



**COUNTY OF NEVADA  
COMMUNITY DEVELOPMENT AGENCY  
PLANNING DEPARTMENT**

**950 MAIDU AVENUE NEVADA CITY, CA 95959-8617  
(530) 265-1222 FAX (530) 265-9851 <http://www.mynevadacounty.com/CDA>**

Trisha Tillotson  
Community Development Agency Director

Brian Foss  
Planning Director

MEMORANDUM

November 17, 2021

**TO:** Planning Commission

**FROM:** Matt Kelley, Senior Planner *MK*

**HEARING DATE:** November 17, 2021

**SUBJECT:** PLN21-0051; GPA21-0001; RZN21-0001; EIS21-0002. An application for a General Plan Land Use Map Amendment and Zoning District Map Amendment.

---

Regarding the proposed General Plan Land Use Amendment and Rezone project, the Planning Department has received two public comment letters from neighbors concerning the proposed project and one public comment letter from a neighbor with concerns about the proposed project and the California Environmental Quality Act (CEQA) Negative Declaration. As part of the Public Hearing and as part of the record, staff would like to forward these letters to the Planning Commission which are attached to this Memorandum for your review and consideration.

On October 18, 2021 and on October 26, 2021, the Planning Department received a comment letter from two neighbors, Carl Balistreri (October 18, 2021) and Jim Ciaffoni (October 26, 2021) concerning the proposed project with comments related to the use of the subject parcel for potential future cannabis cultivation and potential impacts to groundwater resources.

Staff Response:

In reviewing the project description for the proposed project, many of the concerns which have been outlined by Mr. Balistreri and Mr. Ciaffoni have been addressed in the Staff Report and the proposed Negative Declaration. The project as proposed is a General Plan Land Use Map Amendment to change the from Rural (RUR) – 5 to Rural (RUR) – 20 and to change the Zoning from Residential Agricultural (RA) – 5 with Planned Development (PD) to General Agricultural (AG) – 20. As included in the Staff Report and the proposed Negative Declaration, the project as proposed by the applicant, does not include a request to further develop the subject parcel at this time and only seeks to change the General Plan Land Use Map and Zoning District Map, which is a legislative action. While included as part of the application, the applicant has indicated that they intended to potentially develop the subject parcel in the future with residential uses and potentially

future commercial agricultural uses, including the potential cultivation of cannabis, the project as proposed does not include these uses. If approved, future potential uses including the potential future cultivation of cannabis would be required to be in compliance with the resultant General Agricultural Zoning District (AG-20) and would be subject to the site development standards as outlined in Nevada County Land Use and Development Code, Section L-II 2.3 – Rural Districts and Section L-II 3.30 – Cannabis Cultivation, including the issuance of appropriate Land Use Development entitlements and Building Permits.

Furthermore, on October 26, the Planning Department received a public comment letter from a neighbor Lee L. Auerbach, regarding the proposed project and the draft CEQA Initial Study and Negative Declaration. In the letter Mr. Auerbach outlines his concerns regarding the Draft Initial Study and Negative Declaration and that based on the proposed project an Environmental Impact Report (EIR) would need to be prepared. In his letter, Mr. Auerbach further indicates that the draft Initial Study did not evaluate the potential environmental impacts of the cultivation of cannabis on the subject parcel and its related potential groundwater impacts.

Staff Response:

Regarding the proposed project, many of the concerns which have been addressed by Mr. Auerbach, have been outlined and addressed in the Staff Report and the draft CEQA Initial Study and Negative Declaration. As discussed throughout the Initial Study and the Staff Report, the project as proposed is a legislative action that would amend the General Plan Land Use Designation from RUR-5 to RUR-20 and Zoning District Map Number 64 from RA-5-PD to AG-20.

As discussed throughout the Initial Study, it is anticipated that the use of the project site would be for residential purposes and may include commercial agricultural uses, including the potential cultivation of cannabis based on information within the submitted application. This has been included in the Initial Study for the benefit of the reader and to disclose the potential uses of the project site to the public, however, these uses could potentially change in the future and further analysis of these uses would be speculation within the Initial Study. As proposed, the project **does not include any proposed development** that would be subject to further CEQA analysis at this time. Pursuant to Public Resources Code § 21082.2, speculation is not substantial evidence that a project may have a significant impact on the environment that would require the preparation of an Environmental Impact Report. Future use will be subject to environmental review and as described throughout the Initial Study, future use may include, but is not limited to, residential, commercial, agricultural and/or cannabis cultivation.

If approved, the potential future cultivation of cannabis and other commercial agricultural uses, and residential uses would be generally compatible with the resultant General Agricultural Zoning District (AG-20), however, they would be subject to the site development requirements as outlined in Nevada County Land Use and Development Code, Section L-II 2.3 – Rural Districts and Section L-II 3.30 – Cannabis Cultivation, including the issuance of appropriate Land Use and Development entitlements and Building Permits. As part of the review of a Cannabis Cultivation permit, and as outlined in the Program Environmental Impact Report (PEIR) (SCH #2018082023) the PEIR

analyzed an ordinance that created a ministerial permitting process for a variety of commercial cannabis activities, including indoor, mixed-light, and outdoor cultivation, and also identified mitigation measures to offset potentially significant impacts that were subsequently incorporated in development standards and requirements as outlined in Nevada County Land Use and Development Code, Section L-II 3.30 – Cannabis Cultivation. In addition, the PEIR also identified various codes within Nevada County Land Use and Development Code, Article 4 – Comprehensive Site Development Standards, which were implemented to reduce potential impacts to a less than significant level or minimize significant and unavoidable impacts to the extent feasible.

Pursuant to CEQA Guidelines § 15168(c)(4) to document the County’s evaluation of the sites and proposed activities that are subject of permit applications for commercial cannabis cultivation, a checklist was developed, which was approved by the California Bureau of Cannabis Control and which summarizes the potential effects of each proposed cannabis cultivation operation to determine whether the environmental effects of its operations are a subsequent activity within the scope of the PEIR. As outlined in the checklist, potential environmental impacts of a cannabis operation that were identified in the PEIR as mitigation measures, are included to ensure each commercial cannabis cultivation is in compliance with the mitigation measures and the appropriate County Land Use and Development Code Sections. In order for the County to issue either the Cannabis Cultivation Permit (CCP) or Administrative Development Permit (ADP) as outlined under Nevada County Land Use and Development Code, Section L-II 3.30 – Cannabis Cultivation, the applicant or permittee must comply with each and every provision of the ordinance. Failure to comply will result in denial of the permit, or if failure occurs after the permit is issued, revocation of the permit. This checklist is provided to document whether the sought ministerial permit is a subsequent activity within the scope of the PEIR based upon the description of the cannabis cultivation operation. Furthermore, if the applicant pursues cultivation of cannabis, along with compliance with other local and state regulations, the County requires a Pre-Cultivation Inspection which incorporates the Commercial Cannabis Inspection Checklist as approved by the California Bureau of Cannabis Control.

Enclosures:

1. Public Comment Letters Received
2. County of Nevada Cannabis CEQA Compliance Checklist

October 26, 2021

Matt Kelley  
Nevada County Planning Department  
950 Maidu Ave., Suite 170  
Nevada City, CA 95959

Re: Oct. 28 Planning Commission Meeting Agenda Item  
General Plan Land Use Map/ Zoning District Map Amendment

Dear Mr. Kelley:

I, Jim Ciaffoni, have been the property owner of three parcels located about 1000' east of the parcel in question for the past 30 years. I am writing as an interested, adjacent property owner, and as a Registered Civil Engineer experienced in the planning, design, and management of private and public water systems. I have extensive experience in environmental permitting of these systems, and the application of CEQA in particular.

