

October 31, 2017

County of Santa Cruz
Planning Department
Attn: Matt Johnston
701 Ocean St, 4th Floor
Santa Cruz, CA 95060

SUBJECT: Comments on the Draft Environmental Impact Report (DEIR) for the Proposed Commercial Cannabis Cultivation and Manufacturing Regulations and Licensing Program

Dear Mr. Johnston,

Thank you for the opportunity to comment on the DEIR for the Commercial Cannabis Cultivation and Manufacturing Regulations and Licensing Program with an objective to mitigate the negative environmental impacts associated with cannabis growing activities in the unincorporated area of Santa Cruz County.

Soquel Creek Water District (SqCWD), along with Central Water District, the City of Santa Cruz, and thousands of private wells and small water systems, pump groundwater from the Santa Cruz Mid-County Groundwater Basin. As you may know, this basin is classified by the State as 'critically overdrafted'. Soquel Creek Water District declared a groundwater emergency in 2014, which, under the District's 2015 Urban Water Management Plan, has specific District operating actions and customer reduction demands that could be triggered and thus impact the program, so it should be included in the DEIR's evaluation.

California legislature enacted comprehensive legislation aimed at strengthening local control and management of groundwater basins. In response to this legislation the Santa Cruz Mid-County Groundwater Agency (MGA) was formed on May 19, 2016, and work is underway by the MGA to develop a Groundwater Sustainability plan by 2020 that will serve as the roadmap for replenishing the overdraft (and preventing further seawater intrusion) by 2040. The purpose of the MGA is to create a groundwater sustainability plan. The groundwater agency may:

- Require registration of wells and measurement of extractions
- Require annual extraction reports
- Limit extractions from individual groundwater wells

In 2003 SqCWD implemented the Water Demand Offset (WDO) Program, which requires new or expanded development to offset their projected water demand by funding conservation or supply projects within the district. The program requires development projects to offset approximately two times the amount of water they are projected to use so that there is a net positive impact on the District's water supply. On June 17, 2014 SqCWD declared a groundwater emergency and the Board modified the Water Demand Offset (WDO) Program with a program whereby developers pay into a fund to pay for new projects that reduce water

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use within the District's service area and only allow new uses of increased water from development to occur if developers offset their anticipated use by 200%. This program has helped reduce water usage.

As one of the primary objectives of the DEIR is to 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, SqCWD sees this process as an excellent opportunity to ensure that this newly recognized land use will use water efficiently and protect our environment in a manner that contributes to our regional goal of basin sustainability. The issues that we feel warrant additional analysis are the following:

1. Impact HYDRO-1. Commercial cannabis cultivation under the Program could introduce sediment and other pollutants to surface flows and groundwater, which would cause water resource contamination. With mitigation, this impact would be less than significant. This would pose a significant threat for sites with no access to a sanitary sewer for disposal of industrial wastewater. Though they would be required to get a waiver or permit for the release of the pollutants into surface flows and groundwater, this would still cause water contamination. Standard mitigation measures in the DEIR seem inadequate.

2. Impact HYDRO-2. Commercial cannabis cultivation under the Program could adversely affect groundwater supplies and groundwater recharge. This impact would be less than significant with mitigation. We do not understand your statement that this impact would be less than significant when the Mid-County Groundwater Basin and the Pajaro Basin are both designated as being in critical overdraft and have seawater intrusion occurring. Thus, additional water use does have an impact, and in critically overdrafted seawater intruded basins any additional water use could have significant consequences. Please provide quantitative and groundwater modeling to support your claim of less than significant. As stated, more than half (54 percent) of the existing cannabis cultivation sites utilize groundwater for irrigation. An additional 33 percent rely on municipal water, which is largely sourced from groundwater. This does not include increased demand for groundwater that may occur from existing cultivators expanding production or new cultivators beginning cultivation. Additional removal of water from a basin that is Stage 3 critically overdrafted is not feasible.

