

COALITION FOR ENVIRONMENTAL SANTA CRUZ

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Cannabis Cultivation Regulations DEIR Comments

c/o Matt Johnston

Planning Department

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October 29, 2017

Dear Mr. Johnston,

I am writing you as Chairman of the Coalition for Environmental Santa Cruz (CESC), to share our comments on the cannabis ordinance DEIR. We have appreciated the way you, and members of your staff have cooperated with us. We realize this is a taxing project for everyone involved. We also realize you were not responsible for the DEIR report.

As you know I've been part of the cannabis discussion since 2013 when I represented District 3 on C-4, and I was instrumental in alerting the BOS to the ravages of anticoagulant rodenticides on wildlife throughout the state.

Reading this DEIR made it clear that knowing Santa Cruz County history on this issue, and the decisions along the way, really does matter. It was sobering to read a DEIR that circled back to the 2014 BOS *faux pas* when a cannabis ordinance was launched without any consideration for our unique environmental and neighborhood issues: Grow sizes were published in the newspapers without any regulations in place. Lt. Governor Gavin Newsom singled out Santa Cruz in his 'Pathways Report' to municipalities and counties throughout the state. Santa Cruz County was his example of how **not** to do legal cultivation.

To be sure, there are significant differences in the volume of material produced for this DEIR, and the frail stand-alone documents of 2014, but when boiled down, both offer a cultivation system as friendly to growers as anywhere in California – which will likely attract more and more growers to the second smallest County in the state. Is this one of the county's objectives?

Sincerely,

__signed hard copy submitted subsequently__

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Summary of CESC work:

- 1) **Land Use:** despite what the DEIR says about acreage to be cultivated we conclude the two alternatives being considered are: the ‘project’ = 6,228 parcels totaling 147,750 acres or the ‘most permissive alternative’ = 8,888 parcels totaling 164,721 acres.
- 2) **Poor Analysis:** The DEIR relies on voluntary and anonymous surveys that are a small subset of growers – as a result the analysis focuses on potential impacts on only 200 acres of cannabis.
- 3) **Why grow in neighborhoods:** Because 50% of the survey responders said that’s where they wanted to grow. The DEIR’s ‘preferred alternative’ places the majority of commercial cannabis in the neighborhoods, the same neighborhoods that the SCC Supervisors have said they want protected in directives to C4 and others working on this issue. The impact of not protecting neighborhoods will be substantial for families.
- 4) **Streamlined Negative Biological Impacts:** This streamlined process to permit commercial cannabis cultivation has grave implications for negative impacts on wildlife.
- 5) **Rife with Rodenticides:** The DEIR recognizes that rodenticides are a big issue. And yet, the County suggests that there are laws to control such use, so everything should be okay. In case the County is so motivated in the future, there are some guidelines in the DEIR for monitoring, but these are largely discretionary. As a result we expect that rodenticides will increasingly harm wildlife as cannabis cultivation spreads on the wild land interface and in pristine mountain areas described in the literature.
- 6) **Cannabis Cultivators are County Partners – that’s how it works:** The proposal suggests that, as long as the County is as permissive as possible, cannabis cultivators will abandon illegal growing and be good citizens, fully compliant with the law...and, the number of illegal growers will steadily decline along with negative impacts. We don’t share this point of view.
- 7) **Enforcement is Everything – Enforcement Doesn’t Work:** Throughout the DEIR, the County claims license fees will pay for enforcement and inspections that will mitigate any negative consequences of cultivation. The County proposes to start two new enforcement divisions and is asking for bullet proof vests to go on ‘annual’ inspections. And then, the DEIR admits that enforcement won’t work and that anyway the budget is contingent on the Supervisors approving funding annually. Fire and law enforcement personnel say they are overwhelmed.
- 8) **Negative Consequences Inevitable, but the Money’s Worth It:** There are many, many ‘significant and unavoidable’ impacts in the DEIR, That is, the plan is to have lots of unmitigatable damages—to the environment, to safety, and to neighborhoods. Somehow the Supervisors will have to explain why it’s worth it.

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General Comments

Unsupported suggestion that the most permissive project will be the most effective at reducing unlicensed cannabis cultivation

“Implementation of the Program would reduce the total number of unlicensed cannabis cultivation sites in the County through licensure of compliant sites and enforcement actions taken against noncompliant sites which would in turn reduce adverse impacts on surface and groundwater quality and quantity in the County. The More Permissive Project would more effectively reduce impacts from unlicensed cultivation and manufacturing as this scenario increases the area of eligibility for licensing and has an additional opportunity in the future for licensing of cannabis cultivation sites, which have the greatest potential for hydrologic impacts related to site disturbance and runoff.” (3.9-32)

This supposition runs throughout the DEIR and this position is absurd. There is no basis for the notion that by loosening regulations, that environmental impacts would be reduced. The DEIR fails to take into account alternatives such as the use of fees and taxes to conduct more enforcement to enforce restrictions.

Insufficient review-no avoidance measures

The proposed Program significantly changes allowed use within 147,750 (or 164,721) acres of Santa Cruz County, but the DEIR authors have limited the analysis of impacts to a tiny fraction of that area (190.1 acres) based on unreliable, self-reported data from a single survey including a small subset of potential cannabis cultivators. More importantly, this conclusion ignores that farmers on property zoned for Commercial Agriculture could expand without prior registration as a cultivator, and that registered cultivators are not limited to a particular acreage and could expand onto other lands zoned for cultivation. Thus, the analysis of 190.1 acres is simply flawed.

Instead of setting forth major zoning or geographical measures for avoiding many impacts, the central approach of CEQA, the DEIR **supposes**, without justification, that there will be little impact, while the proposed Program allows for a much greater level of impact. As such, this programmatic environmental review is inadequate in analyzing, avoiding, and addressing the potential impacts of the proposed Program.

- What percent of the Program objectives could be achieved by limiting commercial cultivation to CA and A zoning?

DEIR sets up decision makers to consider “Statement of Overriding Consideration” – without data to support such a determination

There is a litany of 'significant and unavoidable' negative impacts associated with the alternatives presented by the DEIR authors.

- Does the DEIR present the 'best available information?'
- To what degree of certainty can the DEIR authors attribute to their recommendations?
- How did the DEIR authors use the precautionary principle in their analysis?
- What percentage of available information have the DEIR authors used to make their determinations?
 - Was funding for the DEIR preparation a significant consideration in whether or not to pursue additional information to support the analyses?

Program scope unclear

The exact nature and scope of the Program is unclear in the DEIR for many reasons.

- 1) There is a lack of clarity on the process of determining the scope of the Program and direction of the DEIR analysis
 - Why did the lead agency determine a) that this process required a programmatic EIR and b) that prior cannabis cultivation processes (such as the 2013 process) did not?
 - What was the process, who was involved and to what degree did they inform the process, within the lead agency in determining the scope of this Program?
 - What specific individual working as an employee of the County of Santa Cruz was ultimately responsible for directing the DEIR authors to analyze the 'most permissive alternative?'
 - Was the scope of the DEIR analysis of the Program determined by the number of individuals who registered during the November 2016 process?
- 2) There is a lack of clarity about who gets what rights to cultivate commercial cannabis under the Program. To clarify this, the CESC asks:
 - Which of the following most accurately defines the scope of the Program: a) the number of individuals granted a right to grow commercial cannabis, or; b) the number of properties where commercial cannabis could be grown?
 - The following two questions seek further clarification on this issue.
 - Have lead agency personnel directed the Program's DEIR authors primarily to review the impacts of granting certain individuals the right to obtain site-specific license(s) to cultivate commercial cannabis?

- In which case, see comments under heading 'Confusing information-which individuals have a right to apply for a cannabis cultivation license.'
 - Have lead agency personnel directed the Program's DEIR authors primarily to review the impacts of granting certain property owners the right themselves or with others to cultivate commercial cannabis?
 - In which case, see comments under heading 'Confusing information-which property owners can expect a right to obtain a cannabis cultivation license.'
 - What is the purpose for granting staff discretionary power to grant licenses for reasons not defined in the ordinance?
 - What are the specific limits of discretionary decision-making authority about which individuals or parcels qualify for commercial cannabis cultivation?
 - In what cases will neighbors have input into the conversion of their neighborhood from a residential to a commercial one?
 - Should discretionary decisions include the approval of bordering property owners?
- 3) The scope of the disturbances associated with the alternatives are inadequately presented to the public
- How does 'maximum canopy size' (p 2-29) relate to the total area of anticipated new disturbances associated the Program at each parcel size in each alternative?

Confusing information-which individuals have a right to apply for a cannabis cultivation license

The DEIR authors present confusing, and contradictory, statistics that are used for impact analyses. For instance:

"At the close of the registration period in November 2016, 951 existing cannabis cultivation operations located throughout the County were registered" (p. 2-16)

- *Is this statement accurate?*
- *How could the public verify the "951" statistic?*

"At the close of the registration period in November 2016, 951 existing cannabis cultivation operations located throughout the County were registered. Of those, 760

registrants are continuing with the licensing process as of February 2017” (p. 2-16)

- *Why does the DEIR consider the “760 registrants” number as relevant, when “at the close of the registration period in November 2016, 951 existing cannabis cultivation operations located throughout the County were registered” and thereby allowed to seek licenses?*
- *Does the figure of 951 include anonymous applicants and applicants who submitted their legal names?*
 - o *Was it possible for an applicant to be both anonymous and named?*

The following two quotes from the DEIR seem to be in contradiction:

“Whether there would be an eventual cap on the number or type of manufacturing licenses or any future additional registration period for cultivation licenses, or whether the Board might consider any other new or substantial changes to the proposed Program, is not addressed by this EIR, and would be future considerations by the Board of Supervisors that would be subject to further environmental review for CEQA compliance” (p. 2-34)

“With the implementation of the Program, the number of licensed cultivation sites within the County would be largely fixed by the registration pre-applications for licensing that were received prior to the November 6, 2016.”

- Do the policy measures set forth for the Program set a cap, a finite number of allowable licenses with 1:1 correlation of licensed, cultivated commercial cannabis production parcels and the number of eligible individuals during the baseline of the DEIR period, February 2017?
 - o If not, how is that ration expected to change during the life of the Program?
- What regulatory or policy procedure would ‘largely fix’ the number of licensed cultivation sites?
- Are there cultivator ‘continuing the registration process’ or ‘existing farming’ deadline dates, or acreage or license number caps being proposed to “fix” the number of licensed cultivation sites for the purposes of analysis of the DEIR?

“Only cultivators who registered during the 90-day process in 2016, who are either already on an eligible parcel or could locate to an eligible parcel under the Program and can secure a local and state license along with any required land use or other permits, would be allowed to commercially cultivate cannabis in the County.” (p. 2-45)

- Would all 951 registered cannabis cultivators (see immediately prior section of this commentary) be eligible to seek licenses to cultivate cannabis in the County?

“The County’s 2016 License Registration period identified 760 cultivators who would seek a license to cultivate cannabis commercially under the Program” (p. 2-45)

- How does the ‘760 cultivators’ statistic relate to the ‘951 registered during the registration period’ statistic?

“While it is not possible to know the number of cultivators who will be able to relocate from a site setting that is not eligible for licensing to a parcel that is eligible, because it is the County’s goal to assist all 760 registrants in finding a suitable location and configuration consistent with the Program, and in order to perform a conservative environmental analysis, this EIR assumes that each of the 760 registrants locates a suitable property and cultivates under the Program.” (p. 2-47)

- Why did the number of eligible cannabis cultivators change to 760 in this section, when the number of eligible growers was previously noted as 951?
- Was it possible for an applicant to register anonymously or under different names?
- Why does the County not have a goal to assist the 191 cannabis cultivators registered by November 2016 (the deadline to qualify for applying for a license), who did not continue with the registration process as of February 2017?
- Where is there a statement in the ordinance, or DEIR measure, stating that registrants, or qualified farmers, are limited to ‘a (single) suitable property?’
- Does the scope of the Program diminish over time as the 760 (951?) registrants are deceased or otherwise cease cannabis cultivation?
- What is the anticipated timeframe of the Program?

The DEIR authors later note “Where avoidance of species’ sensitive habitat is demonstrated to be infeasible...” (p. 3-4- 22). This quote suggests that the Program is granting a Constitutional right to cultivate cannabis on an eligible parcel.

- Does the Program establish the Constitutional right of a parcel owner, should they be or work with an eligible grower, to cultivate cannabis on their land?
- Why would it be infeasible to avoid avoidance of a species’ sensitive habitat?