I also have been the president of our local homeowners association, Harmony Ridge Road Association, for about 20 years, which has made me familiar with many neighborhood concerns, one of which is precarious, hit-and-miss groundwater well production, especially along the upper portions of Harmony Ridge, and in the Blue Tent, Cooper Road, and North Bloomfield Road areas. However, I am not speaking on this subject in that capacity, authorization not having been discussed in an open meeting, only to state my extensive exposure to local conditions.

I believe that surrounding property owners, and the public in general, were deprived of any meaningful input to proposed commercial marijuana operations concerning groundwater impacts when the Nevada County Cultivation Ordinance (NCCO) was passed.

I note that the EIR prepared for the County as part of the passage of the NCCO identified the possibility of significant impacts to groundwater "availability". As an aside, I add that groundwater "quality" could also be affected if the groundwater level of a surrounding well were to drop into a lower seasonal operating range. Yet, the County opted to completely disregard the interests of surrounding property owners by citing some unspecified economic, social, legal, technological, and "other" benefits in its Statement of Overriding Considerations.

I understand, and the Initial Study belabors the point, that this proposed action is a legislative action only, and not a specific development proposal, suggesting that future, proposed physical development of the rezoned property will be adequately addressed at the building permit stage. However, we all know that building permit issuance, with the associated planning and environmental health department reviews, are purely ministerial processes, requiring no public notification/hearing or opportunity for comments. In the real world, an adjacent property will catch wind of a building permit after it has been issued, practically speaking, too late, as the "horse will have already left the barn".

I would like to think that the way the County overlooked the public's rights under CEQA was simply an oversight, and I would like to suggest a remedy to the problem.

I am requesting this Commission to direct your Planning Department to bring forward for consideration by the Commission a proposed amendment to the NCCO, offering alternative means to ensure surrounding property owners will have their say, by the requirement of a User or Conditional Use Permit, or some other similar mechanism. As we go forward, the omission of the fundamental right of surrounding property owners to protect such an essential resource as water, the essence of life, is going to take center stage regarding the NCCO.

I think that concludes my concerns. Thank you for receiving my comments.

Yours truly,

Jim Ciaffoni  
17180 Broken Arrow Place & 10605 Harmony Ridge Road  
Nevada City, CA 95959

October 17, 2021

To; Matt Kelley

Nevada County Planning Department

950 Maidu Avenue, Suite 170

Nevada City, CA 95959

From;

Carl Balistreri

17007 Cooper Rd APN 034-160-025

Nevada City, Ca 9595

RE; Project 10460 Harmony ridge road APN 034-160 - 001

Hello Matt,

My concerns with this general plan change concern the water being used this year by the cultivation taking place on the parcel requesting the zoning change.

When a zoning plan is considered, the density sometimes deals with the amount of water each parcel will use. The typical household will use between 300 and 500 gallons per day.

General agriculture uses thousands of gallons per day.

On my parcel is a water shed pond created in 1960 using Federal Tax Credits to create wildlife habitat for migrating water fowl. In the 40 years I have lived on this parcel the summer time water level has been the same every year but not this year. Pumping of ground water on the subject property has caused the summer time level of the pond to decrease by 3 feet thus far this year. The pond is habitat for turtles, frogs, fish as well as a stopover for 4 species of migrating water fowl. The water use is devastating this ecosystem. Federal and State authorities should be notified and made aware of the effects on this water shed as well as Nevada County Environmental Health

In addition I have a granny unit on my parcel in which the county approved the pond as sufficient auxiliary water storage for the granny unit without having an alternate storage tank. In 1997 the neighbors on the adjoining parcel also got approval from the county to use the pond on my parcel as their fire protect storage for their granny unit. Fire Marshall of the Forty-Niner Fire district approved the use of the pond for firefighting and required a recorded easement for its use to access the water. I feel the fire district should be made aware of the depletion of their firefighting water source.

I have attached a copy of the recorded document allowing use of the pond water for fire fighting purposes.

Thank You,



Carl Balistreri

(408)799-5912

January 30, 1997

To: FORTY-NINER FIRE DISTRICT  
Post Office Box 354  
Nevada City, Ca. 95959

Attn. David Ray, Fire Marshall

From: Carl Salvatore Balistreri  
17007 Cooper Rd.  
Nevada City, Ca. 95959  
(916) 265-3828

Re: Use of Pond Water Storage for Fire Fighting Purposes

Dear David,

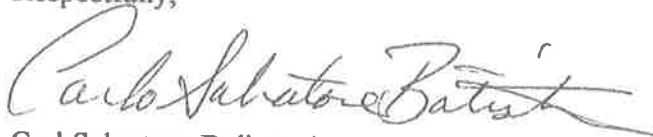
It is my understanding that Rick and Suzanne Anzlec have spoken to you regarding the use of the pond water for fighting fire on their property.

As I told you many years ago, when I installed the first Fire Department hook-up, this water source was for fire protection for all properties in this area.

I am more than happy to oblige anyone to use this water source for fire protection purposes for as long as it is viable.

Please put this letter in your records and feel free to submit copies of it to any other fire district which may have need for this fire protection water source now or at any time in the future.

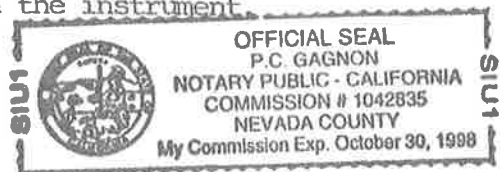
Respectfully,



Carl Salvatore Balistreri  
A.P.N. 34-160-25

State of California  
County of Nevada

On January 31, 1997, before me, P. C. Gagnon, a Notary Public in and for said State, personally appeared Carl Salvatore Balistreri, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.  
Witness my hand and official seal.





**NOTICE OF AVAILABILITY FOR PUBLIC REVIEW AND NOTICE OF INTENT TO ADOPT A PROPOSED NEGATIVE DECLARATION FOR THE MURTY AND LAW GENERAL PLAN AMENDMENT AND REZONE PROJECT (PLN21-0051; GPA21-0001; RZN21-0001; EIS21-0002)**

NOTICE IS HEREBY GIVEN that the County of Nevada, as a lead agency, is circulating for public review a Draft Initial Study/Negative Declaration (IS/ND) in accordance with the California Environmental Quality Act (CEQA) for the proposed Murty and Law General Plan Amendment and Rezone Project.

**PROJECT LOCATION:** 10460 Harmony Ridge Road within unincorporated Western Nevada County – located approximately 2.0 miles northeast of the City of Nevada City. The subject parcel is further located northwest of Harmony Ridge Road, southeast of North Bloomfield Road and south of Cooper Road. **Assessor Parcel Number:** 034-160-001.

**PROJECT DESCRIPTION:** Adoption of a Negative Declaration for the Murty and Law General Plan Amendment and Rezone. The project is a proposed General Plan Land Use Map Amendment and Zoning District Map Amendment to change the subject project site, located at 10460 Harmony Ridge Road from Rural (RUR) – 5 to Rural (RUR) – 20 and a Zoning District Map Amendment to change the Zoning District from Residential Agriculture (RA) – 5 with Planned Development (PD) to General Agriculture (AG) – 20. The project as proposed, does not include a proposal to develop the parcel and only seeks to change the existing General Plan Land Use Map and Zoning District Map.

**PUBLIC REVIEW:** As a lead agency, in accordance with CEQA, Nevada County is distributing the Draft IS/ND to interested public and regulatory authorities for review and comment. Nevada County is inviting comments and concerns regarding the IS/ND during the public review period spanning **October 8, 2021 to October 27, 2021 at 5:00 p.m.**

**DOCUMENT AVAILABILITY:** The Draft Initial Study/Negative Declaration is available for review on Nevada County's website at <https://www.mynevadacounty.com/994/Environmental-Documents>. Hardcopies may be reviewed at the Nevada County Planning Department, 950 Maidu Avenue, Suite 170, Nevada City, CA 95959.