The additional water demand posed by allowance of tankered water, groundwater pumping and diversion of surface water, particularly during drought during both the wet and dry seasons, are not exhaustively analyzed in this document, nor have they been analyzed by local water purveyors. Therefore the impacts cannot be known at this time. Furthermore, new greenhouse construction could potentially increase runoff rates and reduce groundwater recharge, though it is not clear what analysis has been conducted to characterize this issue and provide commensurately appropriate mitigation in the DEIR. Given the existing water supply status in SqCWD with a Stage 3 Water Storage Emergency with a reduction target of 25% and the mitigations currently proposed, it seems very speculative to say that this impact is less than significant with mitigation. The Soquel Creek WDO program requires developers to pay for new projects that would reduce water use within the District's service area. Are you considering, and if not why, that all new cannabis cultivation sites within the critically overdrafted designated basins participate in the WDO program. Further analysis of the

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demand posed by the program would facilitate a more rigorous review of alternatives in the FEIR.

3. MM-HYDRO-2.1. Water Efficiency for Cannabis Cultivation. While we strongly support this mitigation, implementation success of the mitigation will take an ongoing, long-term commitment and significant resource allocation. The success of such mitigation may be enabled by the involvement of a third party such as the Resource Conservation District. Again, RCDs have a long history of success with such programs. Furthermore, the success of this mitigation measure would be better aligned with the Sustainable Groundwater Management Act (SGMA) and much more successful if it included a requirement for metering groundwater pumping. It should be a requirement that evaluation and compliance checking is done and reported annually. The impacts to groundwater resources would be significant.

4. MM-HYDRO-2.2. Rainwater Harvesting for Cannabis Cultivation. While we strongly support this mitigation, implementation success of the mitigation will take an ongoing, long-term commitment. Rainwater harvesting is effective for watering small areas in regions that ~~get precipitation~~ get precipitation year round and thus the rain catchment can refill more frequently. This mitigation is also contingent on rain which is not guaranteed, as we are currently in a drought. Also this region does not get rain year round – generally only during the winter season. Also, Licensees can be granted a waiver if they have site limitations and have implemented all other feasible BMPs. The impacts to groundwater resources would be significant.

5. Impact HYDRO-2. Indirect Cultivation. Indirect impacts of the program would occur through groundwater withdrawal from required construction of up to 228 new residential units and associated roads, utilities, and other site improvements for cannabis operations with an existing primary residence. Existing homes that are on a well that start new cannabis growing sites will create additional demand on the aquifer. The groundwater supply is in overdraft due to historical over-pumping and seawater intrusion is being detected in monitoring wells at our coastline. This program should be implemented for all new construction. In addition, County Fire Code requires that any proposed commercial cannabis site that is larger than 120 sf and is not serviced by municipal water connections to develop, fill and maintain water onsite for fire suppression in order to meet fire flow requirements. It is estimated that the additional demand would be approximately 209 acre-feet of water, as a one-time draw. The Soquel Creek WDO program requires developers to pay for new projects that would reduce water use within the District's service area. It would be feasible to require any new cannabis cultivation sites within district boundaries to pay the WDO fee. The impacts to groundwater resources would be significant. Further analysis of the demand posed by indirect cultivation would facilitate a more rigorous discussion of the true impacts on the water supply in the FEIR.

6. MM HYDRO-2.3. Water Tank Supply Management. We support the surface water forbearance period for water diversion and tank filling. However, there may also be non-forbearance period flow issues to consider and consistency with SWRCB standards that need further consideration in development of this mitigation. It is not feasible to assume that Licensees can share water tanks for fire purposes. It is possible that they be required to use recycled water that can be purchased locally from Scotts Valley Water District and trucked to the tanks. This would reduce pumping on the over drafted aquifer and stop surface water

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diversions. Obviously, the standards for the County's program will need to parallel the state standards, if only because state permits are required for water diversions.