Table 2-13 Estimated Cultivation under the Program: “Total Registrants” 760 (p. 2-50)

“At a maximum, the County would license the 760 registrants, plus an additional unknown number of existing commercial farmers on CA zoned lands and with existing

greenhouses who are not required to have registered in order to receive a license. Any cultivators not in one of those categories would not be licensed under the Program” (Section 3.0.2- Subsection: Unlicensed Commercial Cannabis Activities- p. 3-8)

- *Why did the number of eligible cannabis cultivators change to 760 in this section?*
- *What is the relevance of the number of a subset of ‘existing commercial farmers on CA zoned lands and with existing greenhouses’ when 1) there is no clarity in the document of the term ‘existing’ for farmer qualification, and 2) farmers with or without greenhouses would be eligible.*

“EXISTING FARMERS - New Cannabis Cultivation

Existing greenhouses are converted to cannabis use, assumed to occur at 147 acres, primarily in facilities that have traditionally been used for growing cut flowers and potted plants to cannabis” (p. 2-51).

Note that there are no regulations, policies, or procedures proposed or analyzed in the DEIR or other correlated, proposed County policy that would define ‘existing farmers’ or a timeline for a farmer to become ‘existing’ or for a particular parcel or place for that farmer to cultivate cannabis.

- *What is the definition of ‘existing farmers?’*
- *Why does the DEIR only include acreage of greenhouses in the tally for where existing farmers might cultivate cannabis under license?*
- *Is it possible for an ‘existing farmer’ to obtain a license to grow outdoors?*
- *How would adding the potential for ‘existing farmers’ to cultivate cannabis on outdoor acreage, on any or all parcels that qualify for cannabis cultivation licenses, affect the DEIR analysis?*
- *How can the public understand the level of impacts of the proposed projects when the DEIR fails to accurately identify the number of ‘existing farmer’ or potentially qualifying farmers who would enter into the licensing program?*

Lack of demonstration of the feasibility of mitigation, inspection, and enforcement measures

In two places, the DEIR authors outline monitoring programs requiring annual inspection before license renewal:

“The Licensing Officer shall ensure best management practices are applied as needed as criteria of the licensing process and implemented on an ongoing basis during annual license renewals” (3.10- 36).

“The County Cannabis Licensing Office shall ensure ongoing compliance with the Plan during annual renewals and inspections” (3.14 – 22).

For the mitigation measures which are only practicable through annual inspection, the public needs better documentation that such mitigation measures are feasible:

- What is the percent probability that the Licensing Office will be able to have on site inspection in order to renew licenses annually?
- Will annual inspections be by appointment or unannounced?
- Will an annual inspection be adequate to monitor the cultivator’s activities that could cause a wildfire or poison non-target wildlife?
- Will licenses expire annually, without renewal?
- What will the procedure be for enforcing an expired license?
- What time frame will a grower be allowed to operate with an expired license?
- How will the public be notified about the location of either active or expired licenses?
- How will the public be informed about the status of a given site inspection and license?

Mismatch of Program Objectives with DEIR Alternatives

Program Objective 2: Develop a program that encourages cannabis cultivators and product manufacturers to operate legally and secure licenses.....and minimize unlicensed activities.

There is a lack of clarity about how the Program alternatives meet the Program Objective 2: *“Develop a program that encourages cannabis cultivators and product manufacturers to operate legally and secure licenses.....and minimize unlicensed activities.”*

On the most permissive alternative, the DEIR authors state: *“The goal of this alternative would be to increase licensing, registration, and compliance for cultivation operations and maximize legal regulated cultivation and participation in the Program to minimize adverse impacts of unlicensed cultivation. [...] One main objective of Alternative 2 is to legalize operations (both current and future) that may be illegal or non-compliant. This option **may potentially** reduce the impacts associated with unlicensed grows by increasing the area of license eligibility [...]”* (p. 4-33)

To clarify this, the CESC asks:

- For each of the alternatives, how does the Program meet Objective 2?
- On what basis do the DEIR authors make a finding that Program Objective 2 is best met by the most permissive alternative?
- What parallel permitting program do the DEIR authors use to illustrate that the approach of being ‘most permissive’ creates the least amount of illegal activity?
- Isn’t the inability to legally export commercially grown cannabis products the primary reason small growers with a well-established black-market pipeline will not become licensed?
 - o Numerous sources, including the report listed below and numerous articles in both cannabis news outlets and the New York Times, estimate that only 20 % of the cannabis grown in California is consumed here, while 80% is exported to states where it has not been legalized.

There are no restrictions on personal use grows (6 plants) or medical cannabis permitted grows (10X 10 ft) on RA. zoned parcels.

- Why doesn’t the Program include medical and personal cannabis cultivation?

The DEIR conclusions that the most permissive alternative is the best are based on the false premise that increasing the density of cannabis commercial ventures in RA (Residential Agricultural) neighborhoods while allowing twice as much canopy per parcel will result in greater numbers of current growers obtaining licenses thereby decreasing the number of illegal grows in the county and that this expansion will not erode neighborhood quality of life.

“Under the Project, [...] The minimum parcel size requirements, described in section 2.3.2, Program Components, have the greatest effect in eliminating potential [...] sites from eligibility...” (p. 2-46).

- Why is ‘eliminating sites from eligibility’ at odds with Program Objective 2?

- How does the effect of minimum parcel size requirements eliminating potential sites from eligibility help meet Program Objective 2?

Program Objective 3: provide efficiency and clarity to the licensing and permit process, regulations and standards to facilitate participation

The stipulation that the licensing agent would have discretion to adjust the rules on a case-by-case basis regarding many of the site development and quality of life protections is disrespectful of the neighborhood. It also undermines respect for the standards stipulated in the resulting ordinance. Objective 3 states “provide efficiency and clarity to the licensing and permit process, regulations and standards to facilitate participation”. The licensing agent should have clear guidance in the ordinance and requests for modifications to setbacks, reduced parcels size, etc., should go through the planning department variance process giving neighbors an opportunity to weigh in on the suitability of the commercial operation for their neighborhood.

- To what extent does giving licensing agent discretion interfere with Program Objective 3?
- What are the major barriers to the Program’s improved compliance with Program Objective 3?
- In what ways does each of the alternatives of the Program meet Objective 3?

Program Objective 4 “Prevent impacts of cannabis cultivation and manufacturing sites on children and sensitive populations.”

- What methods do the Program alternatives each use to meet Objective 4?
- Using census data on children and sensitive populations, how do the alternatives compare in meeting Objective 4, especially with regard to RA zoning?
- How does this objective square with the DEIR’s most permissive alternative undermining the integrity of neighborhoods by decreasing the permissible lot size to 2.5 acres, a common lot size in rural neighborhoods?

Program Objective 7 “Ensure compatibility of commercial cannabis cultivation and manufacturing sites with surrounding land use, including residential neighborhoods, educational facilities, agriculture operations and timber production.”

- What specific criteria did the DEIR authors use to define ‘residential neighborhoods?’
- What are standards of compatibility used for weighing the Program alternatives for residential neighborhoods?
- How will compatibility of the Program with residential neighborhoods be monitored and the results made public?

Program Objective 8, “Minimize adverse effects of commercial cannabis cultivation and manufacturing on the natural environment, natural resources and wildlife, including riparian corridors, wetlands and sensitive habitats, as well as effects on water supply, water quality and instream flows”

The CESC disagrees that the Program has taken sufficient steps to “Minimize adverse effects of commercial cannabis cultivation and manufacturing on...wildlife...”

Throughout this review process, the CESC has focused on the effects of the Program on wildlife. We submitted extensive commentary on the NOP about wildlife impacts, and we have submitted literature and documentation to County personnel overseeing this process to support our concerns.

The following are a number of comments that the CESC submitted during the NOP comment period. None of these questions were answered. We include these questions here, again, in expectation that the authors of the DEIR will answer them during this stage of the process. All of these questions are central to Objective 8:

- How will the different alternatives differently impact wildlife?
- To what extent are non-target animal species currently affected by poisonings with rodenticides and pesticides?
- Over the past ten years what has been the level of compliance with regulations governing rodenticides?
- What has been the means of enforcement of rodenticide poisoning of wildlife and pets?

- What are the specific thresholds beyond which non-target poisoning of animals is considered significant?
- What are acceptable levels of rodenticides and pesticides in the environment?

During the NOP process, the CESC asked the following questions:

- “The over-arching questions regarding rodenticides are:
 - o What will be the impact of rodenticides on wildlife and
 - o how will rodenticides be successfully controlled so as not to harm non-targeted wildlife?”

The DEIR writers demonstrate that they are cognizant of the complexity and seriousness of the poisoning problem, but how they got to their conclusion is not readily apparent based on the references they cite and their very subdued and incomplete text.

- Why did the EIR writers did not cite or include source material that the CESC sent to them by way of Matt Johnston, the Environmental Coordinator for SC County?

To address significant impacts of rodenticides on wildlife, the DEIR authors propose “MM BI0-5.1 Rodenticide Use Reduction Program (RURCP)” in which they suggest Santa Cruz County should work with state agencies to create a rodenticide reduction program and if they do this they will be successful in curbing non-target killing of wildlife.

Concerning MM BI0-5.1 Rodenticide Use Reduction Program (RURCP), the CESC asks:

- How will success be measured, given the lack of baseline data?
- Without presenting data and analysis on the poisoning of non-target wildlife in Santa Cruz County, how do the DEIR authors conclude mitigation would result i.e., “Cumulative impacts to biological resources would be *less than significant?*” (p. 3.4 – 40)
- With knowledge that cannabis-growing activities are just one of many sources of anticoagulants that kill non-targeted species how does the Program propose regulation of all sources of anticoagulants in a manner that will reduce wildlife poisoning?

In the RURCP proposal, the DEIR authors suggest wildlife-monitoring practices for different parts of the county. However, no suggestions on how to overcome the technological and economic realities that have proven to be stumbling blocks are given. It is imperative to identify sources of *cumulative impact* poisoning and other types of

illegal poisoning practices, including the use of outlawed neurotoxins, etc. banned in the United States.

And so, the CESC asks:

- Is there a proven and affordable program to accurately monitor non-target wildlife exposure to anticoagulants?
 - Can this program work with the volume of cannabis cultivation recommended in Santa Cruz County in this DEIR?
- Will monitoring wildlife reveal the sources of anticoagulants in a given area?
- How is the cost for this program calculated?
- How much will it cost to enact this program countywide with the various Program alternatives?

The DEIR authors acknowledge that monitoring is conceptually important, but the authors do not acknowledge how programs have already been successful in identifying numerous populations of predator species throughout California that are under duress and experiencing steep population declines, due to anti-coagulant rodenticide poisoning.^{5, 6,7,11,17,18, 19,20,21}

There are numerous studies of rodenticide impacts resulting in the poisoning of wildlife from many other parts of the state that involve solely cannabis growing activities in the urban/wildlife interface.^{5,6,7,20,21}

And so, the CESC asks the following questions:

- Why didn't the DEIR present information they've received that exposes the magnitude & severity of poisoning taking place in the state?
- What has been the impact on wildlife by large cartel-like grows operating in forest areas in California far from human habitation?
- Why is this type of grow operating the aforementioned environment considered a significant danger to wildlife?
- Why didn't the DEIR authors present information gathered from large grow operations by authorities and scientists in remote areas in the state?
- Specifically, what are the best candidate species (both mammalian and avian) for monitoring impacts from rodenticides?

- How will the magnitude of the rodenticide poisoning problem be verified and reported to the responsible agencies and the public?
- Can the DEIR authors describe specifically how findings from monitoring wildlife in regions within the county can be utilized to protect and reduce poisoning of non-targeted wildlife species?
- Is it possible to accurately assign responsibility to a specific source (farm) for poisoning non-target species?
- Specifically, what are mortality and/or exposure rates that would be acceptable or not acceptable?
- In the history of Santa Cruz County how many farmers have been penalized or in any way been held responsible for poisoning wildlife of any kind?
- What would be the criteria to declare *cumulative impact* of “non-target species”?
- Besides mortality rates, and high exposure rates, what other criteria would be important to predict if rodenticide poisoning of any species of the region’s wildlife is a significant cause of regional extinction?
- If improper anticoagulant use can’t be interdicted, why shouldn’t mountain areas with high bio-diversity be inappropriate for outdoor cultivation of cannabis?
- If commercial cannabis operations are to be allowed in mountain areas with high bio-diversity why shouldn’t commercial cannabis operations be relegated to rodent-proof greenhouses to separate rodents from cannabis growing and thus eliminate the need for anticoagulant rodenticides?