Written comments should be sent to the following address: Matt Kelley, Senior Planner, Nevada County Planning Department, 950 Maidu Avenue, Suite 170, Nevada City, CA 95959, Phone: 530-265-1423 - Email: [matt.kelley@co.nevada.ca.us](mailto:matt.kelley@co.nevada.ca.us) on or before **October 27, 2021 at 5:00 p.m.**

By: Shelley Romriell, Clerk of the Planning Commission

PUBLISH: October 8, 2021

THE UNION

MAILING: October 8, 2021

ON OR BEFORE

**LEE L. AUERBACH**  
**ATTORNEY AT LAW**

P.O. Box 1129 | Nevada City, California 95959 | 530-264-7640 | [AuerbachLee@gmail.com](mailto:AuerbachLee@gmail.com)

---

October 27, 2021

Via Email

Matt Kelley  
Senior Planner  
Nevada County Planning Department  
950 Maidu Avenue, Suite 170  
Nevada City, CA 95959

Re: Comments on Draft Initial Study/Negative Declaration for the Murty and Law General Plan Amendment and Rezone Project

Dear Mr. Kelley:

On behalf of the undersigned interested parties and myself, I respectfully submit the following comments on the County of Nevada's ("County") Draft Initial Study and Negative Declaration ("IS/ND") for the proposed Murty and Law General Plan Amendment and Rezone Project (the "Project").

As explained below, in connection with the IS/ND the County failed to comply with several mandates of the California Environmental Quality Act ("CEQA"), Cal. Pub. Res. Code §§ 21000, *et seq.* Under the facts and circumstances, an environmental impact report ("EIR") must be prepared to adequately analyze the Project's ultimate, potentially significant, adverse environmental effects.<sup>1</sup> Substantial evidence – including the County's own prior findings respecting impacts associated with cannabis cultivation – supports a fair argument that the cultivation that foreseeably will result from Project approval may have a significant impact on the environment, particularly with respect to groundwater depletion.

Approval of the Project by the County Board of Supervisors in reliance on the IS/ND would violate CEQA for at least six reasons. First, the County improperly focuses its analysis on the environmental impact of the legislative process rather than the ultimate activity for which the Project application (the "Application") is made. Second, the County improperly attempts to defer environmental review of foreseeable impacts to later developmental stages when no such review will occur. Third, the County fails to show an adequate basis for its findings. Fourth, approval would contradict the County's previous determination that cannabis production on parcels zoned RA is infeasible. Fifth, substantial evidence supports a fair argument that the Project may have a significant effect on groundwater supplies, recharge and management, either standing alone or cumulatively. Finally, the County failed to meet notice requirements.

Before turning to these issues, it bears mention that Nevada County and California as a whole are suffering an unprecedented drought. As these comments were being prepared, the California Department of Water Resources reported that the 2021 water year was the driest in

---

<sup>1</sup> Alternatively, the County could issue a mitigated negative declaration modifying the Project to allow the land use amendment but not the zoning amendment or substantially limiting potential agricultural activities and/or the volume of groundwater extracted for agricultural purposes such that impacts are avoided or reduced to a less than significant level. Cal. Pub. Res. Code § 21064.5; 14 Cal. Code Regs § 15063(a).



nearly a century. That same week California Governor Gavin Newsom declared a drought emergency for the entire state and urged all residents to step up water conservation efforts. In light of these developments, projects like the present one which would exacerbate the depletion of water supplies warrant heightened scrutiny.

A. The County Improperly Focuses Its Analysis on the Environmental Impacts of the Legislative Process Itself

Throughout the IS/ND, the County describes the Project as a “legislative action” which in itself would have less than a significant impact on the environment. For example, in its Impact Discussion on Hydrology/Water Quality, the County asserts that the “*action necessary to amend* the land use and zoning designations for the subject project site would [sic] less than a significant impact on water quality or waste discharge.” IS/ND at 4 (Emphasis added.)

There is no debate that the legislative process standing alone has minimal, if any, environmental impacts. But that is immaterial. The question under CEQA is whether by rezoning the subject property and/or amending the General Plan, reasonably foreseeable indirect physical changes to the environment will result. The County improperly fails to address such impacts with respect to groundwater.

For purposes of CEQA, a “project” is defined as comprising “the whole of an action” that has the potential to result in a direct or reasonably foreseeable indirect physical change in the environment. 14 Cal. Code Regs §15378(a). The term “project” refers to the *ultimate activity* for which approval is sought. *Id.* §15378(c). The lead agency must describe the project to encompass the entirety of the activity that likely will follow approval. This ensures that all potential impacts of a proposed project will be examined before it is approved. *Id.* §§15378(a),(d).

Accordingly, a lead agency may not limit environmental disclosure by ignoring the development or other activity that ultimately will result from an initial approval. *See Union of Medical Marijuana Patients, Inc. v. City of San Diego* (2019) 7 Cal.5th 1171, 1200 (local agency cannot argue that approval of regulation is not a project “‘merely because further decisions must be made’ before the activities directly causing environmental change will occur”); *City of Antioch v. City Council* (1986) 187 Cal.App.3d 1325 (piecemeal review of development of infrastructure for undeveloped site resulting in negative declaration was improper, even though future developments of the site would be examined in later EIRs, because infrastructure extension was approved to allow site to be developed). Otherwise, applicants would be incentivized to submit projects piecemeal in stages calculated to avoid or minimize environmental review, as applicants Murty and Law (together, “Applicants”) appear to have attempted here.

While Applicants have elected not to submit a development plan, their Application, past conduct and Applicant Murty’s statements to third parties make clear that their ultimate objective is commercial cannabis cultivation. Indeed, almost immediately after acquiring the parcel in 2020, Applicants cultivated a large quantity of cannabis unlawfully on the property. *See* photo below and Memo from B & W Resorts, Inc. and Lee Auerbach to Community Development Agency dated March 23, 2021 at p. 2, incorporated herein by reference. If Applicants subdivide and sell some or all of the units, it is foreseeable they will market the units as potential cannabis grow sites if the parcel is rezoned AG. Apart from potential cannabis cultivation, Applicants offer no rationale for their rezoning request. As cannabis cultivation is a “reasonably foreseeable” – if not certain – consequence of approval, its impacts must be considered in the County’s evaluation of the Application.



Aerial view of cannabis cultivation on subject parcel, Fall 2020

B. The County Improperly Attempts to Defer Consideration of Foreseeable Environmental Impacts to Groundwater

In its Impact Discussion respecting Hydrology/Water Quality, the County suggests that the foreseeable, indirect environmental impacts of the Project can be addressed at a later juncture. IS/ND at 21. It states, “[f]uture development on the site, including permitting for the potential future cultivation of cannabis would be subject to building permit issuance and compliance with the California Building Code along with any required annual cannabis licensing inspections.” *Id.* This attempt to “kick the can down the road” is unavailing for two reasons. First, it is not permitted by CEQA. Second, there is no requirement or provision for an environmental impact review with respect to groundwater or otherwise in connection with a building permit or cannabis cultivation permit.

1. CEQA Requires that the Current Environment Review Encompass All Foreseeable Stages through the End Result of the Project

Although a project ultimately may go through several approval stages, the environmental review accompanying the first discretionary approval must evaluate the impacts of the ultimate development that will flow from that approval. This prevents agencies from chopping a large project into little ones, each with a minimal impact on the environment, to avoid full environmental disclosure. See 14 Cal. Code Regs §15003(h); *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283. See also *California Unions for Reliable Energy v. Mojave Desert Air Quality Mgmt. Dist.* (2009) 178 Cal.App.4th 1225, 1249.