7. MM BIO-1.1h. Water Draw Restrictions. We strongly support this mitigation, however it is not entirely consistent with state standards, nor will it necessarily be entirely protective of instream flows and related aquatic biota. The SWRCB is currently proposing a surface water forbearance period of April 1 - October 31. If it is determined that groundwater diversions have the potential to significantly affect surface water supply, forbearance periods may extend to groundwater diverters as well. In Santa Cruz County there are also instream flow problems during the winter period in some creeks, particularly during drought periods. Aligning this mitigation with state standards and protecting non-forbearance period instream flows during drought would make this mitigation more rigorous. Of course, water rights validated by the SWRCB and Streambed Alteration Agreements for any surface water diversions will also be necessary to make this mitigation meaningful.

8. Impact UE-1. The Program could increase demand or result in the expansion of facilities for water, wastewater, or solid waste services within the County due to licensing of commercial cannabis cultivation and product manufacturing activities. This impact would be less than significant with mitigation. The additional water demand posed by allowance of tankered water, groundwater pumping and diversion of surface water (particularly during drought during both the wet and dry seasons) are not exhaustively analyzed in this document, nor have they been analyzed by local water purveyors. Therefore the impacts cannot be known at this time. Given the existing dire situation with water supply in the County and the mitigations currently proposed, it seems speculative to say that the impact is less than significant with mitigation. Further analysis of the demand posed by the various alternatives would facilitate a more rigorous discussion of the true impacts on the water supply in the FEIR.

9. Resource Conservation District Role. Many of the proposed mitigations are not unique to cannabis and could very readily be implemented with the assistance of the Resource Conservation District of Santa Cruz County (RCD). The RCD commonly assists landowners with similar issues and is uniquely qualified to provide technical assistance to this sector of the agribusiness community as well. The RCD may be able to provide a unique role in certifying cultivation operations, given their vast experience with supporting agriculture and the objectivity that would come from their lack of pre-existing connections to the cannabis industry.

10. Water Demand for Cannabis Cultivation and Manufacture. The total existing cannabis cultivation demand is unknown, as are the withdrawals associated with it. Based on existing County-Wide cannabis license registrant cultivation operations, the County estimates that general cannabis cultivation water demand is 0.03 gallons per square foot of canopy per day for outdoor operations and 0.1 gallons per square foot of canopy per day for indoor and greenhouse operations. Existing cannabis cultivation water demand is estimated to be approximately 106.75 AFY, with the potential for water demand associated with unregistered and unknown cultivation to total in the low hundreds of AFY. Did the water use calculations account for leaks and over irrigation? We find this is a significant part of the equation when accounting for plant water consumptions. Please incorporate this into your water calculations. Demand appears to widely dispersed but portions are concentrated in the Urban Region, which relies on the Santa Cruz Mid-County Groundwater Basin. Cannabis operations within

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the Santa Cruz Mid-County Groundwater Basin should be required to install meters, adhere to Soquel Creek Water District's Water Demand Offset program (or a similar type of offset program), report water use and work with the Mid-County Groundwater Agency to use the water efficiently.

11. Cumulative Impacts. The disturbance envelope of the total cannabis industry that would be eligible under various alternatives is not well addressed. Clearing of forest, compacting soils, removal of forest floor duff and exposure of bare soil will reduce the ecosystems opportunity to slow stormwater and allow recharge into shallow groundwater. Increased human activities into previously inaccessible or undevelopable landscapes will increase landslides, reduce wildlife habitat and connectivity, increase ignitions of wildfires and negatively impact water resources regardless of the rigor of implementation of the preferred alternative. Simply stated, the cumulative impact of cannabis operations will increase proportionately with the area of land that is eligible for these operations to take place. The FEIR should more thoroughly evaluate cumulative impacts in this context. Soquel Creek Water District and other agencies, such as the Mid-County Groundwater Agency, must protect the quantity and quality of the groundwater basin to maintain the sustainable water supply yields.

12. Alignment with state policies. Several of the standards in the County cultivation regulations are less stringent than policies already in place in other areas of the state and also less stringent than currently proposed policies (10/17/17) released by the State Water Resources Control Board (SWRCB). Mitigations and the standards in the County code ought to be at least as stringent as the state standards.

For example, mitigations for riparian buffer widths, water diversion forbearance season limits (e.g. state is more restrictive during droughts) and the need for farm or water resource management plans currently proposed mitigations and County code standards are not well aligned with currently proposed state standards.

