

**From:** [Jim Ciaffoni](#)  
**To:** [BOS Public Comment](#)  
**Subject:** Comments on Jan. 25 BOS Regular Mtg, Items 29-29c.  
**Date:** Sunday, January 23, 2022 11:51:40 AM  
**Attachments:** [BOS Marijuana groundwater.pdf](#)

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Dear Clerk:

Please forward my attached comments on agenda items 29-29c of the Jan. 25 regular meeting of the BOS.

Thank you,

Jim Ciaffoni



January 21, 2022

TO: Nevada County Board of Supervisors

RE: January 25, 2022 Regular Board Meeting, Agenda Items 29-29c.

Dear Supervisors:

To clarify, lest there be any confusion, the entire subject of my previous comment letter dated Oct. 26, 2021 to the Planning Commission was groundwater usage, not impacts to quality. Groundwater quality relates to surface contamination sources, the consideration of which I leave entirely to the comments of others and as discussed in the Planning Department Staff Memo (Board of Supervisors Memorandum, January 25, 2022).

In that Staff Memo, under Summary of Comments Received, seven (7) concerns are listed, none of which is groundwater usage. I don't think my letter was so poorly written as to cause such a gross misunderstanding. My previous comment letter is only one page. Please take the time to re-read it now before continuing on.

The Program Environmental Impact Report (PEIR) found that groundwater usage from cannabis cultivation may have a significant impact (reduction) on surrounding property owners' wells, yet no attempt was made during the formulation and passage of the NCCO to develop any means to mitigate this impact.

When the time comes to consider a cultivation permit application, how will the CDA determine if the proposal will result in an unacceptable impact to neighboring wells? After more than 20 years of experience as a former water system engineer/public utilities manager who worked with some of the most qualified experts in this area, I can tell you that nobody can make that determination a priori. Every one of them would agree that there will be some impact, but not one could quantify it to determine its significance, and neither can any County employee. The fractured bedrock geologic structure in most areas of Nevada County, as opposed to a defined aquifer, simply make it impossible.

Related to this point is the fact that no research has been provided by the County that provides a working estimate of the irrigation demand per plant, or per square foot of canopy, or whatever, for given locations in Nevada County and for given months of the year.

On page 8 of the Staff Memo, second paragraph, it is stated that the PEIR contemplated a ministerial permitting process in which mitigation measures were identified "to offset potentially significant impacts" that were to be added to the Land Use Development Code to "reduce potential impacts to a less than significant level or minimize significant and unavoidable impacts to the extent feasible". Further, the reader is directed to the ministerial Commercial Cannabis Inspection Checklist. In that Checklist, the possibility that a project could "Decrease groundwater supply" is listed as a significant and unavoidable impact (designated as such by the PEIR) with an associated box to check, but the only action required in order for the reviewer to check the box is to provide a "description of the source of water"; that's it!

If and when a future cultivation permit application is submitted, is this how Nevada County proposes to "minimize significant and unavoidable impacts to the extent feasible"? It may not be

feasible to predetermine and quantify the effect of a given groundwater usage pattern on surrounding wells, but wouldn't it make sense, at least, to make standard in the NCCO a requirement to install a data logger on any wells used to irrigate cannabis in order to establish the actual time-stamped usage pattern. This information could be useful in either supporting a claim by a surrounding property owner of negative impacts, or of absolving the grower of unfounded assertions.

There may be other such means to address this issue. I think it is a great disservice to the county residents to sweep this groundwater usage issue under the rug in order to bolster the local marijuana industry.

Comments were received by a Menkin Nelson, who suggests that the Planning Department would rely on State Water Resources Control Board, Water Code (SWRCB) Section 13149 during the permitting process. Section 13149 concerns the interests of the Department of Fish and Wildlife, which is only interested in any factors that may affect surface stream flows. Streams (BTW, there are none in this case) could theoretically be reduced by a lowered water table caused by over-pumping, but this is a completely independent question from the possible impact to surrounding, off-site wells. It should also be noted that neither the above-mentioned Checklist, nor the standard, ministerial permitting process contemplates any contact with the SWRCB for routine permitting.

The comment was also made that marijuana would not use any more water than tomatoes. I don't know if that's a valid comparison, but how many people do you know in western Nevada County who routinely grow 10,000 square feet of tomatoes? If you do know someone, how many of them are using groundwater instead of surface water?

I'm not against this rezone, or marijuana per se, and the larger the resulting parcel size the better as far as I'm concerned. I'm against certain aspects of the NCCO including the lack of consideration of groundwater usage, and the incomplete manner in which this concern is being administered. Good governance would involve actively searching for solutions to this problem, not just continuing on checking boxes as if the problem doesn't exist.

Please show leadership and take the time to consider ways to make the NCCO work for the general public, and not just growers.

Thank you for considering my comments.

Yours truly,

Jim Ciaffoni

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[REDACTED]  
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