As stated in a leading treatise:

[A] general plan amendment or rezoning to accommodate a development project is only an initial step in the approval process. Even though further discretionary approvals may be required before development can occur, *the agency's environmental review must extend to the development envisioned by the initial approvals.* It is irrelevant that the development may not receive all necessary entitlements or may not be built. Piecemeal environmental review that ignores the environmental impacts of the end result is not permitted.

CEB OnLAW, Practice Under the California Environmental Quality Act, § 6.31 (2021) (emphasis added) (*citing Christward Ministry v Superior Court* (1986) 184 Cal.App.3d 180, 193 (EIR should have been required for general plan amendment designating existing landfill site to permit various waste-disposal activities even though EIR would be required later if use permits were actually sought for such activities); *City of Camel-by-the-Sea v. Board of Supervisors* (1986) 183 Cal.App.3d 229, 251 (county violated CEQA by preparing negative declaration for rezoning and reserving preparation of EIR until later stage of approval); *Citizens Ass'n for Sensible Dev. v. County of Inyo* (1985) 172 Cal.App.3d 151,167 (county improperly prepared negative declaration for general plan amendment and rezoning for proposed shopping center followed by later negative declaration for subdivision map and road abandonment for same project, because, by bifurcating review, county failed to examine potential impacts of entire development).

2. The County's Suggestion that Environmental Impacts to Groundwater Will Be Assessed in the Future Is Illusory

The requirements for a commercial cannabis cultivation license are set forth in the Nevada County Cannabis Cultivation Ordinance ("NCCO"), Nevada County Code § L-II 3.30. Nowhere in the NCCO is there any provision for an assessment of environmental impacts to groundwater or otherwise in connection with the application for a commercial cannabis cultivation permit. Nor is there any provision for such a review in the building code. Thus, the County's suggestion that environmental impacts related to the Project's ultimate objective can or will be addressed at a later developmental stage is fiction. Those impacts must be addressed now.

C. The County Provides an Insufficient Factual Basis for a Determination to Issue a Negative Declaration

Where, as here, an initial study checklist is used to provide the lead agency's findings for a negative declaration, the checklist must be supported by evidence in the administrative record. Although findings relating to the Project's impacts may be shown in a checklist, to provide an adequate basis for judicial review, an initial study should disclose the data or evidence supporting the study's environmental findings. *Citizens Ass'n for Sensible Dev. v. County of Inyo* (1985) 172 Cal.App.3d 151,171.

In *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, the court rejected a negative declaration that was supported only by a bare-bones environmental checklist. There was no indication in the record of the source or content of the data that county staff relied on in preparing the checklist, nor was there an explanation of the initial study's conclusion that potentially significant impacts would be fully mitigated. Describing the checklist as a "token observance" of CEQA requirements, the court held that a lead agency has a duty to investigate potential impacts and provide support for a negative declaration. The record must demonstrate, and not simply assume, that significant impacts will not occur. This prevents a lead agency from providing a superficial analysis of a project's potential impacts in the initial study and then defending its decision to adopt a negative declaration by pointing to the absence of evidence of any significant environmental impacts. The County failed to meet this standard here.

Subsequent to the *Sundstrom* decision, the CEQA Guidelines were amended to provide that the impact findings in an initial study checklist or other form must be briefly explained to show there is some evidence to support the entries. 14 Cal. Code Regs §15063(d)(3). The explanation "may be either through a narrative or a reference to another information source such as an attached map, photographs, or an earlier EIR or negative declaration." *Id.* The County supplies neither.

In addition, the environmental checklist form in CEQA Guidelines Appendix G includes instructions requiring that an initial study explain the basis for findings that the project's impacts will be less than significant. With respect to groundwater supplies, recharge and management, in particular, the County supplies none.

1. The "Reference Sources" Cited Contain No Substance

As support for its finding that the Project would have "less than significant impact" to groundwater supplies, the IS/ND cites two, purported reference sources in its Appendix: "A. Planning Department" and "D. Building Department." The Planning Department's circular reference to itself and its bare bones reference to a sister agency are insufficient under CEQA as they do not reference an information source such as a map, photographs, earlier EIR or negative declaration.

The County's failure to reference an earlier EIR is not surprising. The EIR it finalized only two years ago in connection with the NCCO found that commercial cannabis cultivation would cause significant, unavoidable, detrimental impacts to groundwater. See Sections D, E, below.

2. The Impact Discussions on Hydrology/Water Quality and Utilities/Service Systems Fall Short As They Do Not Substantively Address Impacts on Groundwater Supplies, Groundwater Recharge or Sustainable Groundwater Management

In lieu of a meaningful citation to sources of information, the County could have supplied a narrative discussion on the potential impacts of Applicants' foreseeable future development, including commercial cannabis production. 14 Cal. Code Regs §15063(d)(3). For most of the potential environmental issues, the County *does* provide such a narrative. See, e.g., IS/ND at 10 (anticipated impacts to air quality "will be minor when taken in context with the size and scope of the property and the anticipated future use for residential and agricultural purposes"); 17 (anticipated that development of future residential and agricultural uses on the project site would result in small but incremental increases in CO<sub>2</sub> levels from the new vehicle trips to this site as well as from minor construction activities"); and 24 ("While construction activities to develop the project site will result in some increases in noise, construction noise is temporary in nature...."). However, as to the potential impacts of future development on groundwater supplies, recharge and management, the County's discussion is silent.

The County's checklist for Hydrology/Water Quality appropriately includes the critical question of whether the proposed project would "Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin." However, the Impact Discussion at page 21 fails even to mention these issues. Its bald conclusion that the Project will result in "less than a significant impact" pertains only to "water quality or waste discharge." *No conclusion whatsoever is stated as to groundwater supplies, recharge or management.*

As the County's checklist identifies groundwater supplies, recharge and management as environmental issues that must be addressed, the IS/ND fails by the County's own standards to meet CEQA requirements.

D. Project Approval Would Run Afoul of the County's Prior Findings that Environmental Issues Make Cannabis Production on RA Zone Parcels Infeasible

The County extensively evaluated environmental impacts related to cannabis cultivation in the final EIR and underlying documents, studies and analyses which preceded the enactment of the NCCO in 2019.<sup>2</sup> There, the County's stated objectives included "defin[ing] specific zones within the County in which production of commercial cannabis cultivation will be allowed" and "defin[ing] within the specific zones, the total area of commercial cannabis cultivation that will be allowed." <https://www.mynevadacounty.com/DocumentCenter/View/27167/ORD18-2-EIR18-0001-Cannabis-PC-SR>, Attachment 1 at 39. According to the Findings, a total of 27,207 parcels zoned AG, AE and FR then existed within the County. *Id.* at 82.

The County ultimately determined that with respect to cultivation on those parcels zoned AG, AE and FR, unavoidable, significant environmental impacts on groundwater supply, recharge and management, among other physical conditions, were outweighed by certain economic, legal, social, technological and other benefits. Statement of Overriding Considerations, Section V.B. of the EIR CEQA Findings, *id.* at 89-91.

Significantly, the County considered and rejected a project alternative that would have permitted cannabis cultivation in parcels zoned RA, including the Applicants' parcel, in addition to parcels zoned AG, AE and FR. The County concluded that also allowing cultivation in RA zones was *infeasible* in that it "would not meet the project objectives aimed at protection of the environment and reduction of potential cannabis cultivation nuisances." *Id.* at 84.

It is a fundamental legal tenet that one cannot achieve indirectly that which cannot be achieved directly. Allowing Applicants or others who own parcels in RA zones to rezone those parcels to AG so as to permit cannabis cultivation would contravene the County's prior determination that cannabis cultivation in those zones is infeasible. Moreover, approving the Application would set a precedent that could lead to a flood of rezoning applications posing the potential to increase the total number of parcels subject to cultivation by approximately 76%. *Id.* Applicants, who purchased the subject parcel after the NCCO was enacted, should not be treated differently than any other owner of an RA-zoned parcel.

