurer, Planning Director but mentions no other local interviewees. I have heard many comments made by Dibasilio and Maurer over the past year regarding the economic infeasibility of declaring a ban, but this report does not take into consideration the economic blow to the community that a ban would entail.

135-11

- Please acknowledge the size of the industry and its investment in the local community and the potential impacts of a complete Ban on commerce and employment in the county.

Section 6.4 - Comparison of Alternatives, Table 6-1, page 6-12 summarizes the environmental analysis provided for the project alternatives.

135-12

- There is no explanation of the symbols < and > and how they relate to each other on the chart. If their meaning is “greater than” or “less than” the question for each symbol becomes: compared

to what? Please clarify the meaning of this table and also explain the (1) references next to each Impact labeled "Significant and Unavoidable." Or provide a better graphic to demonstrate the comparison of alternatives.

135-12  
cont.

<b>Letter I35</b>	<b>Holly Mines</b> 6/10/2017
-----------------------	---------------------------------

- I35-1 The comment requests that the Final EIR use sequential page numbering throughout the entire document instead of page number by chapter. The page numbering protocol is standard for documents of this type and, while perhaps not familiar to this commenter, does allow for navigation of the document.
- I35-2 The comment expresses concern regarding the baseline (some existing cannabis operations), as well as the fact that the EIR addresses the proposed ordinance as the project and a ban ordinance, which is an alternative. Refer to Master Response 2 for a detailed response regarding the alternatives analyzed in the DEIR.
- I35-3 The comment suggests use of information collected by the Planning Department as part of the Urgency Ordinance application process to inform the analysis of the EIR existing permitted cultivation operations. Consistent with the request in this comment, the DEIR's analysis included consideration of data collected by the County, both in terms of determining the potential for cannabis-related operations within the County but also with respect to potential impacts that may occur. This information was also used to determine the likely reduction in cannabis-related activities with implementation of Alternative 3. However, the comment also expresses confusion regarding the project setting and establishment of existing conditions. Refer to Master Response 4 for a detailed response regarding baseline conditions and how they were determined.
- I35-4 The comment states the opinion that the analysis and conclusions regarding the project alternatives is inaccurate because of faulty baseline assumptions. Refer to Master Response 4 for more information regarding baseline conditions, and Master Response 2 regarding alternatives.
- I35-5 The comment requests that the Land Cover Map (Exhibit 3.3-1) be enlarged to show categories not shown in the existing version (i.e., Agriculture, Montane Riparian, Riverine, and Seasonal Wetland). The intent of the map as part of the DEIR is to demonstrate the level of variations and diversity of land cover types within the County. As such, the scale provided as part of the DEIR is considered appropriate and useful for the programmatic analysis of the proposed ordinance. Descriptions of the land cover types on pages 3.3-8 through 3.3-16 of the DEIR provide further context and description of existing conditions within the County, contrary to the opinion expressed in this comment.
- I35-6 The comment requests that map overlays be provided to show the location of existing grow sites. However, as noted in Master Response 4, the precise locations of cannabis cultivation sites that are or may be permitted under the Urgency Ordinance are not considered as part of the baseline condition, and mapping of these locations is not considered necessary to inform the analysis of the proposed ordinance.
- I35-7 The comment requests that a graphic be provided to show potential areas of CNDDDB and critical habitat plant and animal species. As noted by CDFW in their comments (see Commenter Letter S1), the CNDDDB is a positive occurrence database (it lists species occurrences where surveys have been completed); it does not indicate presence/absence but whether sensitive biological resources have been historically identified at a particular location. With respect to critical habitat mapping, the commenter is referred to page 8-5 of the DEIR, which provides a web address for the U.S. Fish and Wildlife Service's (USFWS's) online critical habitat mapping tool. The majority of critical habitat within the County is

located near Valley Springs, between Burson and Jenny Lind, and in the northeastern portion of the County.

- I35-8 The comment requests that an overlay or graphic be provided to show existing grow locations as they relate to rivers and watersheds as shown in Exhibit 3.5-1. Because the analysis of the proposed ordinance is programmatic in nature and potential cannabis-related operations seeking permits under the ordinance would not be limited to locations that have sought permits under the Urgency Ordinance, inclusion of this information as part of the DEIR is not considered necessary or appropriate for the analysis of impacts.
- I35-9 The comment expresses opinion that compliance as assumed under the ban ordinance alternative is not realistic and requests documentation of potential impacts of a ban ordinance that did not assume regulatory compliance. The DEIR's analysis of Alternative 2, as provided in Chapter 6 of the DEIR, serves as documentation of the potential impacts that may occur with implementation of a ban. Regarding the continuation of illegal activities under a ban ordinance, see Responses to Comments I28-11, I28-12, and O1-12.
- I35-10 The comment requests additional information regarding the impacts from a ban ordinance if illegal activities continue and if site restoration does not occur as required. Please see Responses I28-11, I28-12, and O1-12.
- I35-11 The comment notes that the list of DEIR references does not include any citations to site visits or interviews with growers. As noted in Commenter Letter I4, information was obtained from local cannabis operations, as well as from the Calaveras Cannabis Alliance during preparation of the DEIR. The comment also states that the DEIR did not consider the economic impacts of a ban ordinance. Refer to Master Response 5 for a detailed response regarding the analysis of socio-economic impacts.
- I35-12 The comment notes that there is no explanation for the < and > used in Table 6-1 and requests that their meaning be clarified. The commenter is correct that these symbols are intended to mean "greater than," "less than," and "equivalent to," and Table 6-1 has been clarified to reflect the intended meanings. These symbols provide a comparison of the potential impacts of these alternatives to the proposed ordinance, consistent with the requirements of State CEQA Guidelines section 15126.6.

<b>Letter 136</b>
-----------------------

**From:** [zanzer](#)  
**To:** [Peter Maurer](#)  
**Cc:** [Dennis Mills](#); [Gary Tofanelli](#); [Clyde Clapp](#); [Michael C. Oliveira](#); [Jack Garamendi](#); [Board of Supervisors](#)  
**Subject:** RE: DEIR Comments - Groundwater Zoning Map - Attachment Included  
**Date:** Tuesday, May 16, 2017 12:14:50 PM  
**Attachments:** [Groundwater Zoning Map Letter.pdf](#)

---

Mr. Maurer,

The DEIR report does not address the GIS property information map showing Groundwater Potential in areas of Calaveras County (see attached Zoning Maps).

Water is a critical issue in many areas of Calaveras County as can be seen by looking at the GIS property information map. The Groundwater Potential in Copperopolis is ZERO to LOW. Some residents in Diamond XX, Copperopolis have had their wells dry up during the summer months for many years now. The DEIR fails to address the Groundwater Potential issue of Zero to Low areas, yet it acknowledges that marijuana is a very thirsty crop using hundreds of thousands of gallons per year. The Mitigation measure for areas containing Zero to Low groundwater should be to BAN all commercial marijuana cultivation (single parcel grow larger than six (6) plants), for both medical and recreational, in those areas since it could have a SIGNIFICANT negative impact on surrounding and nearby parcels.

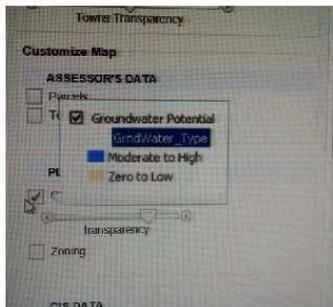
Please include the GIS property information map showing Groundwater Potential in the DEIR and include a Mitigation measure that will BAN all commercial marijuana cultivation (single parcel grow larger than six (6) plants), for both medical and recreational, in areas with ZERO to LOW Groundwater Potential.

Yours truly,

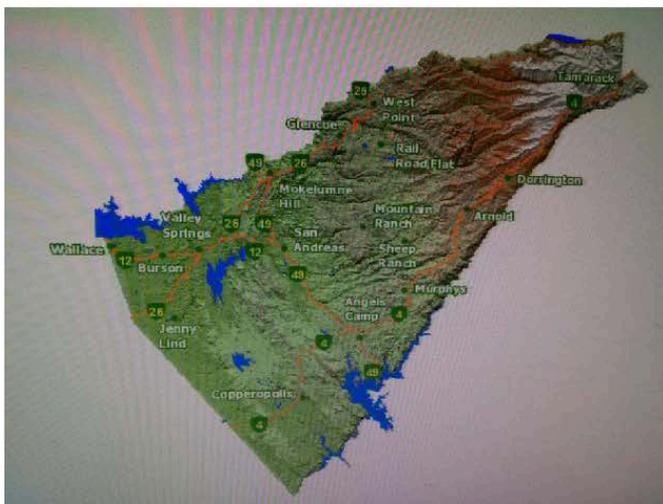
Deena Morris

136-1

## Calaveras County, CA Zoning Maps



Legend for the GIS property information map showing Groundwater Potential



GIS property information map showing the areas located in Calaveras County, CA.



GIS property information map showing Groundwater potential in areas of Calaveras County, CA.

**NOTE that many areas have groundwater potential of ZERO to LOW.**

Source of Map: <http://www.planning.calaverasgov.us/ZoningMaps.aspx>

<b>Letter I36</b>	<b>Deena Morris</b> 5/16/2017
-----------------------	----------------------------------

- I36-1      The comment states that the DEIR failed to address the groundwater potential issue in Zero to Low areas, such as Copperopolis and suggests that the mitigation measure for areas containing Zero to Low groundwater levels should be to ban the cultivation of more than six plants. Contrary to statements made in this comment, the DEIR acknowledges the groundwater management efforts that the County is currently implementing, including the County's Groundwater Management Program (see page 3.5-8 of the DEIR). Further, Mitigation Measure 3.5-3 from the DEIR is intended to prevent overdrafting of the groundwater table from occurring and would require monitoring of groundwater levels to ensure that groundwater levels are maintained. Inclusion of the data from the County's online GIS tool, as well as additional mitigation to prohibit the use of groundwater within certain areas of the County, is not considered necessary to reduce the impacts of the proposed ordinance to less than significant.

Letter  
137

**From:** [Planning Web Account](#)  
**To:** [Peter Maurer](#)  
**Subject:** FW: Comments on the eir cannabis study.  
**Date:** Friday, June 09, 2017 2:25:44 PM  
**Attachments:** image001.gif

*Annette Silva*  
*Administrative Assistant, II*  
*Calaveras County Planning Department*  
*209-754-6620*  
*209-754-6540 Fax*



**From:** steve [mailto:[captaincowpaddy@hotmail.com](mailto:captaincowpaddy@hotmail.com)]  
**Sent:** Thursday, June 08, 2017 5:07 PM  
**To:** Planning Web Account  
**Subject:** Comments on the eir cannabis study.

To whom it may concern. Being a property owner in calaveras county I am appalled at the way the bos have not handled this situation. Whatever side of the fence a person is on in this matter. I think it's fair to say the bos have lost credibility.and have demonstrated a lack of leadership beyond comprehension. If this issue is to complicated for them to deal with in a timely and cost effective use of our tax dollars.then simply put it to a vote of the residents of the county.either ban it or show a concerted transparent effort to put some regulations in place.it seems most problems are from illegal grows.i would encourage the bos to take the main concerns of the people. And regulate it based on those concerns. Put in place minimum parcel sizes and not let any grows in restricted residential zones.that would in essence take care of set back requirements. Noise odor and other areas of concerns. Farming is farming regardless of the crop. The licensed and regulated cannabis farmers will fit into the county just like any other farmer.to impose special fees associated with trucks traffic and other infrastructure problems due to the cannabis industry does not seen fair. all county residents put the same nickel in and should all receive services equally. Why should the cannabis farmer pay additional taxes/fees? than the hay farmer, vineyard farmer or any other farmer? What are all these fees about? Simply regulate it like any other agricultural product in the county. Business license,taxes on commodities sold.If done properly the monetary increase in taxes from the cannabis industry will in time eradicate the illegal grows . increase the welfare and safety of the residents thru increased police presence. And will certainly decrease the pressure the bos has on a daily basis trying to stay in budget in all aspects of spending and services to it's constituents. Respectively submitted steven morris

137-1

Sent from my U.S. Cellular® Smartphone

<b>Letter I37</b>	<b>Steven Morris</b> 6/9/2017
-----------------------	----------------------------------

- I37-1      The comment expresses the opinion that cannabis cultivation should be regulated the same as any other agricultural use. This is a project design preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

RECEIVED

MAY 26 2017

Letter  
138

Calaveras County  
Planning Department

To Peter Mauer, (Calaveras Planning Director)

Calaveras county Planning Department

891 Mountain Ranch Road

San Andreas, Ca 95249

May 22, 2017

Lora A. Most (Resident of District 5 for 17 years)

Comments on the Draft EIR (Medical Cannabis Cultivation  
And Commerce Ordinance Project)

Here are my concerns about the Cannabis Cultivation in Calaveras County.

Cannabis cultivation is bringing in crime to our neighborhoods.

Many of the residents are selling their homes and leaving the county because of  
the cannabis cultivation.

The population shift from older population to younger population who will impact  
schools and public services. At this time District 5, older population is 50%.  
Calaveras County older population is 39%% county wide.

Environment

Tht Cannabis has a horrible smell during harvest time.

Many residents have respiratory conditions that will be unable to live in Calaveras  
County with Cannabis cultivation.

Water run-off from Cannabis cultivation into other properties and streams.

Lora A. Most *Lora A. Most*

(Mailing address) P.O. Box 1137, Valley Springs, Ca. 95252

I38-1

<b>Letter I38</b>	<b>Lora A. Most</b> 5/22/2017
-----------------------	----------------------------------

- I38-1      The comment lists several concerns regarding cannabis cultivation in Calaveras County. These are project design preferences, and do not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

<p>Letter 139</p>
-----------------------

**From:** [Rob Nelson](#)  
**To:** [Peter Maurer](#)  
**Subject:** Commercial Cannabis Cultivation Environmental Impact Report comments  
**Date:** Wednesday, June 14, 2017 2:48:41 PM

---

Hi, Peter.

Please accept the following as my comments on the Commercial Cannabis Cultivation Environmental Impact Report.

I meant to send it as a word document, but for some reason it was 76 megabytes, so inserted it inline into the e-mail.

If the formatting is incorrect, the same pictures can be seen at <http://murphypines.wordpress.com>

Thanks,

Rob Nelson  
[calaverasresident1234@gmail.com](mailto:calaverasresident1234@gmail.com)  
 415-518-2164

## **Introduction**

The impact of the influx of commercial cannabis farms has been profound on my father, and has dramatically affected my father's quality of life.

My father is an 82-year old Air Force veteran who served in the theater of operations during the Korean War.

He is disabled and is currently being scheduled for an operation to help his condition. He lives in Murphy's Pines, in Murphys, California.

## **My father's (and our) Experience with Commercial Mairjuana Farms in a Residential Area**

The following are the major points regarding how my father has been affected, with attached pictures to show details.

He lives on 5 acres (RR5), but most of the growers and residents stay close to the road making the actual population density more like 1-acre parcels.

My father has experienced a number of issues related in the Environmental Impact Report. While my father has been affected greatly -- perhaps moreso than some -- his story is not an isolated one, as many others also have been affected as severely.

## **Speaking Out and Hostile Behavior from Growers**

139-1

It's important to note that many people that have experienced a negative impact from the influx of commercial marijuana growers have not come forward -- our experience has been that some of the growers subject anyone who steps forward with intimidating and aggressive behavior. In my father's area, growers greatly outnumber residents, making it more difficult to speak out.

Because we have complained to the county and the growers are aware our frustrations, we have been subject being yelled at constantly on the roads, called "trash", "a\*\*\*\*\*e", and other names publicly, and also blamed for our situation. This also includes physically aggressive behavior.

More than one grower has blamed my father directly for not selling his property to a grower or growing himself.

As one grower put it, when I explained that my father was in ill health, "Well, if you're father is not in good health, then he shouldn't be living here."

Indeed, our experience has been that the growers who have recently moved in treat us as if we are invading their space.

For these reasons, while many neighbors agree with our issues, they do not choose to speak out, as they must continue to live next to the growers' property.

### **Surrounded by Growers**

Currently, my father's property is surrounded by 10 growers, all of whom grow commercially and do not inhabit the locations on which they farm. See the maps provided in the images below.

No Longer Residential, now Industrial (Commercial Businesses, not inhabited Residences)

As my father is surrounded by growers, and these growers are not inhabitants, his property is the only one left on his street that is residential.

Looking at the images provided, his area cannot be called a residential area any longer. Traveling any path into to his house, one must pass a number of marijuana growers.

### **Smell, Rashes, Coughing Fits**

During growing season in 2016, my father had rashes and coughing fits which coincided with the increase in the smell of the marijuana growing.

As my father's property is located next to a large number of marijuana farms, the smell from these farms is quite intensive, and one marijuana farmer agreed that the air quality was almost certainly below health standards.

### **Noise**

There is a constant din of noise, from generators, chainsaws, trucks, and other digging and excavation.

### **Illegal Growing/Excavation**

139-1  
cont.

As can be seen in the pictures provided, there has been a large amount of excavation occurring since April of 2017.

Also seen is that the growers tend to strip the land in order to grow, and have, in fact, now planted in some of these areas which is against county law. One neighbor does not have a license to plant at all, yet has planted a large number of plants

#### **Heavy Traffic and Nearly Impassible Roads**

During the winter, the roads were nearly impassible due to the high volume of traffic. Before the influx of growers, 1 or 2 cars passed by my father's property daily. During growing season (as well as before and after), this number is up to 20-30. The roads became very degraded and it was very difficult to get in and out of the property.

#### **Thefts from Growers and Increased Safety Risk to my Father**

During growing season in 2016, there were thefts from the local growers. These thefts are not reported as the marijuana growers do not want Sheriff involvement. This puts my father's property at risk.

During the 2017, it is now a known fact that there are many marijuana growers in this area. It makes it much more likely that there will be thefts from the local growers next to my father's house.

As my father's property is between 10 growers, this also increases the risk to my father and his property's safety.

#### **Cannot Sell Property (and the affect on my father's quality of life)**

We cannot currently sell my father's property except at a great loss. Currently, no one can obtain a license to grow, which makes it uninteresting to growers.

We have had many comments from others about not wanting to buy a property next to growers, and, therefore, the property is also uninteresting to non-growers.

This has severely affected my father's quality of life, as we cannot currently sell the property to move him to a better location.

#### **The Biggest Problem: Non-resident Owners**

In my opinion, one of the biggest problems (or cause of problems) is that marijuana farms in residential areas (such as RR5, in the case of my father) can be owned by non-residents. In almost all cases, the marijuana-growing properties next to my father are industrial properties -- they are not inhabited by the growers and are work sites that have been heavily excavated. This causes a direct contention between residents and growers, as growers have no roots to the neighborhood, and have no reason to look after the results and quantity of excavations, and also have no reason to integrate into the neighborhood or keep on good terms with their neighbors -- that is, to the growers that do not inhabit these properties, their property is

139-1  
cont.

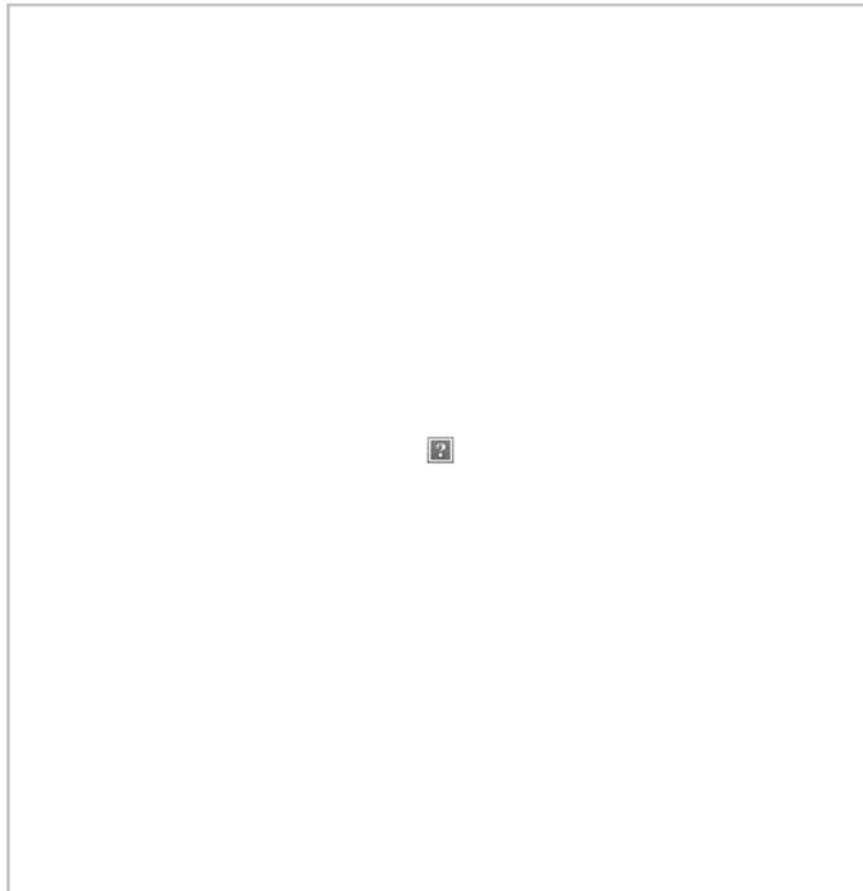
139-2

nothing but an industrial work site, which I believe is why my father's area look as it does in the pictures provided.

139-2  
cont.

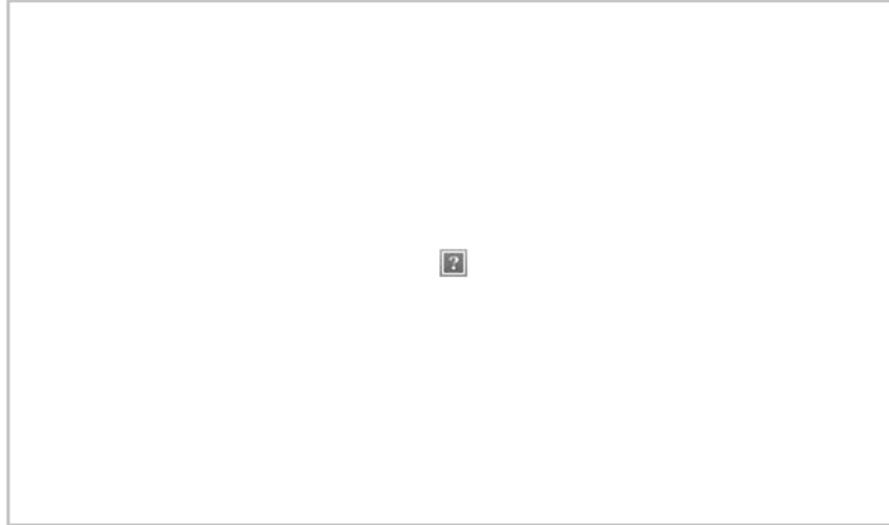
**The Pictures**

Following are pictures we've taken in the last year, showing a large impact of the influx of marijuana growing in my father's area (i.e. Murphy's Pines, RR5)

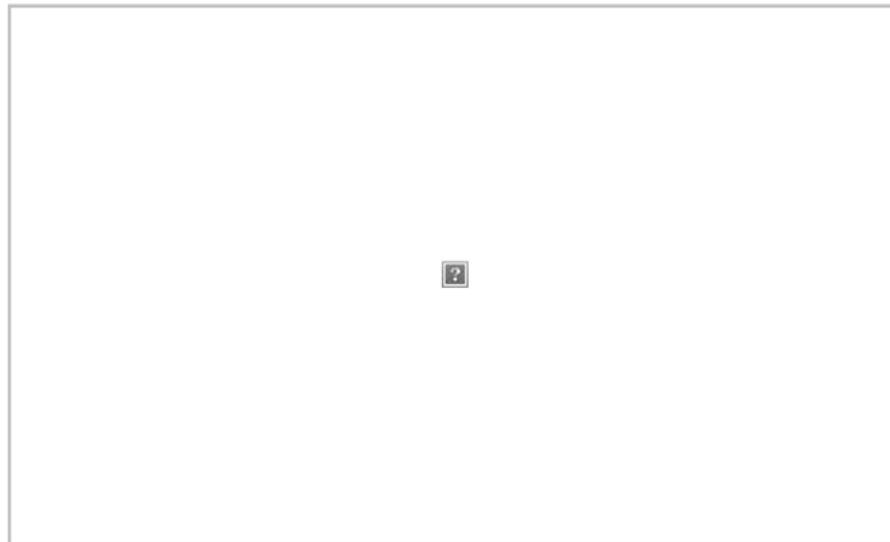


139-3

My father's place is in the upper-left. This shows how much excavation has occurred. This picture was taken in May, 2017, and there has been much more excavation since.



This is the other side of my father's house, showing how my father's property is surrounded by commercial/industrial marijuana growers.

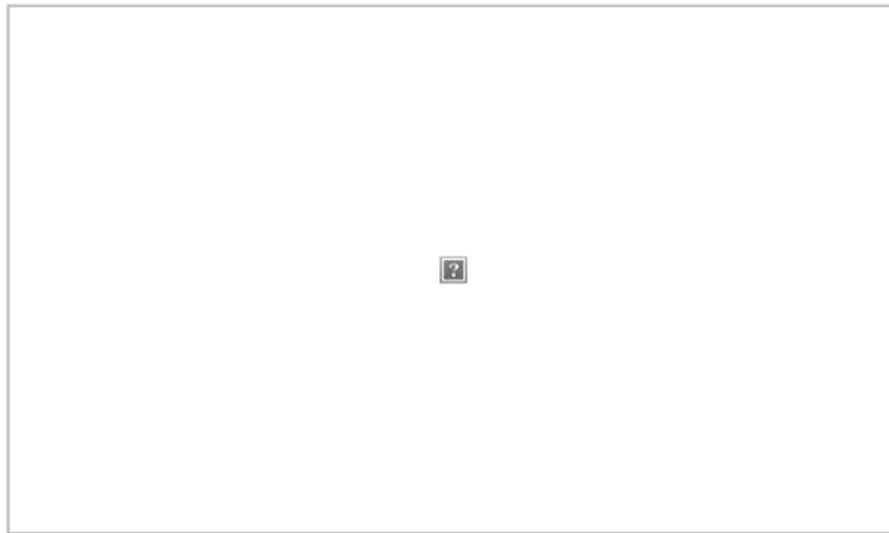


This is a Google Earth map showing how my father is surrounded by many growers.

139-3  
cont.



This is an aerial image showing 15 marijuana farms and 3 residential locations.



This is an image of a marijuana farm located directly next to a residence, showing how close marijuana is farmed to private houses.

I39-3  
cont.



This picture shows my father's place just a couple hundred feet from two commercial (and uninhabited) marijuana farms. The house in the upper part of the image is not inhabited and was purchased solely to grow marijuana.

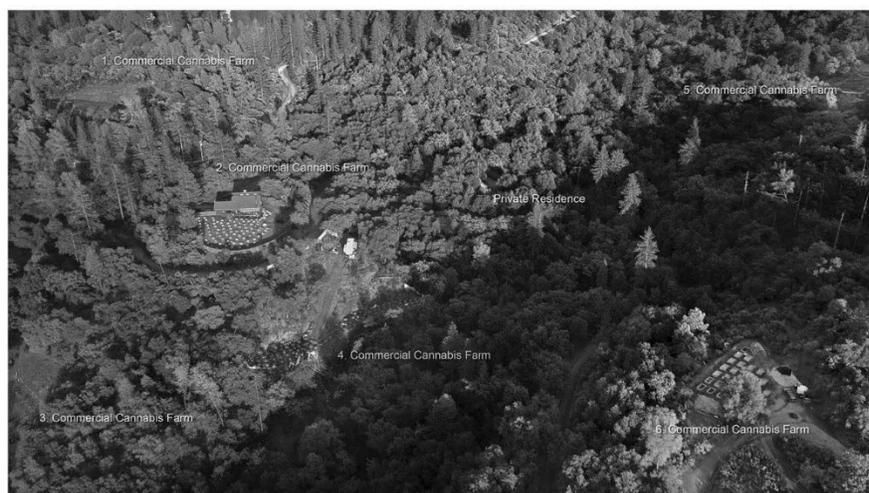
139-3  
cont.



This is a closer view of the farm directly next to my father's place (directly across the street), showing how the area now looks. This has looked like this for over a year.



This picture was taken on April 4th, 2017. There is now growing in this area. This is directly next to my father's property. This location has excavated at least 3 times the amount in which they are legally entitled and is now growing illegally in these newly-excavated areas.



This is another aerial view showing my father's place in relation to commercial marijuana

139-3  
cont.

farms. In this picture, 6 commercial marijuana farms are shown surrounding my father's property, labeled "Private Residence"

**Conclusion**

My father has been greatly and adversely affected by the influx of marijuana growers. There have been issues with smells, health (coughing/rashes), property devaluation, noise, hostile and threatening behavior by growers, large amounts of continuing excavation and stripping of land, and many other issues.

My father cannot currently sell his property except at a loss. As the area can no longer be seen as a residential area, and growers also cannot buy the property to grow marijuana, this has led to a dramatic loss in quality of life for my father.

While my father's situation is not quite the norm, it is shared by others in its severity. Whichever direction the county takes, I feel that it must find a way to rectify the negative impact experience by my father.

139-3  
cont.

**From:** [Rob Nelson](#)  
**To:** [Peter Maurer](#)  
**Subject:** EIR Part 2  
**Date:** Wednesday, June 14, 2017 3:06:03 PM

Hi, Peter.

It looks like some pictures didn't make it, so I am just re-sending the ones that failed. Perhaps it was just too much data. I am sorry if this is a duplicate. As I mentioned, these are also posted at <http://murphyspines.wordpress.com> (on the front page and if you press the *Recent Pictures* link).

### The Pictures

Following are pictures we've taken in the last year, showing a large impact of the influx of marijuana growing in my father's area (i.e. Murphy's Pines, RR5)



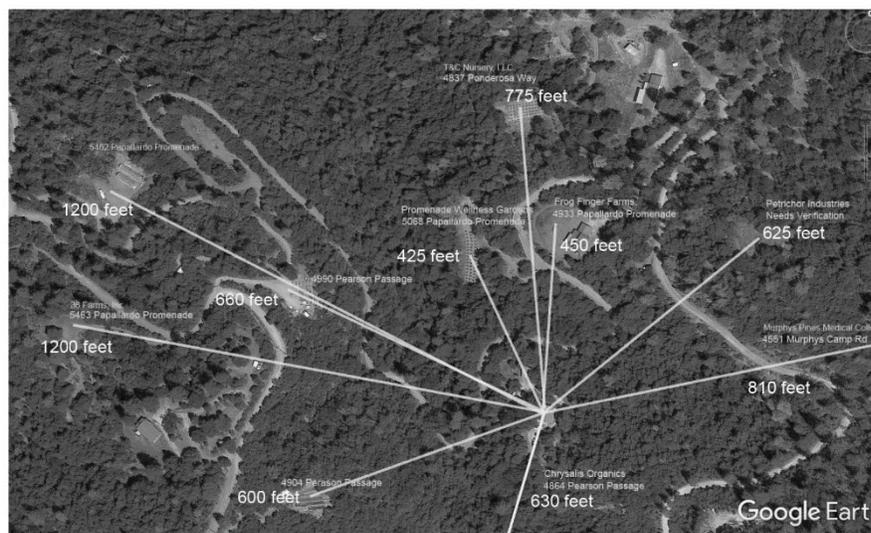
My father's place is in the upper-left. This shows how much excavation has occurred. This picture was taken in May,

139-3  
cont.

2017, and there has been much more excavation since.



This is the other side of my father's house, showing how my father's property is surrounded by commercial/industrial marijuana growers.



This is a Google Earth map showing how my father is surrounded by many growers.

139-3  
cont.



This is an aerial image showing 15 marijuana farms and 3 residential locations.



This is an image of a marijuana farm located directly next to a residence, showing how close marijuana is farmed to private houses.

139-3  
cont.



139-3  
cont.

This picture shows my father's place just a couple hundred feet from to commercial (and uninhabited) marijuana farms. The house in the upper part of the pictures is not inhabited and was purchased solely to grow marijuana.

<b>Letter I39</b>	<b>Rob Nelson</b> 6/14/2017
-----------------------	--------------------------------

- I39-1      The comment provides information related to the commenter’s experience, including his father’s experience, with cannabis-related activities that were allowed pursuant to the Urgency Ordinance. The comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I39-2      The comment expresses concern that non-residents are allowed to buy property and maintain cannabis-related activities on the purchased property. The comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I39-3      Refer to Response I39-1.

Letter  
140

**From:** [rodgero1@comcast.net](mailto:rodgero1@comcast.net)  
**To:** [Peter Maurer](#)  
**Subject:** EIR Comments  
**Date:** Wednesday, June 14, 2017 9:03:47 AM

Dear Mr. Maurer,

I am writing to comment on the DEIR conducted by Ascent Environmental of the Cannabis Cultivation And Commerce Ordinance Project for Calaveras County. I have reviewed the EIR and have the following comments and concerns:

1. Outdoor cultivation should be allowed for individual's 6 plants. The sun is free and it does not take electricity to grow a plant.  
Nothing is polluted or wasted by using the sun. The environment is not harmed.
2. Commercial cultivation and any activities that we do, including vineyards all use our land. Wise use of water resources and encouraging organic methods would be best for our environment.
3. Residential areas should be avoided for commercial cultivation particularly if the parcel size is less than 20 acres.
4. Require 3 year residency so that any commercial operation is by a resident of our county with a stake in its future.
5. Allow a limited number of commercial farms so that tax money can be generated to enforce the rules.
6. The economic benefits can help young people to stay in the county that they grew up in.

I  
140-1  
I

Thank you.

Rodger Orman, MD  
Murphys, CA

<b>Letter I40</b>	<b>Rodger Orman, MD</b> 6/14/2017
-----------------------	--------------------------------------

- I40-1      The comment provides several suggestions regarding cannabis cultivation in Calaveras County. These are project design preferences, and do not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter  
141

**From:** [Mike Osgood](#)  
**To:** [Peter Maurer](#)  
**Cc:** [Dennis Mills](#)  
**Subject:** Commenting on the draft environmental review  
**Date:** Wednesday, May 10, 2017 4:00:44 PM

Mr. Maurer,

I am the road committee chairman for the BarXX Service Area #2 (Mike Osgood)

I have reviewed some of the environmental impact report and do have some concerns that do impact our service area.

In the report it talks about vehicle traffic that will increase in our county. We have 7 or more commercial growers in our area. Bar XX Service Area #2 has a total of 72 parcels (20 acres). Our road is gravel and maintained by the property owners as you probably already know. We generate about \$21,500.00 and the traffic in the past year and a half is just unbelievable. We can not keep up with the maintenance needed because of the traffic and the speeds they go on the road. Stallion Way does not meet county standards and there are many turns and blind spots This road is unsafe for commercial use. We also have traffic from the towers at the top of the hill and Cal Fire uses this road to bring up crews for training. Cal Fire does not pay into our fund for road repairs. They also have a look out tower at the top of the hill.

I have discussed this with Supervisor Mills and he is aware of our concerns.

What I guess I am asking you is that you think of us when you talk about road traffic. We would not be getting any of this funding. Most of the complaints in the service area is Speeding, Dust, Smell from the plants, Lights on all night long, and all the traffic up and down the road.