On page 37 (Biological Resources) The DEIR authors state “*Commercial cannabis cultivation and cannabis product manufacturing under the Program could have adverse effects on unique, rare, threatened, or endangered plant or wildlife species. Impacts would be less than significant with mitigation.*” In looking at “Table 3.4-2 Summary of Biological Resources Impacts” the CESC’s overarching question needs to be asked again:

- What will be the impact of rodenticides on wildlife and how can rodenticides be successfully controlled so as not to harm non-target animals?

- To what extent are special status species affected by current levels of poisonings with rodenticides and pesticides?
- Given the current baseline use of legal and illegal rodenticides, how will rodenticide use change with the various identified alternatives (the current project, permissive version, and “no project”)?

In MM Bio-5.1, the DEIR authors present the following language - “To address the management of rodenticides throughout the County, the RURCP should consider...” (a list of measures.

- How does the word ‘should’ affect the probability that this mitigation measure will be executed?
- Given that the RURCP is given only ‘should’ guidelines, how can the public analyze the DEIR to determine that MM Bio-5.1 is feasible in reducing impacts to less than significant for the alternatives presented?
- Given extensive pre-DEIR baseline ballooning of cannabis cultivation and potential corollary increased use of rodenticides, how can the Program establish a baseline from which to monitor and manage rodenticide use in the County?
- How successful have efforts been to date to regulate rodenticide use in the County
 - o If success has occurred, what data are available to support such success?
 - o What are one or more locations and names of successful projects that have reduced non-target poisoning with collaborating statistical data?
- If the outcome was unsatisfactory please explain why and identify the location and project.
- By including ‘toxicity studies’ in that list of things that the RURCP ‘should consider,’ will the Program establish a baseline of nontarget poisoning?
 - Will these toxicity studies include necropsy sampling?

The DEIR suggests a “permissive option” of making much more grow space available by dropping the Residential Agriculture (RA) zoning size for a commercial operation from 5 to 2.5 acre(s) minimums while increasing the grow size by 2x.

- According to the DEIR author calculations, how will increasing the number of growers 2x and grow sizes by 2x still result in an outcome of “less than significant” to the potential impact on wildlife?”
- Would there be more poisoning of wildlife and pets if the number of growers and their close proximity to neighbors increased to the level suggested in the “permissive option”?
- Where is the evidence that a comparable program has been so successful, and
 - o How does that example pertain in comparison to this Program given uncertainties and variables unique to this environment and situation?
 - o In other words, how have the DEIR authors applied the precautionary principle with regard to Program use of rodenticides and their impacts to wildlife?

Here are two CESC “alternative informative” paragraphs on the same information offered in the DEIR (above paragraph, labeled “DEIR”) as a counter balance to DEIR’s paragraph to show that reporting accurately within the facts can leave entirely different impressions based on the fact used.

From CESC: The DPR decision to restrict 2nd generation anticoagulants allows pesticide manufacturers to continue selling a potent poison that kills non-target middle-sized and large predators and family pets in alarming numbers. Merely restricting use of 2nd generation anticoagulants to “certified applicators,” people “under their supervision” and exterminator companies is controversial. With the DPR decision to limit the use of Second-generation anticoagulants, to exterminator companies and “applicators” and people under their “supervision” there was no move to change the ingredients in second-generation anti-coagulants’ or otherwise dilute potency. The DPR “field operating rule” that specifies this poison can’t be placed further than 50’ from a structure does not prevent poisoning of avian and mammalian predators of all kinds who often come close to structures during the night while searching for food.³ More than 30 cities and counties in California have passed resolutions urging citizens to quit using anticoagulant rodenticides.¹⁵ This includes Santa Cruz County in a 5/0 nonbinding vote from the Board of Supervisors on June 6, 2017.¹⁶

On September^{20, 19,17} a senior scientists at the California Fish & Wildlife Investigations Laboratory, who necropsy dead wildlife, stated there are no known studies either proving or disapproving the effectiveness of the 2014 DPR policy change to restrict who legally applies 2nd generation anticoagulants. However, in study after study (See “Problem: Omitted Material” on page 7) conducted by governmental agencies and university based researchers, the rate of anticoagulant contamination (often leading to death) was around 80% of animals studied.^{6,7,17,18,19,21} Also, undercutting the efficacy of

the DPR's 2014 restrictive policy, is the fact that people living in California who want 2nd generation anticoagulants can still get them via the Internet from out-of-state sources. In addition, within the cannabis growing community in California entirely illegal and very potent neurotoxin poisons banned, both in the US and Europe have been found repeatedly grow sites in remote areas in California. ^{6,7,21}

Questions:

1. With balanced information do you think the understanding would better meet CEQA's criteria?
2. Are there any factual errors in CESC's alternative paragraphs?

Program Objective 9, "Regulate sites and premises used for commercial cannabis and manufacturing to avoid the risks of criminal activity, degradation of the visual setting and neighborhood character, obnoxious odors, hazardous materials and fire hazards."

- What measures does each of the Program alternatives employ to meet Program Objective 9?

Commercial cannabis cultivation currently includes increased cash on hand, increasing the risk of robberies and the probability of increased possession of guns.

- What levels of law enforcement presence is necessary to shield youth in neighborhoods from this criminal element?

Program Objective 11: Ensure adequate law enforcement and fire protection response to commercial cannabis cultivation and manufacturing sites

Enforcement is a DEIR key reducing the significant impacts of the Program

*"this EIR introduces mitigation measures that would lessen these impacts through **enforcement** and surveys of unlicensed cannabis activities"* (p. ES-6)

*"...opportunity to mitigate impacts and increase County tax revenue to support ongoing improvement and **enforcement** programs"* (p. ES-7)

Enforcement is key to DEIR goal of transitioning illegal cannabis cultivation into the legal, licensed realm

*“Over time, that type of cultivation may be more affected by market conditions as the industry matures, due both to legalization of up to six plants as personal grows, due to operation of the legal commercial cannabis marketplace, and due to increased reporting and **enforcement** activities related to cannabis operations.” (p. 2-19)*

*Illegal grows would be “potentially reduced over time through private market forces and government **enforcement**.” (p. 2-21)*

“as increased enforcement is undertaken and given that illicit goods will not be eligible for sale in the State of California.” (p. 2-53)

“Code enforcement by the Licensing Office and other agencies would occur, which on balance is expected to prevent increases in the overall level of these types of operations.”(p. 3-4)

Illegal operations “would be subject to SCCC enforcement.” (p. 3-6)

And yet, the DEIR consistently notes the inadequacy of enforcement programs

“The staffing levels available for cannabis code enforcement by county staff did not provide a sufficient enforcement program. Many of these green rush cases resulted in environmental damage associated with vegetation clearing, illegal stream diversions, extensive grading, illegal development and habitation, and solid waste management.” (p. 3-6)

“With implementation of MMs AT-1.3a and AT-1.3b, unregulated cannabis cultivation and/or manufacturing would be reduced over time either through enforcement/closure of grow sites, and residual secondary agricultural and timber resource impacts would be reduced, but it cannot be ensured that unlicensed activities would be reduced to a less than significant level.” (3.2-30)

“there is a high likelihood that secondary impacts would continue to occur due to the nature of County enforcement” (3.2-30)

Concerning biological impacts of the Program “high likelihood for continued operation of unlicensed manufacturing regardless of increased enforcement throughout the County, secondary impacts of the Program are considered significant and unavoidable.” (p. 3.4-41)

Concerning geological impacts of the Program “unregulated cannabis cultivation and/or manufacturing would be reduced over time either through enforcement/closure of the grow sites or the permitting and licensing of new grow

sites. Therefore, unregulated cannabis activity in areas susceptible to geological hazards or causing extensive erosion would be reduced. However, since unregulated cultivators/manufacturers are unlikely to alert the County if their activities cause erosion or are adversely affected by geological hazards, residual impacts associated with Impact GEO-3 would remain significant and unavoidable.” (3.6-18)

Concerning the greenhouse gas emissions impact of the Program “However, due to the high likelihood for continued unregulated cannabis cultivation and manufacturing activities regardless of the enforcement and annual survey programs, and the inability to completely and effectively ensure compliance with the Program’s regulations since the locations and nature of these unregulated activities throughout the County are unknown, secondary residual GHG emissions impacts associated with Impact GHG-2 would be significant and unavoidable.”(3.7-21)

Concerning the hazards and hazardous materials impacts of the Program “due to the high likelihood for continued operation of unlicensed cultivation and manufacturing regardless of increased enforcement throughout the County, as well as the inability to enforce standard requirements and regulations relating to fire protection and emergency response and ensure the protection of unlicensed cultivation and manufacturing facilities, secondary impacts of the Program are considered significant and unavoidable.” (3.8-22)

“With implementation of MMs AT-1.3a and AT-1.3b, unregulated cannabis cultivation and/or manufacturing would be reduced over time either through enforcement/closure of the grow sites or the permitting and licensing of new grow sites. However, it is not possible to ensure that all land use impacts would be avoided or minimized; therefore, this impact is significant and unavoidable.” (3.10-39)

“However, due to the high likelihood for continued operation of unlicensed cultivation and manufacturing regardless of increased enforcement throughout the County, as well as the inability to enforce standard requirements and regulations relating to fire protection and security and ensure the protection of unlicensed cultivation and manufacturing facilities, secondary impacts of the Program are considered significant and unavoidable.” (3.11-19)

“enforcement could not effectively guarantee the elimination or reduction of impacts on roadway safety and emergency access. Therefore, secondary impacts of both the Project and More Permissive Project are considered significant and unavoidable” (3.13-22)

“due to the high likelihood for operation of unlicensed cultivation and manufacturing regardless of increased enforcement through the County,

secondary impacts of the Program are considered significant and unavoidable.”
(3.14-33)

As evidenced by the extensive DEIR quotes above, the CESC notes that the Program as it is designed insufficiently meets the Objectives through an anticipated inadequacy of enforcement programs

- What factors are most influential at reducing the effectiveness of the enforcement Objective and outcomes of the Program?
- What are the thresholds or standards that the DEIR authors used in each of the DEIR quotes to judge the inadequacy of enforcement at addressing the Program Objectives?

Despite the prior section, DEIR authors suggest the Program does not exceed the capacity of current enforcement capacity

“Overall, the proposed Program would not exceed the capacity of existing fire protection or law enforcement services and would not require provision of new or physically altered facilities to maintain service capability. Additionally, the ongoing application of existing and proposed regulations to avoid siting development related to cannabis cultivation close to parks, schools, or libraries, and outside of emergency access areas, would ensure that indirect impacts due to increased demand for public services under the Project and the More Permissive Project would be considered less than significant.” (3.11-16)

The CESC disagrees that the extensive nature of the enforcement program outlined in the DEIR would not result in the need for additional fire and law enforcement services as well as both new and physically altered facilities.

- How many additional personnel would the “Sustained Enforcement Program” require to sufficiently address the anticipated demand of the mitigation program of the DEIR?
- How many additional personnel would the “Unlicensed Cannabis Cultivation and Manufacturing Enforcement and Compliance Program” require to sufficiently address the anticipated demand of the mitigation program of the DEIR?
- Where would the two aforementioned enforcement programs be housed?
- What evidence is there, including agency testimony, that this Program is within the current capacity of existing fire and enforcement personnel?

The list of the Program's reliance on enforcement to meet mitigation, Objectives, etc.