In any event, the County's previous finding that environmental impacts make cannabis cultivation on RA zone parcels infeasible further necessitates an EIR for the current Project or a mitigated negative declaration that precludes rezoning and/or cannabis cultivation.

E. Substantial Evidence Supports a Fair Argument that the Project, Including Foreseeable, Cannabis Cultivation, May have a Significant Effect on the Environment

Under CEQA, an EIR is required where substantial evidence supports a fair argument that a project may have a significant environmental impact. Cal. Pub. Res. Code § 21080(c)(2); Cal. Code Regs 14, §§ 15064, 15382. That threshold easily is met here.

The County needs to look no further than its own Planning Commission Staff Report prepared in connection with the adoption of the NCCO for evidence respecting the potential impacts of cannabis cultivation. There, under the heading "Hydrology and Water Quality," the County states:

---

<sup>2</sup> Notably, the County prepared an EIR in connection with the NCCO even though its enactment, like the current Project, could be deemed a "legislative action."

The project could substantially deplete groundwater supplies such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level.

*Cumulative Impact:* The project would result in an increase in demand for local groundwater resources that could contribute to cumulative groundwater supply and impacts in areas of the County with limited groundwater resources (e.g., fractured bedrock conditions). In addition, the potential decrease of water infiltration due to development of accessory structures combined with the cumulative increase in groundwater use being unknown at this time, the potential impacts would be cumulatively considerable and significant and unavoidable.

<https://www.mynevadacounty.com/DocumentCenter/View/27167/ORD18-2-EIR18-0001-Cannabis-PC-SR> at p. 20.

Similarly, under the heading “Utilities and Service Systems,” the Staff Report states:

The project would utilize groundwater supply for commercial cannabis irrigation. Neither the County nor the State has governing rules that would give one overlying groundwater user an advantage over a new overlying groundwater user for cannabis cultivation purposes. Neither the County nor the State have a mechanism in place to track or monitor groundwater production in individual wells. As such, commercial cannabis operations could result in overdrafting of local groundwater aquifers.

*Cumulative Impact:* The project would increase the demand for groundwater within the Nevada Irrigation service area, and it is unknown whether the public water service providers would have adequate water supply to meet future development needs and potential commercial cannabis operations located within their service boundaries, and the existing ground water supply for some cultivation sites may be inadequate, the proposed ordinance’s contribution to water supply would be cumulatively considerable and significant and unavoidable.

*Id.* at 21.<sup>3</sup>

The “considerable and significant and unavoidable” impacts described above may be amplified if the current Project is approved. That approval will facilitate the foreseeable – if not inevitable – addition of up to 40,000 square feet of cannabis cultivation (10,000 square feet for each of four potential units). This may result in further overdrafting of groundwater supplies, including the groundwater relied upon for domestic uses on adjacent and nearby properties owned by the undersigned property owners and others – including water supplied to dozens of campsites and other facilities at the abutting Harmony Ridge Resort. It also may result in a further drop in the water level of the groundwater-fed pond on the on the Balistreri property (APN 34-160-25), the sole source of water available on Cooper Road for fire suppression, during a period in which wildfire activity is on the rise.

Moreover, subsequent to the issuance of the above-referenced Staff Report, drought conditions and long-term forecasts have worsened. As noted above, within the few days

---

<sup>3</sup> The Staff Report also identified potential, unavoidable environmental impacts related to aesthetics, forestry resources, air quality and greenhouse gas emissions, and transportation and traffic. *Id.* at 19-21. These also warrant an EIR or appropriate mitigated negative declaration.



preceding the issuance of these comments, the California Department of Water Resources reported that the 2021 water year was the driest since 1924. On October 19, 2021, Governor Newsom issued a proclamation extending the drought emergency statewide and asked residents to redouble their water conservation efforts. Two months earlier, the UN-backed Intergovernmental Panel on Climate Change reported that the Western U.S. may be entering a "drought era." See <https://www.bloomberg.com/news/articles/2021-08-12/california-drought-a-dry-season-is-turning-into-drought-era>. These pronouncements and the data on which they are based constitute further substantive evidence supporting a fair argument that the Project may have a significant effect on the environment.

Finally, a mandatory finding of significance – and preparation of an EIR – is required when a project's potential impacts are individually limited but cumulatively considerable. "Cumulatively considerable" means that the increased effects of a project are considerable when viewed in connection with the effects of past, current, and probable future projects. Pub. Res. Code §21083(b)(2); 14 Cal. Code Regs §15065(a)(3). Inasmuch as the County declared in connection with the NCCO that the cumulative impact of commercial cannabis cultivation is considerable, a project that foreseeably will result in an increase in cultivation and its impacts also must be viewed as cumulatively considerable, triggering the requirement for an EIR.

F. The County Failed to Complete the IS/ND within the Required Time Period and Its Hearing Notice is Defective

Public Res. Code § 21151.5(a) requires local agencies to complete and adopt negative declarations within 180 days after acceptance of the application requesting project approval. Here, the Application is dated January 20, 2021. It was accepted by the County no later than March 9, 2021, when it was distributed for review and comment. Accordingly, the IS/ND was required to be adopted no later than September 5, 2021. In addition, the Notice of Public Hearing mailed to interested parties on or about October 8, 2021 is defective in that it states incorrectly that the hearing will take place in the Supervisors' Chambers rather than online.

Conclusion

For all of the foregoing reasons, the undersigned respectfully request that the County reject the IS/ND and prepare an EIR or, in the alternative, prepare a mitigated negative declaration with limitations designed to avoid potential impacts or reduce them to a less than significant level.

Sincerely,



Lee Auerbach  
10522 Harmony Ridge Road




Leah Leddy  
10522 Harmony Ridge Road

(signatures continued on next page)

Matt Kelley  
Page 9

  
Carl Balistreri  
17007 Cooper Road

  
Matthew Duerst and Michelle Duerst  
10742 Harmony Ridge Rd

  
Darlene Grenz  
16910 Cooper Road

  
Rick Partridge  
17404 Cooper Road

  
Ed Simone  
17145 Cooper Road

Jim Braddock  
16578 Cooper Road



Eric Nielsen and Judy Nielsen  
16348 Cooper Road



Joan Scafidi and Paul Scafidi  
17230 Cooper Road







# County of Nevada

## Cannabis CEQA Compliance Checklist

Applicant \_\_\_\_\_

Application Number(s) \_\_\_\_\_

APN(s) \_\_\_\_\_

On May 14, 2019, the Nevada County Board of Supervisors certified a Program Environmental Impact Report (PEIR; SCH#2018082023) for the Nevada County Commercial Cannabis Ordinance (NCCO) project/activity. The PEIR analyzed an ordinance that created a ministerial permitting process for a variety of commercial cannabis activities, including indoor, mixed-light, and outdoor cultivation, and identified mitigation measures to offset potentially significant impacts that were subsequently incorporated into development standards and requirements in Section L-II 3.30, Cannabis Cultivation, of the County's Land Use and Development Code. Where applicable, the PEIR also identified County codes in Section L-II Article 4, Comprehensive Site Development Standards, to be implemented to reduce potential impacts to a less-than-significant level or minimize significant and unavoidable impacts to the extent feasible.