BarXX Service Area #2 was never built for commercial use and in the past the Planning Department has turned down permits because the road does not meet county standards.

I know there is not much that can be done, but I just hope that the Use Permits include something that will compensate us for the use of the road not like the Use Permits for the towers

Thank you for your time.

Mike Osgood  
Road Chairman Bar XX  
Service Area #2  
2337 Stallion Way  
Angels Camp CA,95222  
209-736-6806  
Cell 510-468-5748  
[mike.osgood49@gmail.com](mailto:mike.osgood49@gmail.com)

141-1

<b>Letter I41</b>	<b>Mike Osgood</b> 5/10/2017
-----------------------	---------------------------------

- I41-1      The comment discusses the impact of vehicle traffic on private roadways of the Bar XX Service Area #2. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter  
142

**From:** [Planning Web Account](#)  
**To:** [Peter Maurer](#)  
**Subject:** FW: Draft EIR for Cannabis Project  
**Date:** Wednesday, June 07, 2017 3:31:11 PM

---

Annette Silva  
 Administrative Assistant, II  
 Calaveras County Planning Department  
 209-754-6620  
 209-754-6540 Fax

-----Original Message-----

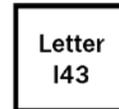
From: Ron Pieretti [<mailto:rjpieretti@me.com>]  
 Sent: Wednesday, June 07, 2017 3:29 PM  
 To: Planning Web Account  
 Subject: Draft EIR for Cannabis Project

- 1. A ban on the commercial growing of Cannabis in Calaveras County is a bad Idea with no accounting for how enforcement of a such ban will be budgeted for or how eradication will be budgeted for. I 142-1
- a) If a ban is to be moved on the EIR should address the financial liabilities to enforce and or eradicated.
- b) If a ban is to be moved on the EIR should also address the impacts on the growers who were allowed to proceed during the registration process, impact resulting in the loss of land, product and or capital should be addressed by the county to compensate those affected. I 142-2
- 2. Regulated commercial growing of Cannabis in Calaveras County seems to be the most viable direction, with this type of ordinance the EIR should include the following. I 142-3
- a) CSD's, community service districts which are impacted by land use associated with an ordinance of this type should be compensated for increased road usage. As with Small Wineries in these CSD's, an apparatus should be set up increasing the fees to the CSD for at least twice the normal use of residential only property and should be attached to the tax collection rolls to be consistent with those revenue streams.
- b) Minimum parcel sizes in RR zones should be set as appropriate and again I recommend using the Small Winery category as a model. I 142-4
- c) Dispensaries should be addressed in the EIR as to appropriate locations and zoning. I 142-5
- d) Displaced growers as a result of any changes to zoning areas allowed for commercial grows should be addressed either by compensation, ability to continue or grandfathering in, or in reduction of crop size to appropriate parcel size. I 142-6

Thank You

<b>Letter I42</b>	<b>Ron Pieretti</b> 6/7/2017
-----------------------	---------------------------------

- I42-1 The comment expresses concern regarding financial liability for dealing with a ban ordinance. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I42-2 The comment states that if a ban ordinance were to be enacted, the EIR should consider compensation to growers permitted under the Urgency Ordinance for their losses. Refer to Master Response 5 for information regarding socio-economic analysis of the proposed project and alternatives.
- I42-3 The comment suggests that community service districts (CSDs) be compensated for increased use of facilities. This is an economic issue related to proposed ordinance features, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I42-4 The comment suggests using the Small Winery category as a model for appropriate minimum parcel sizes. This is an ordinance feature preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I42-5 The comment suggests that the appropriate zoning and location of dispensaries should be addressed in the EIR. The proposed project and alternatives evaluated in the DEIR address cannabis cultivation, and that is the focus of ordinance and the EIR. Dispensaries are a different type of use, more akin to small stores and their impacts are typical of similar commercial establishments. There are no proposed changes to where (i.e., which zones) dispensaries may be located as part of the proposed ordinance. Therefore, impacts related to dispensaries were not required to be evaluated in the DEIR.
- I42-6 The comment suggests that growers displaced because of changes in zoning for commercial cultivation should be compensated. This is a socioeconomic issue and not an environmental impact, and does not address the contents or adequacy of the DEIR. See Master Response 5 regarding the need for socioeconomic impact analysis. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.



Christopher L. Powell  
cpowell@mitchellchadwick.com  
916-462-8807  
916-788-0290 Fax

June 13, 2017

RECEIVED

JUN 14 2017

VIA U.S. MAIL AND ELECTRONIC MAIL

Peter Maurer, Planning Director  
Calaveras County Planning Department  
891 Mountain Ranch Road  
San Andreas, CA 95249  
[pmaurer@co.calaveras.ca.us](mailto:pmaurer@co.calaveras.ca.us)

Calaveras County  
Planning Department

**Re: Comments on DEIR for Medical Cannabis Cultivation and Commerce Ordinance Project**

Dear Mr. Maurer:

I submit this letter on behalf of my client, Rolling Hills Bookkeeping, LLC, to comment on the Draft Environmental Impact Report (“DEIR”) prepared for the County’s Medical Cannabis Cultivation and Commerce Ordinance Project (“Project”), pursuant to the California Environmental Quality Act (“CEQA”). The DEIR was released for public review and circulation on May 1, 2017, and the review period ends on June 14, 2017. As you are aware, additional time has been requested to prepare comments on the DEIR; however, our understanding is that the County has chosen not to extend the comment period. The DEIR includes an alternative to regulation of commercial cultivation (“Alternative 2”), which is a blanket ban on commercial cannabis cultivation and other associated commercial activities. It has become apparent that the County decision-makers are planning to adopt Alternative 2, a County-wide ban on commercial cultivation, rather than the Project. Adoption of an *alternative* to the proposed project in an EIR is unusual, but it is acceptable under CEQA when the significant impacts of the Alternative are disclosed, are mitigated to the extent feasible, and the EIR serves its purpose as an adequate informational document.

143-1

Here, the DEIR is deficient on multiple issues, as it fails to identify significant impacts of Alternative 2, proposes no mitigation for said significant impacts, and utterly fails as an informative document due to a mixed-up and erroneous baseline, and non-existent or merely superficial analysis of critical environmental issues. As such, we request that the County correct the major flaws with the DEIR and recirculate a revised DEIR for public review.

As set forth in greater detail below, my client has several concerns regarding the sufficiency of the DEIR analysis, especially in relation to the baseline selected for the DEIR, and the DEIR’s analysis of the proposed ban alternative (Alternative 2). The DEIR baseline does not

143-2

{00030371;3 }

June 13, 2017  
Page 2

reflect existing physical conditions, and it is unclear whether the same baseline is used to analyze the Project and Alternative 2. The lack of a sufficient baseline results in a misleading analysis of the Project’s potential impacts in each resource area. Also, the analysis of Alternative 2 lacks sufficient detail, relies on unsupported assumptions, and fails to clearly identify whether the alternative will result in significant impacts or not. Therefore, the DEIR fails to disclose potentially significant impacts to resource areas such as biology, water quality, wildfire risk, aesthetics, public services, and other issues. As a result, and for the reasons described in further detail below, the DEIR must be revised and recirculated.

143-2  
cont.

**I. The DEIR does not clearly or accurately describe existing physical conditions within the County.**

A central aspect of an EIR is establishing the baseline against which potentially significant adverse environmental effects of a proposed project are analyzed. (14 CCR § 15125.) The baseline “must ordinarily be the actually existing physical conditions rather than hypothetical conditions that could have existed under applicable permits or regulations.” (*Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 448.) In addition, an EIR must clearly and conspicuously identify baseline assumptions used for establishing the existing environmental setting. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 659.) In this case, the DEIR fails to clearly identify baseline assumptions used to establish existing conditions, which results in a misleading analysis of the potential impacts associated with the Project and Project alternatives. In addition, the DEIR fails to provide an analysis of existing physical conditions, or otherwise explain why such an analysis is unnecessary.

The DEIR does not appear to establish the baseline pursuant to actually existing physical conditions. In the “environmental setting” discussion, the DEIR notes that the NOP for the Project was issued on April 5, 2016, and that the County adopted an Urgency Ordinance on May 10, 2016, to temporarily regulate cannabis cultivation. The DEIR then explains that the County determined the number of cultivation sites existing as of May 10, 2016, based on the application processes associated with the Urgency Ordinance. (DEIR p. 3-1.) Since existing physical conditions is normally the appropriate CEQA baseline, all grow operations existing in the County as of April 5, 2016, should be considered in the baseline. However, the DEIR environmental setting discussion explains that the DEIR “generally assesses the reasonably foreseeable compliance responses identified in Chapter 2 (Project Description) as **new** development under the proposed ordinance.” (DEIR, pp. 3-1 to 3-2, bold added.) In turn, the DEIR discussion of reasonably foreseeable compliance responses assumes, for example, that up to 750 applications for outdoor commercial grow applications could be approved by the County. (DEIR p. 2-9.) Therefore, it appears that existing cultivation sites which were registered under the Urgency Ordinance are treated as new cultivation sites which will exist under the Project. This DEIR assumption that the Project will result in 750 new grow operations improperly

143-3

{00030371;3 }

June 13, 2017  
Page 3

discounts existing conditions in the County. (DEIR p. 1-4 [noting that cannabis cultivation is “already occurring within the County”].) As a result, the DEIR analysis inherently overstates potential impacts associated with the Project in each resource area. This erroneous baseline also skews the analysis of Alternative 2 in comparison to the Project, because the Project’s impacts are not properly disclosed.

I 143-3  
cont.

In addition to improperly treating currently existing registered cultivation sites as new sites, the DEIR fails to account for currently existing unregistered or illegal grow operations as part of the baseline discussion. Under CEQA, the effects of illegal activity on existing physical conditions are properly included in the baseline. (*Fat v. County of Sacramento* (2002) 97 Cal.App.4th 1270, 1277.) While discussing Alternative 2, the DEIR notes that the County received 740 applications for commercial cannabis cultivation registration. The County also identified an additional 500 unregistered cultivation sites. (DEIR p. 6-6.) Thus, it appears that existing physical conditions include approximately 1240 commercial cultivation sites in total. However, as noted above, the DEIR discussion of the existing environmental setting appears to assume that the existing registered commercial cultivation sites are actually “new” operations, and there is no discussion of existing unregistered commercial cultivation sites.<sup>1</sup> As a result, the DEIR’s analysis of potential impacts relies on the assumption that the Project will greatly increase the total number of commercial cultivation sites when compared to existing conditions. However, the Project is actually intended to bring existing illegal grows into regulatory compliance. (DEIR, p. 3.5-17.) The existing environmental impacts of illegal grows is not considered and the environmental benefit of eliminating these grows with funding provided by the Project is not acknowledged let alone quantified. This is a fundamental flaw in the analysis of the Project’s environmental impacts.

I 143-4

Furthermore, the County apparently anticipates about the same number of commercial cultivation applications to be approved for registration under the Project as were registered under the Urgency Ordinance. Thus, the Project may actually reduce the total number of commercial cultivation operations below existing baseline conditions. By failing to properly acknowledge continuing illegal grows in the environmental settings and “reasonably foreseeable compliance responses,” the DEIR vastly understated the potential benefits of adopting the regulatory ordinance. As such, the identified significant impacts for air quality, biology and traffic would likely be reduced to less than significant if a proper baseline were used. Moreover, the benefits of adopting Alternative 2 are greatly overstated due to the improper baseline.

I 143-5

The DEIR’s failure to establish a clear and consistent baseline using existing physical conditions taints the analysis of each resource area and the Project alternatives. Thus, a revised

I 143-6

<sup>1</sup> Furthermore, the DEIR fails to explain why baseline conditions for analysis of Alternative 2 include existing illegal grows while the baseline condition for analysis of the Project appears to exclude illegal grows from baseline conditions.

{00030371;3 }

June 13, 2017  
Page 4

DEIR must be prepared and recirculated with an updated baseline that clearly describes existing physical conditions.

143-6  
cont.

**II. The DEIR Analysis of Alternative 2 is Insufficient**

Under Alternative 2, the County would implement a blanket ban on commercial cannabis operations and cultivation. Individuals would be allowed to grow up to six plants for personal use. (DEIR p. 6-5.) The DEIR notes that this alternative removes revenue incentives which motivated individual property owners to invest in property modifications. Thus, the DEIR acknowledges that the feasibility and timeframe for restoring properties to preexisting conditions is unknown. (DEIR p. 6-5 to 6-6.) In addition, the mitigation measures proposed for the Project are not considered feasible for application to Alternative 2. Finally, the DEIR assumes that Alternative 2 will result in full regulatory compliance while also noting that illegal cannabis cultivation activities have occurred throughout the County “for many years.” (DEIR p. 6-6.) Despite all of these factors, the DEIR concludes that Alternative 2 will result in impacts which are equally or less significant than impacts associated with the Project. As explained above, this conclusion is flawed at the outset, due to the DEIR’s failure to establish a stable baseline which accurately reflects existing physical conditions. Furthermore, the DEIR’s analysis of Alternative 2 is insufficient for the following additional reasons.

143-7

**A. No substantial evidence supports the County’s assumption that Alternative 2 will result in “full compliance” with the ordinance.**

The DEIR’s analysis of Alternative 2 compares the potential impacts of a blanket ban on commercial cannabis operations to the Project with the assumption that the ban will result in full regulatory compliance. In other words, the Alternative 2 analysis assumes no illegal grow operations will be conducted in the County. No substantial evidence supports the County’s assumption. In fact, the County’s own statements in the DEIR contradict this assumption.

143-8

CEQA defines substantial evidence as including “facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.” (Pub. Res. Code § 21082.2, subd. (c); accord *id.*, at § 21082.2, subd. (e)(1); 14 CCR § 15384.) Here, the facts indicate that illegal cannabis activities have historically occurred in the County, over 500 illegal cultivation sites were identified by the County in 2016, and “[i]llegal cultivation is likely to occur under any of the alternatives.” Finally, Alternative 2 would eliminate revenue relied upon by the County for policing and monitoring compliance with applicable regulations. (DEIR p. 6-6.) As noted in a fiscal analysis of the proposed Project, “illegal cultivation sites are likely to continue operating in Calaveras County whether cannabis is regulated or banned.” In fact, due to the County’s current fiscal situation, robust enforcement under Alternative 2 will be difficult, and illegal production may increase as growers shift to lower-cost illegal cultivation. (Attachment A.) Therefore, substantial evidence supports the opposite outcome from the County’s assumption of full

{00030371;3 }

June 13, 2017  
Page 5

regulatory compliance. Rather, the record indicates that illegal grow operations will continue and may increase under proposed Alternative 2. (See DEIR pp. 6-6 to 6-7.) This error is prejudicial to the DEIR’s analysis, since illegal grow operations have greater impacts than regulated grow operations. (See DEIR pp. 3.5-18, 3.5-19, 3.5-22; (Attachment A.)

143-8  
cont.

**B. The DEIR analysis of Alternative 2 does not include a sufficient level of detail, fails to clearly identify whether impacts will be significant or not, and fails to disclose potentially significant and unavoidable impacts associated with Alternative 2.**

An alternative analysis must contain a sufficient level of detail to disclose the lead agency’s analytic route from evidence to action. (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1458.) In addition, the agency’s analysis must not rely on vague and conclusory statements or otherwise preclude meaningful participation and criticism by the public. (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 375, 405.) In this case, the discussion of Alternative 2 fails to clearly identify whether impacts will be significant and lacks sufficient detail to facilitate meaningful public review.

For example, the DEIR concludes that aesthetic impacts will be reduced under full compliance with the ban. However, statements within the DEIR contradict this conclusion. The DEIR concedes that illegal cannabis related activities may persist or increase under Alternative 2 due to a lack of sufficient funding that the Project would provide to monitor and abate such activities. (DEIR p. 6-6.) Similarly, the DEIR explains that many property owners may not have incentives or revenue available to restore cultivation properties under a full compliance scenario (DEIR pp. 6-5 to 6-6.) The DEIR then notes that in these instances, abandoned properties and decaying structures could result in *increased* aesthetic impacts in some locations. (DEIR p. 6-6.) Finally, the DEIR states that the Project is anticipated to reduce visual effects of cannabis cultivation when compared to conditions created by cannabis-related activities currently occurring in the County by implementing uniform screening measures. (DEIR p. 3.1-7.) But these screening measures will not be implemented with Alternative 2.<sup>2</sup> Therefore, it is unclear to the reader whether aesthetic impacts will increase or decrease under Alternative 2 when compared to the Project. Indeed, the DEIR itself concedes that “impacts to aesthetics could be reduced in some locations, and increased in others.” (DEIR p. 6-6.) Thus, additional aesthetic studies are required to determine whether increased impacts in some locations are significant and require mitigation. For these reasons, the DEIR’s discussion of Alternative 2 lacks sufficient substantive factual information and clear analytical reasoning to foster informed decision making. (See *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 736-738.) The lack of sufficient information and clear analysis extends to several other resource areas, discussed below.

143-9

<sup>2</sup> In fact, no mitigation will be implemented with Alternative 2. (DEIR p. 6-6.)

{00030371;3 }

June 13, 2017  
Page 6

**i. Alternative 2 would result in potentially significant impacts to biological resources.**

The DEIR concludes that Alternative 2 will result in less than significant biological impacts because the ban will prevent future development of commercial cannabis cultivation operations. (DEIR p. 6-7.) However, in the following paragraph, the DEIR admits that illegal cannabis-related activities may occur under Alternative 2. In addition, the ban could drive illegal grow operations into more sensitive habitats, such as riparian habitat. Water for illegal grow operations would likely be supplied from nearby surface waters, which “could have direct and indirect effects on nearby wetlands and riparian areas, which would otherwise require permitting and mitigation.” (DEIR p. 6-7; 3.3-35.)<sup>3</sup> Furthermore, since illegal grow operations are expected to occur in more remote areas, impacts to sensitive forest land, such as the Big Tree Forest and other sensitive areas, could increase. (DEIR pp. 3.3-36; 6-6). Illegal grow operations are also more likely to occur in biodiversity hotspots, and surface water diversions from illegal grows have been documented causing dewatering impacts on rare and endangered salmonids, amphibians, and other animals. (Attachment B.) Thus, additional biological studies are required to determine whether increased impacts in sensitive areas are significant CEQA impacts requiring mitigation.

143-10

The DEIR also explains that “potential impacts to biological resources could be more substantial than the proposed [Project]” if illegal grow operations increase in the absence of additional monitoring and control of such activities. (DEIR p. 6-7.) This outcome appears to be likely, as the DEIR explains that “[a]dditional revenues afforded to the County for policing and monitoring compliance with applicable regulations (e.g. water-quality) would no longer be collected.” (DEIR p. 6-6; see also Attachment A.) Therefore, it is unclear how the DEIR reaches the conclusion that Alternative 2 will result in less than significant biological impacts. Similarly, it is unclear how Alternative 2 will result in fewer biological impacts compared to the Project, since the number of illegal grow operations are likely to increase under Alternative 2 but decrease under the Project. (Attachment A [noting that regulating cannabis reduces number of illegal cultivation sites].) Without the mitigation measures and regulatory enforcement funding provided by the Project, Alternative 2 is likely to result in greater impacts to sensitive biological resources. Thus, there is no substantial evidence supporting the County’s conclusion with regard to biological impacts associated with Alternative 2.

<sup>3</sup> As the DEIR explains, mitigation measures identified for the proposed Project were determined to be infeasible for Alternative 2. (DEIR p. 6-6.)

{00030371;3 }

June 13, 2017  
Page 7

**ii. Alternative 2 will result in greater significant impacts to water quality than disclosed in the DEIR.**

The DEIR explains that implementation of the Project will provide short and long-term benefits to surface and groundwater resources as a result of subjecting cannabis-related activities to regulatory and best management practice requirements. (DEIR p. 3.5-18.) For example, current cannabis cultivation sites may use illegal pesticides, fungicides, and fertilizers. (DEIR p. 3.5-19.) Pursuant to the proposed Project, all cannabis-related activities would be subject to Central Valley RWQCB regulatory requirements to limit transport of pollutants into waterways. (DEIR p. 3.5-20.) The Project is also expected to result in a decrease of illegal diversions, as operators will be required to establish a legal water supply source. (DEIR p. 3.5-22.) As a result, the Project would reduce water quality and supply impacts to a less than significant level.

Conversely, the DEIR explains that illegal cannabis-related activities could increase and persist under Alternative 2 without the monitoring and enforcement funding that would be provided by the Project. (See Attachment A.) Thus, illegal operations will continue illicitly drawing surface water supplies, applying unregulated chemicals, and ignoring other regulatory and best management practice requirements. As a result, under Alternative 2, “potential impacts to hydrology and water quality could be more substantially adverse than the proposed [Project].” (DEIR p. 6-8.) The DEIR’s conclusion that potential impacts could be more substantially adverse under Alternative 2 makes sense: illegal cannabis production tends to be centered in sensitive watersheds. (Attachment B.) Cannabis is both a water- and nutrient-intensive crop, so black market grow operations have the potential to result in both water supply and water quality impacts, especially since these operations rely on summer and fall surface diversions. Furthermore, black-market cultivations tend to result in increased erosion and native vegetation removal. (*Ibid.*)

143-11

Even assuming partial compliance with the ban, hydrology and water quality impacts could be increased in some locations. Despite these findings, the DEIR concludes that hydrology and water quality impacts under Alternative 2 would be less than the Project and less than significant. (DEIR p. 6-8.) This conclusion is unsupported by substantial evidence and contradicted by the DEIR findings that impacts could actually increase in some locations as the number of illegal grows increase. Therefore, additional studies and analysis are required to determine whether increased hydrology impacts are significant and require mitigation.

**iii. Alternative 2 would result in potentially significant urban decay impacts.**

The DEIR fails to provide an analysis of potentially significant urban decay impacts that may result from adopting Alternative 2, despite acknowledging that such impacts could occur. Under CEQA, an EIR must address the issue of urban decay if a fair argument can be made that

143-12

{00030371;3 }

June 13, 2017  
Page 8

the project will result in physical impacts to the environment as a result of urban decay. (*California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 188-189; *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1207-1208.) Here, Alternative 2 will eliminate the revenue source which motivated property investments and provided employment opportunities within the County. (DEIR p. 6-5.) An economic study by the University of the Pacific determined that cannabis cultivation “was likely the largest industry in the County in 2016.” (Attachment C.) The direct job impacts of cannabis cultivation are about 16% of the County’s total employment, and total impacts related to cannabis cultivation are 21% of the County’s total employment. Cannabis is the largest agricultural industry by far in the County, and a ban could result in directly impacting 2,605 jobs within the County. (*Ibid.*) Thus, any regulatory decisions, including a ban, “are of significant consequence to the Calaveras County economy.” (*Ibid.*; see also Attachment A.)

I43-12  
cont.

As a result of eliminating this revenue source, some structures and sites may be abandoned or otherwise allowed to fall into disrepair. Thus, aesthetic impacts could be increased in some locations as a result of structural decay, and the feasibility of returning properties to pre-existing conditions is unknown. (DEIR p. 6-6.) Furthermore, the ordinance would reduce existing employment opportunities in the County associated with legitimate (registered) grow operations. (DEIR p. 3.8-5.)<sup>4</sup> This could result in increased vacancy and fewer secondary investments associated with commercial operations, leading to further physical deterioration of buildings and sites within the County. Since a fair argument exists that Alternative 2 may result in potentially significant urban decay impacts, the DEIR must be updated to address this issue.

**iv. Alternative 2 would result in potentially significant public services impacts.**

The DEIR determined that the proposed Project would not result in potentially significant impacts to public services. (DEIR p. 1-4.) The DEIR explains that the Project is designed to provide additional funding and resources for the County Sheriff’s Department “to assist in the management and enforcement of regulations related to cannabis cultivation that is already occurring within the County.” In addition, property tax and Measure C revenue tax would offset the costs of increases in other services, such as fire protection. Finally, sales tax and increased valuation of property associated with commercial cannabis activities would also provide local revenue. (DEIR p. 1-4.) None of these same revenue sources will be available under Alternative 2. (DEIR p. 6-6.) Despite these facts, the DEIR analysis for Alternative 2 omits any discussion of potential impacts to public services.

I43-13

<sup>4</sup> The DEIR characterizes these as “additional” employment opportunities, but as explained above, the DEIR improperly excluded existing registered commercial cultivation sites from the baseline.

{00030371;3 }

June 13, 2017  
Page 9

The DEIR should have considered the potential impacts to public services resulting from Alternative 2. The DEIR admits that Alternative 2 will require monitoring and enforcement without the benefit of additional funding for police services provided by the Project. In addition, the prevalence of illegal grow operations may actually increase under Alternative 2. (See Attachment A; Attachment B.) Therefore, the County will require additional police services to monitor and enforce Alternative 2. Furthermore, illegal grows are more likely to occur in remote areas, especially forest areas, so additional fire protection services could be required under Alternative 2. (See DEIR pp. 6-6 to 6-7.) Thus, a fair argument exists that Alternative 2 could result in potentially significant impacts to public services which were not addressed or analyzed in the DEIR. A revised DEIR, which addresses potential impacts to public services from adopting Alternative 2, must be prepared. (See *Mani Brothers Real Estate Group v. City of Los Angeles* (2007) 153 Cal.App.4th 1385, 1405 [requiring EIR to evaluate project impacts on police services].)

143-13  
cont.

**v. The DEIR fails to disclose potentially significant wildfire/hazards impacts of Alternative 2.**

Alternative 2 may result in undisclosed wildfire and hazards impacts. CEQA requires that an EIR analyze and disclose whether a project exacerbates existing environmental hazards. (*California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 392.) As noted above, the ban may result in an increased number of illicit grow operations occurring in remote areas. The increased presence of growers and associated equipment operation in remote areas will lead to increased wildfire risks. In addition, pesticides are used heavily in black-market cultivation operations, thus creating the potential for exposure to hazardous materials. (Attachment B.) Therefore, the DEIR analysis of Alternative 2 must be updated to consider whether the ban will exacerbate existing environmental hazards, such as wildfire risk and chemical exposure.

143-14

**vi. The DEIR fails to consider impacts from increased indoor growing that may occur under Alternative 2**

Based on registration under the Urgency Ordinance and County statements regarding the number of illegal grows, there may be approximately 1,500 grow sites in the County. Under Alternative 2, and the Draft Ban Ordinance, those growers would have the option of moving indoors and growing a maximum of six plants. Assuming a canopy size of 100 ft per indoor grow, a complete transition of these grows into indoor grows would represent 150,000 square-feet of indoor canopy, which is significantly greater than the 52,863 square-feet now registered under the Urgency Ordinance. If some of these grows exceeded the 100-ft canopy size, the increase in indoor canopy could be much greater. The DEIR fails to even consider the potential increase in indoor canopy under Alternative 2, and the associated potentially significant impacts. For example, indoor cannabis grows consume large amounts of electrical energy from the power

143-15

{00030371;3 }

June 13, 2017

Page 10

grid. (<http://eq-research.com/wp-content/uploads/2016/09/A-Chronic-Problem.pdf>.) The DEIR does not analyze whether the power grid can handle this increase, or whether infrastructure improvements would be necessary to provide this additional amount of electrical power. Indoor grows are known to contribute to transformer failure, which can stress the power grid and even cause fire hazards. (Id. at p. 8.) There is also no analysis of unregulated pesticide use within residential dwellings. Under the Project or the Restrictive Zoning Alternative, commercial grows would comply with the Regional Water Quality Control Board’s and local Environmental Health and Agricultural Department’s pesticide regulations; however, these regulations do not extend to personal cultivation under Prop 64. Further, the DEIR does not assess the potential increase in greenhouse gasses due to increased indoor growing. (See <http://evanmills.lbl.gov/pubs/pdf/cannabis-carbon-footprint.pdf>.)

143-15  
cont.

**III. Conclusion**

The significant flaws in the current DEIR are prejudicial, as the DEIR substantially overstates the impacts of the Project while understating the potential impacts of Alternative 2. To remedy these flaws, the DEIR must be revised to provide a proper accounting of the environmental setting and existing physical conditions which establish the baseline used to analyze the Project and Alternative 2. In addition, the DEIR must explain why no existing physical conditions baseline is necessary if the County chooses to employ a non-standard baseline for either analysis. Without a proper baseline, the entire DEIR analysis is faulty. Thus, the DEIR must be recirculated after the analysis of each resource area has been updated to reflect the proper baseline. The DEIR must also be revised and recirculated to provide additional details and substantial evidence to support the Alternative 2 analysis. Finally, additional studies need to be prepared by biologists, water quality experts, and economists to determine the actual impact of baseline illegal grows, the environmental benefit of eliminating those illegal grows under the Project scenario, and the potential urban decay impact of Alternative 2.

143-16

My client intends to supplement this letter with additional expert reports. However, since the County declined the request to extend the comment period, this letter serves to reflect my client’s concerns about the DEIR within the official comment period.

Best regards,

MITCHELL CHADWICK LLP



Christopher L. Powell

{00030371;3 }

June 13, 2017

Page 11

cc: Brett Gonsalves, CEO  
Meg Gonsalves, CFO

Enclosures:

- Attachment A: Michael & Neumann, "Fiscal Impact of Cannabis Regulation in Calaveras County" (2017) University of the Pacific, Center for Business and Policy Research.
- Attachment B: Carah, Jennier, et al., "High Time for Conservation: Adding the Environment to the Debate on Marijuana Liberalization" (2015) BioScience, Vol. 65, No.8.
- Attachment C: "An Economic Impact Assessment of the Cannabis Cultivation Industry in Calaveras County" (2017) University of the Pacific, Center for Business and Policy Research.

{00030371;3 }

<b>Letter I43</b>	<b>Christopher L. Powell</b> 6/14/2017
-----------------------	---

- I43-1 This comment presents introductory information and summarizes detailed comments made in subsequent comments within this letter. Please refer to Responses I43-2 through I43-15 for detailed responses to those comments. As noted in these responses, the programmatic analysis of the DEIR, as amended through responses to comments, is considered reasonably conservative, appropriate, and in accordance with CEQA requirements (see Master Response 1). Revision and recirculation are not considered necessary prior to consideration by the Planning Commission and Board of Supervisors for certification.
- I43-2 With respect to the baseline selected and against which project-related impacts are evaluated, refer to Master Response 4. The comments on the analysis of Alternative 2 are general in nature, and do not address the specific contents of the analysis. No additional response can be provided. Refer to Master Response 2 for further clarification regarding the development and analysis of alternatives to the proposed ordinance.
- I43-3 Refer to Master Response 2 regarding alternatives and Master Response 4 regarding the baseline, including consideration of site-specific impacts in the DEIR. Consistent with CEQA Guidelines section 15125(a), the baseline conditions in the EIR are those that existed at the time that the NOP was issued (April 5, 2016) and reflects illegal operations that existed at that time. The impact analysis was based on foreseeable impacts of cannabis operations under the ordinance.
- I43-4 Refer to Master Response 4 regarding the establishment of baseline. As noted in this comment, “the County received 740 applications for commercial cannabis operations,” but the DEIR does not assume 740 commercial cannabis operations were active at the time the NOP was issued. Therefore, the commenter’s assumption that 1,240 commercial cannabis cultivation operations constitutes baseline is not accurate. With respect to the DEIR’s statement on page 3.5-17, refer to Response I28-26.
- I43-5 Refer to Response I43-4.
- I43-6 Refer to Response I43-4. The DEIR’s analysis of potential impacts compared to the baseline condition is considered appropriate and revision/recirculation of the DEIR is not considered necessary.
- I43-7 The DEIR’s assessment of impacts under Alternative 2 is related to those cannabis-related activities that would occur under the alternative compared to baseline conditions, which includes pre-existing illegal activity. It is impossible to speculate the degree to which illegal activity might increase under the ban alternative or to assign significance conclusions for impacts related to that illegal activity. Refer to Response I43-4 with respect to baseline.
- I43-8 Refer to Response I43-7 regarding the analysis of illegal cannabis-related activities as part of the evaluation of Alternative 2. Contrary to the statements made in this comment, the DEIR acknowledges the potential for illegal grow operations to persist and discusses potential impacts associated with those illegal activities, however, the ability to develop reasonably foreseeable conclusions related to the potential for illegal activities to increase under a ban is considered speculative. Please also see Responses I28-11, I28-12, and O1-12. The statements provided in this comment (including those in Attachment A of the comment letter) do not conflict with or indicate a prejudice within the DEIR towards approval of the draft ban ordinance.

- I43-9 Refer to Response I43-7 regarding the evaluation of illegal, illicit activities. The evaluation of aesthetic impacts within the Alternative 2 discussion appropriately assesses significance based on compliance with the ban ordinance, which would be required by law. The EIR also acknowledges that illegal activities may persist in spite of the ban and discusses potential impacts related to that activity. It is impossible to guess, however, the degree to which illegal activity might increase in response to the ban and such speculation is not required under CEQA. The DEIR contains sufficient information regarding aesthetic impacts for the ban alternative.
- I43-10 The potential for illegal activities to increase or decrease under Alternative 2 was considered speculative, a decision which is supported by statements made in this comment letter and its attached fiscal impact analysis through the selection of words like “may” when referring to illegal cannabis activities under any alternative. As a result, the DEIR included information regarding impacts that may occur if illegal cannabis operations change with implementation of Alternative 2 but appropriately assessed significance based on compliance with the ban ordinance, which would be required by law. See also Responses I28-11, I28-12, and O1-12. Despite statements made in this comment, the DEIR does not state that illegal cannabis operations would likely increase under this alternative; rather, this is speculative. Further, it should be noted that revenue associated with the proposed ordinance would not affect the CVRWQCB’s funding or its ability to monitor/enforce water quality regulations.
- I43-11 Refer to Response I43-10.
- I43-12 The potential for urban decay as a result of implementation of the draft ban ordinance is not considered to result in the potential for physical environmental impacts. Contrary to the assertions made in this comment, there is no evidence that Alternative 2 would result in environmental impacts related to urban decay that require evaluation as part of the DEIR. The statements to which the comment refers are potential site-specific impacts that may occur if a property owner chooses not to comply with the restoration requirement of the draft ban ordinance (Alternative 2). The use of the word “decay” as cited in this comment was in reference to structures on page 6-6 of the DEIR and would be an issue of code compliance and failure to maintain one’s property, not urban decay. Conversely, urban decay issues, as cited by this comment, are typically associated with a development’s indirect impact on physical environmental conditions by removing the need for other competing interests in a particular location. The most common example is a big-box retail store, which through operation, may result in the closure of other competing stores and ultimately physical environmental impacts. Conversely, the draft ban ordinance would require property owners currently engaging in cannabis-related activities under the Urgency Ordinance to restore their respective sites. While an argument can be made that banning cannabis operations could result in overall economic impacts to Calaveras County, a connection to environmental impact resulting from blighted properties (other than site-specific issues detailed on page 6-6 of the DEIR) is speculative on a countywide basis.
- I43-13 Refer to Responses I28-11 and I28-15 regarding impacts to public services and the comparative analysis of alternatives presented in the DEIR.
- I43-14 Refer to Response I28-14. Further, the presence of illegal, illicit grows is an acknowledged baseline condition within the DEIR and by the County and the extent to which such grows would increase and result in greater wildfire/hazard risk is considered speculative.
- I43-15 Refer to Response I23-5 and I23-12 regarding impacts resulting from personal, indoor cannabis cultivation as guaranteed by Proposition 64.
- I43-16 Contrary to the statements made in this comment, the DEIR’s programmatic analysis of the proposed cultivation ordinance and alternatives is based on reasonably foreseeable impacts of cannabis operations under the ordinance in accordance with CEQA requirements, as evidenced by the responses provided above. No further response is necessary.