“MM AT-1.3a. Sustained Enforcement Program. *To address continued unlicensed cannabis cultivation within the County that may adversely affect agricultural and timberland resources, the Cannabis Licensing Office, in consultation with the Planning Department and County Sheriff's Office, shall recommend to the Board of Supervisors an Unlicensed Cannabis Cultivation and Manufacturing Enforcement and Compliance Program. The enforcement program shall have sustainable funding and feasible implementation within the first year of adoption of the proposed Program to address enforcement of unlicensed cannabis cultivators and manufacturers. The funding and implementation program shall be subject to approval by the Board of Supervisors. Within two years of adoption of the proposed Program, funding shall be determined with assistance from the Annual Survey and Monitoring Report described in MM AT-1.3b and appropriately balanced with other County and/or local community priorities to provide a feasible level of funding for an effective ongoing enforcement program.*

Requirements and Timing. *The Cannabis Licensing Office and Planning and Development Department shall develop and recommend the provisions of the Unlicensed Cannabis Cultivation and Manufacturing Enforcement and Compliance Program prior to adoption of the Program. The County shall allocate funding and implementation resources for one year following Program adoption.*

Monitoring. *The Cannabis Licensing Office shall monitor enforcement programming, in coordination with the Planning and Development Department and the County Sheriff's Office.”(3.2-29)*

Funding recommendations for enforcement will be made to the Board of Supervisors- *“The Annual Report shall contain recommendations regarding enforcement and staffing resources, to provide a feasible level of funding for an effective enforcement program.”(p. 3.2-31)*

“With implementation of MMs AT-1.3a and AT-1.3b, unregulated cannabis cultivation and/or manufacturing would be reduced over time either through enforcement” (3.2-30)

“Implement MM AT-1.3a. Sustained Enforcement Program. *To reduce secondary impacts related to air emissions and objectionable odors associated with unregulated cannabis cultivation/manufacturing and related development activities, MM AT-1.3a, addressing County implementation of the Unlicensed Cannabis Cultivation and Manufacturing Enforcement and Compliance Program, shall apply to Impact AQ-4.” (3.3-27)*

“However, due to the high likelihood for additional or expanded unregulated cannabis cultivation and manufacturing activities regardless of the enforcement and annual survey and monitoring programs, secondary residual impacts associated with Impact AQ-4 would be significant and unavoidable.” (3.4-1)

“degraded habitat that has occurred from cannabis operations would be required to be restored as part of the licensing and enforcement process, which would have a beneficial effect on biological resources” (3.4-30)

“Implement MM AT-1.3a. Sustained Enforcement Program. *To reduce secondary impacts to special-status species, sensitive natural communities or habitats, the movement of native resident or migratory species from installation of security fencing, and conflicts with adopted HCPs, associated with unregulated cannabis cultivation/manufacturing and related development activities, MM AT-1.3a, addressing County implementation of the Unlicensed Cannabis Cultivation and Manufacturing Enforcement and Compliance Program, shall apply to Impact BIO-5.” (3.4-39)*

“Implement MM AT-1.3a. Sustained Enforcement Program. *To reduce secondary impacts to historical and cultural resources associated with unregulated cannabis cultivation/manufacturing and related development activities, MM AT-1.3a, addressing County implementation of the Unlicensed Cannabis Cultivation and Manufacturing Enforcement and Compliance Program, shall apply to Impact CR-3.” (3.5-19)*

“unregulated cannabis cultivation and/or manufacturing would be reduced over time either through enforcement/closure of the grow sites or the permitting and licensing of new grow sites. Therefore, unregulated cannabis activity in known sensitive cultural resource areas would be reduced.” (3.5-20)

“Implement MM AT-1.3a. Sustained Enforcement Program. *To reduce secondary impacts to geologic resources associated with unregulated cannabis cultivation/manufacturing and related development activities, MM AT-1.3a, addressing County implementation of the “Unlicensed Cannabis Cultivation and Manufacturing Enforcement and Compliance Program”, shall apply to Impact GEO-3.”*

“Implement MM AT-1.3a. Sustained Enforcement Program. *To reduce secondary impacts related to considerable GHG emissions associated with unregulated cannabis cultivation/manufacturing and related development activities, MM AG-1.3a, addressing County implementation of the Unlicensed Cannabis Cultivation and Manufacturing Enforcement and Compliance Program, shall apply to Impact GHG-2.” (3.7-21).*

“Implement MM AT-1.3a. Sustained Enforcement Program. *To reduce secondary impacts associated with cannabis cultivation/manufacturing and*

associated hazardous activities, MM AT- 1.3a, addressing County implementation of the Unlicensed Cannabis Cultivation and Manufacturing Enforcement and Compliance Program, shall apply to Impact HAZ-4.”

“Implementation of the Program would reduce the total number of unlicensed cannabis cultivation sites in the County through licensure of compliant sites and enforcement actions taken against noncompliant sites which would in turn reduce adverse impacts on surface and groundwater quality and quantity in the County. The More Permissive Project would more effectively reduce impacts from unlicensed cultivation and manufacturing as this scenario increases the area of eligibility for licensing and has an additional opportunity in the future for licensing of cannabis cultivation sites, which have the greatest potential for hydrologic impacts related to site disturbance and runoff.” (3.9-32)

“Implement MM BIO-3.2. Wildlife Fencing. *To reduce direct and indirect land use and planning impacts associated with cannabis cultivation, MM BIO-3.2, addressing County implementation of the Unlicensed Cannabis Cultivation and Manufacturing Enforcement and Compliance Program, shall apply to Impact LU-1.1.” (3.10-29)*

“Implement MM AT-1.3a. Enforcement. *To reduce secondary land use and planning impacts associated with cannabis cultivation/manufacturing and related development activities, MM AT- 1.3a, addressing County implementation of the Unlicensed Cannabis Cultivation and Manufacturing Enforcement and Compliance Program, shall apply to Impact LU-3.” (3.10-39)*

“Implement MM AT-1.3a. Sustained Enforcement Program. *To reduce secondary impacts to public services associated with unlicensed cannabis cultivation/manufacturing within the County, MM AT-1.3a, addressing County implementation of the Unlicensed Cannabis Cultivation and Manufacturing Enforcement and Compliance Program, shall apply to Impact PS-3.” (3.11-19)*

“Implement MM AT-1.3a. Sustained Enforcement Program. *To reduce secondary impacts related to population, employment and housing associated with unregulated cannabis cultivation/manufacturing and related development activities, MM AT-1.3a, addressing County implementation of the Unlicensed Cannabis Cultivation and Manufacturing Enforcement and Compliance Program, shall apply to Impact POP-2.” (3.12-17)*

“unregulated cannabis cultivation would be reduced over time through enforcement/closure of the illegal grow sites which would reduce employee demand for housing and therefore would reduce secondary population and housing impacts.” (3.12-17)

“Implement MM AT-1.3a. Sustained Enforcement Program. *To reduce secondary impacts from roadway operations, safety, and emergency access*

within the County, MM AT-1.3a, addressing County implementation of the Unlicensed Cannabis Cultivation and Manufacturing Enforcement and Compliance Program, shall apply to Impact TRA-4.” (3.13-22)

“Implement Mitigation Measure AT-1.3a. Sustained Enforcement Program. *To reduce secondary utilities and energy conservation impacts associated with unregulated cannabis cultivation/manufacturing and related development activities, MM AT-1.3a, addressing County implementation of the Unlicensed Cannabis Cultivation and Manufacturing Enforcement and Compliance Program, shall apply to Impact UE-3.” (3.14-33)*

“With implementation of Mitigation Measure AT-1.3a and AT-1.3b, unregulated cannabis cultivation/manufacturing would be reduced over time through enforcement/closure of the grow sites, which would reduce residual impacts to utility service systems as well as electricity, natural gas, transportation fuel, and other similar energy supply uses and conservation.” (3.14-33)

“this EIR introduces mitigation measures that would lessen these impacts through enforcement” (3.15-2)

As can be examined by the list above, the DEIR relies extensively on enforcement through two different programs to achieve the Objectives and reduce impacts to a number of CEQA issues. Throughout the DEIR, authors variously rely on enforcement and, in some cases suggest it will lessen impacts to greater or lesser degrees- in all cases without any evidence whatsoever.

- For each of the above DEIR quotes, what evidence supports the conclusions the mitigations will be effective in significantly reducing impacts?
 - o Are there data from other areas of California that could be applied to these issues to improve the public’s understanding of the DEIR conclusions?
- If enforcement funding or effort is insufficient, will there be mitigation funding, for impacts to timberland and agricultural resources?
- Given that enforcement of cannabis growing and manufacturing activities have been nearly non-existent in much of the County, will a continued lack of adequate enforcement nullify some or most of the DEIR recommendations?

Chapter 2.0 Project Description

2.3.3 Potential Cannabis Cultivation and Manufacturing under the Program

Limited scope of analysis unsupported

The DEIR authors, in outlining the project description, rely on various barely supported suppositions to suggest limited impacts. These include:

- 1) A limited number of potential licenses, given the limited number of eligible applicants.
- 2) Limited landowner interest
- 3) Limited areas that could receive licenses, based on regulatory, geographic, or environmental barriers

Commentary on and questions about each of these suppositions follows.

- 1) DEIR Presumption: There will be a limited number of potential licenses, given the limited number of eligible applicants.

The DEIR states: *“Under the Project, there are 6,228 parcels totaling 147,750 acres within which cultivation could occur on portions of those parcels with a license and any required permits. (Figure 2-3). Under the More Permissive Project, the number of eligible parcels rises to 8,888 within a total of 164,721 acres within the County, an increase of approximately 16,971 acres over the Project.” (Figure 2-4).*

Under the Project and the More Permissive Project, only cannabis cultivation registrants who completed a license pre-application to the County by November 6, 2016 are eligible to receive a license to cultivate commercial cannabis, except that those farmers that have commercially farmed another crop on a parcel zoned for Commercial Agriculture (CA) for 3 consecutive prior years are eligible to obtain a license without having registered during the registration period.

The DEIR states that 951 people have registered.

- How many licenses might each of the 951 registered individuals obtain?
- How many parcels might each of the 951 registered individuals cultivate cannabis on?

On the DEIR language: “except that those farmers that have commercially farmed another crop on a parcel zoned for Commercial Agriculture (CA) for 3 consecutive prior years are eligible to obtain a license without having registered during the registration period.”

- Specifically, what is the definition of “farmers?” Does this include farm workers, farm owners, farm managers? Does the definition include part time employment, sporadic employment, and/or full time employment?

- How might the protocol allowing farmers to farm another crop for 3 years on CA zoned lands allow for an indefinite and ongoing supply of additionally qualified individuals to apply for commercial cannabis growing licenses in the future?
- How would this CA zone farming requirement for licensing impact lease and land values of CA zoned land?
- What is the baseline of eligible farmers that “have commercially farmed another crop on a parcel zoned for Commercial Agriculture (CA) for 3 consecutive prior years?”
- How will the number of eligible farmers unending that “have commercially farmed another crop on a parcel zoned for Commercial Agriculture (CA) for 3 consecutive prior year” change in the foreseeable future?
- How would the employment and land use tenure of farmers that “have commercially farmed another crop on a parcel zoned for Commercial Agriculture (CA) for 3 consecutive prior year” be verified?

2) Limited landowner interest

- How does the survey data from cannabis cultivators relate to land owner interest in sponsoring third party cannabis cultivators on their land?
- What data can the DEIR authors cite to support limited landowner interest in developing their land for cannabis cultivation?
- Does “the Program’s” enforcement effort include mandatory identity of all part owners to an LLC or other type of partnership prior to a license being issued?

3) Limited areas that could receive licenses, based on regulatory, geographic, or environmental barriers

Confusing information- which property owners can expect a right to obtain a cannabis cultivation license.

The following suggests that owners of certain parcels can expect to be eligible for licenses:

The DEIR language states: “*Geographic restrictions, including minimum parcel sizes, parcel separation requirements, and setbacks from key features such as schools, streams, libraries, and municipal boundaries, further exclude parcels from license eligibility. Also, other requirements such as that a single family dwelling must be*

provided on site, and that Fire Code requirements for road access and water storage must be met, further limit eligibility.” (p. 2-46)

- Is eligibility to obtain a cannabis cultivation license determined primarily by an individual's eligibility or a parcel's eligibility?
- Does granting a parcel eligibility to obtain a commercial cannabis license construe a property right under the US Constitution?

In another section, the DEIR states *“a GIS-based analysis of the Project and More Permissive Project scenarios was conducted to determine the areas of the County where commercial cultivation and manufacturing would be allowed, considering all the various prohibitions and restrictions proposed in the Project and More Permissive Project scenarios”* (p. 2-39).

- With the GIS mapping illustrated in Figures 2-5, 2-6, 2-7, and 2-8, what percentage and what acreage of the highlighted parcels that are both ‘eligible’ and in fact available for cannabis cultivation?
 - o Which specific, and what percentage of the parcels illustrated as ‘eligible, are owned by public entities where cannabis cultivation would not be permitted?
- Given the prior language, why have the DEIR authors neglected to analyze the effects of such restrictions, presenting the public with a more accurate accounting of the number and type of parcels, total acreage, and geographic distribution of potential cannabis cultivation sites?
- Are there GIS analyses that could be performed to inform the public more accurately about the potential acreage and geographic distribution of cannabis cultivation sites proposed under the alternatives?
- What data are missing that prohibit GIS analysis to support a more refined public presentation of potential acreage and geographic distribution of cannabis cultivation sites proposed under the alternatives?
- Who specifically gave the preparers of the DEIR guidance on the depth and breadth of the analysis necessary to inform the public about the number and type of parcels, total acreage, and geographic distribution of potential cannabis cultivation sites?