The following table was prepared pursuant to the State CEQA Guidelines (§ 15168(c)(4)) to document the County's evaluation of the sites and proposed activities that are the subject of permit applications for commercial cannabis cultivation operations authorized under the NCCO. The table summarizes the potential effects of each proposed cannabis cultivation operation to determine whether the environmental effects of its operations are a subsequent activity within the scope of the PEIR. Listed below are the potential environmental impacts of cannabis operations that were identified in the PEIR, the mitigation measure(s) if applicable, the code section(s) in which the measure(s) has/have been incorporated, a brief explanation of what the measure/code requires, and a determination by the County of compliance by the applicant with each provision. In order for the County to issue either the Cannabis Cultivation Permit (CCP) or Administrative Development Permit (ADP) under the terms of Section L-II 3.30 of the County Land Use and Development Code, the applicant or permittee must comply with each and every provision of the ordinance. Failure to comply will result in denial of the permit, or if failure occurs after the permit is issued, revocation of the permit. This checklist is provided to document whether the sought ministerial permit is a subsequent activity within the scope of the PEIR based upon the description of the cannabis cultivation operation. The following acronyms: LTS – Less than Significant Impact or SU – Significant and Unavoidable Impact, are used in the table below, in the "PEIR Finding after Mitigation" column.

**See Cover Letter for Activity Description.**

**CEQA-LAND USE AND DEVELOPMENT CODE SECTION L-II COMPLIANCE TABLE**

<b>CEQA App. G Impact</b>	<b>Issue</b>	<b>MM #</b>	<b>PEIR Finding</b>	<b>County Code Section</b>	<b>Provision</b>	<b>Application Complies with Code</b>
<b>1. Aesthetics</b>						
1.1	Impact to scenic vista	n/a	LTS			
1.2	Damage scenic resources	AES-1	LTS	L-II 3.30 Subsection G.1.d.v part a)	Site plan shall include all landmark trees, landmark groves, and heritage trees and groves that exist on the project/activity site. If such trees exist, the applicant shall indicate that the proposed cultivation sites and any proposed ancillary structures would not require removal of any of the listed trees and that all cannabis cultivation and accessory structures are outside the existing drip line of all trees. If any cultivation or accessory structure would require removal or encroach in the drip line of any trees, the project/activity plans shall be revised to avoid the trees. If any trees or groves are dead, dying, or a public safety hazard as determined by a qualified professional, no further action is required.	<input type="checkbox"/>
1.3	Degrade visual character	n/a	LTS			
1.4	New source of light	AES-2	LTS	L-II 3.30 Subsection G.1.d.x	Applicant must submit a light control plan that would demonstrate how light used for cultivation purposes would be controlled. Light control measures may include but not be limited to means such as using blackout tarps to completely cover all greenhouses and hoop-houses or restricting the use of lighting between sunset and sunrise.	<input type="checkbox"/>
<b>2. Agriculture and Forestry Resources</b>						
2.1	Conversion of Prime Farmland	AG-1	SU	L-II 3.30 Subsection G.1.d.v part b); L-II 4.3.3	Site plan shall include Prime Farmland, Unique Farmland, or Farmland of Statewide Importance based on the most recent available mapping provided by the California Department of Conservation (CDC) Farmland Mapping & Monitoring Program (FMMP) that exist on the project/activity site. If such lands exist, the applicant shall show on the site plan(s) that any proposed accessory structure and related improvements (e.g., driveways, staging areas, etc.) have been located on the property in which impacts to mapped farmlands are reduced to the maximum extent practicable.	<input type="checkbox"/>
2.2	Conflict with Williamson Act	n/a	LTS			
2.3	Conflict with forest land zoning	n/a	LTS	L-II 4.3.14	Implement Land Use and Development Code Sections L-II 4.3.14, Important Timber Resources, to minimize impacts.	<input type="checkbox"/>

**CEQA-LAND USE AND DEVELOPMENT CODE SECTION L-II COMPLIANCE TABLE**

<b>CEQA App. G Impact</b>	<b>Issue</b>	<b>MM #</b>	<b>PEIR Finding</b>	<b>County Code Section</b>	<b>Provision</b>	<b>Application Complies with Code</b>
2.4	Loss or conversion of forest land	n/a	SU	L-II 4.3.3; L-II 4.3.14	No feasible mitigation measures have been identified. Implement Land Use and Development Code Sections L-II 4.3.3, Important Agricultural Lands, and 4.3.14, Important Timber Resources, to minimize impacts.	<input type="checkbox"/>
2.5	Conversion of farmland	AG-1	SU	L-II 3.30 Subsection G.1.d.v part b); L-II 4.3.3; L-II 4.3.14	See provision in Impact 2.1 above.	<input type="checkbox"/>
<b>3. Air Quality</b>						
3.1	Conflict with air quality plan	AIR-1	SU	L-II 3.30 Subsection G.1.d.xi	All commercial cannabis applications shall include language in project/activity cultivation plans and on project/activity site plans when applicable, that the grading or building permit for the proposed project/activity shall comply with applicable state and federal air pollution control laws and regulations, and with applicable rules and regulations of the NSAQMD during any construction and during operations of cannabis facilities. Compliance with NSAQMD Rule 226 Dust Control Plan shall be required, and all construction equipment (75 horsepower and greater) shall not be less than Tier 3, less than Tier 4 Interim if construction starts after 2025, and Tier 4 Final if construction starts after 2030. Written documentation that the cannabis facility is in compliance with the NSAQMD shall be provided to the Nevada County Planning Department.	<input type="checkbox"/>
3.2	Violate air quality standards	AIR-1	SU	L-II 3.30 Subsection G.1.d.xi	See provision in Impact 3.1 above.	<input type="checkbox"/>
3.3	Cumulative increase in pollutant	AIR-1	SU	L-II 3.30 Subsection G.1.d.xi	See provision in Impact 3.1 above.	<input type="checkbox"/>
3.4	Expose sensitive receptors to pollutant concentrations	n/a	LTS			<input type="checkbox"/>
3.5	Odor emissions	AIR-2	SU	L-II 3.30 Subsection G.1.d.xii	All commercial cannabis cultivation and non-remuneration cultivation operations are restricted from burning any cannabis or other vegetative materials. The following language shall be included on all site plans: "The burning of any part of the cannabis plant or plant materials that is considered excess or waste is prohibited from being burned."	<input type="checkbox"/>

**CEQA-LAND USE AND DEVELOPMENT CODE SECTION L-II COMPLIANCE TABLE**

<b>CEQA App. G Impact</b>	<b>Issue</b>	<b>MM #</b>	<b>PEIR Finding</b>	<b>County Code Section</b>	<b>Provision</b>	<b>Application Complies with Code</b>
3.6	Generate significant level of GHG emissions	AIR-1	SU	L-II 3.30 Subsection G.1.d.xi	See provision in Impact 3.1 above.	<input type="checkbox"/>
3.7	Conflict with GHG plan	n/a	LTS			
<b>4. Biological Resources</b>						
4.1	Disturbance or loss of special status wildlife species	BIO-1; BIO-2	LTS	L-II 3.30 Subsection D 6.c; L-II 3.30 Subsection G.1.d.xiii; L-II 4.3.7; L-II 4.3.12	<p><b>D.6.c:</b> If generators are used for emergency purposes as approved by the Enforcing Officer, all generators shall be located in containment sheds while in use to reduce generator noise to no greater than 50dB as measured at 100 feet from any sensitive habitat or known sensitive species. This would be an annual requirement and verified yearly when the ACP is renewed. If conformance is not shown, the permit shall be denied or the held in abeyance until the project/activity infraction is brought into conformance with the NCCO.</p> <p><b>G.1.d.xiii:</b> All applications shall include biological pre-screening materials. The materials shall include adequate information to define site constraints and show potentially sensitive biological resource areas. Materials shall include, at a minimum, project/activity location (site address and parcel numbers); site aerials, photographs of proposed areas of disturbance (includes canopy area, accessory structures, and any related improvements [e.g., driveways, staging areas, etc.]), photographs of vegetative cover, a thorough project/activity description describing all phases of construction, all proposed structures and cultivation areas, location of any streams, rivers, or other water bodies, limits and depth of grading, any grading cut or fill in a stream, river, or other water body, any water diversions and/or description of the source of water, water storage locations, and source of electricity (if applicable). If avoidance or protection measures are required, a Habitat Management Plan (HMP) consistent with the requirements of Section L-II 4.3.3 of the Nevada County Land Use and Development Code shall be prepared. If potential impacts on these biological resources cannot be reduced to less than significant levels, no permit shall be issued.</p>	<input type="checkbox"/>