**Letter  
I44**

**From:** [Bob Powers](#)  
**To:** [Peter Maurer](#)  
**Subject:** RE: public comment on Cannabis EIR  
**Date:** Tuesday, June 06, 2017 2:49:21 PM

---

Sir: Related to commercial marijuana farms in our county please consider the following---  
I have at least 4 commercial grows that use a right away across my property. The result of this is a huge increase in the amount of traffic driving across our property basically all hours 24/7 during growing season and harvest. Many of these vehicles have no regard or respect for the property and those they disturb when speeding, sometimes driving recklessly and often with very loud exhaust and music. This was not a factor when I purchased the property 7 plus years ago. I also have 3-4 grows visible from our property which also did not exist 7 + years ago. This was not expected when I purchased my planned retirement home. Please consider this when deciding whether or not to ban this industry in our county and if for some reason it is allowed to continue make some consideration for property owners who have to put up with all this new traffic on our properties. They sometimes also toss garbage out of their cars as they cross the property. It also results in a lot of extra commercial vehicles, trucks and equipment etc. crossing our property. If commercial grows are allowed it should be limited to properties where they can have their own access to come and go including their employees and delivery trucks, not crossing others properties to get to their farms. I wish to remain anonymous however feel free to contact me if you wish to discuss further.  
Thank you!

I44-1

*Bob Powers*  
**Container Consulting Service, Inc.**  
Personal email [rpwrhse@pacbell.net](mailto:rpwrhse@pacbell.net)

**From:** Bob Powers [mailto:[rpwrhse@pacbell.net](mailto:rpwrhse@pacbell.net)]

<b>Letter I44</b>	<b>Bob Powers</b> 6/6/2017
-----------------------	-------------------------------

- I44-1      The comment states that commercial grows should be limited to properties with direct access to roadways to avoid driving across private property. This is an ordinance feature preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

<b>Letter</b> <b>145</b>
-----------------------------

**From:** [Planning Web Account](#)  
**To:** [Peter Maurer](#)  
**Subject:** FW: Environmental Impact Report comment  
**Date:** Monday, June 12, 2017 8:20:10 AM

-----Original Message-----

From: Franziska@Schabram.com [<mailto:Franziska@Schabram.com>]  
 Sent: Friday, June 09, 2017 6:29 PM  
 To: Planning Web Account  
 Subject: Planning Department

Re: Draft Environmental Impact Report comment We live on a 750 acre cattle ranch near Valley Springs. We are surrounded by at least 5 cannabis growing facilities. So far it has only negative impact on us and on our ranching operation.

1.

Gillam Road is a county maintained Road under the jurisdiction of Fisch and Wildlife and Army Corps of Engineers. For 10 years the county is not be able to maintain that road properly because of the cost of environmental permits. The surrounding cannabis grows have increased the traffic on the road tremendous. The road is on the brink of collapsing and can't take more of that heavy load traffic.

2.

In the last year we had 2 fires. One was definitively started on a grow and the second (which occurred last Sunday) started close to one. Cause is still under investigation.

3. Our whole ranch as well as the surrounding area is in Critical Habitat for the red legged frog. Despite that fact big amounts of dirt have been moved on the hillside to create terraces. We had runoff water in the winter and it endangers the creek below one of the grows.

So far I have not contacted any of the involved agencies (F&W and Army corps as well as the California Waterboard) because I am still awaiting the decision of the BoS on the cannabis issue. But if the Board will allow growing it should ban growing in designated areas like this one. The traffic, the use of pesticides and herbicides as well as lights shining all night long on the valley are endangering any wildlife especially the one we try to protect. Allowing cannabis growing facilities in such areas are in violation of the the goals set by creating a critical habitat.

4. Because growers take not really care in maintaining their tent structures for growing as well as the fences, plastic sheets are constant flying around our pastures. The sight of the cheap green makeshift plastic fences are in stark contrast to the beauty of the landscape. The whole county is littered with structures like these. I am pretty sure every tourist coming to enjoy our countryside will be appalled.

5. Checking our pastures become a dangerous endeavor. We are surrounded by vicious dogs and rifle carrying people. I am very afraid on checking remote pastures on my own property.

6. There is also the question of liability. Before when the cows broke out a general ranch umbrella insurance was enough to cover eventually damages. Looking of the value of the grows who is liable of the huge amount of money involved if cows will break into the grows. And by the nature of the cows it is not a question if but when it will occur.

7. The whole cannabis deal has created a new gold rush fever. Property rights are trampled. last week a huge bulldozer with a pilot car showed up on our road and was on the way to bulldoze through our property into a neighboring property for allegedly creating an access road. After I confronted the people and ask for a permit and threatened them with the police they quickly reloaded the bulldozer and disappeared. Needless to say that they damaged the already nearly dilapidated road furthermore. If I hadn't shown up by coincident the I would have found my damaged property the next day and nobody to turn to. Because I am pretty sure no agency would have cared.

I could go on and on about the negative impact the whole cannabis growing issue had on me and on my family as well. Talking to my direct neighbors they feel the same pain like me.

I urge the BoS to exclude critical habitat from being growing ground for cannabis.

Sincerely,  
 Francis Schabram

145-1

Submitted By:

Name:: Franziska M Schabram

Email:: Franziska@Schabram.com

<b>Letter I45</b>	<b>Franziska M. Schabram</b> 6/9/2017
-----------------------	--

- I45-1      The comment provides information on the negative effects on the commenter's ranching operations, including traffic, fires, damage to habitat, and safety. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.



Peter Maurer, Planning Director  
May 23, 2017  
Page 2

**Traffic Technical Data**

The Draft EIR includes a discussion of potential traffic impacts from the regulatory ordinance project and from the alternatives studied. However, there is no technical appendix. This makes it impossible to verify the accuracy and validity of the EIR’s assumptions, analyses, impact conclusions and mitigation recommendations. The omission also prevents independent review of the EIR’s air quality and noise impact sections, to the extent they rely on projections of traffic volumes and patterns.

Please provide the background studies and technical data relied on by the EIR authors. This new material should be made available to the public, and distributed to all those receiving the Draft EIR. We also advise the County to publish new notices announcing availability of the traffic information (and the new extended comment period), to ensure the process and final result are legally adequate.

Please add me to the County’s list to receive notification of future actions regarding the EIR and any County consideration of regulations regarding cannabis. Please also send me a copy of all comments to the Draft EIR and the County’s responses when they become available.

146-2

Very truly yours,

ARCHER NORRIS

*/s/ Edward L. Shaffer*

Edward L. Shaffer

ELS

C0501002/4826-6631-4313-1

<b>Letter I46</b>	<b>Edward L. Shaffer</b> 5/23/2017
-----------------------	---------------------------------------

- I46-1 The comment requests a 60-day extension of the DEIR public review period. The comment is noted, however, the length of the DEIR comment period (45 days) was considered adequate and in conformance with State CEQA Guidelines. No extension of the public comment period was made.
- I46-2 The comment notes that there is no technical appendix to support the traffic analysis in the DEIR, and requests that the background and technical studies relied upon in the DEIR be provided along with an extension of time to provide comments. The DEIR provided all technical information used in the traffic analysis in Section 3.9 of the DEIR. A technical appendix was not needed. The commenter is also referred to Responses 01-15 through 01-31 for additional information regarding the analysis of traffic impacts in the DEIR.



**ARCHERNORRIS**  
A PROFESSIONAL LAW CORPORATION

**Letter  
147**

2033 North Main Street, Suite 800  
Walnut Creek, CA 94596-3759  
925.930.6600  
925.930.6620 (Fax)  
www.archernorris.com

**EDWARD L. SHAFFER**  
eshaffer@archernorris.com  
925.952.5409

June 14, 2017

**VIA E-MAIL PMAURER@CO.CALAVERAS.CA.US**

Peter Maurer, Planning Director  
Calaveras County Planning Department  
891 Mountain Ranch Road  
San Andreas, CA 95249

Re: Cannabis Cultivation and Commerce Ordinance Project - Comments on Draft EIR

Dear Mr. Maurer:

The above-referenced Draft EIR evaluates the alleged environmental impacts of adopting an ordinance that would allow and regulate cannabis cultivation and processing in the County (the "Regulatory Ordinance"). It also considers as Alternative 2 an ordinance that would ban all such activity, except where allowed under state law (the "Ban Ordinance"). On behalf of our clients Calaveras Cannabis Alliance, Inc. ("CCA"), we are submitting the following comments on the Draft EIR.

CEQA requires a good faith, reasoned response to every comment submitted on the Draft EIR. Given the nature of these comments and the responses and new information they will require, we expect recirculation of a revised Draft EIR for a new round of public review once the defects and omissions are corrected.

Attached is a letter dated June 14, 2017 from Kevan R. Shafizadeh, Ph.D., a credentialed and experienced transportation engineer with expertise regarding traffic studies and their use in EIRs. His comments regarding the Draft EIR are incorporated by reference. The County is required to consider and respond to each of his professional comments.

We understand that Patrick J. Sullivan, Ph.D, is submitting extensive comments on the Draft EIR. Rather than repeating all the problems he identified and the arguments he has articulated so well, we incorporate by reference each of his comments on behalf of CCA.

I47-1

C0501002/4852-2266-9898-1



Peter Maurer, Planning Director  
 June 14, 2017  
 Page 3

The County's urgency ordinance to regulate commercial cultivation required permit applications to be submitted by June 30, 2016 (Urgency Ordinance, Section 17.95.165.N.1). Furthermore, every applicant had to show that as of May 10, 2016, the proposed cultivation area actually was being used to grow cannabis – or already was graded (Section 17.95.165.N.3). Thus every application the County received was for a site that already was in cultivation or at least had been graded – making it unreasonable and indefensible for the EIR to assume that every permit would be for undisturbed land leading to new habitat, water quality and other impacts.

Further undermining the claim that it would be too speculative to recognize already-existing cultivation sites as part of the existing baseline setting is the following admission:

Traffic forecasts were then distributed and assigned to the existing transportation network based on the assumed origin, destination, and route of the employee trips. The distribution of trips along the transportation network was determined based on the anticipated location of commercial grow sites within the County, which was determined on locational information from applications received under the Urgency Ordinance. (p. 3.9-12)

Thus the Draft EIR could and should have provided maps of those existing sites, correlated their locations with other data to validate assumptions about peak-direction travel and other impacts, and recognized that a large proportion of sites likely to be approved under the Regulatory Ordinance already are in operation and therefore do not represent new impacts.

CEQA requires that the baseline reflect actual existing conditions as of the date the Notice of Preparation is issued – which was April 5, 2016. Using any other baseline date, or altering the information relied on for the baseline, requires sound logic and convincing justification – or it will be rejected by the courts. There were many cannabis cultivation sites already in operation. Thus the traffic, emissions and other alleged effects of such activity already existed and already should have been included in background data, and new impacts of biologic resources should not have been assumed. Not recognizing this fact has resulted in the Draft EIR double-counting those effects. The County cannot ignore sites already graded or in operation simply because they may have been considered unpermitted or in violation of applicable laws – that is immaterial for CEQA purposes. This error affects the Draft EIR's evaluation of both the the Regulatory Ordinance and all the Alternatives.

The result is that the alleged “significant” impacts of the project are overstated. Quantitative traffic and emission analyses are flawed, identifying changes from existing conditions that likely will not occur and calling for mitigation measures that are not required. There is nothing to suggest that the Draft EIR includes any adjustment to recognize existing cannabis sites and sites that will convert from other active uses.

CEQA does allow an EIR to use assumptions and estimates that may be somewhat “conservative,” as a way to ensure impacts are recognized. However, the courts will not permit

147-3  
 cont.

C0501002/4852-2266-9898-1

Peter Maurer, Planning Director  
June 14, 2017  
Page 4

the County to abuse this approach as a way to grossly exaggerate impacts and impose overly burdensome mitigations or justify outright denial of the Regulatory Ordinance.

147-3  
cont.

**2. Failure to Collect Baseline Data.**

County Code §17.95.120(G) contains an express finding by the Board of Supervisors that “there have been for many years several hundred unregulated cannabis cultivation sites within the county.” The Draft EIR likewise acknowledges that there are cultivation sites operating in the County – many of which applied for permitting. However, there is no evidence that any comprehensive attempt was made to collect data about these operations. Instead, the Draft EIR relies on general assumptions about basic criteria, which may or may not be appropriate. A proper EIR study must include data collection from at least a representative sample of operating sites. For example, it would be a simple matter to count workers and their daily trips, and survey to learn the general location of their residences to accurately map commuting routes. Without this information conclusions about the number of workers commuting in peak travel directions and alleged congestion impacts is unsupported by any data and overly speculative.

147-4

The permit applications provided the location of many sites already in operation. A proper CEQA evaluation required the County to survey sites to document their locations, sizes and other characteristics as a starting point to accurately evaluate the potential effects of permitting their operation. (The County cannot avoid this baseline information requirement by arguing that it would be too speculative to guess which might ultimately be approved and actually operate, as it could have done a statistically significant representative sampling.)

To correct these defects in the Draft EIR, the County’s consultants should survey and monitor representative existing cultivation sites during the coming harvest season, and evaluate characteristics of non-operating applicant sites. The County then can use the data collected to revise the Draft EIR so it accurately reflects existing conditions and likely effects of both the Regulatory Ordinance and the Ban Ordinance.

**3. Unreasonable Assumption for Number of Cultivation Sites.**

As of January 24, 2017, the County had received 737 applications for cannabis cultivation permits. By January 31 the County Planning Department had reviewed 100 applications, approved 34 and denied 66. Assuming the County will continue using the same criteria when reviewing the others, and assuming the 637 applications not yet reviewed have similar characteristics, it is reasonable to apply this ratio: 34% of 737 = 250 approved permits – only one-third the number assumed by the Draft EIR. This number was used in the “*Fiscal Impact of Cannabis Regulation in Calaveras County*” (May 8, 2017) study by the Center for Business and Policy Research at University of the Pacific. In addition, senior County staff are on record that the County expects to approve only about 250 permits. The Draft EIR itself acknowledges that while “up to 750 applications could be approved ... it is anticipated that approximately half of that would actually occur” (p.2-9).

147-5

C0501002/4852-2266-9898-1

Peter Maurer, Planning Director  
June 14, 2017  
Page 5

As mentioned above, CEQA will accept conservative assumptions to ensure impacts are not overlooked or minimized, so long as the assumptions are reasonable. The Draft EIR assumes that 750 outdoor cultivation sites will be permitted and operate under the Regulatory Ordinance. However, every indication from the County is that the actual number of permits issued will be much lower – likely less than half and perhaps only one-third. Thus the Draft EIR excessively exaggerates the amount of activity and extent of impacts – even accepting the improper assumption that every site will be a new operation.

147-5  
cont.

**Specific Comments Regarding Project Review**

**1. Scenic Resource Protection.**

Mitigation Measure 3.1-1 requires all outdoor cultivation to be at least 1,000 feet from any designated scenic resource.

a. The condition should clarify that it requires a minimum distance from publicly available viewpoints – not from a “scenic resource” being viewed from elsewhere. It isn’t relevant if a site is near a scenic mountain or valley or other attraction if it isn’t in the direction of views (or is behind the mountain).

b. The condition should be limited to sites that are visible from a scenic viewpoint. If it is obscured by intervening terrain, vegetation or other obstacles, or is not seen in the direction considered scenic, there is no reason for the restriction. Calaveras County – and in particular District 2 – is situated in a region of generally mountainous and hilly terrain with significant thick and tall vegetation, suggesting that many cultivation sites much closer to a scenic resource viewpoint than 1,000 feet will not be visible.

c. The distance required – more than three football fields – is excessive. Any structure or cultivated area will barely be visible. We challenge the assumption that the mere appearance of an agricultural activity automatically constitutes an aesthetic impact. Where are the studies or other documentation that justify imposing this much separation? Are other agricultural activities (e.g., vineyards, orchards with their attendant equipment and structures) treated as adverse impacts on scenic resources? Is this distance required by any other regulation related to designated scenic resources?

147-6

**2. Inconsistent Congestion Conclusions.**

Section 3.9 of the Draft EIR claims that the project will lead to significant congestion impacts on local roads from workers driving to and from cultivation sites. However, this conflicts with the Air Quality analysis, which concludes that because no more than half the sites will be harvesting at the same time and sites are spread throughout the county, the project will not cause congestion at any intersection leading to CO hot spots (p.3.2-15). There is no explanation for how the EIR can claim enough roadway congestion to constitute a significant impact when there will be no intersection congestion.

147-7

C0501002/4852-2266-9898-1



Peter Maurer, Planning Director  
June 14, 2017  
Page 7

would be traveling during peak commute times. However, according to CCA members, employees typically work different and longer hours during the busy harvest season, typically arriving earlier and staying later – so they would not conflict with the PM peak commute even if they are traveling in the peak direction. Furthermore, during other seasons year-round employees are known to leave farms earlier: in the summer to avoid the worst heat, and in the winter when it gets dark. Again, a survey of representative operators would provide more accurate and reliable data, and likely would show much less traffic during the PM peak. This pattern likely is similar to other agricultural operations in the county (e.g., vineyards, orchards) that have a core of year-round employees supplemented by harvest season workers, which the EIR consultants could easily survey and document.

147-10  
cont.

**c. Number of Commuting Workers.**

The Draft EIR assumes 10-15 workers at each cultivation site during the harvest season and at “large-scale” processing facilities (p.2-3), and then apparently bases its traffic analysis on assuming that every site in the County will employ 15 workers. (I say “apparently” because Section 3.9 provides some trip totals (p.3.9-12) but does not explain how they were determined, making it difficult for the public to consider or question the method of calculation.)

If the County had surveyed a representative sample of cultivation operators (which it should have done to provide the data needed for a legally defensible EIR) it would have found that most sites use fewer than 15 workers – even at harvest time. The largest sites might in theory use as many as 15 workers if they are completely unmechanized. However, most farms use trimming machines which reduce labor requirements.

We understand the EIR consultants interviewed one cultivation operator, and may have misunderstood him to say he used 10-15 workers during the entire harvest season. This level of activity actually would only apply for a few days during the harvest, with fewer workers during most of the harvest season. Given that peak harvesting may vary from site to site, it is unlikely that all farms will be using the full allotment of workers at the same time. There may be spikes in the number of commuting workers from time to time, but not for any prolonged period. Again, proper representative surveying, or actual traffic counting at selected sites, should have been done prior to completion of the Draft EIR to provide accurate data.

147-11

Furthermore, workers live at many sites while helping the harvest, which reduces commute traffic. In addition, experience and knowledge of the farming industry shows that harvest workers who do commute often live and drive together, sometimes with three or more per car, and bring their meals or are fed by the operator (thus reducing trips). Finally, most farms have resident owner/operators, often couples, who live onsite. The net result is that the Draft EIR grossly overestimates the number of daily trips generated by cannabis operations.

As discussed above, CEQA does allow an EIR to use somewhat conservative assumptions, but it cannot go beyond what is reasonable. Just as an EIR for a shopping center is not required to base its analyses of parking needs and traffic volume on shoppers during the

C0501002/4852-2266-9898-1

Peter Maurer, Planning Director  
June 14, 2017  
Page 8

week before Christmas, this EIR should not find traffic congestion impacts based on very short-term spikes in the number of workers.

I 147-11  
cont

**Comments on Alternatives Analysis**

Midway through preparation of the Draft EIR, the County decided to add Alternative 2 – an ordinance that would ban commercial cannabis cultivation and processing. CCA raises the following general challenges to the evaluation of this alternative.

- The analysis of Alternative 2 is fundamentally flawed because it assumes that all current cultivation sites will stop operation and then either will be restored to their natural condition by the land owners or will revert to nature on their own – leaving no impacts.
- The Draft EIR ignores the consequences of closing existing operations and banning future activity, with likely direct and indirect effects. Thus the Draft EIR overstates the comparative benefits of Alternative 2 versus the project.

I 147-12

The Draft EIR must be revised to recognize the following potential impacts and issues and provide a legally adequate analysis. There actually may not be much difference in impacts from allowing cannabis operations under the proposed Regulatory Ordinance, and there may be new and different impacts – but we won’t know until a full analysis is prepared.

CEQA may allow an EIR to discuss alternatives without as much detailed quantitative study as provided for the project. However, the court still will require a full and adequate effort to identify impacts and needed mitigations as part of actually approving an alternative instead of the project – otherwise the required approval findings cannot be supported. Proper evaluation of the following topics will warrant recirculation of the Draft EIR for new public review.

**1. Cleanup.**

Many existing sites may not be voluntarily cleaned up by their operators. The County will have limited resources to enforce remediation or finance public cleanup – especially given the loss of tax revenues when operations are banned. This will leave substantial environmental damage as improvements deteriorate, potentially releasing hazardous materials and contributing to contamination, erosion, harm to scenic resources and other impacts. Decaying structures, booby traps and other site conditions will pose a long-term risk of harm to hikers and wildlife.

I 147-13

**2. Future Uses.**

Property owners have incurred substantial effort and expense clearing and improving cultivation sites – especially those who applied for permits under the urgency ordinance. It may be unrealistic to assume they will simply abandon the sites to revert to their natural state. It is more likely that many will pursue another economically productive use of the land, such as another agricultural crop (e.g., grapes) or some development. Thus the net effect may be similar

I 147-14

C0501002/4852-2266-9898-1

Peter Maurer, Planning Director  
June 14, 2017  
Page 9

to the Regulatory Ordinance rather than avoiding alleged impacts – except that the County likely will receive much less tax revenue.

147-14  
cont.

**3. Illegal Activity.**

There is an expectation that demand for cannabis products will increase substantially now that recreational use is legal under California law – similar to what Colorado has experienced. Thus there is a risk that despite passage of the Ban Ordinance, there will be increased incentive to start and continue illegal cultivation and processing activity. Because it is banned in Calaveras County, operators may choose more remote areas – which will make enforcement more difficult and increase the risk of environmental impacts (e.g., biotic resources, water quality, erosion, emissions). The County Sheriff has admitted its difficulty dealing with current unpermitted operations; what data is available about the County’s success shutting down illegal sites to date, to support the EIR’s assumption this will occur? According to a statement you made at the January 31, 2017 Board Study Session, there may be 1,500 cannabis grow sites in the County (counting caregiver/personal, commercial and illicit operations), many of which will become illegal under the Ban Ordinance. As the number of sites increases, combined with reduced tax revenues, it will become even more unlikely that the County can control this problem. The EIR must recognize this consequence of adopting the Ban Ordinance.

147-15

**4. Economic Stimulation.**

The Draft EIR analysis ignores the following direct and indirect economic consequences of banning cannabis operations, which the County must consider before taking any action. Two recent studies by the Center for Business and Policy Research at University of the Pacific have evaluated the economic benefits of the industry and the effect on County expenses and revenues:

- “*An Economic Impact Assessment of the Cannabis Cultivation Industry in Calaveras County*” (Final Draft dated February 2, 2017).
- “*Fiscal Impact of Cannabis Regulation in Calaveras County*” (dated May 8, 2017).

a. **Employment.** Banning cannabis operations will directly eliminate thousands of permanent and seasonal jobs available to County residents. Hundreds of additional jobs may be lost due to the effect on employment by local support services and businesses.

b. **Local Business Support.** Cannabis operations rely on local sources to supply materials and services. Their many year-round employees and seasonal workers patronize local restaurants, markets and other businesses. Millions of dollars flow into the County’s economy. Losing this revenue may force businesses to close or lay off workers.

c. **Blight and Decay.** Economic conditions in the County are weak, with declining household incomes and poor employment prospects. Many businesses currently survive on goods and services purchased by the existing cannabis operations. There is a

147-16

C0501002/4852-2266-9898-1

Peter Maurer, Planning Director  
 June 14, 2017  
 Page 10

reasonable likelihood that banning operations will lead to businesses closing. The Draft EIR must evaluate the risk that clusters of such properties may remain vacant for extended periods and experience deteriorating conditions. CEQA requires studying whether these economic effects may lead to physical blight and decay.

147-16  
 cont.

d. **Lost County Revenue.** The ban will immediately cost the County millions in fees and taxes that otherwise would be paid by cannabis operations under the Regulatory Ordinance. In the long term, secondary effects on the local economy will lead to reduced sales taxes, property taxes and income taxes affecting the County.

147-17

e. **Reduced Public Services.** The substantial impact on local revenue will force reduction or termination of County services, reduced maintenance by the County of public properties, and possibly reduced hours or closure of County facilities relied on by county residents and businesses. There may be physical effects at and around those public facilities that the Draft EIR must recognize and evaluate. At a minimum, combined with the requirement to enforce a ban against the increased number of illegal cultivation sites, the County Sheriff, Code Enforcement Office and Agricultural Commissioner will not have sufficient resources to adequately provide essential services to County residents.

147-18

Please include me in the list to receive notification of future actions regarding the EIR and County consideration of regulations regarding cannabis. Please also send me all comments to the Draft EIR as they are received and the County's responses when they become available.

147-19

Very truly yours,

ARCHER NORRIS

*/s/ Edward L. Shaffer*

Edward L. Shaffer

ELS

encl.: comment letter by Kevan Shafizadeh, Ph.D.

cc: Megan Stedtfeld, County Counsel (mstedtfeld@co.calaveras.ca.us)  
 Calaveras Cannabis Alliance

C0501002/4852-2266-9898-1

K E V A N R S H A F I Z A D E H , P h D , P E , P T P , P T O E  
 P.O. BOX 19541 • SACRAMENTO, CA 95819-0541 • (916) 897-6727 • [shafizadeh@surewest.net](mailto:shafizadeh@surewest.net)  
 Transportation and Traffic Engineering Consulting and Expert Services

June 14, 2017

Edward L. Shaffer  
 Archer Norris  
 2033 North Main Street, Suite 800  
 Walnut Creek, CA 94596

Re: The May 2017 Draft Environmental Impact Report (DEIR) for the Calaveras County  
 Medical Cannabis Cultivation and Commerce Ordinance (SCH# 2016042019)

Dear Mr. Shaffer:

I am a transportation engineer and planner by education and training. I am a registered professional civil engineer (P.E. #70099) in the State of California and a certified Professional Traffic Operations Engineer (PTOE #2208) and a certified Professional Transportation Planner (PTP #362). I have been a transportation engineer and planner for 20 years and have taught courses at the university level related to transportation planning, traffic operations and safety, and transportation facilities design. This knowledge has been used on a wide range of transportation research and consulting projects.

I have been asked to review portions of Chapter 3 (Transportation and Circulation) and Chapter 4 (Cumulative Impacts) of the Calaveras County Medical Cannabis Cultivation and Commerce Ordinance Draft Environmental Impact Report (DEIR). More specifically, I was asked to review the DEIR and provide a brief critique of the analysis as it relates to transportation and traffic impacts. This letter identifies, in no particular order, the areas of concern that I have about the analysis of potential transportation and traffic impacts associated with the proposed Medical Cannabis Cultivation and Commerce Ordinance. As an introductory matter, I was surprised to learn that there is no technical appendix – especially given the lack of supporting information in the text of the DEIR.

147-20

#### Project Description

The proposed project is an ordinance addressing regulations concerning the cultivation, manufacture, testing, distribution, transportation, and storage of medical marijuana within Calaveras County. An alternative that is being considered as a part of this EIR is to adopt a ban on cannabis cultivation and other associated commercial activities. Regulations include permitting requirements to reduce conditions that create public nuisances by enacting restrictions on the location, type, and size of marijuana cultivation sites; the location, type, and size of commercial activities involving medical marijuana; and the use of screening, security, and other protective measures to more effectively control the adverse environmental impacts associated with medical marijuana cultivation and commercial activities. The ban alternative would prohibit cannabis cultivation in all zones and limit recreational/medical cultivation to six plants grown indoors.

Trip Generation

The following text highlights how the details of trip generation calculations were explained in the DEIR:

“For the purpose of this analysis new trips are assumed to only be generated by the outdoor, mixed-light, and commercial nursery and indoor commercial grow operations” (p. 3.9-11).

“During the harvest phase of cultivation, crews of up to 15 people per operation would be employed for a period of up to 3 weeks depending on the size of the operation and the number of plants. Based on the total number of applications for outdoor commercial operations received under the urgency ordinance (995 total, of which 740 were commercial) and the anticipated number of applications to be approved, it is estimated that up to 750 applications could be approved by the County, although it is anticipated that approximately half of that would actually occur. Of that number, nurseries are anticipated to represent approximately 1-2 percent” (p. 2-9).

“Based on the number of applications submitted under the urgency ordinance, approximately 2 percent of the total number of applications received involved indoor cultivation.” (p. 2-11)

“As a result, during the peak of the harvest season, potential outdoor mixed-light commercial grow facilities could generate up to 5,625 daily trips countywide; and the indoor grow facilities could generate 113 daily trips countywide. Thus, the implementation of the project could generate a total of approximately 5,738 new daily trips during the harvest period” (p. 3.9-12).

Based on the above information, the following calculations show how I believe the DEIR determined trip generation for the project.

Calculation of New Trips:

Outdoor Facilities:  $\frac{1}{2} \times 750 \text{ sites} \times 15 \text{ employees/site} \times 1 \text{ trip/emp/day} = 5,625 \text{ trips/day}$

Indoor/Nursery Facilities:  $2\% \times 5,625 \text{ trips/day} = 113 \text{ trips/day}$

The transportation profession typically refers to the Institute of Transportation Engineers (ITE) *Trip Generation Manual* for data to help determine the approximate number of vehicle trips that are expected to be generated in association with specifically identified land-use categories. In this case, the *ITE Manual* does not include a specific land use category for the proposed use (cannabis grow facility), and there is also no relatively similar land use category to use as a substitute.

147-20  
cont.

In cases where data from the *ITE Manual* is not available, industry practice is to have observations conducted at the same type of use in question (at other locations) to obtain actual vehicle “counts” that can be used to attribute towards analyses of trip generation and roadway/intersection operation. The DEIR recognizes that cannabis-related operations already exist: “Calaveras County has an existing ordinance regulating medical cannabis dispensaries...[T]here are numerous growers currently operating in the County without any express guidance from the County Code” (p. 1-1). These existing cannabis facilities should have been studied, and trip generation data should have been collected to better understand potential impacts and to better justify assumptions made in the DEIR.

If existing cannabis facilities could not be studied for some reason, there are other agricultural operations in the county, such as vineyards or nut orchards, which could have been studied to provide some comparison to cannabis cultivation and associated commercial activities. The DEIR acknowledges the existence of substantial acreage in grape and nut crops (p. 1-3) but does not attempt any comparison to those operations for purposes of project traffic analysis.

Unfortunately, the DEIR fails to explain or justify many of the critical assumptions and details in the calculation above. Instead, the assumptions used appear to be arbitrary and unsupported by available data or existing planning literature. Specifically, I question the following assumptions or statements in the DEIR:

- “Cannabis harvesting activities generally requires a maximum of approximately 10 to 15 people” (p. 2-3). How were these estimates obtained?
- “It is estimated that each full-time employee would generate 1 trip per day during the harvest period” (p. 3.9-11). What data supported this assumption? Is each trip assumed to be a peak-hour trip, and, if so, was it counted as an AM or PM peak trip?
- It is anticipated that approximately half of the applications received would result in a county-approved operation and facility (p. 2-9). How was this assumption reached?
- How does the EIR justify assuming 750 new cultivation sites for impact purposes, if the County anticipates approving half the 740 applications for commercial sites – many of which, I am informed are already are in operation?
- It is assumed that the harvest season would be concentrated into a 3-week period at each site (p. 2-9). How was this time period determined? Is it known how the number of employees or the work schedule may shift during the harvest period? Furthermore, why does this harvest period conflict with the “Transportation and Circulation Impacts” in Chapter 3, which assumes 4 weeks (p. 3.9-11)?

147-20  
cont.

Trip Distribution and Assignment

The following text from the DEIR attempts to explain how trips arising from the proposed ordinance were distributed throughout the county and how those trips were assigned to the transportation network:

“Traffic forecasts were then distributed and assigned to the existing transportation network based on the assumed origin, destination, and route of the employee trips. The distribution of trips along the transportation network was determined based on the anticipated location of commercial grow sites within the County, which was determined on locational information from applications received under the Urgency Ordinance” (p. 3.9-12).

“It is assumed that the commercial cannabis grow sites and processing facilities will operate on weekdays during normal business hours (8 a.m. to 5 p.m.) Thus, employees will be traveling to and from the commercial cannabis sites during the am- and pm-peak periods for traffic. For the purposes of this analysis the total daily trips generated by the project (5,738) are assumed to be split evenly between the am- and pm-peak traffic times” (p. 3.9-12).

“It is conservatively assumed that only 50% of employees would be traveling in the same direction as the daily peak-hour, peak-direction shown in Tables 3.9-1 and 3.9-2” (p. 3.9-12).

“The proposed project could add approximately 1,400 pm peak-hour, peak-direction trips to the State highway network in the County during the height of the harvest season (p. 3.9-16).”

The Calaveras Council of Governments (CCOG) is required by California law to adopt and submit an approved Regional Transportation Plan (RTP) to the California Transportation Commission every five years. The 2012 Calaveras County RTP Final Report, produced by Fehr & Peers Transportation Consultants, provides a summary of the PM peak-hour, peak-direction level of service (LOS) and volumes on State highway facilities for baseline existing (2012) and future (2035) conditions. These travel forecasts for the county were obtained by Fehr & Peers using the Calaveras County Travel Demand Model (TDM). The DEIR appears to have added trips generated by projects approved under the proposed ordinance to the future (2035) travel forecasts made in the RTP.

These types of travel demand models assume that employee trips originate from certain types of land uses (such as homes and residences) and travel to major “attractors” within the region (such as local businesses or shopping areas). These models are more typically used in urban areas where trips originate from concentrated residential areas and travel into a central business district area using the primary road networks. This methodology may not be appropriate to model travel within rural areas, particularly for agricultural purposes. For example, these models often ignore local roads, and it is possible that some trips on a limited transportation network could be serviced by local roads, limiting the use of State highway facilities and avoiding the impacts noted in the DEIR.

147-20  
cont.

It is very difficult to critique the Calaveras County TDM when so little information is available. There are no details provided in the DEIR to determine if it is an appropriate methodology to forecast trips in this context, and there is no indication that the model was validated for this purpose. The DEIR should be a stand-alone document that provides assumptions, sample calculations, tables, maps and technical appendices to explain the analysis that was completed to arrive at the conclusions in the report. This particular DEIR lacks the type of supporting information that one would generally expect to find. The detail in this DEIR is grossly insufficient to check its analysis and verify its results. As a result, the details of this DEIR cannot be critiqued by the general public or verified by a trained industry professional.