Inclusion of most permissive alternative unsupported by need

While the DEIR relies on self-reported data to ascertain certain impacts, the authors ignore other aspects of the same survey data. For instance, (Subsection 2.3.3 p.2-40) the DEIR estimates *between 36 percent and 44 percent* of current registered growers are not located on eligible parcels. However, in 1 sampling of such registrants, of 37 registrants none of them were located on RA properties (p. 2-45), yet RA

neighborhoods are anticipated to absorb all the growth. The assumption is that displaced growers will want smaller RA parcels, yet 48% of registrants indicated they plan to move to larger parcels to increase their cannabis cultivation.

- How do the remaining 250 licenses available compare with the number of 5 acre or larger parcels in the county?

DEIR Table 2-13 suggests that there are over 6000 eligible parcels under one scenario, with the most permissive project increasing that to nearly 9000. According to the DEIR, these parcels would accommodate 760 growers. While proposed changes to RA zoning would substantially change the character and safety of these residential communities, among 256 registrants of known address only 20 would profit from the changes.

- Why have the preparers of the DEIR chosen alternatives that benefit so few of the anticipated individuals who are interested in cannabis cultivation?

The DEIR authors state *“The minimum parcel size requirements described in 2.3.2 have the greatest effect in eliminating potential registrant-provided cannabis cultivation sites from eligibility, particularly in the Mountain Region where smaller agricultural and timber parcels under 5 acres in size would not be eligible for cultivation licenses”* (p.2-46).

Yet, even with adoption of the more permissive project standards, the percent of eligible registrants only increases from 56% to 64%.

- Since this region of the county seems to have a culture with a greater tolerance for high density cannabis cultivation why not use the zoning variance procedures to involve surrounding neighborhoods in decision making?
- Isn't it more likely that smaller growers in remote mountain communities with minimal enforcement pressures will be less likely to participate in the Program based on benefit/risk analysis and the other factors listed above?
F
- What level of enforcement and at what cost would change the benefit/risk assessment in favor of leaving the black market?

Chapter 3.0 Introduction and Approach to Analysis

3.0.2 Assessment Methodology- Establishing the Baseline Environmental Conditions

DEIR baseline analysis flaws

The DEIR states:

“This section describes the environmental baseline as accurately as possible, given the limits of the available data for the existing cannabis industry in the County.”

And

“Baseline conditions are defined as the existing physical setting that may be affected by the Program (State CEQA Guidelines, § 15125, subd. (a)). Baseline conditions are the local and regional physical environmental conditions as they existed at the time of the Notice of Preparation (NOP), which was published on February 13, 2017. This environmental setting constitutes the baseline physical conditions against which the County will determine whether impacts from the Program and alternatives are significant. The impacts of the Program are defined as changes to the environmental setting that are attributable to Program.”

- Why did the DEIR authors not use 2013 as the baseline, the time before poor ordinances attracted the first wave of commercial cannabis cultivators to the County?

During the NOP public comment process, CESC requested the following analysis of the environmental baseline:

- What is the current baseline use of legal and illegal rodenticides and pesticides?
- What is the baseline permeability of the landscape to wildlife movement across the County?
- What is the current baseline (acreage and habitat viability) of sensitive habitats in the County, including maritime chaparral, coastal prairie, Shreve oak, woodland, northern coastal shrub, freshwater wetland, riparian areas, inland sand hills, and San Andreas oak woodland?
- What is the current baseline of light pollution throughout the County?
- What is the baseline wildfire ignition rate (in each of the study areas)?
- Will technologies such as olfactometers be used in establishing the baseline (for offensive smells)?

In all cases, the DEIR authors fail to establish the baselines for the issues CESC requested. The baseline conditions of these factors are important to adequately disclose to the public the magnitude of changes due to the proposed project. The DEIR authors instead suggest that the lack of baseline description is due to the limited information about cannabis cultivation. However, the baseline conditions of the factors for which the CESC requested information are affected by many different activities and require analysis to adequately assess levels of significance. And so, CESC asks again:

- What is the current baseline use of legal and illegal rodenticides and pesticides?
- What is the baseline permeability of the landscape to wildlife movement across the County?
- What is the current baseline (acreage and habitat viability) of sensitive habitats in the County, including maritime chaparral, coastal prairie, Shreve oak, woodland, northern coastal shrub, freshwater wetland, riparian areas, inland sand hills, and San Andreas oak woodland?
- What is the current baseline of light pollution throughout the County?
- What is the baseline wildfire ignition rate in the various areas proposed for additional cannabis cultivation?
- Will technologies such as olfactometers be used in establishing the baseline (for offensive smells)?

In addition, the CESC asks:

- How do the activities of the existing cannabis industry relate to the environmental baseline?
- How much of the baseline of cannabis cultivation activities change since the legalization of medical and commercial cannabis cultivation?
- Why did the lead agency neglect to establish the baseline conditions of neighborhoods, wildlife habitat, water resources for this DEIR?
- Is it possible to document the baseline condition of the sensitive habitats (area, condition) that could be affected by cannabis cultivation?

Section 3.1 Aesthetics and Visual Resources

The water storage requirements (120,000 gallons) translates into 3 X 40,000 gallon tanks measuring 32 ft diameter X 7 ft tall. That's a 32 x 100 ft. area in close enough proximity to a cultivation area to allow fire truck access.

On 2.5 acre parcels, this would create an onerous, industrial like eyesore. On smaller acreage, there are conflicting issues of planted visual screens and fire safety fuel breaks required by CDF. With 4 years of drought and numerous fires, we can now see houses that 5 years ago were hidden in dense chaparral and trees.

- How will the Program balance fire safety with aesthetic and visual resource impacts, given fire clearances and installation of infrastructure?
- What are the cumulative impacts to aesthetic and visual resources with the Program alternatives?
- How will those most affected by aesthetic and visual resource changes be able to comment on proposed changes affecting them?

Section 3.10 Land Use and Planning

Neighborhood quality of life issues

The Program concentrates commercial cannabis activities in residential agricultural communities at increased density and concentration of cannabis cultivation.

Rural neighborhoods are clusters of houses sharing a common road. Often these house clusters are isolated from the next nearest neighborhood. Rural neighborhoods often are more tightly knit than suburban or urban neighborhoods. Typically rural neighbors will help one another maintain roads, remove down trees, report suspicious vehicles or strangers to one another and look out for one another's children. In rural neighborhoods neighbors generally partner to maintain the neighborhood and assist one another during times of adversity, such as violent storms, a disabled vehicle, wild fires and threats of any kind. Generally, people living in rural neighborhood realize participating in the general good provides both psychological and physical security. For a rural neighborhood to be nurturing there must be trust.

Alternatives considered and discarded

R1 parcels were excluded from commercial licenses citing Obj. 4 and 7 and "*the potential for commercial-residential land use conflicts, exposure of children to cannabis activities and increase in odor complaints and other impacts*" (p. 4-3)

- What specific metrics did the DEIR authors employ to characterize R1 parcels with RA parcels to determine that the latter were less likely to present commercial-residential land use conflicts with regard to commercial cannabis cultivation?

Table 2.10 makes it clear that the most permissive option increases the number of parcels available for grow licenses predominately in RA parcels. 7,246 RA acres out of the total of 16,971 increased in all zoning designations. Current estimates of grows

throughout the county indicate that only 25% are in RA zones (page 2-53 to 2-67 geographic region data).

This is accomplished by both reducing minimum lot sizes from 5 to 2.5 acres and double the grow size, essentially increasing the amount of cannabis produced by a factor of 4. When also reducing the size of setbacks from roads and adjacent houses (Table 2.7, 2.8 page 2-33) RA zoned neighborhoods become even more similar to R1.

With the more permissive alternative, the DEIR authors chose reduction in RA minimum parcel size and an increase in permissible canopy; reduction in setbacks were arbitrarily doubled or halved.

- What were the justifications for the choice to reduce RA minimum parcel size, increase permissible canopy, and reduce setbacks with the more permissive alternative?

The DEIR authors state *“The most permissive alternative would have the most eligible area and would involve the least relocation to license the 760 existing and proposed cannabis businesses into eligible areas”* (p. 4-37).

The areas emphasized by the most permissive alternative are concentrated in locations with the least infrastructure and least law enforcement presence. This is also where the black market grows will continue to have a presence with co-mingling of licensed facilities with black market operations, making it easier for licensed facilities to siphon off excess product to the black market to boost their bottom line.

- What is the public information strategy to prevent unlicensed grows co-mingling with licensed facilities?
 - o How will the public be informed about the location of licensed facilities?
 - o How will a person living in a rural neighborhood know if a neighbor’s next door cultivation is legal or illegal?
 - o How will a neighbor know if a commercial operation is also involved in illegal and dangerous practices such as hash oil manufacturing (high fire risk) or using the legal grow as front for a much larger illegal grow that would avoid taxes or regulation?
- What is the law enforcement strategy to prevent unlicensed grows co-mingling with licensed facilities?

The DEIR authors illustrate that registration data indicates 36 acres of existing cultivation county-wide. (p. 2-21), possibly growing to 200 acres (page 2-22), while Table 2-10 indicates a total increase in eligible acreage of nearly 17,000 acres.

- Why do the DEIR alternatives create license-qualified acreage well beyond current needs?

Other neighborhood issues not recognized in the DEIR:

Commercial cannabis cultivation is often correlated with increased security fences and security dogs, changing the nature of the neighborhood especially for youth, in terms of freedom of movement and neighborhood trust.

- How will neighborhood character changes, especially with regard to youth outdoor activities, be mitigated by the Program alternatives?
- What percentage cannabis operations requiring a visit from the sheriff resulted in discovering crimes other than simply growing cannabis?
- How many fires or explosions were attributed to cannabis operations in Santa Cruz County during the last ten years?

Edibles in cannabis manufacturing sites pose an attractive nuisance/ danger to youth.

- How will these be secured at residential-based manufacturing sites?

Discretion of Inspector Czar to change setbacks, and reduce parcel size requirements increases still more the concentration of cannabis into residential neighborhoods.

- How have historic crime rates correlated to concentration of cannabis grow canopy?
- What do the levels of cannabis exposure/use by youth correspond to amount of cannabis being produced in the nearby community?

Section 3.4 Biological Resources

[Analysis of impacts to natural communities and habitats inadequate and confusing](#)

The DEIR authors fail to provide reference to the public for the nomenclature used in the document, and so it is impossible for the public to verify the DEIR findings. For instance, Table 3.4-1 Habitat Types and Associated Communities in Santa Cruz County, lists a number of natural communities without reference and without annotation about the level of sensitivity of those resources. And so, CESC asks:

- What professional nomenclatural system did the DEIR authors use for naming the natural communities listed in Table 3.4-1?

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- Where can the public access natural community descriptions for the communities listed in the DEIR?
- What level of sensitivity are each of the natural communities found in the project area?
- Why did the DEIR neglect to include karst habitats, which include a number of sensitive animal species?

There is a photo caption associated for an unlabeled figure with the Santa Cruz County Sandhills section which includes mention of “the Sandhills support two rare and endemic plant communities - maritime coast range ponderosa pine forest and northern maritime chaparral.” However, these two plant communities do not appear in Table 3.4-1.

- Why were the two ‘rare and endemic plant communities’ in the figure caption omitted from the natural community types in Table 3.4-1?

The legend in Figure 3.4-1 introduces yet another nomenclature for natural communities, which do not agree with those presented in Table 3.4-1.

- How do the habitat types listed in figure 3.4-1 relate to the natural community types presented in Table 3.4-1?

There are geographic information sources, such as those used in the Conservation Blueprint, by the Land Trust of Santa Cruz County, that would provide the public with a better understanding of the relationship of the proposed project with the distribution of sensitive natural communities.

- Why did the authors of the DEIR not use the best available information to disclose to the public the relationship and distribution of sensitive natural communities with the proposed project?

During the NOP process, the CESC asked the following questions about baseline, which the authors of the DEIR did not address in the document. The CESC again submits these questions for consideration by the lead agency:

- What is the current baseline (acreage and habitat viability) of sensitive habitats in the County, including maritime chaparral, coastal prairie, Shreve oak, woodland, northern coastal shrub, freshwater wetland, riparian areas, inland sand hills, and San Andreas oak woodland?
- Over the past decade, what has been the level of compliance with protection of sensitive habitats in the County?

Presenting the public with baseline compliance levels for protection of sensitive natural communities and discussing how the proposed project would be similar or deviate from

that level of compliance is essential for analysis, especially as the same agency would be responsible for future such compliance measures.

- What proportion of protected, sensitive natural communities have been lost since the passage of the County's protective ordinances?
- What is the annual loss due to non-compliance of those resources?
- Would the proposed project result in an increase or decrease of the level of compliance?