Currently proposed SWRCB standards can be reviewed in more detail at the following links:

https://www.waterboards.ca.gov/board_info/agendas/2017/oct/101717_6_final_draft_cannabis_policy_with_att_a_clean_version.pdf

http://www.waterboards.ca.gov/centralvalley/water_issues/cannabis/general_order/r5-2015-0113_att_a.pdf

http://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/pdf/2015/15_0023_Cannabis_Order.pdf

Assuming the SWRCB will adopt relatively consistent standards statewide, mitigations regarding riparian buffer widths, water diversion and water resource management or farm management plans should be modified to be at least as protective as their respective state standards.

Additionally, the new Groundwater Sustainability Agencies will be required to prepare Groundwater Sustainability Plans (GSP) by 2022 under the Sustainable Groundwater Management Act (SGMA). There will be a number of mandates that will be generated from

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that process. The project alternatives should ensure that cannabis cultivators will need to meet all requirements that result from SGMA. The FEIR should include reference to SGMA and ensure that all HYDRO mitigations are aligned with its requirements.

13. Allowance for trucked water. Not only does trucked water open up a new acreage to cultivation that might not otherwise be possible, the ability of the County (not to mention water purveyors) to oversee a trucked water program is highly speculative when consideration is given to the nuances of water rights, use tracking and related issues. Most water districts do not allow water to be transported out of their District boundaries. Also, hauling more than 250 gallons of water requires a water haulers license from the Department of Public Health. Scotts Valley Water District does allow recycled water to be used out of the district boundaries. Furthermore, we are not aware of any water purveyors who have analyzed this issue at a level of complexity that would allow for thoughtful accommodation for this new system demand through their Urban Water Management, drought contingency and other related plans. This has an impact on air quality and traffic too. This project element should be much more thoroughly vetted before it is included in a project alternative in the FEIR.

As this Ordinance newly acknowledges existing growers that have been cultivating since January 2013 without oversight, the Soquel Creek Water District (SqCWD) sees this process as an excellent opportunity to ensure that this newly recognized land use will use water in an efficient manner that contributes to our regional goal of basin sustainability. Specifically, we propose that the FEIR require compliance with a set of Best Management Practices (BMPs) that include but are not limited to the following requirements:

- Prepare an Environmental Protection Plan for each licensed site that addresses issues including drainage and runoff, safe use of pesticides, herbicides and fertilizers, wildlife protection, water conservation, and road access;
- Meter all water used on-site, including water from private groundwater wells and surface diversions;
- Submit annual reports of all water used on-site;
- Use efficient drip irrigation equipment and automatic irrigation controllers or soil moisture sensor controllers;
- Conduct regular inspections for leaks in the irrigation system;
- Use 2-3 inches of mulch on irrigated areas to reduce evaporation;
- Comply with existing Water Waste Prohibitions; and
- Consider the capture and use of rainwater, and when appropriate, greywater reuse.

SqCWD proposes that all BMPs be met as a condition of the initial licensing, as well as annual licensing renewals, and that the County conducts initial and annual on-site inspections of each licensed site to confirm compliance. SqCWD also requests that the licensing process be amended to include a required clearance from SqCWD prior to the issuance of a license, for any licensing application proposed within the SqCWD service area. Applications that may result in an increase in water demand will need to be evaluated to determine applicability of the SqCWD's Water Demand Offset Program.

Any costs incurred for the County to oversee the licensing and monitoring of BMPs should be included in the license fees collected. Non-compliant sites should have their license revoked if they do not promptly address deficiencies.

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Regulations from the groundwater agency that may require registration of wells and measurement of extractions, require annual extraction reports, and impose limits on extractions from individual groundwater wells will also play a large part in the Cannabis Cultivation Ordinance in the near future.

Thank you again for your efforts and for the opportunity to comment on this draft Ordinance. If you have any questions, please contact me.

Sincerely,
SOQUEL CREEK WATER DISTRICT



Ron Duncan
General Manager