Because so little information is available, it is difficult to know if the study of transportation and circulation impacts in the DEIR was conducted properly. Specifically, I question the following assumptions or statements in the DEIR:

- It is unclear if cannabis or any similar agricultural facilities operate under traditional business hours. The DEIR simply assumes an “8 to 5” work day without any attempt to explain or justify using that work schedule (p. 3.9-12). I would think that employees start work earlier and end work later during the busy harvest season. If work hours actually are different from the traditional “8 to 5” workday, there may be fewer peak-hour travel impacts from the daily operations. How does this compare with harvest season operations by the county’s vineyards and orchards?
- Is it valid to assume that indoor grow operations have the same harvest seasons as outdoor operations (p. 3.9-12)? In fact, the DEIR recognizes that indoor grows operate with a 3-month cultivation/harvest period and can have multiple harvests per year (p. 2-3), so any increase in workers may not overlap. If the seasons are different, there may be fewer travel impacts from the fall outdoor harvest season.
- Is it valid to assume that employees of cannabis facilities would travel during the peak hour and in the peak direction? How do the projected travel patterns compare with harvest season operations observed at the county’s vineyards and orchards?
- It is unclear how the 5,625 daily trips generated countywide by this ordinance (as shown in the previous section on “Trip Generation”) result in the addition of approximately 1,400 pm peak-hour, peak-direction trips to the State highway network in the County during the height of the harvest season. In other words, 25% of all trips generated for the entire *day* will be traveling in the afternoon peak *hour* and in the peak *direction* of travel. This proportion of daily trips occurring in the peak hour in the peak direction of travel appears to be high – even without considering the questions above suggesting that potentially non-traditional travel during the harvest season should apply. The DEIR must explain and justify these calculations and assumptions.
- The DEIR provides no information regarding when the “peak” traffic period is or how it was determined. Those details may be found elsewhere, but they must be provided and explained in the DEIR text – especially since there is no technical appendix.

147-20  
cont

- The DEIR includes no maps showing expected detailed traffic or circulation impacts, such as concentrations of cultivation sites, or of harvest season housing, or of projected travel patterns – all of which makes it very difficult to understand and confirm all the assumptions and conclusions. It is difficult to verify the basic conclusions in this report because they are not provided in a way that is clear and easily accessible to the reader of the DEIR. The only map that is provided as part of the transportation and circulation analysis is shown in Exhibit 3.9-2 (p. 3.9-13), which divides the county into ten large zones, and the percentage of expected permits is shown for each large zone. There are no transportation or circulation impacts shown.

### Cumulative Impacts

The challenge for this DEIR is that travel impacts from the medical marijuana industry are still not well documented. As a result, data collection from existing or similar types of land uses should have been conducted. Compounding the problem, the urban travel demand forecasting methodology, which may not be appropriate in this situation, is also used as a proxy for impacts to local roadways.

“Due to the countywide scope of the project and because the exact locations of new cultivation sites and processing facilities are not known at this time, the analysis does not evaluate specific intersections or local roadways, but addresses general expectations of traffic generation along the State highways and associated environmental effects of the project. Further, quantitative estimates of impacts to State highways are considered to serve as a proxy for impacts to local roadways for which volume data is not available” (p. 3.9-10).

Finally, there seems to be some inconsistency in the DEIR regarding identification of alleged potential impacts. Despite the significant impacts identified along portions of the State highway system in the transportation section, it is *not* anticipated that vehicle trips would result in excessive congestion at intersections.

“Regarding the potential for CO “hot spots” at local intersections, operational activities at individual sites are not anticipated to generate more than 8 trips per day during harvest time, as explained in Section 3.7, “Transportation and Circulation,” and it is anticipated that no more than half of the commercial cultivation sites would be in harvest at the same time. Moreover, the cultivation sites would generally be spread throughout the county. Thus, it is not anticipated that vehicle trips generated by cultivation sites would result in excessive congestion at any intersection that experiences high volumes of vehicles experiencing long wait times. For these reasons, it is not anticipated that the additional trips associated with new cultivation would contribute substantially to traffic congestion at affected intersections such that localized CO “hot spots” may occur that exceed the CAAQS and NAAQS for CO” (p. 3.2-15).

While it is possible for there to be congestion on a highway section that does not occur at an intersection or on a local roadway, such a conclusion should be explained. Otherwise, it calls into question the claim of roadway congestion impacts.

I47-20  
cont.

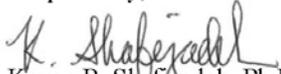
Conclusion

My review of the Transportation and Circulation analysis in the Draft Environmental Impact Report (DEIR) for the proposed Medical Cannabis Cultivation and Commerce Ordinance in Calaveras County revealed issues affecting the potential validity of the conclusions and recommendations presented in that document. Of particular concern are the trip generation forecasts as well as the trip distribution throughout the county – and the concomitant impacts on the State highway infrastructure in the county. Most concerning, however, is the overall lack of detailed information supporting the technical analysis that was completed in the DEIR. This lack of information makes the analysis almost impossible to check to confirm that it was completed correctly.

147-20  
cont.

If you have any questions regarding this letter, please do not hesitate to contact me directly.

Respectfully,



Kevan R. Shafiqzadeh, Ph.D. P.E., PTP, PTOE  
Transportation and Traffic Engineering Consultant  
P.O. Box 19541  
Sacramento, CA 95819

<b>Letter I47</b>	<b>Edward L. Shaffer</b> 6/14/2017
-----------------------	---------------------------------------

- I47-1 This comment presents introductory information and summarizes detailed comments made in subsequent comments within this letter. Please refer to Responses I47-3 through I47-18 for detailed responses to those comments. As noted in these responses, the programmatic analysis of the DEIR, as amended through responses to comments, is considered reasonable, appropriate, and in accordance with CEQA requirements (see Master Response 1). Revision and recirculation are not considered necessary prior to consideration by the Planning Commission and Board of Supervisors for certification because significant new information, as defined in Section 15088.5 of the CEQA Guidelines, has not been introduced. Specific responses to Kevan Shafizadeh's comments are provided and responded to as part of written responses to Comment Letter O1 (see Responses O1-15 through O1-31), which was submitted by the Calaveras Cannabis Alliance. Refer to Letter O1 for responses to those specific comments. The letter from Patrick Sullivan referenced in this comment is addressed as letter I53 and specific responses to Mr. Sullivan's comments are provided therein.
- I47-2 Refer to Responses I46-1 and I46-2. The comment does not specify which data is missing from the analysis, so no further response is provided.
- I47-3 Refer to Master Response 4 regarding baseline assumptions used in the DEIR and the basis for doing so. The comment requests segregation of existing and potential cannabis sites, whether legal or not. The County staff and EIR consultants cannot project the unknowable; rather, the DEIR is based on reasonable assumptions regarding cannabis operations that would comply with the proposed ordinance, and the associated potential impacts.
- I47-4 Refer to Master Response 4 regarding how the DEIR appropriately identified baseline conditions in accordance with CEQA requirements. See Master Response 3 regarding how employment data was developed. The DEIR represents an appropriately conservative programmatic evaluation of potential impacts associated with implementation of the proposed ordinance, as explained in further detail in Master Response 1.
- I47-5 The statements referenced in this comment that were made by the County and in the DEIR with respect to the projection of approved cannabis-related operations pertains to the Urgency Ordinance. While the number of applications submitted under the Urgency Ordinance provides an understanding of the expected response to the proposed regulatory ordinance, the approval/denial ratio of those applications in no way reflects the number of cultivation sites that could ultimately be developed under a different regulatory, permanent scheme, such as the proposed ordinance. Contrary to statements made in this comment, the DEIR appropriately evaluates the potential impacts associated with the long-term implementation of the proposed ordinance within the County and not just the number of applications that would be initially approved.
- I47-6 The metric of 1,000 feet of separation was based on the required setback from a sensitive use. While scenic resources may not fall under the definition of a sensitive use per County Code or other cannabis-related regulations, scenic resources (as designated by the County and other appropriate agencies) are considered by the County to be locations where children and families can congregate, like a sensitive use. As a result, the setback distance identified in Mitigation Measure 3.1-1 is considered reasonable and appropriate.

- I47-7 Refer to Response 01-30, which explains that the level of congestion to result in a CO hotspot is far higher than the volumes of traffic in the region, even if they will nonetheless potentially result in traffic congestion.
- I47-8 Refer to Response 01-16 regarding how employee trips were projected for the programmatic analysis of the proposed ordinance.
- I47-9 Refer to Response 01-22 regarding the projection of traffic conditions and potential transportation impacts. Of note, the 50% assumption referenced in this comment reflects an average vehicle occupancy of two people, not one vehicle trip during the peak hour and one outside of it.
- I47-10 Refer to Response 01-24 regarding the DEIR's projection of employee trips during the peak hour.
- I47-11 Refer to Master Response 3 regarding the number of employees assumed as part of the DEIR's analysis and the basis for that assumption.
- I47-12 The DEIR evaluates the potential physical environmental impacts associated with a ban, as drafted by the County, including a requirement for cannabis-related operations allowed under the Urgency Ordinance to cease and restore site conditions at their respective property. Further, the DEIR acknowledges, on pages 6-5 and 6-6, that the feasibility of restoring sites to pre-cannabis cultivation conditions is unknown. Contrary to the opinion offered in this comment, the DEIR has been prepared in accordance with CEQA requirements and revision/recirculation of the document is not required prior to certification and consideration for approval of the proposed ordinance or the draft ban ordinance by the Planning Commission and the Board of Supervisors.
- I47-13 Refer to I43-12 regarding the requirement within the draft ban for property owners to "cleanup" their respective property.
- I47-14 Under Alternative 2, should a property owner desire to repurpose rather than restore an area that had been previously approved for cannabis-related activities, that property owner would be required to comply with County Code requirements related to the intended use. The DEIR analysis is based on reasonable assumptions regarding reactions to a ban, but it is impossible to speculate on all possible responses to a ban.
- I47-15 The potential for illicit and illegal cannabis-related activities to occur with implementation of a ban is acknowledged and identified in Section 6.3.2 of Chapter 6, "Alternatives." Each issue area discussion provided in this section includes expository text about potential outcomes that may result, however, the DEIR appropriately assesses significance based on compliance with the requirements of the draft ban ordinance.
- I47-16 Refer to Response I43-12 regarding socioeconomic impacts associated with the draft ban ordinance (Alternative 2) and the potential for urban decay.
- I47-17 The comment regarding lost revenue to the County is noted but does not address the contents or adequacy of the Draft EIR. This comment is noted and has been forwarded to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I47-18 The comment makes a general presumption that public services in the County will be reduced or terminated without cannabis-related fees and taxes. This opinion is not supported by evidence and does not address the contents or adequacy of the Draft EIR. This comment

is noted and has been forwarded to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

I47-19 The comment is noted and the commenter will be notified of future actions related to the EIR and County consideration of regulations regarding cannabis.

I47-20 Specific responses to Kevan Shafizadeh's comments are provided and responded to as part of written responses to Comment Letter O1, which was submitted by the Calaveras Cannabis Alliance. Refer to Letter O1 for responses to those specific comments.



It is my understanding that this is an agricultural county and people buying property in this area must understand the associated implications of that when buying property here. On many parcels, there is an existing right to farm. If existing operations are permitted (wine grapes, hogs, turkeys, cattle, etc) all other permitted operations, like Cannabis, should be permitted without additional permission. Have you considered adding Cannabis explicitly to property title information so people are not surprised to find they have neighbors who are choosing to exercise this if they have completed the regulation process?



Given the existing extent of Commercial Cannabis cultivation in Calaveras in 2016, Ascent Environmental, Inc. had a unique ability to monitor the effects of the industry in real time. Additionally, what occurred in the county in relation to cannabis cultivation was *the greatest* impact the industry could have on the region given county projections of a reduced number of successfully completed registrations in all future years. It was unclear to me if Ascent Environmental, Inc. arrived at their conclusions related to Impacts by projecting increases on the data they collected in the field, or by projecting reductions. Has Ascent Environmental, Inc. provided the Planning Department with the models and or calculations used to reach the conclusions drawn in the study? Are these models satisfactory to the Planning Department?

148-8



To what extent does ideological bias play into the study conducted by Ascent Environmental, Inc., especially when considering aesthetics?

If, "The DEIR does not recommend one option over another." as stated in the "Issues to be Resolved in the EIR" why is is value laden language such as "superior", as in, "the Ban on Commercial Cannabis Operations Alternative is considered the environmentally superior alternative because it reduces several impacts associated with the proposed project and, unlike the No Project Alternative, Alternative 2 does not increase a significant impact related to transportation, odors, and biological resources.", included in the DEIR? The use of this language suggests a recommendation.

148-9



Has this been considered: Capping the number of permitted registrations to those registrants who successfully completed the registration process?



If the current level of cultivation is the most the county will ever permit, with that number decreasing with unsuccessful registrations, and the sites under cultivation are already in use and prepared for cultivation, does the DEIR consider that there may be no increase to the impacts outlined in the DEIR?

148-10

A confirmation of the receipt of this email would be greatly appreciated.



148-11

Respectfully,  
Chloe Shufeldt

<b>Letter I48</b>	<b>Chloe Shufeldt</b> 6/12/2017
-----------------------	------------------------------------

- I48-1 As noted on page 2-9 of the DEIR, approximately 29% of commercial cultivation applications submitted under the Urgency Ordinance were located within the 2015 Butte Fire area.
- I48-2 The DEIR assumes that cannabis-related operations that are approved under the proposed ordinance would be maintained such that the potential for accidental or natural re-establishment of substantial vegetation not related to cannabis would not occur within any habitat types present within the County. The comment is noted but does not address the contents or adequacy of the DEIR. This comment has been forwarded to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I48-3 The comment requests an analysis of ecosystem health in the Butte fire area if cannabis is not permitted or if it is regulated. The DEIR evaluates the effects of an ordinance regulating cannabis on the existing environmental conditions, but does not speculate on other potential outcomes that could occur in the Butte fire area, because they are not proposed. CEQA requires consideration of the effects of a project on the environment, and the proposed ordinance is the “project” evaluated in this EIR.
- I48-4 As noted above in Response I48-2, cannabis-related sites would be required to be maintained consistent with County Code requirements including fire prevention requirements such that the potential for increased fire risk would not occur. However, it is not anticipated that cannabis-related operations would reduce the countywide potential for fire risk such that future events like the 2015 Butte Fire would not occur. The comment is noted but does not address the contents or adequacy of the DEIR.
- I48-5 Refer to Response I8-5 regarding the DEIR’s need to compare contrast the cultivation of medical cannabis to existing agricultural operations.
- I48-6 Refer to Response I8-5 regarding the DEIR’s need to compare contrast the cultivation of medical cannabis to existing agricultural operations.
- I48-7 Nuisance laws, which are interpreted to refer to County Code requirements within this response, and the ability for local residents to issue formal complaints are often used as a threshold for determining significance. For example, in the case of the proposed ordinance, the potential for operations permitted under the proposed ordinance to result in odors affecting substantial numbers of people was based, in part, on the number of odor complaints received to date regarding cannabis operations permitted by the Urgency Ordinance.
- I48-8 The County is in receipt of the information used to evaluate the potential environmental impacts of the proposed ordinance and reviewed the DEIR prior to its issuance for public review. The DEIR, although written by the County’s consultant, reflects the independent views of the Calaveras County Planning Department, which was involved in preparation of the EIR.
- I48-9 State CEQA Guidelines specifically requires the identification of an “environmentally superior alternative” (refer to State CEQA Guidelines Section 15126.6). The EIR consultant has no “ideological bias,” other than to objectively consider and report on the complex issues surrounding the proposed project and its alternatives.

- I48-10      Some discussion regarding the potential for amending the proposed ordinance to include a cap on cannabis-related activities has been proffered during comments in front of the Board of Supervisors, however, no formal submittals of requested amendments to the proposed ordinance have been received to date. Further, the County is still in the process of reviewing applications under the Urgency Ordinance, and determination of a final number was not possible prior to public release of the DEIR. The final number of applications approved under the Urgency Ordinance would likely resemble either Alternative 3 or Alternative 4 and would not substantially reduce any significant environmental impacts compared to those alternatives or any others. Notably, the proposal would not reduce, to a less-than-significant level, any impacts that were identified as significant or significant and unavoidable for the proposed project, although the magnitude of some of the impacts would be reduced. Accordingly, it is not necessary to analyze the proposal further in the EIR. This comment will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I48-11      The DEIR is intended to evaluate the potential impacts associated with implementation of the proposed ordinance. As a programmatic evaluation, the DEIR represents a reasonably conservative analysis that encapsulates the potential physical environmental impacts that are reasonably foreseeable. If additional cannabis sites are not developed, additional impacts would not be expected, although ongoing impacts such as odors may continue.

Letter 149
---------------

**From:** [Planning Web Account](#)  
**To:** [Peter Maurer](#)  
**Subject:** FW: EIR Comment  
**Date:** Monday, June 12, 2017 2:42:38 PM

---

-----Original Message-----

From: [jncrew@volcano.net](mailto:jncrew@volcano.net) [<mailto:jncrew@volcano.net>]  
Sent: Monday, June 12, 2017 1:32 PM  
To: Planning Web Account  
Subject: EIR Comment

To protect our environment and public safety, I support the EIR recommendation for a complete ban on the commercial cultivation of marijuana.  
Thank you.

I 149-1

From Jay Skeen  
D2 property owner and registered voter

Submitted By:  
Name:: Jay Skeen  
Email:: [jncrew@volcano.net](mailto:jncrew@volcano.net)

<b>Letter I49</b>	<b>Jay Skeen</b> 6/12/2017
-----------------------	-------------------------------

- I49-1      The comment expresses support a ban on commercial cannabis cultivation. This is a project alternative preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter  
150

**From:** [Planning Web Account](#)  
**To:** [Peter Maurer](#)  
**Subject:** FW: EIR Public Comment  
**Date:** Monday, June 12, 2017 2:42:27 PM

---

-----Original Message-----

From: [countryroad@volcano.net](mailto:countryroad@volcano.net) [<mailto:countryroad@volcano.net>]  
Sent: Monday, June 12, 2017 1:27 PM  
To: Planning Web Account  
Subject: EIR Public Comment

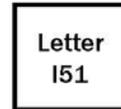
Dear Peter,  
I support the EIR recommendation for a complete ban on commercial cultivation.  
Thank you very much.

150-1

Submitted By:  
Name:: Kim Skeen  
Email:: [countryroad@volcano.net](mailto:countryroad@volcano.net)

<b>Letter I50</b>	<b>Kim Skeen</b> 6/12/2017
-----------------------	-------------------------------

- I50-1      The comment expresses support a ban on commercial cannabis cultivation. This is a project alternative preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.



Calaveras County Planning Department
Attention: Peter Maurer, Planning Director
891 Mountain Ranch Road
San Andreas, CA 95249

June, 12, 2017

Re: Comments and Questions on the Medical Cannabis Cultivation and Commerce Ordinance Project Draft Environmental Impact Report

Dear Mr. Maurer,

Please consider the following as your department completes the final draft of the EIR:

Mitigation Measures

Mitigation Measure 3.1-1 recommends that all cultivation sites be required to be 1000 feet from scenic resources. Why are all cultivation sites included in this mitigation measure? Indoor cultivation would not alter any views in existing locations. What justification is there for imposing an unwarranted mitigation measure on indoor growers, particularly those that already exist?

151-1

Moreover, page 3.1-6 lists the California Scenic Highways Program, or the National Scenic Byways Program as Designated Scenic Resources. While the said resources may be affected by outdoor cultivation, there cannot be any adverse effects arising from existing structures. Please consider revising this mitigation measure to exclude indoor cultivators and other "brick and mortar" businesses that seek licensure.

Mitigation Measure 3.2-3: Reduce GHG emissions associated with the cultivation, processing, and distribution of cannabis. Regarding suggested revision of Section 17.95.230: The manner in which this mitigation is measured does not include reductions attributed to technological solutions, such as replacement of HID lights with LED lights, resulting in less power consumption and less heat generation thus reducing significant A/C electrical demands.

151-2

Mitigation Measure 3.2-4a: Prohibit burning of cannabis and other vegetative material. Why, in a County that issues burn permits on a regular basis to farmers, property and business owners, and residents, would Cannabis be singled out for such a prohibition? This measure appears discriminatory against a certain class of businesses (cultivators) while allowing all others the privilege of burning their yard waste.

151-3

Mitigation Measure 3.2-4a: I fully support this measure and the recommended amendment to Section 17.95.240.

151-4

### Hazards and Hazardous Materials

On page 1-4 it is stated that “Any cultivation sites in excess of 1,000 sf, would be subject to the Central Valley RWQCB’s Order R5-2015-0113...” This is not an accurate statement, however. The order cited does not include indoor cannabis operations because of the fact that, being fully contained, by definition, within a closed building, from which chemically tainted rainwater runoff does not happen, thus rendering this RWQCB requirement inappropriate and unnecessary for indoor cultivators. Please kindly revise the EIR and draft regulation ordinance accordingly to reflect the actual language of the RWQCB order.

151-5

### Indoor Cultivation – Water

On pages 2-2 and 2-3 a discussion is provided regarding indoor water consumption. The amounts reported are consistent with the data I provided to you some time ago. My question is how do these numbers compare to, say, the water consumption of the average Calaveras single-family dwelling as measured by septic system capacity? Moreover, and specifically, what are the ratios of water consumption for 1000, 2500, 5000, and 10,000 square foot indoor operations, respectively, compared to the average consumption of a Calaveras single-family dwelling? For the estimated 15 indoor cultivation businesses, how would the total estimated water consumption of those compare with, say, one golf course, or comparatively sized vineyards?

151-6

### Alternatives

Under what legal authority does the County expect to be able to institute a ban without a conducting a proper full programmatic EIR on said ban ordinance? The existing EIR was not originally scoped to address the proposed ban, as it did not exist at the time of the EIR scoping session held at the start of the process last year. I believe the proposed ban would constitute a new program in the context of state-wide legalization and, as such, it should be subject to a full programmatic EIR, which would include a proper scoping session to set the parameters of said ban EIR. Please explain the County’s legal authority for not conducting a full programmatic EIR on the proposed ban ordinance.

151-7

In closing, I believe that CEQA does not require perfection, but rather mediation, and therefore the statement that the ban option is the best environment option available is thus rendered moot, particularly since the ability of the County to comprehensively enforce it is in question. This view is even more evident by the fact that the state will not send any Cannabis tax money to help local jurisdictions enforce bans and, moreover, the County does not have funds to enforce its own ban, thus leading to selective enforcement, partial enforcement, or non-enforcement of its ban. This essentially means that, in reality, the proposed ban the least environmentally option of those considered in the DEIR.

151-8

Sincerely,

Dr. Prapanna Randall Smith  
Magic Show, LLC

<b>Letter I51</b>	<b>Dr. Prapanna Randall Smith</b> 6/12/2017
-----------------------	--

- I51-1 The comment questions the justification for imposing Mitigation Measure 3.1-1 which requires setback from scenic resources, on indoor growers. The comment also suggests revising the mitigation measure such that it would not be applicable to indoor cultivators. The comment is noted, and Mitigation Measure 3.1-1 has been amended to reflect that the setback requirement for the mitigation of aesthetic impacts shall not apply to indoor cannabis-related operations wholly contained within existing structures that would be repurposed (without exterior modifications). Refer to Chapter 3, “Revisions to the DEIR” for further clarification.
- I51-2 The comment notes that the portion of Mitigation Measure 3.2-3 detailing revisions to Section 17.95.230 does not include reductions attributed to reduced electricity demand. As noted in the text of the mitigation measure, the list of ways in which the required reduction may be achieved is not meant to be an exhaustive list. Thus, reductions in GHGs in the manner provided in the comment are not precluded from contributing to the required reduction.
- I51-3 The comment questions why cannabis is singled out for a burn prohibition. This is a question regarding the rationale for Mitigation Measure 3.2-4a. It is important to note that the County does not consider cannabis cultivation to be an agricultural activity, and as such, comparisons with agricultural activities within the County is not considered appropriate. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I51-4 The comment states support for Mitigation Measure 3.2-4a. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.
- I51-5 The comment states that indoor grows are not subject to the CVRWQCB’s Order R5-2015-0113. However, as noted on the third page of the General Order under the “Overview” subheading, dischargers subject to the order are defined as “landowners, growers, lessees, and tenants of private land where cannabis is grown and of lands that are modified or maintained to facilitate cannabis cultivation.” The order further describes its applicability to “All Cannabis Cultivators” in other subsections and does not exempt indoor operations.
- I51-6 The comment requests comparisons to be drawn between water demand for cannabis cultivation and the water demand of other uses, such as a single-family dwelling in Calaveras County. Based on information provided in the 2007 Calaveras County Municipal Services Review, water demand within the County varies between 303 and 678 gallons per day (gpd) per residential connection, which equates to a range of approximately 110,000 to 250,000 gallons per year per residential connection (Calaveras LAFCO 2012). This comment does not address the contents or adequacy of the DEIR.
- I51-7 The comment requests explanation of the County’s legal authority for not conducting a full EIR on the proposed ban ordinance. Refer to Master Response 2 for information regarding the selection and analysis of alternatives.

I51-8            The comment disagrees with the DEIR's conclusion that Alternative 2 is the environmentally superior alternative. Refer to Master Response 2 for information regarding the selection and analysis of alternatives.

Letter  
152

**From:** Benjamin Stopper  
**To:** [PlanningWeb@co.calaveras.ca.gov](mailto:PlanningWeb@co.calaveras.ca.gov)  
**Cc:** Peter Maurer  
**Subject:** Draft EIR comment  
**Date:** Wednesday, June 14, 2017 4:14:41 PM

To whom it may concern,

This is my comment to the draft EIR that was originally drafted with the intent to adopt regulations in the form of a permanent ordinance. This comment is to the alternative chapter specifically

### 6.3.3 Reduced Zoning Designations Available for Commercial Cannabis Operations Alternative (Alternative 3)

"This alternative would involve reducing the number of zoning and land use designations that allow for commercial cannabis operations through either an administrative use permit, zoning clearance certificate, or conditional use permit. Under this alternative, Rural Residential (RR) would be removed as an acceptable zone within which outdoor and indoor cultivation could occur through either a zoning clearance certificate or administrative use permit. Based on the percentage of applications received under the urgency ordinance for commercial cannabis operations within property zoned RR, it is assumed this alternative would reduce the potential for commercial cannabis operations within the County by approximately 25%. This is also anticipated to result in the location of commercial cannabis operations within more remote areas of the County and away from developed communities. Due to the fact that this alternative would allow for commercial cannabis operations within the County, the mitigation measures identified for the proposed ordinance would be considered feasible measures to mitigate the impacts of this alternative."

It is agreeable that RR zoning in higher density areas is not a preferable area for commercial cultivation of cannabis. But we must remember that not all RR zoned parcels are within community areas. There is such zoned parcels in remote areas of the county zoned RR 40 for example. The designation of RR 40 doesn't mean it's that size, for example the parcel could be 160 acres with one house on it and two wells with a tested aquifer that that high volume draw has little effect on, this parcel zoned RR 40 could be split into 4 parcels of a minimum size of 40 acres a piece.

So to say Rural Residential zoning as a blanket statement is not an acceptable zoning for commercial cultivation of cannabis is disagreeable. In dense residential areas yes that is agreeable. Singling out RR as the mitigating measure for moving cultivation out of community areas is coming short of the desired ends. Most communities in Calaveras are comprised of a multitude of zoning designations. Some within communities such as commercial, Rural Agricultural and even Industrial.

I would suggest an alternative mitigating ordinance that includes RR as an acceptable zoning for commercial cultivation with a larger minimum acreage such as RR-10 for example. Also each zoning designation be analyzed for a minimum acreage for commercial cultivation for mitigating the impacts of neighboring properties or businesses "each zoning designation can be given a different minimum acreage for commercial cultivation". As I said prior there are some larger parcels within Community areas that may be of appropriate designation that may slip through the cracks of mitigation. My suggestion is that since we cannot make an ordinance per district within the county

152-1

we let the people of each community choose if they want it within their community by instituting language into the community plans.

For example "the people of Rancho Calaveras do not find commercial cultivation of cannabis within their community an acceptable use, any such use may apply for a Conditional Use Permit giving the neighbors the opportunity to submit their comments as to the feasibility of such an application."

Other communities such as in district 2 may be more accepting of this type of use. They may either choose not to bar it from their community or choose to put the commercial Cannabis Cultivation through the process of a Conditional Use Permit, mitigating the concerns of the neighbors.

Some food for thought,

Benjamin Stopper

[stopperbenjamin@icloud.com](mailto:stopperbenjamin@icloud.com)

Sent from my iPhone

152-1  
cont

<b>Letter I52</b>	<b>Benjamin Stopper</b> 6/14/2017
-----------------------	--------------------------------------

I52-1            The comment suggests changes that could be made to Alternative 3. Refer to Master Response 2 regarding alternatives.



Letter  
153

## Environmental/Water Quality Consultant

June 14, 2017

Peter Maurer  
Planning Director Calaveras County  
Planning Department  
891 Mountain Ranch Road  
San Andreas, CA 95249

RE: Draft EIR Comments

I have attached my report entitled "Environmental Review and Comments on the Draft Environmental Impact Report For the Medical Cannabis Cultivation and Commerce Ordinance Project" produced by Ascent Environmental, Inc. for the Calaveras County Planning Department.

One part of this report includes a detailed review of the 114 Biological Site Assessments submitted to the California Central Valley Regional Water Quality Control Board in Redding as part of their permit requirements for Tier II and III cultivation sites. The information in these Biologic Site Assessments should have been reviewed by Ascent Environmental but were not reviewed. As a consequence, the Draft EIR will require substantial corrections and revisions before the Final EIR is approved and published.

In addition, I have collected harvest surveys from 63 commercial cannabis growers. The results of these surveys show that the assumptions used to determine traffic during the harvest period is also totally wrong.

In my 47 years as an environmental scientist and environmental forensics expert, I have never reviewed such a substandard, incompetent and biased Environmental Impact Report.

Regards,

Patrick J. Sullivan, Ph.D.

ATTACHMENT (Report and Appendix A-F)

[psullenv@gmail.com](mailto:psullenv@gmail.com)

PO Box 2038, Murphys, CA 95247

650-483-5598

153-1

**Environmental Review and Comments on the  
Draft Environmental Impact Report For the Medical Cannabis  
Cultivation and Commerce Ordinance Project  
by  
Patrick J. Sullivan, Ph.D. and Resident of Calaveras County**

**RESPONDENT'S BACKGROUND**

Ph.D. Soil Science/Chemistry, University of California, Riverside, 1978

M.B.A. Program Certificate, University of California, Riverside, 1977

B.S. Geology/Geochemistry, University of California, Riverside, 1974

Dr. Sullivan has been an Environmental Forensic Expert for 30 years and former Professor at Ball State University in Indiana and the University of Wyoming (UW). He is also the author of:

- Environmental Engineering (Sixth Edition in 3 Volumes), John Wiley & Sons
- Toxic Legacy, Synthetic Toxins in the Food, Water and Air of American Cities, Elsevier
- Choosing Safer Foods, A Guide to Minimizing Synthetic Chemicals in Your Diet, Academic Press
- The Environmental Science of Drinking Water, Elsevier
- Practical Environmental Forensics, Process and Case Histories, John Wiley & Sons

Dr. Sullivan was a Fellow with the American Association for the Advance of Science and the Environmental Protection Agency, Office of Groundwater, Washington DC (USEPA) and served on the USEPA's Water Resources Hydrofracking Committee.

Dr. Sullivan was a Senior Environmental Analyst at the Jet Propulsion Laboratory (NASA), California Institute of Technology and Managed the Department of Energy's Environmental Programs on Oil Shale (Western Research Institute, UW).

Recent County Specific Experience: Environmental Manager at Carson Hill Mine, directed 12 Tier II and III cannabis cultivation site investigations in the County and as a Project Manager on the Butte Fire Restoration Program has seen the uncontrolled devastation of illegal grows on the County's natural resources.

Dr. Sullivan's complete resume, project experience and publications (i.e., books and literature) are given in Appendix A.

153-2

**INTRODUCTION**

The objectives of this response are to 1) highlight factually incorrect statements and/or information used to support the opinions expressed by Ascent Environmental in the Draft Environmental Impact Report (DEIR), 2) illustrate inconsistent conclusions, 3) review and assess data not utilized by Ascent Environmental<sup>1</sup>, 4) evaluate the selected alternatives based on their analysis and their total lack of supporting data, and 5) present additional alternatives (i.e., alternatives that are suitable, consistent with Calaveras County (hereafter the "County") Planning documents and are economically viable) that should have been consider as part of the DEIR.

A project specific Environmental Impact Report is written before a project is implemented. However, in this case, commercial cannabis grows were permitted<sup>2</sup>, constructed, operated and harvested while the DEIR was being written. This afforded both the County and Ascent Environmental to observe and collect data during cannabis site development and operations and determine their actual impacts on the environment. However, no actual environmental data were collected or evaluated although available (e.g., Tier III, II and I Site Reports and Biological Site Assessments (BSAs) submitted to the California Regional Water Quality Control Board since none were referenced).

Because no real-time environmental data were collected/evaluated during the 2016 commercial cannabis growing season and utilized in the DEIR, the DEIR's stated "*significant and unavoidable impacts*" are not only inaccurate but by avoiding the use of this information, this obviously biased DEIR conveniently provides a blatant opening for the County Supervisors to inevitably select their predetermined choice of Alternative 2 which is to ban commercial cannabis growing and associated operations from County.

This flawed DEIR has other significant defects. Nowhere in this document do the author(s) of this report clearly define the number of legal grows that would be allowed in the County and a verifiable number of illegal grows estimated to be currently operating in the County. This critical lack of information erodes any confidence in the opinions and conclusions used to explain and defend the selection of Alternatives and the specific discussion of impacts relative to Alternatives 1 (no action) and Alternative 2 (ban commercial cannabis).



153-3



153-4

<sup>1</sup> Sacramento consulting company that is the author of the DEIR.

<sup>2</sup> In the context of the process the term "permitted" means an application was received by the county by the required deadline (i.e., June 31, 2016) to operate a commercial cannabis cultivation facility but does not imply eventual approval.

For example, various supervisors and county officials have stated that no more than 250 to 300 legal commercial cannabis sites would be allowed to operate in the county and the Planning Department has been aggressively pursuing the denial of permit applications. The DEIR states that, “750 applicants could be approved” but “it is anticipated that approximately half of that would actually occur”, see Page 2-9). Then on Page 3.3-32 the DEIR states: “outdoor commercial grows could result in tree removal, vegetation clearing, and grading (i.e., terracing) to establish areas of cultivation. Up to 22,000 square feet of land would be converted to cultivation per parcel, and up to 750 grows are expected, therefore a total of up to 375 acres would be disturbed<sup>3</sup>, in addition, large buildings (approximately 10,000 square feet) could be constructed for processing activities....” On page 1-2, the DEIR reports, “applications have been received for 226 acres of cultivation....”

153-4 cont.

What site numbers did the author(s) of the DEIR actually use for their determination of “significant” impacts and are we to believe that each site will have a 10,000 square foot processing facility or will they be scattered throughout the county and do all sites have to have trees removed, vegetation removed or graded? The critical numbers that need to be known are 1) what was the number of commercial applications received at the submission deadline and their number of canopy ft<sup>2</sup> for each application and not just an average canopy ft<sup>2</sup>, 2) what number will actually be allowed in the county (i.e., important for predicting the long-term impact on traffic), 3) how many acres were actually be disturbed vs the number of acres of canopy that did not require removal of trees or grading, etc., and 4) how many permitted and illegal grow sites did the authors actually visit to assess these “significant” impacts or assess Alternatives? These numbers are key for understanding how A modeled or determined the significant and unavoidable impacts to “sensitive natural communities” and “Traffic” that are discussed later in this response and more importantly their discussion of Alternatives.