The DEIR curiously focuses on only 2 of the many sensitive natural communities identified in local or regional plans, policies, regulations or by the California Department of Fish and Game. And so, we ask:

- Why did the DEIR authors omit analysis of sensitive natural communities listed in the County's General Plan?
- What are the sensitive natural communities listed in the County's General Plan in the project area?
 - o What are the baseline conditions of those sensitive natural communities?
 - What percentage of the natural distribution of those communities remained at the time of the NOP publication?
 - How many acres of each of those communities remain, intact?
 - What is the threshold of significance for direct, indirect, and cumulative impacts on those communities?
- Why did the DEIR authors omit analysis of sensitive natural communities recognized by the California Department of Fish and Wildlife?
- What are the sensitive natural communities recognized by the California Department of Fish and Wildlife in the project area?
 - o What are the baseline conditions of those sensitive natural communities?
 - What percentage of the natural distribution of those communities remained at the time of the NOP publication?
 - How many acres of each of those communities remain, intact?
 - What is the threshold of significance for direct, indirect, and cumulative impacts on those communities?
- Why did the DEIR authors omit analysis of sensitive natural communities recognized by the California Coastal Commission?
- What are the sensitive natural communities recognized by the California Coastal Commission in the project area?
 - o What are the baseline conditions of those sensitive natural communities?
 - What percentage of the natural distribution of those communities remained at the time of the NOP publication?
 - How many acres of each of those communities remain, intact?
 - What is the threshold of significance for direct, indirect, and cumulative impacts on those communities?

Similarly, the DEIR authors focused only on State and Federally listed sensitive plant species.

- Why did the DEIR authors neglect to include the list of locally sensitive plant species recognized by the County of Santa Cruz?
- What are locally sensitive plant species in the project area?
 - o What are the baseline conditions of those species?
 - What percentage of the natural distribution of those species remained at the time of the NOP publication?
 - How many populations of each of those species remain?
 - What is the threshold of significance for direct, indirect, and cumulative impacts on those species?

Even with the DEIR authors focus on State and Federally listed sensitive plant species, the DEIR fails to establish baseline.

- What are the baseline conditions of the federally and state-listed plant species in the project area?
 - o What percentage of the natural distribution of those species remained at the time of the NOP publication?
 - o How many populations of each of those species remain?
 - o What is the threshold of significance for direct, indirect, and cumulative impacts on those species?

Inadequate analysis of impacts to sensitive wildlife species

- To what extent are special status species currently affected by poisonings with rodenticides and pesticides?
- How, will this change with the alternatives under consideration?

Inadequate analysis of impacts to movement of native resident or migratory species

CESC submitted the following question with our NOP comments:

- What is the baseline permeability of the landscape to wildlife movement across the County?

Nevertheless, the DEIR failed to address this point. And so, we reiterate:

- What data were used to determine the baseline movement of native resident or migratory species across the proposed project area?

CESC submitted the following question with our NOP comments:

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- How would the various alternatives affect the movement of wildlife across the County?

The DEIR provided the public insufficient information to verify the document's conclusions. And so, we ask:

- Given the baseline, what specific data and specific analysis tools (GIS, etc) were used to determine the level of impact of the various alternative to movement of native resident or migratory species across the project area?

CESC submitted the following question with our NOP comments:

- What are the cumulative impacts of this proposal with other proposals (including housing development, for safety/farming, transportation projects) that would negatively affect wildlife across the County?

The DEIR provided the public insufficient information to verify the document's conclusions. And so, we ask:

- Specifically, what data on past, present, and future proposed developments (including housing development, agriculture- including farm food safety regulations, transportation projects, etc) were used to assess cumulative impacts of this proposal's impact to movement of native resident or migratory species across the proposed project area?

CESC submitted the following question with our NOP comments:

- What are the specific thresholds beyond which wildlife movement would be significantly impaired?

The DEIR provided the public insufficient information to verify the document's conclusions. And so, we ask:

- What specific methodology and data were used to determine the threshold of significance for impacts to movement of native resident or migratory species across the proposed project area?

MM Bio- 3.1 suggests that fencing would be allowed that would 'prevent movement in and out of cultivation sites by larger mammals such as deer.' The DEIR presents inadequate analysis, suggesting that larger mammals, such as deer, are excluded from the CEQA process. And so, we ask:

- What are the specific native resident or migratory species were included in the analysis for the project impacts to movement of native resident or migratory species across the proposed project area?
- What is the baseline for and thresholds of significance to determine impacts to each of these 'larger mammals.'

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CESC submitted the following question with our NOP comments:

- What would be the necessary levels of funding, personnel, monitoring, and oversight to assure that wildlife movement impairment would not exceed the defined thresholds?

The DEIR fails to give specific analysis for the feasibility of implementing the proposed mitigation measures.

- To feasibly mitigate project impacts to the movement of native resident or migratory species, what is the level of funding that would be required for reviewing, approving, and monitoring in accordance with implementing mitigation measures MMs AV-1.1 and BIO-3.1?

Inadequate analysis of non-target animal poisoning with rodenticides and pesticides

CESC submitted the following question with our NOP comments:

- What is the baseline use of illegal, and legal rodenticides and pesticides?

The authors of the DEIR provided no answer to this question, and so the CESC asks once again:

- What is the baseline use of illegal, and legal rodenticides and pesticides?

In August, 2017 --- Matt Johnston, in the capacity of The Environmental Coordinator for the County of Santa Cruz asked the CESC for a PDF of their compilation of scientific publications. This 109- page collection of technical science writing, necropsy reports and journalism included 17 articles, from 40 contributing authors and with more than 300 references. The CESC then provided the County with this compilation.

CESC is an environmental advocacy group who relies on high quality scientific research to guide their input on environmental matters affecting Santa Cruz County. CESC believes their information, specifically gathered for the EIR and SC Supervisors (who voted [5/0] to adopt "RESOLUTION URGING SANTA CRUZ COUNTY RESIDENTS TO AVOID THE PURCHASE AND USE OF ANTICOAGULANT RODENTICIDES)"¹⁶ should have been addressed in the DEIR because the content goes further in understanding the severity of the poisoning problem, the role of mange in anticoagulant poisoning that results in very high mortality rates, dramatically reduced lifespans & other information not included in the EIR.

None of the aforementioned reference material is cited in the EIR's "List of Preparers and References," In Chapter 4, Alternatives Analysis on page 4-1 the EIR writers state, "Alternatives were developed based on: information provided by the County..." The

CESC agrees “that the information was provided by the County” and the quality of the material sent to EIR writers by Environmental Coordinator Matt Johnston was sent because he believed it had merit that was worthy of inclusion.⁹

We also feel the information that did not make its way into the DEIR discussions is a violation of the intent and rules of CEQA. For these reasons we have summarized some of the missing content and asked questions as if this material had appeared.

And so, the CESC once again asks:

- What the impact will rodenticides have on wildlife as a result of this Program?
- What affective mitigation measures have been demonstrated to be feasible and effective to avoid or minimize the effects of rodenticides on non-targeted species?

The CESC provided the lead agency with one study that illustrates a means to determining baseline and effects of rodenticides on non-targeted and sensitive animal speices: Serum Chemistry, Hematologic, and Post-Mortem Findings in Free Ranging Bobcats (*Lynx rufus*) with Notoedric Mange.

This study (and others) establishes that 100% of a population of bobcats with mange also had significant levels of anticoagulant poisoning. The onset of mange throughout a population is often due to anticoagulant poisoning that weakens the animal allowing mange (an opportunistic parasite) to flourish. Mange was not mentioned in the DEIR.¹⁹

In addition, the following study also illustrates the extent of the rodenticide problem in California, and can be used to illustrate the type of monitoring necessary to assess this problem in conjunction with the Program.

Anticoagulant Exposure & Notoedric Mange in Bobcats and Mountain Lions in Urban Southern California. Both bobcats and mountain lions exhibit severe mange while succumbing to anticoagulant rodenticide toxicity and complications due to mange. This study supports the previous study on bobcat vulnerability to anticoagulants causing toxicity, and in this study victims include mountain lions, who as apex predators who regularly prey on coyotes, who are themselves suffering from anticoagulants from eating poisoned rodents. This study verifies anticoagulants can move up the food chain to apex predators who may not have relied on poisoned rodents. This bobcat population’s life expectancy dropped from 7 years to 2 years due to the pervasive influence of anticoagulants. Both mountain lions and bobcats live in Santa Cruz County, as do coyotes. Mange has been reported in these species.¹⁷

The level of exposure in this population was above 90 percent. This population and others with about the same level of exposure are declining populations with possible trajectories of regional extinction.¹⁷

- Would an effective mitigation and monitoring measure for the program include a website where citizens could report mange in bobcats (and other common predators)
- Could such a website serve as an inexpensive early warning system that will allow monitoring of the Program's impacts on wildlife species with an added mitigation measure of addressing anticoagulant poisoning should this aspect of the Program surpass threshold levels of significance?
- Do the DEIR authors agree that the scientific methodology and objectives in these two studies would benefit Santa Cruz County Cannabis Program staff in understanding the "impact of rodenticides on wildlife" and how to spot early warnings of the pervasive nature of the problem?

Anticoagulant Rodenticides in Urban Bobcats: exposure, risk factors and potential effects based on a 16-year study. In this 16-year study in two different areas, 92% of the populations were exposed, including fetal transfers to young. Anticoagulants are blamed for population decline and the study concluded, "anti-coagulants are a substantial threat to bobcats, and likely other mammalian and avian predators, living in the urban-wild land interface." Toxicant exposure was associated with commercial, residential and agricultural development and numerous subdivisions of these categories. ¹⁸

A question concerning this article:

- Have wildlife/urban interfaces been identified in Santa Cruz County?

Anticoagulant Rodenticides on our Public & Community Lands: Spatial Distribution of Exposure & Poisoning of a Rare Forest Carnivore⁷ and, Cartels are growing marijuana illegally in California – and there's a War Brewing. ²¹

It is well documented that the urban/wild land interface is an anticoagulant-laden environment in California and a difficult place to survive for middle-sized predators. This was acknowledged in the DEIR. However, there is no mention of an equally devastating interface: the "pristine environment in mountain areas" far from human habitation turns out to equally worthy of our attention because wildlife is commonly annihilated through the use of a wide range of poisons. These remote grows also offer a clear view of what a large cannabis grow can do to the surrounding environment with no influence from other sources of anticoagulants. In these remote forest grows toxins include a long list of outlawed poisons (neurotoxic insecticides, carbofuran, etc.) -- illegal in Europe, the US & Canada. These super toxins have been discovered repeatedly in large remote grows. Their use is shared knowledge amongst a segment of the cannabis farming world and often associated with cartels. Much of mountain areas and timber preserves

in Santa Cruz County fit the “pristine habitat” profile described in these articles and utilized by this growers relying on their remote location to protect them. ^{6,7,21}

Questions regarding the above articles:

- What factual errors do the EIR writers or the experts listed in the “Chapter 5 List of Preparers and References” find in the two articles cited above?
- How will the Program include developing the expertise to identify a wide range of toxic materials often found on large remote grows?
- What will the consequences be for cannabis cultivators be when they possess illegal poisons regardless of the farm’s status as an illegal or legal cannabis operation?
- Has Santa Cruz County ever identified any “cartel-grows?”
- Does Santa Cruz County keep records that are comparable to neighboring counties in cannabis related problems and legal issues?
- Have Santa Clara County and other neighboring counties identified “cartel grows?”
- Does anyone in law enforcement or compliance know who owns the LLCs that have purchased large acreages on Summit Road, in Boulder Creek & other remote areas in the county?

A prior CESC submission to the County: Documents & Anecdotes from Santa Cruz

This collection of news articles & other documents focuses solely on what is known about non-target animal poisoning in Santa Cruz County, which has never conducted a regional toxicity study of wildlife. The information includes a necropsy report of a dead fox found 35’ from a cannabis grow in 2016. The animal had five poisons in its body, from both 1st and 2nd generation anticoagulants, proving the second generation anticoagulants were still killing non-target wildlife two years after (2014) the DPR restricted the use to exterminator companies and applicators and people they supervise. This fox’s necropsy result triggered a notification to the Agricultural Commissioner in Santa Cruz County and a copy of the necropsy report from the state’s Investigation Laboratory in Rancho Cordova. There were also articles about numerous poisoning of bobcats in both south and north county. And, descriptions of photographs of groups of coyotes revealed widespread mange (a telltale sign of poisoning).

The DEIR had this to say about this information: (Section 3.8-4) “Bonny Doon homeowners have noted concerns over the use of acutely hazardous rodenticides which have resulted in known cases of secondary poisoning of predators and other non-target wildlife.”