**CEQA-LAND USE AND DEVELOPMENT CODE SECTION L-II COMPLIANCE TABLE**

<b>CEQA App. G Impact</b>	<b>Issue</b>	<b>MM #</b>	<b>PEIR Finding</b>	<b>County Code Section</b>	<b>Provision</b>	<b>Application Complies with Code</b>
4.2	Disturbance or loss of special status plant species	BIO-1; BIO-2	LTS	L-II 3.30 Subsection D.6.c; L-II 3.30 Subsection G.1.d.xiii; L-II 4.3.12	See provisions in Impact 4.1 above.	<input type="checkbox"/>
4.3	Disturbance or loss of riparian or other sensitive natural community	BIO-2	LTS	L-II 3.30 Subsection G.1.d.xiii	See provision in Impact 4.1 above.	<input type="checkbox"/>
4.4	Disturbance or loss of wetlands	BIO-2	LTS	L-II 3.30 Subsection G.1.d.xiii; L-II 4.3.17	See provision in Impact 4.1 above.	<input type="checkbox"/>
4.5	Interfere with wildlife movement	BIO-2	LTS	L-II 3.30 Subsection G.1.d.xiii	See provision in Impact 4.1 above.	<input type="checkbox"/>
<b>5. Cultural Resources</b>						
5.1	Impact to historical resource	CUL-1; CUL-2	LTS	L-II 3.30 Subsection G.1.d.xiv; L-II 3.30 Subsection G.1.d.xv; L-II 4.3.6	<p><b>G.1.d.xiv:</b> Applications shall include a Non-Confidential Records Search to NCIC to determine the sensitivity of potential commercial cannabis cultivation site to disturb historic, cultural, or tribal resources. The applicant shall submit the sensitivity letter with the CCP or ADP. Upon receipt, should the County find the NCIC recommends a cultural resource study, the applicant shall retain a qualified professional to conduct a cultural resource study of the project/activity area. No permit shall be issued until the completion of such report, and if needed, until recommended mitigation is implemented, or a plan has been submitted to the County for implementation.</p> <p><b>G.1.d.xv:</b> All applications that include ground disturbance shall include a note on the plans that if subsurface archaeological and/or paleontological features or unique geologic features are discovered during construction or ground disturbance, all activities within 50-feet of the find shall cease and the County shall be notified immediately. A qualified archaeologist/paleontologist shall be retained by the County to assess the find and shall have the authority to prescribe all appropriate protection measures to future work. If buried human remains are discovered during construction or ground disturbance, all activities shall cease and the County shall be notified immediately.</p>	<input type="checkbox"/>

**CEQA-LAND USE AND DEVELOPMENT CODE SECTION L-II COMPLIANCE TABLE**

<b>CEQA App. G Impact</b>	<b>Issue</b>	<b>MM #</b>	<b>PEIR Finding</b>	<b>County Code Section</b>	<b>Provision</b>	<b>Application Complies with Code</b>
					The County shall notify the coroner to examine the remains. If the remains are determined to be of Native American origin, the Native American Heritage Commission shall be notified, and all sections detailed in Section 5097.98 of the California Public Resources Code shall be followed.	
5.2	Impact to archaeological resources	CUL-1; CUL-2	LTS	L-II 3.30 Subsection G.1.d.xiv; L-II 3.30 Subsection G.1.d.xv; L-II 4.3.6	See provisions in Impact 5.1 above.	<input type="checkbox"/>
5.3	Impact to paleontological resource	CUL-3	LTS	L-II 3.30 Subsection G.1.d.xv	See provision in Impact 5.1 above.	<input type="checkbox"/>
5.4	Disturb human remains	CUL-1; CUL-2	LTS	L-II 3.30 Subsection G.1.d.xiv; L-II 3.30 Subsection G.1.d.xv; L-II 4.3.6	See provisions in Impact 5.1 above.	<input type="checkbox"/>
5.5	Impact resource listed or eligible for listing in state or local register of historical resources	CUL-1; CUL-2	LTS	L-II 3.30 Subsection G.1.d.xiv; L-II 3.30 Subsection G.1.d.xv; L-II 4.3.6	See provisions in Impact 5.1 above.	<input type="checkbox"/>
5.6	Impact significant TCR	CUL-1; CUL-2	LTS	L-II 3.30 Subsection G.1.d.xiv; L-II 3.30 Subsection G.1.d.xv; L-II 4.3.6	See provisions in Impact 5.1 above.	<input type="checkbox"/>
<b>6. Geology and Soils</b>						
6.1	Risk from rupture of earthquake fault	n/a	LTS	L-II 4.3.8	Implement Land Use and Development Code Section L-II 4.3.8 Earthquake Faults & Seismically Sensitive Areas, to minimize impacts.	<input type="checkbox"/>
6.2	Risk from seismic ground shaking	n/a	LTS			
6.3	Risk from ground failure	n/a	LTS			
6.4	Risk from landslides	n/a	LTS	L-II 4.3.5	Implement Land Use and Development Code Section L-II 4.3.5, Avalanche Hazards, to minimize impacts.	<input type="checkbox"/>
6.5	Soil erosion or loss of topsoil	n/a	LTS	L-II 4.3.13	Implement Land Use and Development Code Section L-II 4.3.13, Steep Slopes/High Erosion Potential, to minimize impacts.	<input type="checkbox"/>
6.6	Unstable soil	n/a	LTS			

**CEQA-LAND USE AND DEVELOPMENT CODE SECTION L-II COMPLIANCE TABLE**

<b>CEQA App. G Impact</b>	<b>Issue</b>	<b>MM #</b>	<b>PEIR Finding</b>	<b>County Code Section</b>	<b>Provision</b>	<b>Application Complies with Code</b>
6.7	Expansive soils	n/a	LTS			
6.8	Inadequate soil for wastewater disposal	n/a	LTS			
<b>7. Hazards and Hazardous Materials</b>						
7.1	Hazards through transport or use of hazardous materials	n/a	LTS	L-II 3.30 Subsection D.6.i	The use of hazardous materials shall be prohibited in cannabis cultivation except for quantities of hazardous materials that are below State threshold levels of 55 gallons of liquid, 500 pounds of solid, or 200 cubic feet of compressed gas. Any hazardous materials stored shall maintain a minimum setback distance from water sources in accordance with Chapter X of the County's Land Use and Development Code. The production of any hazardous waste as part of the cultivation process shall be prohibited.	<input type="checkbox"/>
7.2	Hazards from release of hazardous materials	n/a	LTS			
7.3	Hazardous emissions within 0.25 mile of school	n/a	LTS			
7.4	Located on hazmat site	n/a	LTS			
7.5	Cause safety hazard for people within an ALUP or 2 miles of public airport	n/a	LTS			
7.6	Cause safety hazard for people within the vicinity of a private airstrip	n/a	LTS			
7.7	Interfere with emergency response plan	n/a	LTS			
7.8	Risk of loss from wildland fires	n/a	LTS	L-II 4.3.18	Implement Land Use and Development Code Section L-II 4.3.18, Wildland Fire Hazard Areas, to minimize impacts.	<input type="checkbox"/>
<b>8. Hydrology and Water Quality</b>						
8.1	Violate water quality standards or waste discharge requirements	n/a	LTS	L-II 3.30 Subsection G.1.d.xiii	See provision in Impact 4.1 above.	<input type="checkbox"/>
8.2	Decrease groundwater supply	n/a	SU	L-II 3.30 Subsection G.1.d.xiii	See provision in Impact 4.1 above.	<input type="checkbox"/>