153-5

Furthermore, there is no accurate or reliable estimated number of illegal grows operating in the County within the DEIR. The DEIR only provides a vague estimate of “unregistered” cultivation sites. On page 1-2, the DEIR reports, “applications have been received for 226 acres of cultivation. Although much is likely to be denied, ... there is also an equal amount of land area devoted to cannabis cultivation that is unregistered (meaning that either no application was received for this acreage or that the application was denied or rejected but cultivation activity continues), and an ordinance may allow additional land to be placed in regulated cultivation, For the sake of analysis, doubling the acreage is a fair estimate.” The DEIR also reported on Page 6-6 (under

153-6

<sup>3</sup> However, not all cannabis sites were disturbed since sites that were operated in 2015 may not have disturbed any addition land and cannabis cultivation on existing agricultural land would have not disturbed any land. Were 375 acres actually disturbed?

Environmental Analysis, Alternative 2) that “An analysis of aerial imagery obtained by the County identified over 500 unregistered cultivation sites.” However, the DEIR fails to report 1) the date, scale and percentage of the county covered by the imagery, 2) % cloud cover, 3) the individuals and their qualifications to interpret aerial imagery, 4) verification criteria, 5) if ground inspections were performed to verify interpretation with actual ground conditions, and 6) were low level flights conducted with ground personal to insure appropriate Quality Control/Quality Assurance. Without this information, this number is meaningless<sup>4</sup>. Especially since in an interview with the County Sherriff in March 2017, he stated that there were currently 1,600 illegal cultivation sites in the county.

153-6  
cont

Finally, not all commercial cannabis cultivation applications were for land that required the destruction of the existing habitat (i.e., requiring extensive grading and vegetation removal) nor is there a discussion of these sites or maps provided to locate all of the applicant sites<sup>5</sup>. Without a map database, it is impossible to determine if their suggested significant and unavoidable impacts could even occur at a given location. They simply imply that impacts occur with no basis in fact. In the realm of environmental forensics, this DEIR would be considered “junk science”<sup>6</sup>.

153-7

In summary, this document is based on unsubstantiated assumptions and opinion, unverified facts and a critical lack of data. Clearly, the county did not provide the necessary funds to perform a scientifically valid EIR. In fact, a reliable EIR would have cost in the range of \$300,000 to \$400,000 and the county must have retained the lowest bidder for a reported \$170,000. As a result, this DEIR needs significant remedial work to correct its critical shortcomings (if they can even be corrected), omissions of important mitigation measures that can and should be required in any county ordinance and inadequately developed Alternatives.

153-8

A final important inconsistency by the author(s) of the DEIR to be noted: “The DEIR does not recommend one opinion over another. County decision makers will determine the appropriate alternative based on the information included in this DEIR, ...” (Page ES-3). “The Ban on Commercial Cannabis Operations Alternative is considered the environmentally superior alternative, ...”(Page ES-2). How can this not be a recommendation given the biased intent of the document?

153-9

<sup>4</sup> Dr. Sullivan is an aerial photo interpretation expert having worked for NASA in this capacity and has been designated an aerial photo interpretation expert in multiple courts of law in California.

<sup>5</sup> All applications were submitted by June 31, 2016 and simple google earth maps could have been made to determine potential impacts to the existing habitat and the identification of “sensitive natural communities” could have been objectively evaluated.

<sup>6</sup>Under Daubert (i.e., Supreme Court rulings on “Junk Science”), it was established that a scientific opinion is not admissible in federal court if not based on reliable science.

Given the serious deficiencies, inconsistencies, insufficient data, inadequate analysis and biased opinions distributed throughout the DEIR, the only way to deal with this problem is to quote specific statements/information of the DEIR by page number and follow the quoted material with a response.

## STATEMENTS AND RESPONSES

Page ES-2, Under SIGNIFICANT AND UNAVOIDABLE ENVIRONMENTAL IMPACTS.

### Pertaining to Cannabis Odor

#### DEIR STATEMENT

*“Impact 3.2-4: Exposure of people to objectionable odors. Implementation of the proposed ordinance would allow for construction and operation of cannabis-related activities, which would generate localized construction and operational odors associated with equipment operation, which could be odor sources to nearby residents. However, the cultivation and processing of cannabis generates odors associated with the plant itself, which during maturation can produce substantial odors. Setbacks are provided as part of the proposed ordinance; however, they do not preclude the generation of odorous emissions in such quantities as to cause detriment, nuisance, or annoyance to a substantial number of people.”*

153-10

#### RESPONSE

This is the first “Unavoidable” impact where no “feasible mitigation is available” under the “proposed ordinance”. Clearly, the ordinance can be amended or a new ordinance could be written that would actually mitigate the impacts at no economic cost to the County. The fact that no suitable mitigation methods were proposed clearly demonstrates the intentional objective of Ascent Environmental<sup>7</sup> to conclude that “The Ban on Commercial Cannabis Operations Alternative is considered the environmentally superior alternative, ...”

Furthermore, page 3-2 states that, *The DEIR must describe any feasible measures that could avoid, minimize, rectify, reduce, or compensate for significant adverse impacts, and the measures are to be fully enforceable through incorporation into the project...* Yet, not one mitigation measure was proposed which is odd given that that there is one

<sup>7</sup> The consultant was directed by the County Supervisors (as stated at the May 22, 2017 meeting to provide comments to the DEIR) to produce an EIR to support a ban.

extremely obvious mitigation method that was not proposed in the DEIR. The fact this recognizable<sup>8</sup> mitigation method was not even proposed demonstrates without any doubt that the DEIR was deliberately written to provide justification to the County Board of Supervisors to ban cannabis cultivation and associated activities.

I  
153-10  
cont  
I

The Obvious Mitigation Method that was not proposed: All commercial cannabis cultivation activities must be conducted within an indoor structure<sup>9</sup> that prevents odors from escaping the enclosure and no burning of cannabis waste is allowed. Registered owners are allowed 4 years to transition from outdoor to indoor cultivation.

Questions:

- Please explain and justify why this obvious mitigation method was not proposed? I 153-11
- What specific facts and information were used by the authors of the DEIR to reject this obvious mitigation method?<sup>10</sup> I 153-12
- Was this mitigation method discussed with the County Supervisors or County Planning personnel? If yes, what were their reasons for rejecting this mitigation method? I 153-13
- If rejected, what step could the County take to make this mitigation method feasible? I 153-14
- If this mitigation method could have been made feasible, why wasn't an alternative proposed? Please explain. I 153-15
- Was the lack of providing suitable mitigation methods reasonable? Please explain. I 153-16

In addition to the previous mitigation method, there could have been one or more mitigation methods proposed that utilized a combination of 1) parcel size, canopy size and setback characteristics. For example:

I  
153-17  
I

Mitigation Method 2: All RR zoned parcels 15 acres and less must confine all commercial cannabis cultivation activities within an indoor structure that prevents all

<sup>8</sup> It's obvious because it is one of the permitted activities: Indoor cultivation.

<sup>9</sup> Indoor construction means an enclosed structure (any impervious material) and filtration that can mitigate the migration of odor from the grow area.

<sup>10</sup> No one through about it is not a responsive answer.

odors from escaping the enclosure. All RR and RA zoned parcels greater than 15 acres may employ outdoor cannabis cultivation if there are no occupied dwellings within a 1,000 feet of the cultivation site or adjacent neighbors give their written consent. All trimming activities must be conducted within an indoor structure. No burning of cannabis waste is allowed.

153-17  
cont.

Questions:

- Because, there are no studies or data in the published literature or State of California governmental reports that establish or provide guidelines as to those outdoor grow characteristics that create “odorous emissions in such quantities as to cause detriment, nuisance, or annoyance” what process or model was used to determine that all outdoor grows would create an “unavoidable” impact? Please provide specific details and justification in your answer. 153-18
- If all outdoor grows don’t create “odorous emissions in such quantities as to cause detriment, nuisance, or annoyance”, what are those specific characteristics? 153-19
- Are there any circumstances where a 1,000 foot setback is suitable? Please explain those circumstances. 153-20
- Is there a setback that is suitable? If yes, what is it and how can it be applied? If no, please explain why? 153-21
- What combination of parcel size, canopy size and setback is suitable for outdoor growing? If none, please explain why for each factor (i.e., parcel size, canopy size and setback). If, yes what are the specific combination of factors. 153-22
- What would a suitable mitigation method or odor look like? 153-23
- Was the DEIR “Impact 3.2-4” opinion included in the DEIR because the authors of this report were instructed by either the Calaveras County Supervisors or any Calaveras County agency/department to provide this specific opinion on odor? 153-24

Mitigation Method 3: The creation of outdoor growing zones that allow multiple growers to operate on large properties (e.g., 150 acres or larger) regulated to control canopy area and location to maximize the setback distance (e.g., greater than 1,000 feet) to adjacent occupied buildings. All trimming activities must be conducted within an indoor

153-25

structure. No burning of cannabis waste is allowed. . Registered owners of existing outdoor grows that wish to relocate are allowed 3 years to transition to the new outdoor grow area.

153-25  
cont.

Pertaining to Sensitive Natural Communities

Primary Statement: *“Impact 3.3-3: Degradation or removal of sensitive natural communities. Implementation of the proposed project could result in disturbance or removal of natural land cover, through vegetation removal or grading which could result in the degradation or removal of sensitive natural communities.”*

These “sensitive natural communities” are defined on page 3.3-28 and are given below.

*“Riparian Woodland: Riparian woodland grows along streams, rivers, and other waterways. It is best developed along those waterways that have perennial water.”*

*“Lone Chaparral: lone chaparral is a unique plant community of the Sierra foothills found in a few isolated patches north and south of the town of Lone in Amador County. This geologic formation also occurs in the central portions of Butte and Yuba Counties, and the western portions of Nevada, Placer, El Dorado, and Calaveras Counties.”*

*“Big Tree Forest: The big tree forest consists of large stands of giant sequoias that are present in isolated groves along the west slope of the Sierra Nevada. There is one occurrence of giant sequoia grove/big tree forest in Calaveras County: the North Calaveras Grove in the Calaveras Big Trees State Park.”*

153-26

Secondary Statement: *“No feasible mitigation is available: Although the BSA required by Central Valley RWQCB Order R5-2015-0113, with which compliance would be ensured through implementation of Mitigation Measure 3.3-1, would identify sensitive biological resources at each site, the order only requires that impacts to “special status” species by fully mitigated. Because it is unknown exactly where the vegetation alliances occur within the County and individual sites for commercial cannabis activities may include one or more of the aforementioned sensitive vegetation alliances, there is no current mechanism that the County can implement to prevent impacts to the sensitive vegetation alliances that may occur within the County as a result of implementation of the proposed ordinance. Therefore, this impact is considered significant and unavoidable.” (Page 3.3-37)*

RESPONSE ONE

The DEIR provides absolutely on data or site specific information in support of their substantiated opinions (as demonstrated by the listed references). This, once again, allows the DEIR to conclude that there are “significant and unavoidable” impacts. As a

result, this allows the County Board of Supervisors to select the DEIR's recommended "*environmental superior alternative*" which is Alternative 2 (i.e., ban cannabis).

Based on this lack of information and in order to provide a detailed response, it is necessary to first review that actual County Cannabis Registration Record Information as of December 2016. This data base along with a spreadsheet summary generated by the author of this response is provided in Appendix B.

The spreadsheet data show that based on canopy size there were 1) 478 Tier III and Tier II sites, 2) 231 Tier I sites<sup>11</sup> and 3) 9 sites with less than 1,000 ft<sup>2</sup> registered outdoor cannabis sites in the County as of December 2016<sup>12</sup>. In addition to these data, a request was made to the Cannabis Cultivation Waste Discharge Regulatory Program Manager, Central Valley Regional Water Quality Control Board, Redding to obtain a copy of all the BSAs that were completed for Tier III and Tier II cultivation sites. The email string requesting the BSAs along with a copy of all the BSAs is provided in Appendix D.

The Redding office produced 114 BSAs. Because BSAs are not required for 1) cannabis cultivation sites begun before October 2, 2015 and 2) cannabis cultivation within producing agricultural land (i.e., vineyards, orchards, Alfalfa pasture, etc. that have already been developed and as a result the incorporation of cannabis cultivation into existing cultivation areas create no additional environmental disturbance), there is no land "disturbance" or biological impact as a result of the "*proposed ordinance*" which post-dates the original land disturbance.

The fact that there were 478 registered sites that would be classified as Tier III or Tier II and would be required to file a BSA but only 114 were generated, suggests that 364 cultivation sites could not have contributed any environmental impact as a result of the "*proposed ordinance*". This means that approximately 75% of the cultivation sites that fall within the Tier III and Tier II classification would have produced no environmental impact as a result of the "*proposed ordinance*".

There are a total of 217 Tier I sites permitted by the California Central Valley Regional Water Quality Control Board as of June 7, 2017. This suggests that only 14 Tier I sites would not have produced an environmental impact as a result of the "*proposed ordinance*".

<sup>11</sup> Griffin Perea, Cannabis Cultivation Waste Discharge Regulatory Program Manager reports that there are currently 217 Tier I sites that have been permitted and in their database (see Appendix D).

<sup>12</sup> Central Valley Regional Water Quality Control Board General Order No. R5-2015-113 cultivation site designations are given in Appendix C.

153-26  
cont.

Thus, the total number of registered cultivation sites that would not have produced any environmental impact as a result of implementing the “*proposed ordinance*” is 375. Since there were only 725 registered Tier III, II and I cannabis cultivation sites, only 350 sites had the potential to create and environmental impact as a result of the “*proposed ordinance*”.

153-26  
cont.

Questions:

- Could 9 sites of less than 1,000 ft<sup>2</sup> (actually a total of 7,994 ft<sup>2</sup> or 0.18 acre) randomly distributed throughout the County comprised of 663,680 acres of land cause “*significant*” and “*unavoidable environmental impacts*”? If, yes please explain how that would occur and justify you assumptions.

153-27

- For the purpose of this question, please assume that the 350 sites referenced above are the only sites contributing to any environmental impact as a result of the “*proposed ordinance*”.

153-28

Given the above assumption, and the facts that 1) Tier III, II and I sites are restricted from being within 100 feet of a body of water and 2) that the extremely limited distribution of both the “*lone Chaparral*” and “*Big Trees Forest*” in the County, will these 350 sites cause “*significant*” and “*unavoidable environmental impacts.*”? If yes, please explain what data<sup>13</sup>, scientific principles and probability analyses support your assumption that the random siting of these cultivation areas will result in “*significant*” and “*unavoidable environmental impacts.*”

- Should the DEIR have been based on the number of sites that will only be ultimately allowed (i.e., 250 or 300)? Please explain Why or why not?

153-29

- What number of cultivation sites were used in the DEIR to determine or calculate that the “*proposed ordinance*” would result in “*significant*” and “*unavoidable environmental impacts.*”? Please explain how and why this number was selected?

153-30

- Please explain what data, scientific principles and probability analyses support the DEIR assumption that the random siting of the cultivation sites (i.e., using the DEIR selected number of cultivation sites) will result in “*significant*” and “*unavoidable environmental impacts.*”

153-31

<sup>13</sup> For example, what is the percent occurrence (units in acres) for Riparian Woodland habitat, lone Chaparral and Big Trees in a County of 663,680 acres of land. Given these numbers what is the probability a cannabis cultivation site will encroach upon any of these “sensitive natural communities”?

- Should the EIR use a different number of outdoor cultivation sites when evaluating if the “*proposed ordinance*” would result in “*significant*” and “*unavoidable environmental impacts.*”? Please explain and justify your response.

153-32

RESPONSE TWO

The DEIR concludes that the location of the permitted sites is not known and, thus, there could be significant and unavoidable impacts. This is clearly not true since applications had to be submitted by June 30, 2016. All that needed to be done was to plot the permitted site addresses on a county map. Using these data, a statistically significant number of permitted locations could be selected from the different geographic regions of the county (i.e., near Valley Springs, the Burn Area, Big Trees Area/Arnold, etc.) and the actual environmental impacts associated with these sites could be determined instead of assuming there will be significant and unavoidable impacts. Not having the budgeted funds necessary or not having a sufficient number of qualified staff<sup>14</sup> to conduct such a study is no excuse.

153-33

Response to Riparian Woodland Opinion: This is the second “Unavoidable” impact where no “feasible mitigation is available” under the “proposed ordinance”. The opinion that the implementation of commercial cannabis operations will result in “Unavoidable” impacts to Woodland, lone Chaparral and Big Tree Forest is a totally unsupported and unformed opinion and it is contrary to the actual facts.

153-34

All facilities that applied for a county permit to grow cannabis had to file a Notice of Intent for a Tier I, Tier II or Tier III facility with the California Regional Water Quality Control Board (CRWQCB). No facility that was within 100 feet of a Class 1 or Class 2 body of water (i.e., has either intermittent or permanent flowing water) was not permitted. Furthermore, after inspections began, Class 3 creeks (i.e., the formation of semi-permanent pools after a rain event) could not be within 100 feet of a facility.

These restrictions would have virtually eliminated any chance of Riparian Woodland being “Unavoidably” impacted. Ascent Environmental could have also gone to the CRWQCB and reviewed the permit files and maps to determine the actual impact instead of providing an unformed opinion. Therefore, this DEIR opinion is intentionally misleading and has no supporting factual basis.

Response to lone Chaparral Opinion: This is a poorly written opinion in that it mixes the occurrence of lone Chaparral with geology terms. This opinion should have explained

153-35

<sup>14</sup> Does Ascent Environmental have qualified staff to conduct field studies or do they only produce paper studies?

that 1) a geologic formation (i.e., a specifically identified and defined geologic unit) known as the lone Formation outcrops at the earth's surface in sporadic and isolated locations along the western side of the Sierra foothills and 2) the soils formed from the lone Formation can provide an ideal root media suited to the growth of the lone Chaparral.

If Ascent Environmental wanted to know where the lone Chaparral may possibly occur, they could have used the existing Sacramento Regional Geologic Map and plotted the known locations of lone Formation outcrops and produced a map showing the potential location of lone Chaparral in the County and determined if any permitted facilities were located on an outcrop of the lone Formation<sup>15</sup>. This type of data could have been developed to actually determine if there were any "Significant" and "Unavoidable" impacts instead of assuming the worst.

153-35  
cont.

Ascent Environmental should have gone to the CRWQCB and reviewed all of the BSAs that were submitted by Tier II and Tier III sites to determine if any lone Chaparral actually occurred on or adjacent to a permitted facility. A BSA would specifically identify the occurrence of any lone Chaparral within the area of a permitted facility<sup>16</sup>. If there was the potential for an impact it would have been identified. Instead the DEIR assumed there were "Unavoidable" impacts. Therefore, this DEIR opinion is intentionally misleading and has no supporting factual basis.

Response to Big Tree Forest Opinion: First of all, how many permitted sites had BSAs completed and submitted to the CRWQCB? Not all sites had to have a BSA in order to estimate the extent and magnitude of potential impacts to "*Sensitive Natural Communities*". If Ascent Environmental had reviewed these assessments, a reliable opinion as to the impacts could have been made. If there is not a significant impact, no mitigation is required.

153-36

Ascent Environmental did not review the BSAs (i.e., they were not referenced). This suggests that Ascent Environmental and/or the county did not want to know the actual impacts and as a result they could provide their desired opinion. This is a common method used in environmental disputes so that one or both of the parties in the dispute can argue their case without having to explain contradictory data. Therefore, this DEIR opinion is intentionally misleading and has no supporting factual basis.

<sup>15</sup> Just because there is an outcrop of the lone Formation at the earth's surface, does not mean there will be lone Chaparral growing at that location.

<sup>16</sup> Dr. Sullivan reviewed BSAs that were submitted to the CRWQCB that specifically looked for the occurrence of lone Chaparral on or adjacent to proposed sites. No lone Chaparral was found on any property.

Finally, standards of care used by reputable consulting firms would produce a BSA that would include the occurrence of both lone Chaparral and Giant Sequoias (i.e., such areas would be Tier III or II locations). As a result, the CRWQCB upon review of the BSAs would consult with other state agencies (e.g., wildlife, fish and game, forestry, etc.) to determine recommended actions and/or mitigation methods (Interview with Griffin Perea, Redding CRWQCB, May 19, 2017) relative to the approval of the permit.

153-37

It is the DEIR's expressed opinion that it is impossible to mitigate impacts to "*Sensitive Natural Communities*" just because the current Central Valley RWQCB Order R5-2015-0113 does not specifically state that impacts to "*Sensitive Natural Communities*" be mitigated. This is an absurd and unfounded opinion. As discussed above, the DEIR must recommend feasible mitigation measures unless it is not possible for the county to implement mitigation measures. For example, the following mitigation measures can be implemented and will reduce the assumed significant impacts to "*less-than-significant*":

153-38

- Request the California Regional Water Quality Control Board amend Order R5-2015-0113 to include the specific "*Sensitive Natural Communities*" given in the DEIR to be add the BSA process and that potential impacts be mitigated.
- The county could restrict commercial cannabis cultivation (indoor or outdoor) on any property with identified "*Sensitive Natural Communities*". The applicant would be required to submit a BSA that certifies compliance with the restriction with their application packet. Why wasn't this mitigation method proposed in the DIER. Please explain and justify its exclusion from the DEIR.

Furthermore, It should not be impossible for the Planning Department to implement this mitigation measure (i.e., they have the authority and there is no direct expense to the county, plus the county already collects a fee for reviewing the applicant packets).

RESPONSE THREE

Unlike the DEIR, each individual BSA was reviewed to determine if a cultivation site encroached upon 1) Riparian Woodland, 2) lone Chaparral, or 3) Sequoias/Big Trees. This review is given in Appendix E.

153-39

Hydrology and Riparian Woodland Response: Each BSA was reviewed to determine if any Riparian Woodland had potentially encroached upon by a cultivation area. Every BSA identifies 1) the distance from the cultivation area to the nearest body of water (i.e.,

Class I, II, III watercourses and pool or ponds)<sup>17</sup> or 2) the BSA specifically states that there was no Riparian Woodland on the property. The summary clearly shows that no BSA reported site conditions that would have resulted in cultivation areas impacting Riparian Woodland.

As a result, the Riparian Woodland alliance should be removed from the EIR as having been significantly impacted since there has been no “*significant*” and “*unavoidable environmental impacts*” that have occurred from the proposed ordinance. If it is not removed, please provide the data and or scientific justification for leaving this false and intentionally misleading opinion in the EIR.

I53-39  
cont.

Lone Chaparral Response: A review of the BSAs shows that the lone Chaparral was a vegetation alliance that was included in all the BSA’s Tier III and Tier II property assessments. Only one property out of 114 sites had any lone Chaparral. For that site (1711 Watertown Rd, Valley Springs), the BSA report provided a map for the site owner showing the location of the lone Chaparral so that it would not be disturbed (i.e., the purpose of having a BSA).

As a result, the lone Chaparral should be removed from the EIR as having been significantly impacted since there has been no “*significant*” and “*unavoidable environmental impacts*” that have occurred from the proposed ordinance. If it is not removed, please provide the data and or scientific justification for leaving this false and intentionally misleading opinion in the EIR.

I53-40

Big Tree Forest Response: A review of the BSAs shows that Sequoias/Big Trees were not identified in the BSA’s “Plant Species Detected in the Study Area” for the Tier III and Tier II property assessments.

As a result, the Sequoias/Big Trees should be removed from the EIR as having been significantly impacted since there has been no “*significant*” and “*unavoidable environmental impacts*” that have occurred from the proposed ordinance. If it is not removed, please provide the data and or scientific justification for leaving this false and intentionally misleading opinion in the EIR.

I53-41

<sup>17</sup> Tier III, II & I sites all must be at least 100 feet from the nearest body of water. Furthermore, the majority of the watercourses nearest to cultivation areas were Class III watercourses which have a much lower probability of having associated Riparian Woodland since there is no perennial water to support Riparian Woodland. This means that it highly unlikely that any Riparian Woodland was disturbed.

## Questions:

- The DEIR states that, *“Because it is unknown exactly where the vegetation alliances occur within the County and individual sites for commercial cannabis activities may include one or more of the aforementioned sensitive vegetation alliances, there is no current mechanism that the County can implement to prevent impacts to the sensitive vegetation alliances that may occur within the County as a result of implementation of the proposed ordinance.”*

Based on this statement, please answer the following questions:

Given the random occurrence of a site in the County, what is the actual probability that every site will actually encroach upon one or more sensitive vegetation alliances?

Given the random occurrence of a site in the County, what is the actual probability that 75% of the sites will actually encroach upon one or more sensitive vegetation alliances?

Given the random occurrence of a site in the County, what is the actual probability that 50% of the sites will actually encroach upon one or more sensitive vegetation alliances?

Given the random occurrence of a site in the County, what is the actual probability that 25% of the sites will actually encroach upon one or more sensitive vegetation alliances?

- If you can't answer these probability questions, there is NO basis for this statement and all opinions concerning this statement should be eliminated from the EIR. If they are not eliminated, please justify the scientific validity of retaining this statement.
- If no probabilities were used, what statistics were used to determine the impacts were significant?
- Describe the model used to determine the impacts were significant and explain how the model was applied and verified?

153-42

Based on the fact that no site specific data were presented in the DEIR to justify the opinion that as a result of implementation of the proposed ordinance, *“this impact is considered significant and unavoidable.”* This entire section on *“sensitive vegetation alliances”* should be deleted from the DEIR. The DEIR simply cannot demonstrate that there is any factual basis to suggest or imply any environmental impact!

153-43

If this section is not completely thrown out, please explain and justify the decision not to delete this misleading and unsubstantiated opinion.

#### Pertaining to Traffic Impacts

Statement: Impact 3.9-2: Long-term increase in traffic (Page 3.9-16), *“Upon adding trips associated with the project to existing traffic levels, the project would cause the LOS on nine State highway segments and potentially other local roadways to degrade to unacceptable levels. Therefore, with LOS that exceeds existing LOS standards, this impact is considered significant.”*

#### Assumptions Supporting Impact 3.9-2:

Statement on Page 2-9: *“During the harvest phase of cultivation, crews of up to 15 people per operation would be employed for a period of up to 3 weeks depending on the size of the operation and the number of plants. Based on the total number of applications for outdoor commercial operations received under the urgency ordinance (995 total, of which 740 were commercial) and the anticipated number of applications to be approved, it is estimated that up to 750 applications could be approved by the County, although it is anticipated that approximately half of that would actually occur.”*

#### RESPONSE

153-44

There are two critical assumptions that directly influence the DEIR opinion that, *“the project would cause the LOS on nine State highway segments and potentially other local roadways to degrade to unacceptable levels.”*

- The first critical assumption is that: *“crews of up to 15 people per operation would be employed for a period of up to 3 weeks depending on the size of the operation and the number of plants.”*
- The second critical assumption is that *“the anticipated number of applications to be approved, it is estimated that up to 750 applications could be approved by the County, although it is anticipated that approximately half of that would actually occur”*

Questions:

- How many registered commercial growers were interviewed in order to determine *“crews of up to 15 people per operation would be employed for a period of up to 3 weeks depending on the size of the operation and the number of plants.”*?

153-44  
cont.

- Where are these interviews referenced in the DEIR?

153-45

- How was this information actually used to calculate traffic volume? For example, how many sites were assumed to use 15 people? How many sites were assumed to use 14 people? How many sites were assumed to use 13 people? How many sites were assumed to use 12 people? How many sites were assumed to use 11 people? How many sites were assumed to use 10 people? How many sites were assumed to use 9 people? How many sites were assumed to use 8 people? How many sites were assumed to use 7 people? How many sites were assumed to use 6 people? How many sites were assumed to use 5 people? How many sites were assumed to use 4 people? How many sites were assumed to use 3 people? How many sites were assumed to use 2 people? How many sites were assumed to use 1 people?

153-46

- How were these numbers determined and what specific data or statistics support the selection of these numbers or was the selection of numbers an “educated” guess?

- How many of these people came from Calaveras County?  
How many of these people came from Amador County?  
How many of these people came from Tuolumne County?  
How many of these people came from San Joaquin County?  
How many of these people came from Stanislaus County?

How were these numbers determined and what specific data or statistics support the selection of these numbers per County or was the selection of numbers an “educated” guess? If a selected proportion of a county’s population was used, how was the proportion determined? Please explain and justify the selected numbers? How would an error in the selection of these numbers influence the predicted LOS values on each highway segment. Is this significant? Please justify and explain the data?

153-47

At what confidence level were County numbers of workers selected (i.e., 95%, 90%, etc.)?

- If all of the number estimates are approximately 10% in error (high or low), how sensitive (i.e., percent change in LOS per segment) is the LOS determination on each highway segment? What if there is a 20% error? What if there is a 30% error? Was this type of analysis completed? If yes, what parameters are the most

sensitive and what level of confidence is associated with the data assumptions? Based on this analysis, how volatile are the LOS numbers to errors in assumptions?

If this type of analysis was not done, why not? Explain and justify your answer. And why should the public have any confidence in the DEIR model predictions?

Have these LOS numbers been verified by actually monitoring traffic during the harvest season? If no, why not? Would it not be useful to actually have verified the DEIR predictions? If not, why not?

Did the County object to traffic verification? If so, why? If not, why wasn't verification monitoring implemented?

153-47  
cont.

- The second critical assumptions is how many grow sites were used to determine 1) traffic in 2016 (assume used in DEIR) and 2) how many sites should be used over the long-term assuming a significantly reduced number of sites (assume no ban)?

In reality, the lowest number of sites should be used given the County Board of Supervisors intention to limit the number of commercial grows from 250 to 300 sites? This number represents the "long term" impact! What actual number was used in the DEIR? Please explain why and justify?

153-48

- If LOS predicted numbers were not verified they can only be an unsupported estimate and their level of significance have not been determined (no sensitivity analysis completed in the DEIR). As a result, the DEIR has no scientific basis for Impact 3.9-2 and it should be deleted. If not, explain why not and provide a scientific justification?

153-49

- Please define "unacceptable level"? What is the scientific and data basis for this definition as used in the DEIR?

153-50

Statement on Page 3.9-11: *Although employees may carpool to grow sites, it is estimated that full-time employee would generate 1 trip per day during the harvest period."*

153-51

RESPONSE

The one trip per-day per-worker is another critical assumption that influences the LOS calculation.

Questions:

- How many commercial growers were interviewed to determine how many workers were employed by multiple sites? How many commercial growers that were interviewed employed workers that worked on multiple sites? How would multiple workers working on multiple sites impact the LOS predicted numbers?

153-51  
cont.

If the LOS numbers dropped, how much would they drop? Which road segments would have a reduced LOS?

- How many commercial growers were interviewed to determine how many workers used a car pool? How many commercial growers that were interviewed employed workers that car pool? How would car pools impact the LOS predicted numbers?

153-52

If the LOS numbers dropped, how much would they drop? Which road segments would have a reduced LOS?

- How many commercial growers were interviewed to determine how many workers came to a site and camped? How many commercial growers that were interviewed employed workers that camped at or near the site and that left the grow site only once or twice during the harvest period? How many workers camped at the site and did not leave until the harvest period was over (i.e., site owner provided food, water, and sanitary facilities)? How would workers camping at grow sites impact the LOS predicted numbers?

153-53

If the LOS numbers dropped, how much would they drop? Which road segments would have a reduced LOS?

- How would the combination of all the reduction in worker trips influence the predicted LOS numbers? Would there still be a significant impact? If yes, why?

153-54

- If the above questions cannot be substantially answered, all of the LOS predicted numbers are not significant and the DEIR has no scientific basis for Impact 3.9-2 and it should be deleted. If not, explain why not and provide a scientific justification?

153-55

Statement on Page 3.9-12: *“Thus, the implementation of the project could generate a total of approximately 5,738 new daily trips during the harvest period. It is assumed that the commercial cannabis grow sites and processing facilities will operate on weekdays during normal business hours (8 a.m. to 5 p.m.) Thus, employees will be traveling to and from the commercial cannabis sites during the am- and pm-peak periods for traffic. For the purposes of this analysis the total daily trips generated by the project (5,738) are assumed to be split evenly between the am- and pm-peak traffic times.”*

153-56

RESPONSE

The DEIR does not provide or describe the traffic model used to determine that “5,738 new daily trips during the harvest period” would actually occur on a daily basis. Nor does the DEIR indicate if this model was ever validated. Without this information it is impossible to know if the DEIR Impact 3.9-2 can effectively predict (and predict to a specific confidence interval) LOS on specific highway segments. Without this basic information, there is no obvious scientific basis for Impact 3.9-2 and it should be deleted. If not, explain why not and provide a scientific justification?

153-56  
cont.

Questions:

- How many commercial growers were interviewed to determine the normal working hours during the harvest period? Was the 8-5 time period determined from commercial grower interviews? If the worker hours did not coincide with an 8 am to 5 pm schedule, how would this variation impact the LOS predicted numbers? How would the LOS predicted number vary if the work schedule was actually 7 am to 4 pm?

153-57

If the LOS numbers dropped, how much would they drop? Which road segments would have a reduced LOS

Summary of LOS Table 3.9-6 (Page 3.9-16 to 17):

Hwy	Segment	Existing Peak Volume	Predicted Peak Volume	Percent Increase
4	Stanislaus Co. to O'Brynes Ferry Rd	349	425	22%
4	Allen Ln to Broadview Ln (Murphys)*	822	946	15%
12	San Joaquin Co to Burson Rd	326	488	50%
49	Amador Co to SR 12	243	794	227%
49	SR 12 to Mountain Ranch Rd	522	1073	106%
49	Mountain Ranch Rd to 4 <sup>th</sup> Crossing*	354	905	156%
49	4 <sup>th</sup> Crossing Rd to Brunner Hill Rd*	382	933	144%
49	Bret Harte Rd to Vallecito Rd	616	658	7%
49	Vallecito Rd to Tuolumne Co	322	364	13%

153-58

\*Segments with existing deficiencies (Table E.3, 2012 Calaveras County Regional Transportation Plan)

RESPONSE

The DEIR utilized a multitude of assumptions (as discussed above) to calculate the predicted Peak Hour Volumes given in Table 3.9-6 but provide no indication of the reliability of these numbers. For example:

- For the Stanislaus Co. to O'Brynes Ferry Rd segment, what percent increase in an LOS created a "significant" impact? For this segment, what data establishes that the percent increase is "significant"? If there is no data, what allows the DEIR to confidently determine that the increase is "significant"?
- For the San Joaquin Co to Burson Rd segment, what percent increase in an LOS created a "significant" impact? For this segment, what data establishes that the percent increase is "significant"? If there is no data, what allows the DEIR to confidently determine that the increase is "significant"?
- For the Amador Co to SR 12 segment, what percent increase in an LOS created a "significant" impact? For this segment, what data establishes that the percent increase is "significant"? If there is no data, what allows the DEIR to confidently determine that the increase is "significant"?
- For the SR 12 to Mountain Ranch Rd segment, what percent increase in an LOS created a "significant" impact? For this segment, what data establishes that the percent increase is "significant"? If there is no data, what allows the DEIR to confidently determine that the increase is "significant"?
- For the Bret Harte Rd to Vallecito Rd segment, what percent increase in an LOS created a "significant" impact? For this segment, what data establishes that the percent increase is "significant"? If there is no data, what allows the DEIR to confidently determine that the increase is "significant"?
- For the Vallecito Rd to Tuolumne Co segment, what percent increase in an LOS created a "significant" impact? For this segment, what data establishes that the percent increase is "significant"? If there is no data, what allows the DEIR to confidently determine that the increase is "significant"?
- For the Mountain Ranch Rd to 4<sup>th</sup> Crossing segment, what percent increase in an LOS created a "significant" impact? For this segment, what data establishes that the percent increase is "significant"? If there is no data, what allows the DEIR to confidently determine that the increase is "significant"?
- How many segments had to have a "significant" impact in order for the DEIR to include Impact 3.9-2? Explain and give a scientific justification for this determination.