Questions regarding this submission:

- Why didn't DEIR writers include in the document a description and explanation of the necropsy results of the fox?
- Based on articles and scientific studies in the compilation of papers sent to DEIR writers by Matt Johnston, why wasn't the presence of mange in a predator species population noted as an important indicator of rodenticide poisoning in various areas of the DEIR analysis?
- Do the DEIR authors believe the information sent to Matt Johnston had merit for the analysis of the Program alternatives?
- Given the body of knowledge about anticoagulant rodenticide poisoning from scientific studies on wild predators in California is it reasonable to establish a baseline for levels of toxicities in wildlife prior to expanding cannabis operations in Santa Cruz County?

Section 3.4 - Outdated and factually incomplete reporting

In section 3.4 “Biological Resources,” much of the reporting is dated, not balanced, lacking important data and concepts and appears to be lifted from existing texts. For example this passage appeared on page 8 of “Biological Sources.”

The DEIR authors state “*On July 1, 2014 California DPR (Department of Pesticide Regulation) adopted new regulations that restrict the purchase, possession, and use of rodenticide baits that contain active ingredients brodifacoum, bromodialone, difenacoum, and difethialone, which are known as second generation anticoagulants. The new regulation limits their purchase, possession, and use to “certified-pesticide-applicators” exterminators, and those who work under their supervision.*” (p. 3.4 – 9)

The California DPR adopted these regulations due to the overwhelming evidence of wildlife being weakened or killed by second-generation anti-coagulants. Other categories of rodenticides – first-generation anti-coagulants, acute toxicants and certain burrow fumigants—are still available.

The DPR decision to restrict 2nd generation anticoagulants allows pesticide manufacturers to continue selling a potent poison that kills non-target middle-sized and

large predators and family pets in alarming numbers. Merely restricting use of 2nd generation anticoagulants to “certified applicators,” people “under their supervision” and exterminator companies is controversial. With the DPR decision to limit the use of Second-generation anticoagulants, to exterminator companies and “applicators” and people under their “supervision” there was no move to change the ingredients in second-generation anti-coagulants’ or otherwise dilute potency. The DPR “field operating rule” that specifies this poison can’t be placed further than 50’ from a structure does not prevent poisoning of avian and mammalian predators of all kinds who often come close to structures during the night while searching for food.³ More than 30 cities and counties in California have passed resolutions urging citizens to quit using anticoagulant rodenticides.¹⁵ This includes Santa Cruz County in a 5/0 nonbinding vote from the Board of Supervisors on June 6, 2017.¹⁶

On September 20,¹⁴ a senior scientist at the California Fish & Wildlife Investigations Laboratory, who necropsy dead wildlife, stated there are no known studies either proving or disapproving the effectiveness of the 2014 DPR policy change to restrict who legally applies 2nd generation anticoagulants. However, in study after study (See “Problem: Omitted Material” on page 7) conducted by governmental agencies and university based researchers, the rate of anticoagulant contamination (often leading to death) was around 80% of animals studied.^{6,7,17,18,19,21} Also, undercutting the efficacy of the DPR’s 2014 restrictive policy, is the fact that people living in California who want 2nd generation anticoagulants can still get them via the Internet from out-of-state sources. In addition, within the cannabis growing community in California entirely illegal and very potent neurotoxin poisons banned, both in the US and Europe have been found repeatedly grow sites in remote areas in California.^{6,7,21}

Our questions from the NOP stay focused on the “over-arching” questions: “What will be the impact on wildlife and can rodenticides be successfully controlled as to not harm non-target wildlife?” Some of our other questions are tangential to eliciting more information from diluted quality of DEIR reporting.

- What data or scientific analysis do the DEIR authors use to support their supposition that management of 2nd generation anticoagulants has been corrected satisfactorily?
- Are there any factual errors in CEESC’s paragraphs preceding this set of questions?
 - o Does acceptance of these statements change the CEQA analysis?
- Which experts or agency personnel did the DEIR authors consult to formulate the Program’s rodenticide control components?

- Why didn't the DEIR include the fact that there are no known studies underway to see if the new policy of limiting who can apply the second-generation anticoagulants (SGAR) has actually benefitted wildlife and family pets?

Further down the page (p. 3.4 – 9) the DEIR authors state “*It is not clear what types of rodenticides are used and to what to degree [in Santa Cruz County].*”

Though there have been no comprehensive studies of wildlife poisoning in Santa Cruz County as have been done in other parts of the state, the DEIR writers were given a necropsy report from a poisoned fox found close to a cannabis grow site, showing the types of poisons being used in the Bonny Doon region plus news articles stating bobcats were dying due to rodenticide poisoning in different location in the county, plus information about mange infestations (sign of poisoning) in coyotes and bobcats.²

- Why wasn't the material submitted by CEC during the NOP process used in the DEIR analysis?
- Who does the 2014 decision on restricting the legal use SGARs benefit most?
- Who does the 2014 decision hurt most?

3.4.6.2 Summary of Project Impacts and Proposed Mitigation Measures

The CEC asks the following questions about the mitigation measures associated with “Impact BIO-5.1 Secondary Cultivation/Manufacturing”

- Because it is expected that illegal cannabis cultivation will continue to exist in Santa Cruz County simultaneously with legal cannabis cultivation, how will the licensing authority be able control non-targeted poisoning?
- How will proposed rodenticide use be monitored by the licensing authority?
- How many farm inspections will occur within a year and
 - o what percentage of these inspections will be by appointment and
 - o what percentage will be unannounced? ¹
- How many SC County or state personnel will comprise an inspection team and
 - o what will be their roles and job titles?

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- With the interval of a year between inspections will rodenticide cultivators be able to use rodenticides in any manner they desire without detection most of the time?
- How many farms can an inspection team evaluate in a day in remote areas?
- Does Cal-Fire consider cannabis inspections dangerous and require more than one inspector for each inspection?
- Does the Santa Cruz County Sheriff's Department consider inspections dangerous and require more than one deputy for each inspection?
- Does the SC County Agricultural Commissioner consider inspections dangerous and what precautions would he like?
- Does the SC County Cannabis Program Licensing Manager consider inspections dangerous?
 - o Has that person asked for bullet proof vests to assist the inspections teams?
 - o What has been the result of that request?
- Will live animals be trapped, outfitted with radio collars and collected for testing from time to time in the programs the DEIR authors have recommended?

[Inadequate mitigation measures for biotic impacts](#)

MM BIO-1.1a. Special-status Species Habitat Assessment

The DEIR authors suggest that inspection will help avoid impacts: "County Cannabis Licensing Office staff, or other qualified staff or professionals determine through a site visit whether a biotic assessment is necessary based on the potential for special-status species to occur" (p. 3-4- 18)

Santa Cruz County is vastly biodiverse with even the most experienced professionals struggling over definitions and identification of habitat conditions that could support special-status species.

- Who and by what means will it be determined who is "qualified staff or professionals?"
- What will be the minimum qualifications of County Cannabis Licensing Office staff to determine the need for biotic assessments?

The past track record of the County should inform the feasibility of this mitigation measure.

- What is the baseline level of protection of special status species by current County planning processes?
 - o Examining the 5-year reviews published by the USFWS, what has the trend of federally protected sensitive species been in Santa Cruz County over the past 20 years?
- By what means can the DEIR authors demonstrate feasibility of this mitigation measure?

The DEIR authors state: *“If a biotic assessment is required, the Licensee shall hire a County-approved biologist to conduct an assessment of habitat suitability for such species”* (p. 3-4-20).

In order for this portion of this mitigation measure to be feasible, the County must demonstrate that its approved biologists list contains persons qualified for such assessment. And so, the CESC asks:

- By what means does the County review biologists to determine their ability to assess habitat suitability for sensitive species?
- What is the means for removing a ‘County approved biologist’ should that biologist make mistakes that negatively impact sensitive species?
 - o During the past 20 years, on how many occasions has the County removed County-approved biologists for reasons of omitting or overlooking information critical to the conservation of sensitive species?
- During the past 20 years, how successful has the County been in instituting mitigation measures similar to MM BIO-2.1a through MM BIO 4.2 where they pertain to other types of projects?
 - o To what degree does the County monitor the success of their required mitigation measures?
 - o What metrics has the County used to monitor the success of their ecologically oriented mitigation measures?

Incorrect information, poor assumptions and poor standards for protection of sensitive wildlife and plants

The DEIR authors state: *“The biologist will take into account conditions that may preclude the use of the area by such species, such as developed lands or historically tilled agricultural fields; lands not within the dispersal of the nearest suitable breeding habitat, or lands separated from the nearest breeding habitat by barriers to dispersal, and will document these conditions in making a final determination”* (p. 3-4-19).

Note that few of the 'may preclude' example reasons given by the authors pertain to the species given as examples. Indeed, such presumptuous generalizations do not well qualify as 'standards' that would make this mitigation measure feasible.

- To make this mitigation measure feasible, what professional standard will be used to determine habitat suitability for each of the sensitive wildlife species in Santa Cruz County?
- What level of expertise will a County-approved biologist need to demonstrate to be qualified for the entire suite of sensitive wildlife species found in Santa Cruz County?

The DEIR authors state: "*Should the assessment result in a determination that there is a potential to encounter listed species, the biologist shall include measures to avoid, minimize and mitigate impacts to those species, including site design, and exclusionary fencing, timing restrictions, or other measures specific to the species that may be present*" (p. 3-4-19).

It appears that this programmatic EIR is attempting address mitigation measures at an inadequate scale. Should there be potential for listed species, that seems to be the correct time to trigger additional environmental review through CEQA.

- What specific standard will be used to require initiation of additional environmental review, including State or Federal wildlife agency consultation and/or CEQA analysis, when sensitive wildlife species could be impacted?

The DEIR authors state: "*Special-Status Plants: To determine habitat suitability, a County-approved biologist will determine whether the impact areas (plus a 100-foot buffer) consist entirely of land uses that are unsuitable for special-status plants, such as historically tilled agricultural fields or gardens, and developed or degraded lands*" (p3.4-19)

Note, again, that the DEIR authors make generalized and mistaken claims, suggesting that these sometimes false claims are 'standards.' For instance, one of Santa Cruz County's most endangered plant (Santa Cruz tarplant) species has persisted and thrived in a tilled environment (Watsonville Airport) for generations. Many other species thrive in what might be construed as 'degraded' areas.

The 'standards' as stated also provide suggestions to would-be cultivators for how they might make suitable habitat not-so-suitable.

- To make this mitigation measure feasible, what professional standard will be used to determine habitat suitability for each of the sensitive plant species in Santa Cruz County?

- To make this mitigation measure feasible, what level of expertise will a County-approved biologist need to demonstrate to be qualified for the entire suite of sensitive plant species found in Santa Cruz County?
- What activities will be allowed in the 100-foot buffer set forth in this standard?
- How will the 100-foot buffer be monitored?

The DEIR authors state “Where avoidance of species’ sensitive habitat is demonstrated to be infeasible, compensatory mitigation for permanent impacts on the California red-legged frog, California tiger salamander, and/or SCLTS, due to loss of suitable habitat, such as loss of continuous connection within an upland stream or riparian corridor for the California red-legged frog, shall be provided at a ratio of 1:1” (p 3.4-22)

This quote is rife with misinformation about the sensitive habitat of the species listed

- What scientific publications support which of the species listed requiring ‘continuous connection within an upland stream?’
- What scientific publications support the use of riparian areas as dispersal corridors for the California red-legged frog?
- What scientific publications will be used to outline standards for delimiting ‘suitable habitat’ for the species listed?

Only 2 of the County’s no take species are addressed

The DEIR authors note only two of the many species in the County that are ‘fully protected’ species: SCLTS and SF gartersnake.

- What other fully protected species are known to exist in the County?
- Why did the DEIR not list all fully protected species and similarly address avoidance measures?
- What are avoidance measures for all of the fully protected species known to occur in Santa Cruz County?

Mitigation measures for Santa Cruz Long Toed Salamander confusing and illogical

The DEIR authors state: *“Because the SCLTS is fully protected, individuals cannot be handled. To avoid take of this species, no conversion of oak woodland to cannabis production shall occur within 0.25-mile of a known or suspected pond or between such ponds up to 1 mile apart,...”*(p. 3.4 – 20).

The use of the word 'or' in this 'standard' is confusing and could be used to suggest that the .25-mile buffer is all that is truly required. Also, SCLTS is known to occur in a variety of settings, including willow groves, eucalyptus stands, maritime chaparral, etc.