**CEQA-LAND USE AND DEVELOPMENT CODE SECTION L-II COMPLIANCE TABLE**

<b>CEQA App. G Impact</b>	<b>Issue</b>	<b>MM #</b>	<b>PEIR Finding</b>	<b>County Code Section</b>	<b>Provision</b>	<b>Application Complies with Code</b>
8.3	Alter drainage patterns resulting in erosion	n/a	LTS	L-II 3.30 Subsection G.1.d.xiii	See provision in Impact 4.1 above.	<input type="checkbox"/>
8.4	Alter drainage patterns resulting in flooding	n/a	LTS	L-II 3.30 Subsection G.1.d.xiii	See provision in Impact 4.1 above.	<input type="checkbox"/>
8.5	Create runoff which would exceed system capacity or contribute to polluted runoff	n/a	LTS	L-II 3.30 Subsection G.1.d.xiii	See provision in Impact 4.1 above.	<input type="checkbox"/>
8.6	Degrade water quality	n/a	LTS	L-II 3.30 Subsection G.1.d.xiii	See provision in Impact 4.1 above.	<input type="checkbox"/>
8.7	Place housing in 100-year flood hazard area	n/a	LTS			<input type="checkbox"/>
8.8	Place structures within 100-year flood hazard area which would impede or redirect flows	n/a	LTS	L-II 4.3.10	Implement Land Use and Development Code Section L-II 4.3.10, Floodplains, to minimize impacts.	<input type="checkbox"/>
8.9	Expose people to risk of loss from failure of a levee or dam	n/a	LTS			<input type="checkbox"/>
8.10	Result in inundation by seiche, tsunami, or mudflow	n/a	LTS			<input type="checkbox"/>
<b>9. Land Use and Planning</b>						
9.1	Physically divide a community	n/a	LTS			<input type="checkbox"/>
9.2	Conflict with land use plan	n/a	SU		Conflicts with the Town of Truckee Sphere of Influence. No feasible mitigation measures are available.	<input type="checkbox"/>
<b>10. Mineral Resources</b>						
10.1	Loss of State important mineral resource	n/a	LTS			<input type="checkbox"/>
10.2	Loss of locally important mineral resource	n/a	LTS			<input type="checkbox"/>



**CEQA-LAND USE AND DEVELOPMENT CODE SECTION L-II COMPLIANCE TABLE**

<b>CEQA App. G Impact</b>	<b>Issue</b>	<b>MM #</b>	<b>PEIR Finding</b>	<b>County Code Section</b>	<b>Provision</b>	<b>Application Complies with Code</b>
<b>11. Noise</b>						
11.1	Exposure or generation of excess noise levels	n/a	LTS	L-II 3.30 Subsection D.6.g; L-II 4.1.7	Noise levels generated by Cultivation shall not exceed the standards set forth in Table L-II 4.1.7 (Exterior Noise Limits) of this Chapter applicable to the Land Use Category and Zoning District for the Premises on which the Cultivation occurs.	<input type="checkbox"/>
11.2	Exposure to groundborne vibration or noise	n/a	LTS			
11.3	Permanent increase in ambient noise levels	n/a	LTS	L-II 3.30 Subsection D.6.g	See provision in Impact 11.1 above.	<input type="checkbox"/>
11.4	Temporary increase in ambient noise levels	n/a	LTS	L-II 3.30 Subsection D.6.g	See provision in Impact 11.1 above.	<input type="checkbox"/>
11.5	For project/activity located within an ALUP or 2 miles public airport, expose people to excess noise levels	n/a	LTS			
11.6	For project/activity located within a private airstrip, expose people to excess noise levels	n/a	LTS			
<b>12. Population and Housing</b>						
12.1	Induce population growth	n/a	LTS			
12.2	Displace housing	n/a	LTS			
12.3	Displace substantial number of people	n/a	LTS			
<b>13. Public Services</b>						
13.1	Impacts from expansion of governmental facilities or other public services to maintain services	n/a	LTS			
<b>14. Recreation</b>						
14.1	Deterioration of parks	n/a	LTS			
14.2	Expansion of recreation facilities	n/a	LTS			

**CEQA-LAND USE AND DEVELOPMENT CODE SECTION L-II COMPLIANCE TABLE**

<b>CEQA App. G Impact</b>	<b>Issue</b>	<b>MM #</b>	<b>PEIR Finding</b>	<b>County Code Section</b>	<b>Provision</b>	<b>Application Complies with Code</b>
<b>15. Transportation and Traffic</b>						
15.1	Conflict with applicable circulation plan	n/a	SU		After the payment of the RTMF and LTMF fee, no feasible mitigation measures have been identified.	<input type="checkbox"/>
15.2	Conflict with applicable congestion plan, ordinance, or policy	n/a	SU	L-II 3.30 Subsection D.12.b	Traffic associated with offsite processing activities shall be limited to 8 a.m. to 5 p.m. Monday through Saturday. No more than 6 vehicle trips (round trips) shall be allowed for offsite processing activities per day.	<input type="checkbox"/>
15.3	Change air traffic patterns	n/a	LTS			
15.4	Increase hazards due to a design feature or incompatible use	n/a	LTS			
15.5	Inadequate emergency access	n/a	LTS			
15.6	Conflict with adopted transportation policy or plan	n/a	LTS			
<b>16. Utilities and Service Systems</b>						
16.1	Exceed wastewater treatment requirements	n/a	LTS			
16.2	Require construction of water or wastewater treatment infrastructure	n/a	LTS			
16.3	Require construction of stormwater drainage infrastructure	n/a	LTS			
16.4	Have insufficient water supplies	n/a	SU	L-II 3.30 Subsection G.1.d.xiii	See provision in Impact 4.1 above.	<input type="checkbox"/>
16.5	Inadequate wastewater treatment capacity	n/a	LTS			
16.6	Insufficient landfill capacity	n/a	LTS			
16.7	Compliance with solid waste standards	n/a	LTS			

**CEQA-LAND USE AND DEVELOPMENT CODE SECTION L-II COMPLIANCE TABLE**

CEQA App. G Impact	Issue	MM #	PEIR Finding	County Code Section	Provision	Application Complies with Code
<b>17. Energy</b>						
17.1	Unnecessary, wasteful, or inefficient consumption	n/a	SU	L-II 4.3.9	No feasible mitigation measures have been identified. Implement Land Use and Development Code Section L-II 4.3.9, Energy Conservation, to minimize impacts.	<input type="checkbox"/>
17.2	Constrain energy supplies or require construction of energy infrastructure	n/a	SU		No feasible mitigation measures have been identified.	<input type="checkbox"/>
17.3	Conflict with existing energy standards	n/a	LTS			

Notes: MM = Mitigation Measures; App = Appendix

<b>Initiated By</b>	
<b>Signature</b>	
<b>Date Initiated</b>	

Check the appropriate box below, based on the responses to the questions and requests for information set forth in this checklist above and pursuant to the requirements set forth in the State CEQA Guidelines §§ 15162 and 15168.

All of the environmental impacts of the proposed commercial cannabis operation are within the scope of the PEIR, and a subsequent environmental document is not required to evaluate the environmental impacts of the proposed commercial cannabis operation.

The proposed commercial cannabis operation will have environmental effects that were not examined in the PEIR, and an Initial Study must be prepared to determine whether a subsequent EIR or Negative Declaration must be prepared.

\_\_\_\_\_

Date: \_\_\_\_\_

Brian Foss  
Nevada County Planning Director