I53-58  
cont.

Would one segment with a “significant” impact be sufficient for the DEIR to include Impact 3.9-2? If yes, then what level of impact would not result in the DEIR including Impact 3.9-2?

153-59

RESPONSE TO LOS PREDICTIONS

Because the EIR investigation was conducted during the 2016 cannabis harvest, actual impacts on traffic levels could have been monitored at known highway segments where traffic would be predicted to be effected and the impacts defined instead of using a model that could not be validated<sup>18</sup>. Also, by collecting actual data at several locations, a model used to predict traffic levels could be validated (i.e., can the model predict the actual results at the monitored locations) and more reliable model predictions could be made for highway segments that were not monitored.

153-60

The fact that traffic LOS was not validated suggests that the County Board of Supervisors did not want to have actual data on which to make a decision and as a result an unsubstantiated traffic model could be constructed to produce a “significant” impact to support a cannabis ban.

- There is no realistic or factual data to support DEIR Impact 3.9-2 and it should be deleted.
- The justification to delete Impact 3.9-2 is also based on actual survey data collected from a random number of commercial cannabis growers operating in the County. These 63 surveys are given in Appendix F.

A summary of these surveys for the number of workers hired during the harvest period is given below:

- No significant correlation of the number of workers to canopy size
- Approximately 69% of sites used 1-6 workers and 20% hired no workers
- 52% of sites had a 22,000 ft<sup>2</sup> canopy with an average of 4 hired workers.
- 39% of hired workers commute, 21% stay onsite & 40% stay/commute
- 84% of the hired workers were from Calaveras County

These data show that the DEIR assumptions about the number of workers hired during the harvest period, the number of trips per-day per-worker, and the

<sup>18</sup> As stated above, the consultant had a map of permitted sites and that map could have been used to select highway segments to monitor.

amount of traffic generated from workers coming in from out the County are not correct and as a result the predicted LOS values totally wrong.

The Final EIR must either, 1) include a traffic model based on actual survey data and the model results verified by monitoring selected highway segments or 2) it must not provide an opinion on traffic impacts as the result of commercial cannabis operations (i.e., delete the traffic section from the Final EIR).

153-60  
cont.

RESPONSE TO A LACK OF MITIGATION METHODS

There are mitigation measures that could be implemented to reduce the potential impact of traffic on the community. Yet, none were provided in the DEIR. Based on the DEIR LOS values, the greatest increase in traffic would originate from adjacent counties. As a result, mitigation methods could address limiting out of county traffic. For example:

153-61

- With the implementation of a badge identification system for commercial cannabis owners/managers/workers (system desired by the County Sherriff), the owner/manager of a commercial cannabis operation could be required to collect a County fee from all out of County hires (i.e., discourage out of County workers), and/or
- The County could require that all commercials cannabis operations must provide space, facilities, food/water for all hired workers so they don't have to commute, and/or
- The County would limit the number of out of County workers that can be hired on any given day on a first-come first-serve basis (i.e., to be enforced by owner/manager).

153-62

153-63

Discussion of Alternatives

*Statement on Page 6-3: One-Quarter-Acre Maximum Cultivation Areas: "County staff also considered further reducing the potential cultivation area of commercial cannabis operations to one-quarter acre for outdoor grows as another alternative. However, it was determined that a similar number of applications would likely be received under this alternative, and additional parcels/properties in more urban areas of the County could apply for permits because of their ability to adhere to setback requirements identified in the proposed ordinance. Therefore, a similar amount of land disturbance (and corresponding biological and cultural resources impacts) would likely occur. Further, while the overall harvest period may be shorter due to a lesser number of overall plants harvested, the number of employees required during harvest may remain the same,*

153-64

*thereby not reducing countywide traffic compared to the project. As a result, this alternative would not substantially reduce or avoid any significant effects resulting from the proposed ordinance. For these reasons, this alternative was dismissed from further analysis in this EIR."*

RESPONSE ONE

First of all, this is a very poorly written discussion of the Alternative. This issue aside, it is not reasonable to assume that canopy areas will not change if the cannabis cultivation is reduced by half. For example,

- If all of the outdoor commercial cannabis canopy areas are reduced from a maximum of 22,000 ft<sup>2</sup> to a maximum canopy of 10,890 ft<sup>2</sup> (i.e., quarter acre), there will be a net canopy reduction of 9,726,000 ft<sup>2</sup> (see data in Appendix B).
- If this canopy area is replaced by quarter acre sites, it would result in an additional 893 registered sites added to the existing 240 sites that are one quarter acre or less. This would total of 1133 sites which is significantly greater than the 734 initial site registrants. This would mean that an additional 399 County residents with an additional 399 parcels would have to apply for a permit.

It is not realistic to assume that there would have been an additional 399 residents that would have wished to file for a permit for a quarter acre site since there was no limit on the number of sites set by the County. As a consequence, there will be a significant reduction in canopy area and a significant reduction in potential impacts. This Alternative should be reconsidered with realistic assumptions. Furthermore, as previously discussed in other sections on BSAs, not all properties that were proposed for cannabis cultivation were disturbed due to operations prior to October 2, 2015 and cannabis development in existing agricultural land. This was a significant number of sites and it has a major influence in determining the actual impact as opposed to the DEIRs use of unsupported assumptions.

Finally, the fact they the DEIR would contain an Alternative that would reduce the maximum canopy in half and then manipulate it so there is no reduction in environmental impact, is once again an indication of how this DEIR has been biased and manipulated.

RESPONSE TWO

Under this Alternative, the total land disturbed could be reduced by one-half (i.e., especially since the assumption that the canopy area will remain the same is not realistic or believable). Given this condition the DEIR suggests that there is no reduction in the impact (i.e., the significant impact will remain).

This result begs the question, what amount of disturbance is possible that will not cause "significant effects resulting from the proposed ordinance"? This question needs to be

I53-64  
cont

I53-65

answered because if Ascent Environmental cannot determine the impact between the two conditions (i.e., a half-acre disturbance vs a quarter-acre disturbance) their modeling of the impacts on the environment is not very sensitive. In other words, substantial changes in the environment have no influence on the outcome.

153-65  
cont.

Given this opinion (i.e., no change in the magnitude of impacts from a half-acre disturbance vs a quarter-acre disturbance), one can assume that any disturbance will result in "significant effects resulting from the proposed ordinance" This of course is the answer the County Supervisors want.

Statement Under the Ban Alternative, Page 6-7: "As noted above, the potential exists for illicit cannabis-related activities to occur under this alternative....As a result, should illegal cannabis-related activities increase without additional monitoring and control of such activities, potential impacts to biological resources could be more substantial than the proposed ordinance."

RESPONSE

The DEIR previously estimated a total of 500 illegal grow areas in the County without providing any substantiated data or analysis. Furthermore, it is highly likely that an analysis of current aerial photographs of the County will show significantly more sites due to ongoing cultivation and planting activity. With the County determined to limit the number of legal grow areas to less than 300, illegal grow areas already far outnumber legal grows (i.e., see previous discussion of issue). Without mandatory environmental controls, illegal grow area can and will create significantly more damage than any compliant legal grow. It is a fact that can't be logically or technically disputed. This should have been further developed in Alternative One but was ignored and is a major failing of the DEIR. Alternative One needs to be completely rewritten to address the significance of uncontrolled and unregulated illegal cannabis growing in the County.

153-66

The DEIR's prediction that illegal grows in the county "could be more substantially adverse than the proposed ordinance" is wrong. Illegal grows are without a doubt "more substantially adverse than the proposed ordinance." Yet, without the proposed ordinance there will be no steady or dependable source of funding (i.e., Measure C funds) to guarantee eradication of illegal grows. There are no valid scientific or economic reasons to adopt Alternative 2.

Alternative 6.3.3: Reduced Zoning Designations Available for Commercial Cannabis Operations (Alternative 3): "This alternative would involve reducing the number of zoning and land use designations that allow for commercial cannabis operations through either an administrative use permit, zoning clearance certificate, or conditional use permit. Under this alternative, Rural Residential (RR) would be removed as an acceptable zone within which outdoor and indoor cultivation could occur through either a zoning clearance certificate or administrative use permit. Based on the percentage of

153-67

*applications received under the urgency ordinance for commercial cannabis operations within property zoned RR, it is assumed this alternative would reduce the potential for commercial cannabis operations within the County by approximately 25%. This is also anticipated to result in the location of commercial cannabis operations within more remote areas of the County and away from developed communities. Due to the fact that this alternative would allow for commercial cannabis operations within the County, the mitigation measures identified for the proposed ordinance would be considered feasible measures to mitigate the impacts of this alternative.”*

RESPONSE

Alternative 3 is a deliberate pretense to amend the proposed ordinance with an intentionally weak and totally inadequate regulatory scheme. As a result, a constructive Alternative 3 that could provide meaningful amendments to the proposed ordinance would not be considered and the Alternative discarded in favor of a ban (i.e., the County Supervisor’s desired outcome).

However, a simple and more comprehensive approach could provide an Alternative 3 that would meaningfully amend the proposed ordinance and result in a significantly less impact.

- There are mitigation methods available for odor control that can be incorporated into the proposed ordinance but were intentionally omitted.
- Instead of relying upon the CRWQCB to enforce environmental controls on cannabis cultivation siting criteria, operating requirements and BMPs, the County could impose those regulations necessary to control environmental impacts that are unique to the County and just use the CRWQCB in an oversight role.
- Since the DEIR was being conducted during the 2016 growing season, the County could have mandated traffic monitoring in order to define any traffic issues.

153-67  
cont.

Conclusions

- Approximately half of the registered sites were operating prior to October 2, 2015 or were integrated into existing agricultural operations and as a result had absolutely no biologic environmental impacts as a result of the “proposed ordinance.” This fact is not discussed in the DEIR. As a consequence, the DEIR’s opinion that biologic impacts are significant is highly suspect.
- The DEIR does not provide any County specific data or information to support the methods and/or models used to determine if a specific environmental impact is significant or less-than-significant. As a result, the opinions offered in the DEIR are nothing more than unsupported speculation and have absolutely no scientific value.

153-68

153-69

- This response to the DEIR provides County specific data and information that demonstrates that the DEIR opinions on the significance of impacts to the County's Biologic System and Urban Traffic conditions are complete wrong and should be deleted from Final EIR. 153-70
- The DEIR provides no meaningful mitigation methods for the DEIR's identified significant impacts. All of the significant impacts are given as being "Unavoidable". 153-71
- This DEIR is intentionally biased to support Alternative 2 (i.e., ban cannabis) with no scientifically valid data and should be thrown out and the process started over with a new and unbiased consultant. 153-72

<b>Letter I53</b>	<b>Patrick J. Sullivan, Ph.D.</b> 6/14/2017
-----------------------	--

- I53-1 This comment presents introductory information and presents the commenter’s opinion regarding the DEIR’s analysis. No specific comments regarding the adequacy of the DEIR are presented in these remarks. Specific responses to detailed comments are provided in Responses I52-3 through I52-72.
- I53-2 This comment provides information regarding the professional experience of the commenter and is noted. The commenter’s experience as an environmental engineer and education in geology, chemistry, soil science and business is noted. Expertise in CEQA compliance is not proffered in the commenter’s background; this does not suggest familiarity or lack of familiarity with CEQA. No further response is necessary.
- I53-3 The comment expresses concern that the DEIR did not consider information regarding cannabis site development and operations as a result of those cannabis-related activities allowed under the Urgency Ordinance. Contrary to statements provided by this comment, the DEIR did review information from BSAs and cultural evaluations for cannabis-related operations within the County. Further, the comment expresses opinion that the DEIR provides a biased analysis of the proposed ordinance without specific examples. Because specific comments on the contents of the DEIR are not provided, no further response is needed.
- I53-4 Contrary to statements made in this comment, the DEIR provides information regarding the number and size of cannabis-related operations that were used for the programmatic evaluation of the proposed ordinance in Chapter 2, “Project Description” of the DEIR within the “Reasonably Foreseeable Compliance Response” subsection of each type of cannabis-related operation that would be allowable. The comment also combines statements within the DEIR regarding applications received under the Urgency Ordinance and statements regarding the potential cannabis-related operations that could occur with implementation of the proposed ordinance. Of note, the proposed cultivation ordinance, as approved for evaluation under CEQA in the spring of 2016, does not identify a maximum number of cannabis-related operations that would be permitted within the County, nor has the County established a limit since. With respect to the analysis of Agriculture and Forestry Resources, refer to Response to Comment I28-12.
- I53-5 The DEIR, as stated in Chapter 2, “Project Description,” used the number of applications received under the Urgency Ordinance as the benchmark and evidence for establishing the potential ultimate conditions that would occur as a result of the proposed ordinance. As noted above in Response I53-4, the County has not established a maximum number of cannabis-related operations within the ordinance (the ordinance contains no limitations), and as such, the EIR used a reasonable estimate based on local data of the potential conditions associated with ordinance implementation. The DEIR also appropriately did not utilize site-specific data for cannabis-related operations within the County as representing the only impacts that could occur. As the proposed ordinance would allow continued cannabis-related operations in accordance with the zoning designations listed in Tables 2-2, 2-3, and 2-4 on page 2-8, 2-10, and 2-12 of the DEIR, the DEIR appropriately examined potential impacts of the program within other areas of the County as well. Refer to Response to Comment I4-1 for further clarification. Please also see Master Response 1 regarding the programmatic nature of the EIR.
- I53-6 As noted in several places in the DEIR, including page 6-6 of the DEIR, illegal, illicit cannabis operations that would not be permitted under the proposed ordinance do exist, as

determined by the County through periodic review of aerial photography, and could continue under any scenario within the County. Further, the data, as shown in this comment, regarding the number and scale of illegal cannabis operations within the County is highly variable and inconsistent. No more accurate or reliable data, as requested by the commenter, is available. Further, as noted by the comment, these operations are *illegal*. It would not only be unreasonable—if not unimportant to the analysis—but dangerous for a consultant to field verify illegal drug-producing operations. The commenter does not express a rationale as to why the additional information concerning data collection is needed. Illegal operations are part of the existing condition in Calaveras County; the DEIR examines impacts of legal operations that would be permitted under the proposed ordinance.

- 153-7 Refer to Response 153-5 regarding the consideration of site-specific impacts for applicants under the Urgency Ordinance. Operations under the proposed ordinance can be proposed at any location allowable under ordinance-permitted locations, and that was the basis of analysis in the DEIR. The DEIR’s programmatic analysis is considered appropriate and based on reasonably foreseeable responses to the ordinance, in accordance with CEQA requirements. In addition, refer to Master Response 1 for a description of the difference between a programmatic and project-level analysis conducted pursuant to CEQA.
- 153-8 The comment presents the commenter’s opinion regarding the content of the DEIR, as well as the price the County should have paid for the EIR. No comments are provided on the contents of the DEIR, so no further response is needed.
- 153-9 The commenter criticizes the DEIR for identifying an environmentally superior alternative, stating that this gives the EIR a bias. As described in Response 148-9, CEQA requires that EIRs identify the environmentally superior alternative. The EIR and its preparers are not expressing a bias; rather, they are complying with the requirements of CEQA.
- 153-10 The comment proposes mitigation that would require all cannabis-related activities permitted under the ordinance to be conducted within an indoor structure. As proposed, this mitigation would remove the potential for outdoor and potentially mixed-light cultivation operations. Mitigation is defined in a variety of locations in CEQA, and concisely in Section 15370 of the CEQA Guidelines. In short, mitigation consists of avoiding an impact by not taking certain actions or parts of actions, minimizing impacts by limiting the degree of magnitude, rectifying the impact through repair or restoration actions, reducing the impact through various actions, and compensating for impacts. All of these actions suggest modifications to a proposed action. Mitigation is included in the DEIR (see Mitigation Measure 3.2-4b) to address indoor operations and odor removal. The recommendation of the comment, effectively prohibiting outside cultivation, changes the fundamental nature of the proposed ordinance.

Of the applications for commercial cultivation activities submitted to the County pursuant to the Urgency Ordinance, approximately 98% were for outdoor cultivation. Of note, the suggested mitigation would also remove the potential for outdoor personal/caregiver cannabis sites. In reviewing the reasonably foreseeable compliance responses shown in Chapter 2, “Project Description” of the DEIR and in light of the number/proportion of applications received under the Urgency Ordinance for outdoor cultivation, such a change would result in a fundamentally different project (ordinance) than what was proposed by the County. To that end, the suggestion is not mitigation, rather it is the creation of a fundamentally different ordinance. In other words, because restricting cannabis operations to indoor cultivation would have represented a fundamentally different ordinance, it is not considered feasible mitigation for an ordinance that permits outdoor cultivation. Further, in light of the number and type of applications received for outdoor and indoor cultivation under the Urgency Ordinance, approximately two percent of applications received for commercial cultivation activities involved indoor cultivation. A mitigation requiring that all cultivation activities convert to indoor

cultivation is considered infeasible in light of the evidence suggesting demand for one type of cultivation (outdoor) within the county compared to another (indoor).

Additionally, the potential secondary impacts associated with enclosing large cultivation sites (if applied to registered outdoor users as suggested the comment) would likely result in greater impacts associated with other resources. With indoor cultivation, as noted on page 2-3, multiple harvests per year could occur. This could result in substantial increased water demand (up to 1,100 acre-feet annually)<sup>1</sup> and associated impacts on groundwater supplies. Additionally, increased energy demand from indoor lighting and fans with air scrubbers would likely occur. Further, because of the potential increase in harvests per site, increased traffic outside of the typical harvest season for outdoor cultivation could also occur, as well as increased GHG and air quality emissions from employee trips. Finally, conversion of cultivation activities countywide to indoor operations would result in additional construction impacts associated with the construction of on-site structures.

The DEIR also includes mitigation to reduce potential outdoor growing odors—increased setbacks and prohibitions on burning excess vegetative material—but there is no assurance that this would fully remove objectionable odors. Thus, as required by CEQA when residual impacts exist following mitigation, the DEIR identified this impact as significant and unavoidable.

Please see CEQA Guidelines Section 15126.2(b) regarding the need to identify unavoidable significant effects. Further, see Sections 15091 and 15093 of the CEQA Guidelines regarding the ability of decision makers to approve a project with significant unavoidable impacts if there are overriding reasons to do so.

- I53-11 Refer to Response I53-10 regarding mitigation presented in the DEIR.
- I53-12 Refer to Response I53-10 regarding mitigation presented in the DEIR.
- I53-13 Because restricting cannabis operations to indoor cultivation would have represented a fundamentally different ordinance, it was not considered feasible mitigation for an ordinance that permits outdoor cultivation, and therefore, was not proposed. Refer to Response I53-10 for further information.
- I53-14 Refer to Response I53-10. If the County wishes to prohibit outdoor cultivation entirely, it can propose a fundamentally different ordinance, subject to additional CEQA consideration, if it so chooses.
- I53-15 Refer to Response I53-10. Although the commenter's suggestion could have been evaluated as an alternative as part of the EIR, the DEIR presents a reasonable range of alternatives in accordance with CEQA requirements. Further the potential impacts associated with enclosing large cultivation sites (if applied to registered outdoor users as suggested in comment I53-10) and the potential reduction in odor impacts associate could result in greater impacts associated with increased energy demand from lighting and potential fans and air scrubbers, as well as additional construction associated with on-site structures. Regardless, there are infinite variations of alternatives that could be considered in an EIR, but CEQA requires that a "reasonable" range be considered. Refer to Master Response 2 for a description of how

<sup>1</sup> Using the water demands identified on pages 2-2 and 2-3, indoor cultivation of up to a half acre of cannabis could require 548,800 gallons per harvest, a 158,800-gallon increase in demand over a half-acre, outdoor cannabis operation. Countywide, this could increase water demand by 119 million gallons or 365 acre-feet per harvest. As noted on page 2-3 of the DEIR, multiple harvests per year could be accomplished with indoor cultivation. Under the assumption that up to 3 harvests would occur per indoor cultivation site, this could increase water demand by 357 million gallons or approximately 1,100 acre-feet per year.

alternatives were developed and what CEQA requires as part of alternatives analysis within the context of an EIR.

153-16 The comment expresses the commenter's opinion regarding the finding that feasible mitigation to reduce odor impacts of the proposed ordinance to less than significant was not provided in the DEIR. Contrary to the commenter's assertion, the DEIR evaluated and presented feasible mitigation measures that could reasonably reduce the potential odor impacts associated with cannabis-related operations within the County in accordance with CEQA requirements. Please see Response to Comment 153-10.

153-17 The comment provides a secondary "mitigation method." Contrary to the commenter's assertion, the DEIR evaluated and presented feasible mitigation measures that could reasonably reduce the potential odor impacts associated with cannabis-related operations within the County in accordance with CEQA requirements. As provided and within the context of CEQA, the suggested mitigation would represent a substantial change in the proposed ordinance with respect to outdoor cultivation, including personal/caregiver cultivation, as previously discussed in Response 153-10. The suggested "mitigation" could instead be considered as an alternative to the proposed ordinance and would result in similar reduction of odor impacts to Alternative 4, as presented in Response 03-35. Therefore, the range of impacts that could occur with the comment's suggestion has been analyzed and is covered by the EIR analysis.

153-18 There are typically two ways in which an analysis for potential odor impacts of a project can be conducted. However, the analysis first requires an evaluation of whether the proposed project or activity could be considered odorous. With urban development, residential and commercial land uses do not typically generate unique or potentially substantive odors. If evidence exists that potentially objectionable odors could occur, the analysis can either attempt a qualitative analysis that involves identifying whether odor complaints have occurred for the type of odor that would be allowed by a project or modeling of potential odors through the use of an air dispersion model. The second method listed is typically done for discrete locations and requires consideration of topography, vegetation, sources, and receptors, and is not considered appropriate for use on a large (i.e., countywide) scale. Due to the variability that could occur as a result of modeling on a countywide scale, as well as the potential cost for such modeling, this was not considered to be a reasonable evaluation method that would provide defensible impacts analysis of the proposed ordinance.

As a result, the DEIR authors evaluated whether there was evidence that unique and objectionable odors could be associated with project implementation and whether there was evidence of odor complaints. Numerous articles, including several specific to Calaveras County and elsewhere in California, Washington, and Colorado, have been published regarding the potential odors associated with cannabis-related activities and people's consideration of such odors as objectionable and a nuisance/annoyance. Some examples of such articles include a June 10, 2017 article published in the Sacramento Bee (Hecht 2017) and a July 5, 2017 article from the Methow Valley News (McCreary 2017). With respect to whether odor complaints would occur, numerous odor complaints have been received regarding cannabis operations allowed under the Urgency Ordinance. As a result, the potential for operations allowed under the proposed ordinance to be perceived as objectionable by numerous County residents was considered a potentially significant and ultimately a significant and unavoidable impact because of the continued potential for the perception of cannabis-related odors as objectionable by local residents, in spite of the implementation of feasible mitigation. Refer to Impact 3.2-4, beginning on page 3.2-21 of the DEIR, for further clarification.

153-19 Refer to Response 153-18 regarding the DEIR's evaluation and conclusions regarding odor impacts.

- I53-20 While a 1,000-foot setback would reduce odors in many cases to the point of likely being imperceptible, the County cannot preclude the potential for cannabis-related activities within the County and allowable under the proposed ordinance to be perceived and considered objectionable by numerous County residents. The dispersal of odors depends on numerous factors, including topography, vegetation, wind direction, wind speed, etc., and in some areas, those factors may limit or increase the potential dispersal range of odors, thereby making the establishment of a bright-line threshold or setback, beyond which all odor impacts would be avoided, infeasible. Further, the establishment of a 1,000-foot setback, consistent with other County requirements, is appropriately set from the property boundary, and if implemented, would eliminate many properties from consideration for cannabis-related operations. Finally, 1,000 feet is arbitrary. Odors tend to travel, more or less, depending on wind direction and intensity. Obviously, the further away from the source, the more likely that an odor would disperse and be less intense. However, there is no clear demarcation of known distance beyond which odors would not be a nuisance.
- I53-21 Refer to Response I53-20 regarding appropriate setbacks.
- I53-22 Refer to Response I53-20 regarding appropriate setbacks.
- I53-23 Refer to Response I53-20 regarding appropriate setbacks.
- I53-24 The DEIR was prepared by the County's consultant as an objective and programmatic evaluation of the potential impacts of the proposed ordinance, in accordance with CEQA requirements. The implication that the consultants were directed to bias the analysis does not warrant a response.
- I53-25 The comment suggests mitigation that multiple growers could use large properties, where greater buffers can be imposed to avoid odor impacts on adjacent properties. These properties are privately-owned. Thus, a measure like this would require modification of the proposed ordinance to allow more than one cannabis-related operation per parcel. This would create challenges for County and potentially CVRWQCB compliance monitoring purposes, given that it could be difficult to assign responsibility for mitigation compliance in such a circumstance. Further, by combining cultivation activities on one site, the number of employees required per parcel would likely increase, leading to potential additional traffic impacts along local and regional roadways. In addition, these parcels would also likely be located in more remote areas of the County and require greater commute distances by employees. In addition, the intensification of use on a particular parcel could lead to additional groundwater supply impacts. Coupled with the potential for competing businesses on the same site to conflict and safety/security concerns associated with implementation of a measure, the County does not consider such a measure to be feasible and consistent with the project objective related to the health, safety, and well-being of County residents. Refer to Response I53-15 and I53-17.
- I53-26 Contrary to statements made in this comment, the DEIR's analysis of potential impacts to sensitive natural communities is based on substantial evidence, including data regarding sensitive vegetation alliances from the USDA and the Manual of California Vegetation (Sawyer et al. 2009). However, these alliances have not been comprehensively mapped; it is impractical in a county of over 600,000 acres to conduct the botanic field work needed to comprehensively map these alliances when the locations of future applications under the proposed ordinance is not known. Thus, as appropriate for a programmatic analysis, the potential impacts of locating future sites in sensitive vegetation alliances is identified.
- The comment attempts to connect the impacts identified in the site-specific BSAs submitted by the commenter as encompassing the total potential for impact under the proposed ordinance. However, as noted in Response I4-11 above, the CVRWQCB order is specific in its

requirements that impacts to “special-status species have been fully mitigated.” The sensitive vegetation alliance identified in the DEIR may or may not be associated with sensitive-status species, but is important nonetheless; such habitat could occur, yet may not be evaluated, as part of the BSAs referred to in this comment and carried out in compliance with the CVRWQCB order.

The site-specific BSAs are intended to be site-specific; Ascent (the County’s environmental consultant) reviewed sample studies but withheld citation as they pertain to specific properties and may contain confidential information. Moreover, the information in the BSAs is not needed to determine the potential future for cannabis operations, which involve potential grading and habitat removal, to affect biological resources.

Pursuant to CEQA, the DEIR is required to evaluate the potential impact of the proposed ordinance, not just the impacts associated with cannabis-related activities that sought permits under the Urgency Ordinance. While the analysis conducted as part of the BSAs is acknowledged and site-specific impacts for those selected properties may not result in impacts to sensitive vegetation alliances, the scope of DEIR is appropriately broader, evaluating the potential of all significant impacts to important biological resources, in its evaluation of potential locations of future cannabis-related activities within the County. The commenter, here and in other comments, provides no evidence to suggest that: 1) cannabis operations under the proposed ordinance would be restricted to sites where applications were filed under the Urgency Ordinance. (To the contrary, the Urgency Ordinance provided only a month and a half window in which to file applications; an adopted ordinance would allow applications over the long term and with no restrictions other than as specified in the ordinance.) 2) biological resources identified in the DEIR as important should be considered otherwise. As a result, the DEIR’s analysis is considered reasonable, appropriate, and accurate.

- I53-27 Refer to Response I53-26. Note that the size of a site does not necessarily determine if sensitive resources would be affected; rather, effects are based on where resources are located and if they would be affected.
- I53-28 It is acknowledged that the BSAs submitted by the commenter do not identify potentially significant impacts to Lone Chaparral and Big Trees Forest, however as noted on pages 3.3-29 and 3.3-37 of the DEIR, there are 143 additional sensitive vegetation alliances, which, in some cases, are not composed of special-status species, deemed potentially occurring within the County’s boundaries. Although some data is available regarding the elevation and potential locations of such sensitive vegetation alliances, countywide mapping is not available nor would it preclude the potential for cannabis-related activities that would be allowed under the proposed ordinance from affecting one or more of the 143 sensitive vegetation alliances.
- I53-29 Refer to Response I53-4 regarding why the DEIR does not evaluate a limit on the number of cannabis-related operations within the County.
- I53-30 This information is provided on page 3.3-32 of the DEIR and was based on the reasonably foreseeable compliance responses determined for the proposed ordinance and identified in Chapter 2, “Project Description.”
- I53-31 Refer to Response I53-26. The comment asserts that impacts to sensitive resources should be based on probability. CEQA requires consideration of foreseeable impacts; to that end, it is foreseeable that sensitive vegetation alliances and resources could be affected by development of currently unknown (because applications have not been filed) cannabis operations that would be allowed based on zoning designations, under the ordinance.

- I53-32 Without identifying specific locations of where cannabis-related activities could be allowed such that potential impacts to the 143 sensitive vegetation alliances identified on pages 3.3-29 and 3.3-37, the DEIR's analysis cannot preclude, from a programmatic perspective, the potential for such impacts to occur. The less-than-significant impact determinations made within the BSAs referred to by this comment are acknowledged but cannot be used as the sole basis for impact determination as the proposed ordinance would pertain to sites permitted under the Urgency Ordinance seeking permits under the proposed ordinance but also to prospective future locations that are unknown and will not be known by the County until an application has been received. This conclusion is considered reasonable, appropriate, and in accordance with CEQA requirements.
- I53-33 Refer to Response I53-26. The location of sites proposed under the Urgency Ordinance process does not restrict the location of sites that may be proposed under the proposed ordinance. Regarding the comment on qualified staff, Ascent Environmental is a highly qualified and fully staffed environmental consulting firm that prepares environmental studies throughout the state, including as a qualified contractor for the California Department of Fish and Wildlife (with whom Ascent recently completed the California State Wildlife Action Plan, <https://www.wildlife.ca.gov/SWAP>), a number of other State of California agencies, and other public and private entities. For a listing of staff and their basic functions, please see <http://www.ascentenvironmental.com/>. More to the point of the comment, the County includes over 600,000 acres of land; field surveys of this area would be impractical for a programmatic analysis of an ordinance that would permit activities over a large area of this acreage. The analysis is consistent with the principals of CEQA: the potential impacts of the ordinance were identified and mitigation was proposed, in the form of programs and performance standards, to address significant impacts where feasible.
- I53-34 The significance determination of Impact 3.3-3 is related to the 143 sensitive vegetation alliances evaluated in the impact discussion. It is acknowledged that compliance with the CVRWQCB order would mitigate impacts specifically to the three sensitive natural communities, which are listed by CDFW as imperiled or rare (i.e., special status). Also, to reiterate, the ordinance would allow for future applications. The location of applications under the Urgency Ordinance is not determinative of where impacts may occur under future applications.
- I53-35 Refer to Responses I53-33 and I53-34, as well as Master Response 1.
- I53-36 Refer to Responses I53-33 and I53-34, as well as Master Response 1. Note that while the BSAs provide information pertaining to permits under the Urgency Ordinance, they do not address future permit applications nor vegetation alliances.
- I53-37 The comment is noted regarding standards of care and professional ethics. Because review of vegetation alliances is not a requirement of Regional Board BSAs, there is no assurance that they will be reviewed as part of the BSAs, and that impacts will be identified and mitigated. No further response is necessary.
- I53-38 The comment presents the commenter's opinion regarding the DEIR's determination of significant and unavoidable for Impact 3.3-3. The comment also presents two measures as potential mitigation to reduce the impact to less than significant. With respect to the first proposed measure, the measure would rely on the CVRWQCB's determination regarding whether or not to amend an existing regulation (General Order R5-0115-0113). Further, the CVRWQCB is not considering an amendment to the existing order, as a statewide general order through the State Water Resources is currently being prepared (Perrea, pers. comm. 2017). Therefore, the measure suggested in this comment is not considered feasible.

With respect to the second proposed measure, this would expand the scope of the County's review of site-specific BSAs and would require additional staffing (i.e., a qualified biologist either through a consulting firm or permanent County position) to review and potentially survey each site as part of that review. However, the County would collect fees associated with each application that could be used to provide qualified staff and ensure that sensitive vegetation alliances would not be affected by a particular proposed cannabis-related operation; this is a feasible mitigation measure. Therefore, in response to this comment, the DEIR has been amended to include the suggested mitigation measure, referred to as Mitigation Measure 3.3-3. This measure would reduce the biological resources impact to a less-than-significant level, thereby eliminating a significant and unavoidable impact.

As shown in Chapter 3, "Revisions to the DEIR," the following text has been added/modified on page 3.3-37 of the DEIR:

### **Mitigation Measures**

No feasible mitigation is available.

~~Although the BSA required by Central Valley RWQCB Order R5-2015-0113, with which compliance would be ensured through implementation of Mitigation Measure 3.3-1, would identify sensitive biological resources at each site, the order only requires that impacts to "special status" species be fully mitigated. Because it is unknown exactly where the vegetation alliances occur within the County and individual sites for commercial cannabis activities may include one or more of the aforementioned sensitive vegetation alliances, there is no current mechanism that the County can implement to prevent impacts to the sensitive vegetation alliances that may occur within the County as a result of implementation of the proposed ordinance. Therefore, this impact is considered significant and unavoidable.~~

### **Mitigation Measure 3.3-3: County Review of Biological Site Assessments**

Prior to approval of applications under the proposed ordinance, the County shall arrange for a qualified biologist (either through an on-call contract or employment by the County) to review the Biological Site Assessments prepared for Central Valley RWQCB compliance. In addition, the County shall amend the proposed ordinance in Sections 17.95.200 and 17.95.230 to require applications for commercial cultivation sites to provide copies of Biological Site Assessments to the County that demonstrate the construction and operation associated with the cannabis operation would not remove or otherwise affect sensitive natural communities, including sensitive vegetation alliances that may occur within the County.

### **Significance after Mitigation**

By requiring any commercial cultivation activities within the County to demonstrate to the County that impacts to sensitive natural communities, including sensitive vegetation alliances, would not occur through provision of biological site assessments to a professional associated with the County to verify such determinations, potential impacts to sensitive natural communities would be reduced to less than significant.

153-39 Refer to Response 153-34 regarding the significance determination for Impact 3.3-3. The determination for Impact 3.3-3 is based on the 143 sensitive vegetation alliances and not potential impacts to the sensitive natural community, which is protected and referenced in this comment.