- Does the 'up to 1 mile apart' mean that there could be no cultivation within pond complexes that are less than one mile apart?
- What is the standard for defining '1-mile apart?'
- What would compel cannabis cultivators to choose the more restrictive of the setbacks of 1-mile if they could choose the .25 mile buffer, instead?
- Why do the DEIR authors choose only oak woodland when SCLTS can be found in many other habitats?
- What is the professional standard for pond surveys for SCLTS?

Mitigation measures for sensitive plant species confusing and illogical

The DEIR authors state *"In cases where an initial site assessment determines that special-status plants may occur in the disturbance area, prior to initial ground disturbance, a focused survey in the appropriate bloom season for potentially occurring special-status plant species shall be conducted in the identified suitable habitat and a 50-foot survey buffer. The purpose of the survey will be to assess the presence or absence of the potentially occurring species. If none of the target species are found in the impact area or surrounding 50-foot buffer, then no further MMs will apply"* (p 3-4-20).

The California Native Plant Society has published Rare Plant Survey Protocols. These are considered the accepted standard for such surveys.

- Why is this assessment methodology, which is significantly less rigorous than CNPS standards for rare plant surveys, suggested?
- What scientific information supports halving of the buffer distance (50') for sensitive habitat (100')?

For CRPR 1 or 2 sensitive plant species, the DEIR authors state *"If more than 10 percent of a listed species located on the cultivation site would be impacted, the affected species shall be transplanted to other undisturbed areas of the site. If relocation is not possible, the license shall not be granted"* (p 3.4-21)

- Considering the potential for below-ground persistent seedbank, what standard would be used to determine the 10%?

- What professional standard would be used to determine ‘if relocation is not possible?’
- To illustrate the effectiveness of this standard and mitigation measure, what percentage of CRPR relocation projects have been successful?
 - o For those that were successful, what were the explanatory variables for success?

The DEIR authors state: “Mitigation lands cannot be located on land that is currently held publicly for resource protection unless substantial enhancement of habitat quality would be achieved by the mitigation activities” (p 3.4 – 20)

- What professional standard would be used to determine whether or not ‘substantial enhancement of habitat quality’ could be achieved?
- What percent of the variables that determine habitat quality for our sensitive plant species are understood with any degree of certainty?
 - o What examples of such understanding exist to demonstrate the feasibility of this standard and mitigation measure?

The authors of the DEIR state: *“MM BIO-1.1d. Prevention of Spread of Nonnative Invasive Plants. The Licensee of a cannabis cultivation and/or manufacturing site shall employ the following Best Management Practices (BMPs) for weed control to avoid and minimize the spread of nonnative invasive plant species”* 3.4-24)

- What species will be considered a ‘invasive weed’ (bullet point 2)
- Will the persistent soil seed bank be removed as well as the above-ground material? (bullet point 2)
- What standards will define the ‘extent practicable?’ (bullet point 4)
- What scientific information supports the use of native plant seeds and plantings as mitigation for preventing the spread of nonnative invasive plants?

Section 3.8 Hazards and Hazardous Materials

The DEIR authors admit that cannabis cultivation is associated with increased fire risk:

“Sheriff records and other enforcement data show that existing cannabis operations are associated with fires”(3.8-2)

“Because data indicates that existing cannabis operations are concentrated within the remote forested areas of the County that are subject to greater threats of wildfire, such as the Mountain Region and foothill areas of the South County Region, there is concern that cannabis activity could spark wildfire. Registration data confirms significant overlap between current grow sites and high fire severity zones.” (3.8-6)

And yet, the analysis falls short of any level of detail of the comparative risks between the alternatives. And, the DEIR authors fail to cite any data from Santa Cruz County or surrounding counties on the correlation between cannabis cultivation and increased fire risk. The CESC is aware of fire officials from adjoining areas that have testified to the extent of such correlations.

- Using expert testimony and/or data, what is the correlation between wildfire and cannabis cultivation?
- How many additional fires would the alternatives be predicted to cause in the next 10 years?
 - o What additional loss of life and property would occur?
- What is natural fire return interval for the areas eligible for commercial cannabis cultivation under the DEIR alternatives?
 - o How has that interval changed due to cannabis cultivation in our region?
- What width of access roads are State fire officials recommending for fire safety?
- What are the number of cannabis related fires and explosions in Santa Cruz County in the last 15 years?
- Have the incidents of cannabis related fires increased in frequency over the last ten years? If so please express rate of increase in percentage over the previous year.
- What is the total expenditure in dealing with cannabis related fires in Santa Cruz County in the last ten years.
- How much did the Castle Rock Fire (July 16, 2008) cost to control?

- How many marijuana plants were removed by law enforcement a couple weeks prior to the fire?
- What was the cause of the 2008 Castle Rock Fire?
- How much did the Loma Prieta Fire (LPF) (2017) cost to control?
- What was the cause of LPF Fire?
- How many cannabis related fire incidents have been reported in the Summit Road area in the last ten years?
- Have individual growers in the Summit Road area had more than one fire in a three year period and continued to grow cannabis?
- In the last ten years have fire fighters been denied entry onto cannabis farmer's property to fight a fire?
- In the last ten years have fire fighter denied entrance to a cannabis fire had to wait for armed deputies to establish egress onto the property?
- Are fire roads and access to property regularly blocked with locks and metal gates making entry difficult for fire fighters?
- What are the total number of cannabis related fires and cannabis related hazardous incidents in San Mateo, Santa Cruz, Monterey, San Benito and Santa Clara counties on an annual basis over the last five years?
- How many arson fires involving cannabis farms have been reported in Santa Cruz County in the last five years?
- In what regions were arson fires identified in the last five years?

Section 3.12 Population and Housing

The Program requires a residence on parcels used for commercial cultivation in an area already heavily impacted with a lack of affordable housing.

- How will the Program affect rental and housing prices?

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Grey Hayes, PhD- c.v.

Education

- B.A.** Environmental Studies (Agroecology), University of California at Santa Cruz. 1991
- M.A.** Environmental Studies (Restoration Ecology), University of California at Santa Cruz. 2002
- Ph.D.** Environmental Studies (Restoration Ecology), University of California at Santa Cruz. 2003

Expertise

Environmental education program design and evaluation; natural systems research design, methods, monitoring, and analysis; group facilitation; conservation biology; restoration ecology; conservation lands management; ecologically-oriented agriculture and landscaping; species management and recovery; California botany.

Professional Experience

Elkhorn Slough National Estuarine Research Reserve. Program Coordinator: Elkhorn Slough Coastal Training. Design and implement professional training, outreach, and scientific review to support improved decision making; the program's focus is on land managers, regulatory agency personnel, planners, and biological consultants. Apply social science to better understand educational and other needs to improve decision making on California's central coast and beyond. 2002 – present.

University of California at Santa Cruz. Lecturer in Environmental Studies. Advanced undergraduate course instructor for "Management of Protected Lands" course focusing on theory and practice of managing protected lands with climate change impacts given policy, economic, and social realities of the United States. Additionally, guest lecturer, California Naturalists Program.

2008 – present.

Biological Consulting, Independent. Biological consulting for private and public entities. Work focusing on botanical inventories and environmental impact assessment (esp. CEQA), land management and restoration planning, wetland delineation, and conservation easement creation and monitoring. Work

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has included mapping of remote areas over rough terrain often off road, using ATVs and 4WD vehicles. Clients include: The Nature Conservancy, California Department of Fish and Wildlife, California Department of Parks and Recreation, City of Santa Cruz, Land Trust of Santa Cruz County, and many private individuals. GIS mapping/analysis. 1992 – present.

University of California at Santa Cruz Natural Reserves. Land manager for 3 natural reserves: Ft. Ord, Younger Lagoon, and UCSC Campus Natural Reserve. Work included ecological restoration, coordinating teaching and research, neighbor relations, invasive exotic species control, erosion control, prescribed fire, advising on livestock grazing, monitoring, membership in Fort Ord Reuse Authority and Gray Whale Citizens Advisory Council. 1992 – 1998.

Project Experience

Central Coast Rangelands Coalition (CCRC)

I have been chair of this organization's education and outreach committee and founding member of the organization's steering committee. The CCRC serves as a co-management body for the rangelands of California's central coast and includes managers of 800,000 acres of rangelands who meet regularly to inform each other on progress towards more sustainable grazing management regimes to create biologically diverse ecological systems that support increasing economic and social prosperity. Membership includes community members, ranchers, regulators, State and Federal public trust resource regulators, land trust managers, researchers, rangeland consultants, scientists, and educators. My work with the group focuses on maintaining and facilitating these dialogues, evaluating progress, and increasing the membership of this community of practice. 2002 – present.

Linking science to practice: helping coastal managers design salt marsh conservation strategies in the face of environmental change

I worked with a diverse team of scientists, estuarine managers, planners, and regulators to improve salt marsh conservation strategies with the evolution of sea level rise models. The outcomes of this work included improved understanding of decision makers considering three different approaches to sea level rise models, improved understanding of scientists of the needs of decision makers, and improved understanding of both scientists and decision makers on the need for better communication. Various

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publications and reports have been published from this work and other work remains in process, such as a white paper outlining sea level rise modeling frameworks for the San Francisco Bay area. 2009 – 2012.

Central Coast Fire Learning Network

I convened a group of stakeholders interested in reducing the dangers of wildfire while maintaining the resilience of natural communities that are fire adapted. Membership included community members, fire safety agencies, State and Federal public trust resource regulators, scientists, educators, and municipal planners. The group met occasionally to exchange perspectives and to explore the efficacy of fire safety and methods to ensure the conservation of biological diversity. My role with the group was as a convener and facilitator of dialogue. 2007 – 2012.

City of Santa Cruz HCP Science Advisory Committee

I became a member of this important committee designed to advise on the activities of the City's water department as they develop long-term strategies for conservation while providing water, recreation, and open space facilities. Other committee members include Dr. Peter Karieva (The Nature Conservancy) and Dr. Peter Moyle (UC Davis). My role with this group was to represent local expertise to a group of largely academic and researchers. 2004 – 2006.

California Department of Fish and Game Land Management Planning

I co-authored 4 land management plans for California Department of Fish and Game lands in Eastern California and the Mojave Desert. These were comprehensive management plans addressing all aspects of use, conservation, and management for highly sensitive ecological lands with listed species and sensitive habitats. My role with these planning efforts was to advise on botanical conservation and conservation biology elements. GIS mapping/analysis. 1997 – 2005.

The Nature Conservancy, Mount Hamilton Project Area

Member of a team of scientists inventorying and protecting the natural resources of over 200,000 acres in the Mount Hamilton Range. Monitoring three ephemeral streams before and after installation of fencing to exclude cattle grazing. I developed rapid assessment techniques to inventory botanical resources and worked to help standardize inventories across taxa. GIS mapping/analysis. 1999-2002.

Central Coast Ecological Restoration Projects

As manager of a system of natural reserves, I planned, managed, and monitored restoration for the restoration of Moore Creek and Younger Lagoon, administered by the University of California, Santa Cruz Natural Reserves office. Work on UCSC campus included restoration of habitat for the rare *Rana draytonii* (California red-legged frog) with artificial ponds. Work at Younger Lagoon included restoration of grassland, scrub, and riparian communities, buffering the reserve from development and agriculture, and facilitation of ongoing monitoring of numerous ecological communities. During this same time period, I founded two native plant nurseries and an ecological consulting firm, planted 40+ acres of native grasses for local genotype seed production, and consulted on numerous small-scale ecological restoration projects, especially in Santa Cruz County. 1990 – 1997.

Peer-Reviewed Publications

- Buisson, E., S. Anderson, K.D. Holl, E. Corcket, G.F. Hayes, A. Peeters, and T. Dutoit. 2008. Reintroduction of *Nassella pulchra* to California coastal grasslands: Effects of topsoil removal, plant neighbour removal and grazing. *Applied Vegetation Science* 11:195-204.
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Other Professional Publications, Presentations, and Reports

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- Curry, R., G. Hayes, and S. Schultz. 2005. Land Management Plan for By Day Creek Ecological Reserve Mono County. Prepared for: The California Resources Agency Department of Fish and Game. May 2005. 57 pp.
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- Hayes, G. 2005. Carrying capacity analysis for managing visitor use in protected areas. Presentation to: National Association of Resource Recreation Planners' 2005 Conference. Sacramento, California.
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- Hayes, G. 1998. The Saga of the Santa Cruz Tarplant. Four Seasons. 10:18-21.

Affiliations

- Switzer Fellow, Robert and Patricia Switzer Foundation (1999 – Present)
- Advisor, Santa Cruz Chapter, California Native Plant Society (1990 – Present)