153-40 Refer to Response 153-34 regarding the significance determination for Impact 3.3-3. The determination for Impact 3.3-3 is based on the 143 sensitive vegetation alliances and not

- potential impacts to the sensitive natural community, which is protected and referenced in this comment.
- I53-41 Refer to Response I53-34 regarding the significance determination for Impact 3.3-3. The determination for Impact 3.3-3 is based on the 143 sensitive vegetation alliances and not potential impacts to the sensitive natural community, which is protected and referenced in this comment.
- I53-42 Refer to Responses I53-32 and I53-33 regarding the potential impacts to sensitive vegetation alliances as evaluated in the DEIR.
- I53-43 Refer to Response I53-26 regarding the appropriateness of the EIR's analysis, as amended through the FEIR.
- I53-44 With respect to the number of employees assumed in the DEIR, refer to Master Response 3.
- I53-45 Refer to Master Response 3 regarding how the potential number of employees was determined.
- I53-46 Refer to Master Response 3. Some sites would use more than 15, some less, depending on the operations. Each individual grower has unique operations. This analysis is programmatic, was based on both interviews and published data, and uses reasonably foreseeable assumptions to determine potential impacts.
- The comment's demand for the EIR to catalogue the number of operations that would employ 15 employees, 14 employees (this is requested three times), 13 employees, 12 employees...all the way to 1 employee is not considered reasonable nor necessary. The analysis in the EIR is reasonable, documented, and serves to allow informed decision making.
- I53-47 The assumptions and methodology used to prepare the traffic analysis are provided on 3.9-10 through 3.9-12 of the DEIR. As noted in the DEIR, it was assumed that all trips would originate from within Calaveras County and that trips would originate from existing population centers within the County (see paragraph 4 on page 3.9-12). Even if employees originate in other counties, they would utilize Calaveras County roads on their way to cultivation sites and the impacts would be similar. The analysis provided in Section 3.9, "Transportation and Circulation" is considered to be a reasonable analysis of the potential programmatic impacts associated with implementation of the proposed ordinance.
- Aside from the comment asking numerous questions (comments I53-44 through I53-47), not one question suggests the methodology is incorrect or offers an alternative approach that should be used. The analysis in the EIR is reasonable, documented, and serves to allow informed decision making.
- I53-48 The proposed ordinance does not include a limit on the number of cannabis-related operations nor has the County Planning Department been given direction to limit the number of approved applications to between 250 and 300. As noted in Master Response 4, the baseline condition used for the EIR was the time of issuance of the NOP and the DEIR's existing traffic volumes, which were taken from the 2012 CCOG RTP (the most recent comprehensive dataset), reflect roadway conditions prior to the cannabis-related operations allowed under the Urgency Ordinance. As a result, the impact analysis contained in the DEIR assesses the foreseeable compliance responses identified in Chapter 2, "Project Description" which include up to 750 outdoor and 15 indoor commercial cannabis operations.

- I53-49 The quantification of traffic impacts provided in Section 3.9, "Transportation and Circulation" represents the use of best available data and a reasonably foreseeable estimate of peak hour volumes and resultant level of service. Contrary to the assertions made in this comment, the DEIR's programmatic analysis is considered reasonable, appropriate, and in accordance with CEQA requirements. It is not known what is meant by the comment that the LOS analysis is unverified and that there is no "scientific basis" for the conclusions in the DEIR. No further response can be provided.
- I53-50 Within the context of transportation network operations, unacceptable is most often used in the context of level of service and refers to a level of service designation (typically D, E, or F) at or below which improvement or changes to the transportation facility is considered necessary. The use of this term is common among transportation planning professionals and is used throughout Caltrans documentation, including Transportation Concept Reports for various state highways, and is also used in nearly every county and city jurisdiction in California and throughout the US. It is also use by the Institute of Transportation Engineers, an international educational and scientific association of traffic professionals. Pages 3.9-10 through 3.9-14 of the DEIR describe LOS metrics and significance thresholds.
- I53-51 With respect to the number of employees assumed for each cultivation site, refer to Master Response 3. LOS reductions are shown in Table 3.9-6. As to people working at multiple sites and their effect on LOS, this is speculative. Further, employees commuting from one site to another is assumed in the analysis; see Response I53-55.
- I53-52 Through discussions between County staff and the County's consultant with commercial growers, including the commenter for Letter I4, the potential for carpooling and sharing of employees between cultivation sites was determined. Refer to Master Response 3. Aside from the comment asking numerous questions (in comments I53-51 through I53-55), not one question suggests the methodology is incorrect or offers an alternative approach that should be used. The analysis in the EIR is reasonable, documented, and serves to allow informed decision making.
- I53-53 The comment questions how employee trips were determined and whether employees/workers stayed on-site. It is important to note that the DEIR need not just consider existing cannabis operations allowed under the Urgency Ordinance but what would be allowable under the proposed ordinance. For that reason, cannabis operations allowed by the Urgency Ordinance were considered but not used as the sole indicator or development potential under the ordinance. Further, camping of employees is not permissible under current County Code requirements. Refer to Response I53-47 regarding the methods and assumptions used to quantify the programmatic traffic impacts of the proposed ordinance.
- I53-54 Refer to Response I53-47, Impact 3.9-2 on page 3.9-16 of the DEIR, and Master Response 3. The DEIR's analysis as presented in Section 3.9, "Transportation and Circulation" appropriately evaluates the potential for programmatic traffic impacts that could result from implementation of the proposed ordinance, including as assumption that average vehicle occupancy would be 2 employees per vehicle and that each employee would work at an average of two sites.
- I53-55 The comment provides a general statement and dismisses the potential significance of employee trips to and from cannabis-related activities within the County that may result with implementation of the proposed ordinance. No evidence is provided to corroborate this statement.
- I53-56 Daily trips were calculated based on the discussion on pages 3.9-11 and 3.9-12: 15 employees per site, each employee works at two sites, 750 sites=11,250 trips divided by 2 (employee working at 2 sites) = 5,625 daily trips for outdoor facilities. Add to this the 113

- trips for indoor facilities and the total = 5,738 trips, this is a reasonable estimate and aside from the multitude of questions from the commenter, none suggest this number is incorrect. As to “validation,” the analysis represents the County’s best good faith effort to disclose potential impacts of the ordinance. Refer to Response 01-27. Deletion of this impact is not considered necessary, appropriate, or in accordance with CEQA requirements.
- I53-57 Refer to Response 01-24.
- I53-58 The thresholds used to determine significance of traffic impacts associated with the proposed ordinance are provided as the second set of bullets on page 3.9-14 of the DEIR and were the sole determining factor in whether Impact 3.9-2 would be considered significant. These thresholds are consistent with Caltrans planning guidance and are commonly used in EIRs prepared throughout California. A significant impact on roadway would have resulted in a significant impact conclusion for Impact 3.9-2. Regarding the multitude of questions in this comment (over 20), see Response I53-47 concerning this type of demand for information.
- I53-59 As noted in Response I53-58, a significant impact on a single roadway would have resulted in a significant impact conclusion for Impact 3.9-2. This is a common approach under CEQA.
- I53-60 Refer to Master Response 3 regarding the number of employees assumed within the DEIR’s analysis. Also, as noted in Response I53-53, the DEIR existing cannabis operations allowed under the Urgency Ordinance may not necessarily be predictive of Countywide operation of substantially more operations, as allowable under the proposed ordinance. For that reason, cannabis operations allowed by the Urgency Ordinance were considered but not used as the sole indicator or development potential under the ordinance. The DEIR used a more conservative approach, based on both local (Calaveras County) and published data, to assure that potentially significant impacts would be discovered and disclosed. Refer to Response I53-47 regarding the methods and assumptions used to quantify the programmatic traffic impacts of the proposed ordinance. Mitigation, payment of the RIM fee, was suggested. Even with this in place, the EIR concluded that temporary and periodic increases in traffic could result in adverse impacts to roadways. See Page 3.9-18 of the DEIR.
- I53-61 The DEIR’s analysis, contrary to statements made in this comment, does not assume that traffic resulting from the proposed ordinance would come from adjacent counties. Refer to the fourth paragraph on page 3.9-12 of the DEIR for further clarification. The suggested mitigation measure, while it may discourage out-of-county employees, would not guarantee that no out-of-county employees would occur and could not be used to preclude the potential for out-of-county employees. It also raises questions as to the legality of not employing someone based on their residence (if residence location is not key to a job, such as a public safety worker.) The fee system, suggested by the commenter, is already included in Mitigation Measure 3.9-2, but the fee would be paid by the applicant, not the employees. The suggested mitigation is not considered reasonable or and the suggested fee program would not reduce potential project-related impacts to less than significant for the same reasons explained for Mitigation Measure 3.9-2 (see Draft EIR, p. 3.9-18).
- I53-62 The proposed mitigation would conflict with existing County Code requirements related to on-site housing and is not considered feasible. It would also result in additional potential impacts associated with water consumption, on-site wastewater generation and treatment, removal of additional vegetation, etc.
- I53-63 The proposed mitigation would also not preclude the potential for out-of-county employees; further, it could result in greater trips on the local and regional roadway as a result of potential out-of-county employees travelling between multiple cannabis-related sites in an

effort to be hired for that day. Also see Response I53-61. The suggested mitigation is not considered further because it would not reduce any impacts.

- I53-64 The comment expresses opinion regarding the one-quarter-acre maximum cultivation area alternative, which was dismissed from further evaluation in the DEIR. Contrary to the opinions offered in this comment, the DEIR determined that limiting the canopy size per parcel could result in the development of more parcels, potentially by the same landowner, to achieve the same harvest yield as under the proposed ordinance. Further, smaller parcels could achieve the required setback requirements, and as such, it is reasonable to assume that smaller parcels may develop cannabis-related operations. This alternative would not reduce significant environmental impacts; thus, it was appropriate to dismiss it from further consideration in the DEIR.
- I53-65 Refer to Response I53-64 regarding the DEIR's discussion of a one-quarter-acre maximum cultivation area alternative.
- I53-66 The commenter offers opinion that Alternative 2, the draft ban ordinance, would result in substantially more impacts than the project as a result of illegal and unregulated cannabis cultivation. This comment assumes that illegal operations will continue and will proliferate. Page 6-6 of the DEIR acknowledges that illegal operations may continue, that restoration of existing operations may not occur as intended in the ban, and that there may be a lack of regulatory compliance. These are all illegal activities. It does not mean impacts will not occur or even be more substantial than under the project. Rather, without countywide regulation, the presence of cannabis-related activities is considered unregulated and not permissible, pursuant to the County's zoning requirements.
- Predicting illegal actions under CEQA is both speculative and fraught with other concerns: what if the ordinance is adopted but its regulatory requirements are ignored; what if individual cultivators ignore mitigation measures; what if insufficient monitoring occurs? These outcomes could all occur, but are too speculative to consider in the context of an EIR. Further, it is generally appropriate under CEQA to presume that a project will be implemented as proposed, that applicable regulations will be followed, and that applicants will operate their project legally. Without this basic presumption, CEQA would be ineffective. This is not to suggest that illegal activities will not occur; the current cultivation environment in Calaveras County already demonstrates disregard by some operators for legal compliance. The potential for these activities to persist in spite of the ban is acknowledged in the EIR. For further discussion with respect to illegal cannabis operations, refer to Response O1-6.
- I53-67 The comment presents opinion related to Alternative 3 with reference to specific mitigation strategies offered in previous comments, specifically I53-10, I53-17, I53-25, I53-38, and I53-60. Refer to the specific responses to those comments regarding their feasibility. The DEIR's inclusion of Alternative 3 is considered reasonable and appropriate and in accordance with CEQA requirements for the provision of a reasonable range of alternatives to the proposed ordinance. No response is warranted with respect to the assertion that the alternative was developed expressly to lead to approval of a Ban ordinance.
- I53-68 Refer to Response I53-26 regarding the appropriateness of the DEIR's analysis of biological resources impacts.
- I53-69 Contrary to the opinion offered in this comment, the DEIR presents appropriate detail and supporting information necessary for the programmatic evaluation of the proposed ordinance.
- I53-70 Refer to Responses I53-26, I53-47, and I53-48.

- I53-71      Contrary to the opinion offered in this comment, the DEIR presents feasible mitigation measures, where possible, for the reduction of impacts that could occur with implementation of the proposed ordinance in accordance with CEQA requirements. Further, the comment is incorrect in its assertion that the DEIR does not identify any mitigable impacts. Fifteen of the seventeen significant impacts identified for the proposed ordinance could be mitigated to less than significant levels, as amended through the FEIR. As described in CEQA Guidelines Sections 15091 and 15093, a project with a significant and unavoidable impact can nevertheless be approved if there are overriding reasons to do so, at the County's discretion.
- I53-72      The comment expresses opinion related to a perceived bias to support Alternative 2. The EIR is an objective analysis of the impacts of the proposed ordinance and alternatives to the ordinance. No further response is possible.

Board of Supervisors  
Planning Commission & Department  
County of Calaveras

May 29, 2017

Letter  
154

As long-term residents of Calaveras County, we have had the opportunity to observe this blight on the landscape and in our air, and in our sight. Many have shared their displeasure over what the former Board of Supervisors did – and note – the public never had the opportunity to vote on this matter. In light of where we are today, and what the current Board of Supervisors is considering, we offer the following comments and concerns regarding the issue of cannabis cultivation throughout the County:

- When we moved to Calaveras County in the early 1990s, we did not sign up for country property to be situated on acreage adjacent to commercial and/or industrial land use. We spent a significant amount of money, time and effort locating property that would not feel the brunt of moderate to high density development, let alone activities in conflict with our general moral values and federal law.
- The development of land for pot growing is having an adverse impact on property values, especially after the Butte Fire. Such activities have attracted a negative element we have not seen in this area since the 1960s. We have been forced to walk our property armed on occasion, and there is now a sense of foreboding; those participating in this activity have not all been courteous or friendly, and we have had to seek legal assistance in dealing with easement issues. We now sleep with loaded guns near our beds - Is this what the Board of Supervisors had in mind when it allowed cannabis cultivation in our County?
- We have no significant adverse feelings toward land being used for agricultural purposes, in this case, pot growing; however, to have such activities in rural residential areas was simply a negligent and irresponsible act on behalf of the former Board of Supervisors.

I54-1

In summary, after almost 30 years living peacefully and maintaining a business in the County, the development of land for pot-growing, as allowed by the County to date, has caused us and others to re-evaluate where we live, raise our families, and enjoy life. Several of our friends and neighbors have decided not to rebuild after the fire as a result of all the pot cultivation, and others have simply decided to sell and leave. Should this situation not be rectified, we will not want to remain in such an environment as well. First the fire, now the pot cultivation; it was a very wonderful place to live at one time – no longer.

Please consider the needs and desires of long-term residents, not the cannabis carpetbaggers, when you vote on this very important issue, and right this irresponsible lack of judgement.

Thank you for your attention,  
*Stephen & Lydia Testa*  
Stephen & Lydia Testa  
19736 Jesus Maria Road  
Mokelumne Hill 95245  
754-1727

RECEIVED  
JUN 2 2017  
Calaveras County  
Planning Department

<b>Letter I54</b>	<b>Stephen and Lydia Testa</b> 5/29/2017
-----------------------	---

- I54-1      The comment details the changes that have occurred in Calaveras County since the early 1990s and remarks that cannabis cultivation activities have had negative impacts on the community and caused many residents to leave the county. This is a project alternative preference, and does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter  
155

EIR

Calaveras County

Medical Cannabis Cultivation and Commerce Ordinance Project  
Public Meeting, Calaveras County Board of Supervisors Chambers  
Comment Sheet

May 22, 2017

Name: Rick and Bea Whitten  
 Organization: District 2 West Point  
 Mailing Address: 1187 Bummerville Rd  
 Email: ricknbea@volcano.net

RECEIVED

JUN 5 2017

Calaveras County  
Planning Department

Comment: We have many concerns as we are  
surrounded by marijuana grows,  
chemicals being used  
contamination of our well, ground water, streams + rivers,  
the horrible smell.  
Also the large amount of water needed to grow.  
People driving under the influence of the drug  
the effect on our youth  
a big concern for our safety and the safety  
of our granddaughters. no longer free to ride their  
and take walks like in the past. <sup>horses,</sup>  
Our once wholesome environment is now  
no longer wholesome and desirable.  
Long time residents are talking of moving  
while growers, trimmers, workers and  
lots of undesirable looking men move in.  
Some living in tents, lean-to's and trailers.  
Increase in garbage, sewer contamination  
and traffic, and crime.

155-1

(over)

Please use reverse side of page or use additional sheets as needed

This is a big environmental concern. We loved this county when it was considered to be a great place to raise children. A place famous for Frog jump, Big Trees, Caves, Caverns, hunting fishing and numerous recreation activities. Once a place where people loved to come and enjoy and feel safe.

Now its no longer that way. Now, its Cannabis County.

Please do all you can to make this a safe environment again.

Thank You

I55-1  
cont.

<b>Letter I55</b>	<b>Rick and Bea Whitten</b> 5/22/2017
-----------------------	--

- I55-1      The comment expresses general concerns regarding environmental and social impacts of commercial cannabis operations. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.



**Purpose:** The RR zone is intended to provide lands for personal ranches in which residential use is the primary land use. The RR zone is established to permit small-scale farming primarily for personal use and not as the primary use for the property.

(Ord. 1782 § 1(part), 1986).

• **17.22.020 - Permitted uses.**

Uses marked with a superscript ( <sup>\*</sup> ) are subject to additional requirements as set forth in Section 17.22.060 of this chapter.

A.

The following uses are permitted in the RR zone <sup>\*</sup>:

- 1. Agricultural operations;

4) Water how is the use of water controlled under the Alternative 1 & 2 since under regulation?

**17.95.200 Application** Requirements for Outdoor, Mixed Light, and Nursery Commercial Cannabis Cultivation Zoning Clearance Certificates or Conditional Use Permits

11. Copy of the statement of water diversion, or other permit, license, or registration filed with the California Water Resources Control Board, Division of Water Rights, if applicable.

To be a permitted grower one must have a proven water source not so with Alternative 1 & 2.

- 5) Traffic impacts: 1. how many trimmers do you employ? none
- 2. How many cars commute to your location on daily basis? none
- 3. And when do you start and end a typical workday? When I get up around 5:30 – 6 am to 3:30 - 4pm it depends somedays we don't work at all.

156-3  
cont.

156-4

156-5

<b>Letter I56</b>	<b>Wilson</b> 6/13/2017
-----------------------	----------------------------

- I56-1 The comment states that cannabis is known to consume four times the carbon dioxide per acre than an acre of trees. Because commercial cannabis is cultivated each season, at least some, if not all, of the carbon that is stored in cannabis plants while being grown is released after the plants are harvested. Whether cannabis cultivation results in a net increase or decrease in carbon sequestration depends on multiple factors that are not fully understood at this time, including, but not limited to, the types of GHG-emitting or carbon sequestering activities that would otherwise take place on grow sites, the types and amount of fertilizer used in cultivation, how much of the harvested plants are used and how they are used, and the effects on the levels of carbon sequestered into the soil.
- I56-2 The comment questions the baseline conditions used for analysis in the DEIR. Refer to Master Response 4 for a detailed response regarding the baseline conditions and how they were determined.
- I56-3 The comment notes that RR zoning would not be allowed under Alternative 3 and asks in what zone cannabis cultivation would be permitted under this alternative. The commenter is referred to Table 2-2, 2-3, and 2-4 shown on pages 2-8, 2-10, and 2-12, respectively, of the DEIR. All other zones listed in these tables would be permissible for the development of cannabis-related activities under Alternative 3.
- I56-4 The comment questions how water use would be controlled under Alternative 1 or 2. Section 3.5, Hydrology and Water Quality, of the DEIR provides information on the existing regulatory setting for water supplies and use. The regulatory framework discussed therein also applies to the project alternatives.
- I56-5 The comment includes questions and answers regarding the number of employees and trips for a particular operation. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter  
I57

To the Calaveras County Board of Supervisors:

Here is are some alternative suggestions to a ban.

- 1) Using a percentage of the acreage with setbacks, i.e. 2-4 acres can grow 201 sq. ft. to 800 sq. ft.
  - Say 15% of the acreage could be used for a commercial garden
  - Setbacks could be enough so that it is obvious the garden is not on a neighbor’s property – say 40 feet from a property line
  
- 2) Use the frame work that we already have 17.95 voted on by the Board last February and incorporate necessary changes to be in line with prop. 64 and current changes to MCSRA. As the voters intended by passing measure C which was aligned with the Ordinance 17.91 & 17.95 as written to tax and regulate Commercial Cannabis and dispensaries.

I57-1

You are on the verge of making history. Other counties took courage from Calaveras and followed our lead to look at regulation. You now could be known for moving forward with a noble attempt and making it even better – more in line with the laws that the voters want. Congratulations.

Good luck as you set down to do this work. My prayers are with you gentlemen.

Sincerely,

Joan Tanner-Wilson

<b>Letter I57</b>	<b>Joan Tanner-Wilson</b> 6/13/2017
-----------------------	--

I57-1            The comment provides alternatives to a ban ordinance. Refer to Master Response 2 for a detailed response regarding alternatives.

<p style="text-align: center;"><b>Letter 158</b></p>
--

**From:** [Clyde Clapp](#)  
**To:** [Peter Maurer](#)  
**Subject:** Fwd: Marijuana EIR  
**Date:** Monday, June 12, 2017 9:09:50 PM

---

Clyde Clapp  
 Supervisor District 5  
 Calaveras County

Begin forwarded message:

**From:** robert wise <[rwise76@hotmail.com](mailto:rwise76@hotmail.com)>  
**Date:** June 11, 2017 at 7:20:38 PM PDT  
**To:** Gary Tofanelli <[GTofanelli@co.calaveras.ca.us](mailto:GTofanelli@co.calaveras.ca.us)>, Jack Garamendi <[JGaramendi@co.calaveras.ca.us](mailto:JGaramendi@co.calaveras.ca.us)>, "Michael C. Oliveira" <[mcOliveira@co.calaveras.ca.us](mailto:mcOliveira@co.calaveras.ca.us)>, Dennis Mills <[DMills@co.calaveras.ca.us](mailto:DMills@co.calaveras.ca.us)>, Clyde Clapp <[cclapp@co.calaveras.ca.us](mailto:cclapp@co.calaveras.ca.us)>  
**Subject:** **Maraijuana EIR**

June 12, 2017

Dear Board of Supervisors,

My name is Robert Wise. I teach school in the Calaveras Unified School District. I'm hoping you'll take a moment to read this and if it's useful, include it in your EIR.

The information presented below came from Colorado and the sources are listed. It suggests that the legalization of Marijuana has had a huge impact on the youth. While the data gathered does not show Marijuana to be a "gateway" drug, the National Institute on Drug Abuse found "that there is considerable evidence that students who smoke pot have poorer educational outcomes (48 studies have shown that high school students and college students graduate at lower levels)."

The following is from the Rocky Mountain High Intensity Drug Trafficking Area (federal government agency) and they released the following information one year after marijuana was legalized in the State of Colorado:

158-1

- \*Marijuana related traffic deaths increased 32%
- \*Almost 20% of all traffic deaths were marijuana related as compared 10% less 5 years ago.
- \*Marijuana related Emergency Department visits increased 29%
- \*Colorado teenagers rank #3 in the nation for marijuana use and 56% higher than the national average. Colorado college students rank #2 in the nation for marijuana use and 54% higher than the national average

Here are some personal local facts. I teach at 6 elementary schools, from West Point to Jenny Lind. During marijuana harvest time I have smelled a strong skunk like odor in the classrooms. I teach 9-11 year olds. These young children come to school smelling like marijuana. I don't want this to be the new norm.

Personally I don't like the kind of people it's brought here. I was walking on the sidewalk in San Andreas and two grower types were sharing a joint coming toward me. I don't want this to be the new norm either.

I definitely don't want someone growing 99 plants next door to me claiming medical reasons. I really don't want this to be the new norm.

We all have rights in this country. My rights end where yours begin is a good philosophy to follow. When you come down to making decisions on this matter first consider the people who grew up or lived here a long time. I think their rights come first. Now that would be an excellent "new norm".

Sincerely,

Robert Wise, 3193 Barde Rd. Valley Springs

158-1  
cont.

<b>Letter I58</b>	<b>Robert Wise</b> 6/12/2017
-----------------------	---------------------------------

- I58-1      The comment provides information regarding the effects of marijuana use from Colorado, and discusses the negative impacts to Calaveras County. This comment does not address the contents or adequacy of the DEIR. This comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration during review/consideration of the project.

Letter  
PM1

May 2017

Honorable Board of Supervisors,

The 264 pages of the EIR are not numbered nor are the other documents that are marijuana related such as the appendices I-IV. It makes it impossible to navigate through , or question or refer to the content. The wording is often a mish mash of verbal rhetoric that renders itself meaningless. There is a complete vacuum when it comes to the cost accounting in the past present and future which should deal with the mafia mentality that accompany marijuana cultivation. These unimaginably horrific watershed events such as burying toxic substances with backhoes or hauling in truckloads of fill to cover it up for future generations to deal with is not what any of us should want to leave for future generations. The EIR marks many of its subjects insignificant when anyone knows there are many significant and detrimental aspects to any one of the subjects. In other words the generators of the document are prejudiced in favor of marijuana period.

PM1-1

In the meantime why does the Chair of the BOS still have former Supervisor Cliff Edson as a mentor when Cliff Edson was voted out?

Why do two supervisors hold out and dig their heels in when the other three clearly do not want to participate in the pot boon charade?

Why are some county employees closest to this issue being maneuvered like puppets on a string and by whom?

PM1-2

Why did the legal folk of the county clear the last petition which garnered 5,200 signatures when according to the pot lawyers it had a fatal flaw from the get go thus rendering the people no recourse?

Why some of the same county employees having been brainwashed by the previous board of supervisors into thinking pot is the answer to the county's woes are continuing to act as if those former supervisors are still supervisors?

Patricia Gordo, Burson

## 2.8 PUBLIC MEETING

The following section provides responses to those comments that were submitted in writing at the public meeting conducted for the DEIR on May 22, 2017. As noted in the presentation given at the public meeting, the County would only provide formal responses as part of the FEIR to written comments received at the meeting.

<b>Letter PM1</b>	<b>Aimee</b> 6/14/2017
-----------------------	---------------------------

- PM1-1      The comment expresses concern regarding the numbering of pages of the DEIR and general disagreement with the analysis and wording provided in the DEIR as being in favor of cannabis cultivation. The comment does not provide specific reference to areas of the EIR that are considered deficient, and page numbers are provided at the bottom of each page of the DEIR for ease of reference. No further response is possible.
- PM1-2      The comment provides general opinion regarding the Board of Supervisors and does not address the adequacy of the DEIR. The comment is noted and will be provided to the Calaveras County Planning Commission and Board of Supervisors for their consideration as part of the FEIR. No further response is necessary.

### 3 REVISIONS TO THE DEIR

This chapter presents specific text changes made to the DEIR since its publication and public review. The changes are presented in the order in which they appear in the original DEIR and are identified by the DEIR page number. Text deletions are shown in ~~strike through~~, and text additions are shown in double underline.

The information contained within this chapter clarifies and expands on information in the DEIR and does not constitute “significant new information” requiring recirculation. (See Public Resources Code Section 21092.1; CEQA Guidelines Section 15088.5.)

#### Revisions to the Table of Contents

The title of Table 3.8-3 shown on page iii has been amended as follows:

Table 3.8-3	Employment by Industry in <del>Yolo</del> <u>Calaveras</u> County 1990 - 2014.....	3.8-3
-------------	--	-------

#### Revisions to the Executive Summary

The third paragraph on page ES-2 has been removed.

The fourth paragraph on page ES-2 has been modified as follows:

**Impact ~~3.98-2~~ 3.98-2: Long-term increase in traffic.**

Upon adding trips associated with the project to existing traffic levels, the project would cause the LOS on nine State highway segments and potentially other local roadways to degrade to unacceptable levels.

With respect to cumulative impacts, significant and unavoidable impacts would occur with respect to ~~biological resources and transportation and circulation.~~

The last two paragraphs on page ES-2 have been modified as follows to include Alternative 4:

State CEQA Guidelines Section 15126.6, as amended, mandates that all EIRs include a comparative evaluation of the proposed project with alternatives to the project that are capable of attaining most of the project’s basic objectives, but would avoid or substantially lessen any of the significant effects of the project. CEQA requires an evaluation of a “range of reasonable” alternatives, including the “no project” alternative. Chapter 6, “Alternatives,” of this DEIR provides an analysis of the comparative impacts anticipated from three alternatives to the proposed project: 1) the No Project Alternative, which assumes no change in County Code would occur and that the Urgency Ordinance would expire; 2) the Ban on Commercial Cannabis Operations Alternative, which includes the adoption by the County Board of Supervisors of a countywide ban on cannabis-related activities unless otherwise expressly allowed by Proposition 64; 3) the Reduced Zoning Designations Alternative, which includes a reduction in the zoning designations that would allow commercial cannabis operations; and 4) Minimum Parcel Sizes and Further Reduced Zoning Designations Available for Commercial Cannabis Operations Alternative.

As discussed in Chapter 6, the Ban on Commercial Cannabis Operations Alternative is considered the environmentally superior alternative because it reduces several impacts associated with the proposed project and, unlike the No Project Alternative, Alternative 2 does not increase a significant impact related to transportation, odors, and biological resources. Also, Alternative 2 would reduce impacts to a greater extent than Alternatives 3 or 4, although Alternative 4 would reduce impacts to a greater extent than Alternative 3. Alternative 2 would also meet all of the project objectives.

Mitigation Measure 3.1-1 shown on page ES-4 has been amended as follows:

**Mitigation Measure 3.1-1: Distance from Designated Scenic Resources.**

The County shall amend the proposed ordinance to require that any areas of cultivation, not contained within existing structures that would not be modified for cannabis-related activities, be located at least one thousand (1,000) feet from any designated scenic resources, as determined by the County consistent with General Plan policies and implementation programs, the California Scenic Highways Program, or the National Scenic Byways Program. Further, any site-specific security measures, including the provision of armed security staff, shall be limited to the cannabis-related operation and not within required setback distances established by the County through the proposed ordinance.

Mitigation Measure 3.1-3 listed on page ES-4 has been amended as follows:

**Mitigation Measure 3.1-3: Lighting Standards.**

The County shall amend the proposed ordinance to reflect the following text in Sections 17.95.210, 17.95.240, and 17.95.310:

All lighting provided in conjunction with facility security or cultivation activities shall be installed, directed down and away from nearby property lines, and shielded to confine all direct rays of light within the boundaries of such facilities.

Mitigation Measure 3.2-2 on page ES-4 has been amended as follows:

**Mitigation Measure 3.2-2: Prohibit the use of fossil fuel-powered outdoor power equipment atduring operation of cannabis grow sites and processing facilities**

The County shall amend the proposed ordinance to include the following text in Sections 17.95.210 and 17.95.240:

Refrain from using ~~portable~~ generators and off-road equipment that is powered by gasoline, diesel, or other fossil fuels to assist in the cultivation and harvesting of cannabis (operational activities). This requirement applies to all off-road equipment including, but not limited to, utility vehicles, tractors, and trimmers. Electric- or human-powered versions of these equipment can be used.

The last two columns associated with Impact 3.3-3 on page ES-7 have been modified to reflect inclusion of Mitigation Measure 3.3-3.

<p><b><u>Mitigation Measure 3.3-3: County Review of Biological Site Assessments</u></b>  <u>Prior to approval of applications under the proposed ordinance, the County shall arrange for a qualified biologist (either through an on-call contract or employment by the County) to review the Biological Site Assessments prepared for Central Valley RWQCB compliance. In addition, the County shall amend the proposed ordinance in Sections 17.95.200 and 17.95.230 to require applications for commercial cultivation sites to provide copies of Biological Site Assessments to the County that demonstrate the construction and operation associated with the cannabis operation would not remove or otherwise affect sensitive natural communities, including sensitive vegetation alliances that may occur within the County.</u></p>	<p><u>SULTS</u></p>
--	---------------------

Mitigation Measure 3.5-3 on page ES-9 has been modified to state:

**Mitigation Measure 3.5-3: Groundwater monitoring requirements.** The county shall amend the proposed ordinance to reflect the following text in Sections 17.95.210, and 19.95.240:

Applicants with a permitted well water supply source shall prepare and implement a well-monitoring program. The program shall, at a minimum, include short-duration pumping tests to

assess production capacity and water levels. Monitoring shall be carried out at the water supply source well and any nearby wells that could be affected by consumption of water at the source well, as determined by a qualified well driller, hydrologist, or hydrogeologist approved by the county. The first test shall be used to determine connectivity of the source supply well to other nearby wells. These tests shall be completed monthly during the months of August, September, and October and preceded by a minimum of eight (8) hours of non-operation to maintain a static depth to water measurement. Results of testing shall be provided to the County Planning Department and Department of Environmental Health Department for review and approval. If continuous decline of water levels is observed for a period of ~~three (3)~~five (5) consecutive years in the source water supply well, an alternative water source shall be procured until well water levels have recovered to within ten (10) percent of pre-drawdown levels.

## Revisions to Chapter 1, “Introduction”

The subsection “Agriculture and Forestry Resources” shown on pages 1-2 and 1-3 of the DEIR has been clarified as follows:

### AGRICULTURE AND FORESTRY RESOURCES

Project implementation would allow for commercial cultivation to occur on agricultural land but would not preclude the potential for cultivation with traditional agricultural crops at a later date. Further, the County does not have any mapped areas by the California Department of Conservation (DOC) as “important farmland” (prime, farmland of Statewide importance, or unique farmland).

Based on registration applications for commercial cannabis cultivation registration, applications have been received for 226 acres of cultivation. Although much of this is likely to be denied (based on preliminary processing records), there is also an equal amount of land area devoted to cannabis cultivation that is unregistered (meaning that either no application was received for this acreage or that the application was denied or rejected but cultivation activity continues), and an ordinance may allow additional land to be placed in regulated cultivation. For the sake of analysis and taking into consideration the projected countywide disturbance areas used in this EIR (see Chapter 2, “Project Description” and page 3.3-32 of Section 3.3, “Biological Resources”) of up to 375 acres for outdoor cultivation, ~2 acres for indoor cultivation, and some additional area for supporting facilities, doubling the acreage is a fair estimate for the purposes of this evaluation. This would result in a similar amount of land being dedicated to regulated cannabis cultivation as the 900 acres of grapes and 868 acres of nuts currently grown in the County (Calaveras County 2015 Crop Report). The County has 269,088 acres of land zoned for agricultural use (RA, A1 and AP zones). At 452 acres of potential cannabis cultivation, this would amount to 0.12% of the total agricultural land available in the County. A change this small would be considered less than significant. In addition, since much of the cannabis is grown in containers, many cultivation sites are in areas that do not have traditional agricultural potential, such as on steeper slopes and in areas where the vegetation is primarily chaparral, and where the soil type would not support traditional agricultural pursuits.

Timber has been removed and would likely continue to be removed if new cannabis cultivation is permitted in the future. Based on vegetation maps prepared by the California Department of Forestry and Fire Protection there are approximately 291,000 acres of forest land suitable for timber production in the County. Much of this is National Forest or other public land (45,895 acres, 15.8%) or in Timber Production Zone (60,575 acres, 20.8%) and is precluded from cannabis cultivation. The remaining land has the potential under the draft ordinance for cultivation. The parcels on which cultivation applications were filed under the urgency ordinance that are in timberland cover 10,112 acres or 3.5% of the total land within the County suitable for timber production. ~~However, not more than twenty-five percent of any one parcel may be cultivated.~~ Assuming that adoption of a regulatory ordinance permitting new cannabis cultivation might double the amount of cannabis cultivation could result in the conversion of up to 452 acres of land suitable for timber production in the County, the potential loss of

timberland would be approximately 5,000 acres, or equivalent to 1.70.2% of the total timber resources in the County. As a result, significant impacts to forestry resources are not anticipated.

## Revisions to Chapter 2, “Project Description”

The first sentence of the fourth paragraph on page 2-9 has been clarified to state:

“Operation of mixed light and outdoor cultivation operations would require up to approximately 390,000 gallons of water per half acre per year, including water used for the application of pesticides, fungicides, and fertilizers.”

The fifth paragraph on page 2-9 has been clarified as follows:

During the harvest phase of cultivation, crews of up to 15 people per operation would be employed for a period of up to 3 approximately 4 weeks depending on the size of the operation and the number of plants. Based on the total number of applications for outdoor commercial operations received under the urgency ordinance (995 total, of which 740 were commercial) and the anticipated number of applications to be approved, it is estimated that up to 750 applications could be approved by the County, although it is anticipated that approximately half of that the applications received under the Urgency Ordinance would actually occur. Of that number, nurseries are anticipated to represent approximately 1-2 percent.

## Revisions to Section 3.1, “Aesthetics”

Mitigation Measure 3.1-1 shown at the bottom of page 3.1-6 has been amended as follows:

### **Mitigation Measure 3.1-1: Distance from Designated Scenic Resources.**

The County shall amend the proposed ordinance to require that any areas of cultivation, not contained within existing structures that would not be modified for cannabis-related activities, be located at least one thousand (1,000) feet from any designated scenic resources, as determined by the County consistent with General Plan policies and implementation programs, the California Scenic Highways Program, or the National Scenic Byways Program. Further, any site-specific security measures, including the provision of armed security staff, shall be limited to the cannabis-related operation and not within required setback distances established by the County through the proposed ordinance.

Mitigation Measure 3.1-3 shown at the top of page 3.1-9 has been amended as follows:

### **Mitigation Measure 3.1-3: Lighting Standards.**

The County shall amend the proposed ordinance to reflect the following text in Sections 17.95.210, 17.95.240, and 17.95.310:

All lighting provided in conjunction with facility security or cultivation activities shall be installed, directed down and away from nearby property lines, and shielded to confine all direct rays of light within the boundaries of such facilities.

## Revisions to Section 3.2, “Air Quality/Greenhouse Gas Emissions”

Mitigation Measure 3.2-2 on page 3.1-9 has been amended as follows:

### **Mitigation Measure 3.2-2: Prohibit the use of fossil fuel-powered outdoor power equipment at during operation of cannabis grow sites and processing facilities**

The County shall amend the proposed ordinance to include the following text in Sections 17.95.210 and 17.95.240:

Refrain from using portable generators and off-road equipment that is powered by gasoline, diesel, or other fossil fuels to assist in the cultivation and harvesting of cannabis (operational

activities). This requirement applies to all off-road equipment including, but not limited to, utility vehicles, tractors, and trimmers. Electric- or human-powered versions of these equipment can be used.

### Revisions to Section 3.3, “Biological Resources”

The first three sentences of the last full paragraph on page 4.3-3 have been removed.

The third and fourth paragraphs on page 3.3-37 have been modified to state:

#### **Mitigation Measures**

~~No feasible mitigation is available.~~

~~Although the BSA required by Central Valley RWQCB Order R5-2015-0113, with which compliance would be ensured through implementation of Mitigation Measure 3.3-1, would identify sensitive biological resources at each site, the order only requires that impacts to “special status” species be fully mitigated. Because it is unknown exactly where the vegetation alliances occur within the County and individual sites for commercial cannabis activities may include one or more of the aforementioned sensitive vegetation alliances, there is no current mechanism that the County can implement to prevent impacts to the sensitive vegetation alliances that may occur within the County as a result of implementation of the proposed ordinance. Therefore, this impact is considered significant and unavoidable.~~

#### **Mitigation Measure 3.3-3: County Review of Biological Site Assessments**

Prior to approval of applications under the proposed ordinance, the County shall arrange for a qualified biologist (either through an on-call contract or employment by the County) to review the Biological Site Assessments prepared for Central Valley RWQCB compliance. In addition, the County shall amend the proposed ordinance in Sections 17.95.200 and 17.95.230 to require applications for commercial cultivation sites to provide copies of Biological Site Assessments to the County that demonstrate the construction and operation associated with the cannabis operation would not remove or otherwise affect sensitive natural communities, including sensitive vegetation alliances that may occur within the County.

#### **Significance after Mitigation**

By requiring any commercial cultivation activities within the County to demonstrate to the County that impacts to sensitive natural communities, including sensitive vegetation alliances, would not occur through provision of biological site assessments to a professional associated with the County to verify such determinations, potential impacts to sensitive natural communities would be reduced to less than significant.

### Revisions to Section 3.5, “Hydrology and Water Quality”

The second paragraph on page 3.5-6 has been amended as follows:

The Stockton East Irrigation District has notified DWR that it has elected to become a GSA pursuant to Water Code Section 10723.8, and intends to undertake sustainable groundwater management of the portion of the Eastern San Joaquin Groundwater subbasin that lies within the boundaries of Stockton East, including the portion of the groundwater basin that lies within Calaveras County and the Calaveras County Water District (CCWD) area filed with DWR on May 8, 2017 to become part of a multi-agency GSA with Stanislaus County and Rock Creek Water District to undertake sustainable groundwater management of the Eastern San Joaquin Groundwater subbasin within Calaveras County.

The last sentence of the first paragraph on page 3.5-18 has been amended as follows:

As a result, any cannabis-related activities within the County would ~~not~~ be required to comply with the orders specific requirements related to erosion, sedimentation, and chemical use.

The first sentence of Impact 3.5-3 on page 3.5-20 has been modified to state:

In fractured bedrock environments, it is possible for drawdown at a well in one location to affect groundwater elevations in other — even distant — wells. The sustainable yield of a well is not easily determined or uniform across a defined geographic area and depends on a wide range of fracture characteristics. The relationships of wells that are in proximity to each other can vary significantly. The effect of wells in fractured bedrock on groundwater elevations is dependent on the connectivity of fracture and joint sets in the bedrock.

Mitigation Measure 3.5-3 on page 3.5-21 has been modified to state:

### **Mitigation Measure 3.5-3: Groundwater monitoring requirements.**

The county shall amend the proposed ordinance to reflect the following text in Sections 17.95.210, and 19.95.240:

Applicants with a permitted well water supply source shall prepare and implement a well-monitoring program. The program shall, at a minimum, include short-duration pumping tests to assess production capacity and water levels. Monitoring shall be carried out at the water supply source well and any nearby wells that could be affected by consumption of water at the source well, as determined by a qualified well driller, hydrologist, or hydrogeologist approved by the county. The first test shall be used to determine connectivity of the source supply well to other nearby wells. These tests shall be completed monthly during the months of August, September, and October and preceded by a minimum of eight (8) hours of non-operation to maintain a static depth to water measurement. Results of testing shall be provided to the County Planning Department and Department of Environmental Health Department for review and approval. If continuous decline of water levels is observed for a period of ~~three (3)~~ five (5) consecutive years in the source water supply well, an alternative water source shall be procured until well water levels have recovered to within ten (10) percent of pre-drawdown levels.

## **Revisions to Chapter 4, “Cumulative Impacts”**

The third, fourth, and fifth paragraphs on page 4-4 have been amended as follows:

Implementation of the proposed ordinance within the county could result in disturbance and conversion of sensitive habitats. Since the location of the commercial cannabis activities under the ordinance is unknown at this time, the affected type, conditions, and acreage of the habitats is also unknown. Continued development, as noted above, within the County and the region could further reduce the acreage and presence of sensitive natural communities, thereby resulting in a significant cumulative impact. ~~Since the County, with respect to the proposed ordinance, cannot preclude the removal of sensitive natural communities from the development of commercial cannabis activities, the proposed ordinance would be considered cumulatively considerable. However, by requiring applicants to submit Biological Site Assessments to the County that determine impacts to sensitive natural communities would not occur and requiring the County to have those reports reviewed by a qualified professions, the County can ensure that removal of sensitive natural communities from the development of commercial cannabis activities would not occur, and the proposed ordinance would be considered cumulatively considerable.~~

Although implementation of the proposed ordinance would require the provision of fencing for aesthetic and security purposes, which could restrict wildlife movement in the area, the fencing, similar to what is currently provided under the urgency ordinance, would be restricted to the cultivation area, which would be up to ½ acre per site, and would not preclude the movement of wildlife through the area. As a result, impacts to wildlife corridors and wildlife movement would not be considered cumulatively considerable.

*Cumulative development could result in significant biological resource impacts. The ~~majority of~~ impacts associated with the project would not be cumulatively considerable, as noted above,*

~~however, the development of commercial cannabis operations within the County would have cumulatively considerable impacts to sensitive habitats/vegetation alliances. Therefore, and the project would have a less-than-significant and unavoidable cumulative biological resource impact.~~

## Revisions to Chapter 5, “Other CEQA Sections”

The fourth paragraph on page 5-1 under the subheading “Significant Unavoidable Impacts” has been removed.

### ~~Impact 3.3-3: Degradation or removal of sensitive natural communities.~~

~~Implementation of the proposed project could result in disturbance or removal of natural land cover, through vegetation removal or grading which could result in the degradation or removal of sensitive natural communities.~~

## Revisions to Chapter 6, “Alternatives”

The last two sentences of the last paragraph on page 6-10 have been amended to state:

Any impacts to wetland and riparian areas on a site-by-site basis would require permitting pursuant to the Clean Water Act and California Fish and Game Code ~~but~~ and impacts would ~~not necessarily~~ be reduced to less than significant. As a result, impacts under this alternative ~~may remain~~ would be less than significant and unavoidable but with mitigation and would be less than the proposed ordinance.

The following text has been added to page 6-12, prior to Section 6.4:

### 6.3.4 Minimum Parcel Sizes and Further Reduced Zoning Designations Available for Commercial Cannabis Operations Alternative (Alternative 4)

This alternative would involve a further restriction on the zoning designations available for commercial cannabis cultivation and related activities and would also establish minimum parcel sizes for many of the allowable zones. Under this alternative, the following additional zoning and parcel size restrictions would be instituted as part of a cannabis cultivation and commerce ordinance:

1. Only organic cannabis cultivation activities would be allowed.
2. Rural Residential (RR) would be removed as an acceptable zone within which outdoor and indoor cultivation could occur through either a zoning clearance certificate or administrative use permit.
3. Additional restrictions would be placed on allowable Rural Agricultural (RA) parcels. Outdoor cultivation would be conditionally allowed on parcels of ten acres or more; Indoor cultivation would be conditionally allowed on parcels of five acres or more. Project-level CEQA analysis would be required for all applications received for parcels zoned RA.
4. Cultivation would be allowed on Unclassified (U) parcels with additional project-level CEQA review and a change in zoning.
5. On Industrial (I) parcels, only indoor cultivation with odor filtration and 200-foot setbacks from residential uses would be allowed.
6. Within Community Centers and Community Plan Areas, only indoor cultivation with utility-provided water and odor filtration would be allowed.
7. Setback requirements would be increased to 200 feet from property lines for outdoor cultivation.

8. Commercial operations would only be allowed along publicly-maintained state highways or public county roads.

Based on the percentage of applications received under the urgency ordinance for commercial cannabis operations, it is assumed this alternative would reduce the potential for commercial cannabis operations within the County by approximately 45%. This is also anticipated to result in the location of commercial cannabis operations within more remote areas of the County and away from developed communities. Due to the fact that this alternative would allow for commercial cannabis operations within the County, the mitigation measures identified for the proposed ordinance would be considered feasible measures to mitigate the impacts of this alternative.

## **ENVIRONMENTAL ANALYSIS**

### **Aesthetics**

Under this alternative, impacts associated with commercial cannabis cultivation operations within the County would occur, similar to the project, but to a lesser degree. Additionally, cannabis operations would be located within more remote areas and would be less visible, countywide, than under the project. The proposed ordinance includes requirements for an eight-foot-tall fence around the entire cultivation area, which would be maintained under this alternative. Due to the presence of potential scenic resources, including the Mokelumne Coast to Crest Trail in the vicinity of larger parcels that would allow for commercial cultivation under this alternative, implementation of Mitigation Measure 3.1-1, as amended through the FEIR would still be required. As a result, impacts to visual character and scenic resources under this alternative would be less than those under the proposed ordinance but would also be less than significant with mitigation.

### **Air Quality/Greenhouse Gas Emissions**

Alternative 4 would further restrict the acceptable zoning under which commercial cannabis operations could be conducted. In general, this is anticipated to result in the location of cannabis cultivation activities away from developed communities (e.g. Copperopolis, Murphys, etc.) and reduce potential localized air quality impacts, including odor impacts. Air quality and greenhouse gas emissions associated with construction and operation of commercial cannabis operations would still occur on a regional scale but would be reduced compared to the project by up to 45%. The actual reduction in emissions is anticipated to be less than 45% due to the likely increase in vehicle trip length for employees travelling to and from commercial cannabis operations. As a result, impacts would remain less than significant with mitigation. Additionally, this alternative would not restrict the potential for primary/caregiver grows to be located in residential areas, albeit on larger parcels (due to the increased setback requirement). As a result, the potential for people to perceive cannabis-related odors as a result of personal/caregiver grows would remain, and impacts would remain significant and unavoidable with implementation of feasible mitigation. Nonetheless, overall, Alternative 4 is determined to have less air quality and greenhouse gas emissions impacts than the project.

### **Biological Resources**

Under Alternative 4, the County would adopt more restrictive, county-specific regulations to guide how cannabis cultivation, processing, and distribution facilities could be constructed/operated. Potential impacts to biological resources would be similar to that of the project, however, the overall land area anticipated to be converted to cannabis-related operations would be less. Cannabis cultivation, processing, and distribution facilities would still be required to comply with RWQCB Order R5-2015-0113, which requires impacts to special status species to be fully mitigated, through implementation of Mitigation Measure 3.3-1. However, impacts to sensitive vegetation alliances could still occur. As a result, impacts under this alternative may remain significant and unavoidable but would be less than the proposed ordinance.

## **Cultural Resources**

Similar to the project, the County would adopt county-specific regulations to guide how cannabis cultivation, processing, and distribution facilities could be constructed/operated, albeit within lesser zoning designations and with parcel size restrictions. RWQCB Order R5-2015-0113 would still apply to all cannabis-related operations and would require such operations to appropriately address and mitigate cultural resources impacts. As a result, impacts would be less than the project due to lesser overall development within the County but would be less than significant with mitigation.

## **Hydrology and Water Quality**

Under this alternative, the County would implement countywide regulations for commercial cannabis operations similar to the project, albeit with greater zone and parcel size restrictions. The RWQCB order related to medicinal cannabis operations would serve as the primary regulation of water quality. Similar to the project, the County would continue assisting the RWQCB by monitoring and identifying localized problems with particular cannabis operations. With respect to groundwater supply impacts, this alternative would result in a lesser demand for groundwater supplies due to commercial cannabis operations, and would further reduce potential groundwater impacts by requiring all commercial operations within Community Centers and Community Plan Areas to be indoor cannabis operations that use utility-provided water. This would require each applicant within these areas to obtain “will serve” letters from the local water purveyor, and thus, ensure adequate water supplies that would not affect groundwater. However, outside of those areas, the potential for localized impacts within the County’s fractured groundwater basin would remain. It is anticipated that mitigation similar to that identified for the project would be required for this alternative. Therefore, although mitigation would still be required to reduce impacts to less than significant, Alternative 4 would result in lesser impacts to hydrology and water quality than the project.

## **Land Use and Planning**

Similar to the project, Alternative 4 is not anticipated to result in the physical division of existing communities. Under this alternative, cannabis operations would be anticipated to occur within the current limits of existing property similar to the proposed ordinance and would not conflict with the goals and policies established in the County General Plan. Overall, impacts related to land use and planning impacts would be similar to the project and less than significant.

## **Noise**

Construction and operational noise associated with commercial cannabis operations would be similar to the project, however, the majority of cannabis-related noise (construction and operational) would be located further away from existing receptors. As a result, noise impacts would generally be less than the proposed ordinance due to the location of cultivation sites further away from existing property lines, residents, and developed communities. Similar to the proposed ordinance, roadway noise levels may still increase along specific roadways due to employee trips, depending on the number of cannabis-related activities located along a particular roadway. However, due to the parcel size restrictions associated with this ordinance and the relatively small number of employees that may occur per cannabis operation, this increase in roadway noise levels is anticipated to be minimal. Overall noise impacts countywide associated with implementation of this alternative would be less than the proposed ordinance and less than significant.

## **Population and Housing**

Under this alternative, the number of employment opportunities within the County would increase but not to the extent of the project. This alternative would have similar effects (i.e. less than significant), although lesser due to the fewer number of cannabis-related activities that may occur.

## **Transportation and Circulation**

As noted above, this alternative would result in an overall reduction in the number of cannabis operations and associated employee trips. While this alternative would preclude locating cannabis-related activities along Community Center, Community Plan Area, and private subdivision roadways, this alternative could still result in localized concentrations of cannabis grows such that specific

roadways could be affected similar to the proposed ordinance, and impacts would remain significant and unavoidable, even with mitigation. However, due to the lesser number of potential cultivation sites under this alternative and the relatively limited number of employees per cultivation site, this increase is anticipated to be less than the proposed ordinance, and overall impacts to the transportation network within the County would be less. As a result, implementation of Alternative 4 would result in lesser traffic impacts than the proposed ordinance.

**ACHIEVEMENT OF PROJECT OBJECTIVES**

If approved by the Board of Supervisors, this alternative would involve the implementation of countywide regulations specific to cannabis cultivation, processing, and distribution, and would impose similar restrictions to the proposed ordinance regarding the development of cannabis-related activities. This alternative would achieve the project objectives established for the proposed ordinance and would further limit the potential for air quality, odor, water quality, and transportation impacts but would not reduce potential programmatic impacts to a less-than-significant level. Similar to Alternative 3 although to a greater degree, the amount of funding provided by this alternative would likely be less than that provided by the proposed ordinance for the monitoring of cannabis-related activities to ensure compliance with the County’s regulations due to fewer numbers of applicants. This alternative would also necessitate greater effort, time, and costs on the part of County staff due to the discretionary review of applications and associated CEQA documentation, compared to the ministerial review by County staff that would occur with the proposed ordinance and Alternative 3. However, permit fees could be adjusted to compensate for reduced numbers of applications, provided that the fees are used for implementation of the regulatory program; therefore, the County’s ability to maintain the health, safety, and well-being of County residents would be similar to the proposed ordinance.

Table 6-1 on page 6-12 of the DEIR has been modified to include Alternative, as follows:

**Table 6-1 Comparison of the Environmental Impacts of the Alternatives in Relation to the Project**

Resource Area	Project	Alternative 1 - No Project	Alternative 2 - Ban on Commercial Cannabis Operations	Alternative 3 - Reduced Zoning Designations Available for Commercial Cannabis Operations	Alternative 4 - Minimum Parcel Sizes and Further Reduced Zoning Designations Available for Commercial Cannabis Operations
Aesthetics	Less than Significant with Mitigation	>	<	<	≤
Air Quality/Greenhouse Gas Emissions	Significant and Unavoidable (1)	<	<	<	≤
Biological Resources	Significant and Unavoidable (1) <u>Less than Significant with Mitigation</u>	<	<	<	≤
Cultural Resources	Less than Significant with Mitigation	<	<	<	≤
Hydrology and Water Quality	Less than Significant with Mitigation	>	<	<	≤
Land Use and Planning	Less than Significant	<	=	=	≡
Noise	Less than Significant	<	<	<	≤
Population and Housing	Less than Significant	<	<	<	≤
Transportation and Circulation	Significant and Unavoidable (1)	<	<	<	≤

Symbol Key: “=”: equivalent level of impact; “<”: lesser impact than the proposed ordinance; “>”: greater impact than the proposed ordinance  
 Source: Compiled by Ascent Environmental in 2017

## **4 MITIGATION MONITORING AND REPORTING PROGRAM**

In accordance with the California Environmental Quality Act (CEQA) Public Resources Code Section 21000 et seq.), Calaveras County (County) prepared an Environmental Impact Report (EIR) (State Clearinghouse No. 2016042019) that identified significant impacts related to: Aesthetics; Air Quality; Biological Resources; Cultural Resources; Greenhouse Gas Emissions; Hydrology and Water Quality; and Transportation and Circulation. The EIR also identifies mitigation measures that would reduce the identified impacts to a less-than-significant level, or that would eliminate these impacts all together.

CEQA and the State CEQA Guidelines (PRC Section 21081.6 and State CEQA Guidelines Sections 15091[d] and 15097) require public agencies “to adopt a reporting and monitoring program for changes to the project which it has adopted or made a condition of project approval to mitigate or avoid significant effects on the environment.” A Mitigation Monitoring and Reporting Program (MMRP) is required for the proposed project because the EIR identifies potential significant adverse impacts related to the project implementation, and mitigation measure have been identified to reduce those impacts. Adoption of the MMRP would occur along with approval of the proposed ordinance.

### **4.1 PURPOSE OF MITIGATION MONITORING AND REPORTING PROGRAM**

This MMRP has been prepared to ensure that all required mitigation measures are implemented and completed in a satisfactory manner prior to implementation of the proposed ordinance. The attached table has been prepared to assist the responsible parties in implementing the mitigation measures. The table identifies the impact, mitigation measures (as amended through the FEIR), monitoring responsibility, mitigation timing, and provides space to confirm implementation of the mitigation measures. The numbering of mitigation measures follows the numbering sequence found in the EIR. Mitigation measures that are referenced more than once in the DEIR are not duplicated in the MMRP table.

### **4.2 ROLES AND RESPONSIBILITIES**

Unless otherwise specified herein, the County is responsible for taking all actions necessary to implement the mitigation measures under its jurisdiction according to the specifications provided for each measure and for demonstrating that the action has been successfully completed.

Inquiries should be directed to:

Peter Maurer, Planning Director  
(209) 754-6394  
PMaurer@co.calaveras.ca.us

The location of this information is:

Calaveras County  
Planning Department  
891 Mountain Ranch Road  
San Andreas, CA 95249

The County is responsible for overall administration of the MMRP and for verifying that County staff members have completed the necessary actions for each measure (i.e., appropriate amendments to the proposed ordinance).

## 4.3 REPORTING

The County shall document and describing the compliance of the activity with the required mitigation measures either within the attached table or a separate monitoring report. At a minimum, report shall identify 1) the mitigation measures or conditions to be monitored for implementation, 2) whether compliance with the mitigation measures has occurred, 3) the procedures used to assess compliance, and 4) the timing of completion of the mitigation measure. The report shall be maintained by the Planning Department.

## 4.4 MITIGATION MONITORING AND REPORTING PROGRAM TABLE

The categories identified in the attached MMRP table are described below.

- ▲ Impact – This column provides the verbatim text of the identified impact.
- ▲ Mitigation Measure – This column provides the verbatim text of the adopted mitigation measure
- ▲ Implementation Responsibility – This column identifies the party responsible for implementing the mitigation measure.
- ▲ Timing – This column identifies the time frame in which the mitigation will be implemented.
- ▲ Verification – This column is to be dated and signed by the person (either project manager or his/her designee) responsible for verifying compliance with the requirements of the mitigation measure.

**Table 4-1 Mitigation Monitoring and Reporting Program – Medical Cannabis Cultivation and Commerce Ordinance**

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
<b>3.1 Aesthetics</b>				
<b>Impact 3.1-1: Have a substantial adverse effect on a scenic vista or substantially damage scenic resources.</b>	<b>Mitigation Measure 3.1-1: Distance from designated scenic resources.</b> The County shall amend the proposed ordinance to require that any areas of cultivation, not contained within existing structures that would not be modified for cannabis-related activities, be located at least one thousand (1,000) feet from any designated scenic resources, as determined by the County consistent with General Plan policies and implementation programs, the California Scenic Highways Program, or the National Scenic Byways Program. Further, any site-specific security measures, including the provision of armed security staff, shall be limited to the cannabis-related operation and not within required setback distances established by the County through the proposed ordinance.	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications	
<b>Impact 3.1-3: Create a new source of substantial light or glare that would adversely affect views.</b>	<b>Mitigation Measure 3.1-3: Lighting standards.</b> The County shall amend the proposed ordinance to reflect the following text in Sections 17.95.210, 17.95.240, and 17.95.310:  All lighting provided in conjunction with facility security or cultivation activities shall be installed, directed down and away from nearby property lines, and shielded to confine all direct rays of light within the boundaries of such facilities.	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications	
<b>3.2 Air Quality/Greenhouse Gas Emissions</b>				
<b>Impact 3.2-2: Long-term operational emissions of ROG, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub>.</b>	<b>Mitigation Measure 3.2-2: Prohibit the use of fossil fuel-powered outdoor power equipment during operation of cannabis grow sites and processing facilities.</b> The County shall amend the proposed ordinance to include the following text in Sections 17.95.210 and 17.95.240:  Refrain from using generators and off-road equipment that is powered by gasoline, diesel, or other fossil fuels to assist in the cultivation and harvesting of cannabis (operational activities). This requirement applies to all off-road equipment including, but not limited to, utility vehicles, tractors, and trimmers. Electric- or human-powered versions of these equipment can be used.	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications	
<b>Impact 3.2-3: Generation of greenhouse gas emissions.</b>	<b>Mitigation Measure 3.2-3: Reduce GHG emissions associated with the cultivation, processing, and distribution of cannabis.</b> The County shall amend the proposed ordinance to include the following text under Section 17.95.200  1. Each applicant shall demonstrate a reduction in annual GHG emissions equivalent to a one-time offset of 17.2 metric tons of CO <sub>2</sub> e for construction-related emissions and an offset of 5.9 metric tons of CO <sub>2</sub> e/year for operational emissions or a reduction equivalent to the construction and annual operational GHG emissions associated with the specific cultivation site, as calculated using an ARB-accepted model/technique.  The manner in which this is demonstrated may include, but is not limited to, the	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications	

**Table 4-1 Mitigation Monitoring and Reporting Program – Medical Cannabis Cultivation and Commerce Ordinance**

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
	<p>following in order of preference to reduce emissions:</p> <ul style="list-style-type: none"> <li>a. Photovoltaic panels on on-site structures. The extent to which solar is considered feasible shall be based on roof orientation, shade, and other factors. Each applicant shall submit a determination/evaluation of whether on-site solar is feasible or infeasible prepared by a qualified professional to the Planning Department;</li> <li>b. Provision of and documentation that the well pump used to supply irrigation water to the cannabis grow area is powered by photovoltaic cells;</li> <li>c. Documentation of attainment of offset credits of metric tons of carbon dioxide-equivalent associated with construction and operation of the new outdoor commercial grow site, including the loss of carbon-sequestering vegetation. The offset credit must be issued by a recognized and reputable carbon registry that validates that the offset credit is real, additional, quantifiable, and enforceable. Documentation demonstrating purchase of the annual offset credit must be provided to the Planning Department prior to the beginning of the first cannabis grow cycle during each calendar year.</li> </ul> <p>The County shall also amend the proposed ordinance to include the following text under Section 17.95.230:</p> <ul style="list-style-type: none"> <li>1. Each applicant shall demonstrate a reduction in annual GHG emissions equivalent to a one-time offset of 11.3 metric tons of CO<sub>2</sub>e for construction-related emissions and an offset of 56.5 metric tons of CO<sub>2</sub>e/year for operational emissions or a reduction equivalent to the construction and annual operational GHG emissions associated with the specific cultivation site, as calculated using an ARB-accepted model/technique. The manner in which this is demonstrated may include, but is not limited to, the following in order of preference to reduce emissions: <ul style="list-style-type: none"> <li>a. Photovoltaic panels on on-site structures. The extent to which solar is considered feasible shall be based on roof orientation, shade, and other factors. Each applicant shall submit a determination/evaluation of whether on-site solar is feasible or infeasible prepared by a qualified professional to the Planning Department;</li> <li>b. Provision of and documentation that the well pump used to supply irrigation water to the cannabis grow area is powered by photovoltaic cells;</li> <li>c. Documentation of attainment of offset credits of metric tons of carbon dioxide-equivalent associated with construction and operation of the new outdoor commercial grow site, including the loss of carbon-sequestering vegetation. The offset credit must be issued by a recognized and reputable carbon registry that validates that the offset credit is real, additional, quantifiable, and enforceable.</li> </ul> </li> </ul>			

**Table 4-1 Mitigation Monitoring and Reporting Program – Medical Cannabis Cultivation and Commerce Ordinance**

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
	Documentation demonstrating purchase of the annual offset credit must be provided to the Planning Department prior to the beginning of the first cannabis grow cycle during each calendar year.			
<b>Impact 3.2-4: Exposure of people to objectionable odors.</b>	<b>Mitigation Measure 3.2-4a: Prohibit burning of cannabis and other vegetative material.</b> The County shall amend the proposed ordinance to reflect the following text in Sections 17.95.210, 17.95.240, 17.95.270, and 17.95.310: The burning of excess plant material associated with the cultivation and processing of medical cannabis is prohibited.	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications	
	<b>Mitigation Measure 3.2-4b: Indoor cultivation odor control.</b> The County shall amend the proposed ordinance to reflect the following text in Sections 17.95.240: Install and maintain a filtered ventilation system which relies on activated carbon filtration, negative ion generation, and/or other odor control mechanism demonstrated to be effective in reducing cannabis odors.	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications	
	<b>Mitigation Measure 3.2-4c: increase setback requirement.</b> The County shall amend the proposed ordinance to reflect a setback of at least 75 feet from any property line instead of 30 feet within Sections 17.95.210, 17.95.240, 17.95.270, and 17.95.310.	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications	
<b>3.3 Biological Resources</b>				
<b>Impact 3.3-1: Impacts to special-status species.</b>	<b>Mitigation Measure 3.3-1: Minimum size of commercial cultivation activities.</b> The County shall amend the proposed ordinance in Sections 17.95.200 and 19.95.230 to require a minimum site size of 1,000 square feet.	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications	
<b>Impact 3.3-3: Degradation or removal of sensitive natural communities.</b>	<b>Mitigation Measure 3.3-3: County Review of Biological Site Assessments.</b> Prior to approval of applications under the proposed ordinance, the County shall arrange for a qualified biologist (either through an on-call contract or employment by the County) to review the Biological Site Assessments prepared for Central Valley RWQCB compliance. In addition, the County shall amend the proposed ordinance in Sections 17.95.200 and 17.95.230 to require applications for commercial cultivation sites to provide copies of Biological Site Assessments to the County that demonstrate the construction and operation associated with the cannabis operation would not remove or otherwise affect sensitive natural communities, including sensitive vegetation alliances that may occur within the County.	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications	

**Table 4-1 Mitigation Monitoring and Reporting Program – Medical Cannabis Cultivation and Commerce Ordinance**

Impact	Mitigation Measure	Implementation Responsibility	Timing	Verification
<b>3.5 Hydrology/Water Quality</b>				
<b>Impact 3.5-3: Groundwater supply impacts.</b>	<p><b>Mitigation Measure 3.5-3: Groundwater monitoring requirements.</b> The county shall amend the proposed ordinance to reflect the following text in Sections 17.95.210, and 19.95.240:</p> <p>Applicants with a permitted well water supply source shall prepare and implement a well-monitoring program. The program shall, at a minimum, include short-duration pumping tests to assess production capacity and water levels. Monitoring shall be carried out at the water supply source well and any nearby wells that could be affected by consumption of water at the source well, as determined by a qualified well driller, hydrologist, or hydrogeologist approved by the county. The first test shall be used to determine connectivity of the source supply well to other nearby wells. These tests shall be completed monthly during the months of August, September, and October and preceded by a minimum of eight (8) hours of non-operation to maintain a static depth to water measurement. Results of testing shall be provided to the County Planning Department and Department of Environmental Health Department for review and approval. If continuous decline of water levels is observed for a period of five (5) consecutive years in the source water supply well, an alternative water source shall be procured until well water levels have recovered to within ten (10) percent of pre-drawdown levels.</p>	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications	
<b>3.9 Transportation and Circulation</b>				
<b>Impact 3.9-2: Long-term increase in traffic.</b>	<p><b>Mitigation Measure 3.9-2: Participation in County Road Impact Mitigation Fee Program.</b> The County shall amend the proposed ordinance to reflect the following text in Sections 17.95.210, 17.95.240 and 17.95.310:</p> <p>Participate in the County’s approved Road Impact Mitigation (RIM) Fee Program prior to initiation of operational activities. Fees assessed for each cannabis-related activity will be based on the potential one-way employee trips that could be generated per day during peak operations and determined by the Calaveras County Public Works Department.</p>	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications	

## 5 LIST OF PREPARERS

### LEAD AGENCY

#### Calaveras County

Peter Maurer .....Director, Planning Department

### PREPARERS OF THE ENVIRONMENTAL DOCUMENT

#### Ascent Environmental

Gary Jakobs, AICP ..... Principal

Chris Mundhenk ..... Project Manager

Cori Resha ..... Environmental Planner

Gayiety Lane ..... Production Specialist

Michele Mattei ..... Production Specialist

This page intentionally left blank.

## 6 REFERENCES

- Calaveras Agency Formation Commission. 2012. *Final Water and Wastewater Municipal Services Review*. Adopted June 18, 2012.
- Calaveras County. 2017 (May). *Draft Environmental Impact Report for the Medical Cannabis Cultivation and Commerce Ordinance Project*.
- California Department of Food and Agriculture. 2017. *CalCannabis Cultivation Licensing Draft Program Environmental Impact Report*. June 2017.
- Central Valley Regional Water Quality Control Board. 2017. Cannabis Waste Discharge Regulatory Program. Available: [http://www.waterboards.ca.gov/rwqcb5/water\\_issues/cannabis/index.shtml](http://www.waterboards.ca.gov/rwqcb5/water_issues/cannabis/index.shtml). Accessed July 24, 2017.
- \_\_\_\_\_. 2015. Order R5-2015-0113: *Waste Discharge Requirements General Order for Discharges of Waste Associated with Medicinal Cannabis Cultivation Activities*. Approved October 2, 2015.
- Hecht, Peter. 2017. This California county took in \$3.7 million in pot fees. Now it might ban cultivation. *Sacramento Bee*. June 10, 2017.
- McCreary, Ann. 2017. Public complaints lead to review of ordinances. *Methow Valley News*. July 5, 2017.
- Perrea, Griffin. Central Valley Regional Water Quality Control Board. August 9, 2017—telephone discussion with Chris Mundhenk of Ascent Environmental regarding potential amendments to General Order R5-0115-0113.
- Smith, Julian. 2017. Illegal Pot Farms are Poisoning California’s Forests. *The Atlantic*. March 31, 2017.

This page intentionally left blank.