



HUMBOLDT COUNTY GROWERS ALLIANCE

HCGA Comments on Agenda Item H1

April 22, 2024

Dear Supervisors and Staff,

On behalf of Humboldt County Growers Alliance, thank you for the opportunity to comment on Tuesday's agenda item H1 regarding a review of cultivation permit distribution in the county.

We appreciate the update from Planning Department staff on the number of approved, pending, and abandoned cultivation permit applications, and believe that the report clearly substantiates what has been clear since the market collapse beginning in summer 2021: Humboldt is facing a Green Exodus, not a Green Rush, and both the number and cumulative impacts of cannabis cultivation in the county have decreased considerably since the inception of the regulated cannabis framework.

While the large numbers of permit applications moving through the county's process over the past several years may have created an impression that cannabis cultivation in the county is increasing, the reality is that the vast majority of these applications reflect a backlog of permit applications stretching back almost a decade, not a "Green Rush" of new cultivation. The time that's been required to process these permits reflects the extreme degree of scrutiny and environmental review applied to each permit, a level of review which is substantially higher than for comparable, non-cannabis land uses.

The county has now nearly completed this decade-long process of moving farmers into the legal and regulated market, and in our view should now focus on supporting those farmers who have come into compliance.

Collectively, the staff report and public comments included in the agenda include a number of threads that we would like to comment on. Briefly, we'd like to emphasize the following:

1. In our reading of Resolution 18-43, the county is not obligated to perform an annual watershed data analysis - or any watershed data analysis - under the resolution, unless the countywide permit cap is proposed to increase.
2. However, watershed analysis *is* being conducted, most recently by [UC Berkeley](#) in a paper published in 2023 which found that licensed cannabis cultivation has marginal impacts on watersheds compared with residential and agricultural uses and unpermitted cannabis cultivation, and comprises just a small fraction of overall streamflow in dry summer months.



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3. We agree with the staff report's conclusion that there has been a significant countywide decrease in cannabis cultivation, and cultivation-related impacts, following legalization due to a decrease in the number of overall cultivation sites. However, we believe that the staff report likely *underestimates* the overall decrease in cultivation impact due to both 1) cessation of cultivation which does not show up in official data, and 2) the comprehensive mitigation measures adopted by permitted farms.
4. Policy discussions regarding water, energy usage, and other impacts associated with permitted cannabis farms are incomplete if they fail to account for land use impacts associated with all other residential, agricultural, industrial, and commercial land uses and activities within the county.
5. We support incentives for farmers who adopt best management practices for environmental stewardship, including the adoption of terroir-based appellations. We recognize that resourcing these incentives, however, may be challenging given county and state budget deficits. Given these constraints, we view state equity funds - which the county is currently considering no longer applying for - as the most viable funding stream to incentivize environmental stewardship, and encourage the county to continue supporting this program.
6. Public comment submitted by the "Ad Hoc Watershed Adaptive Management Group" (i.e., former Measure A supporters) contains a number of inaccurate and misleading statements that we feel it is necessary to address directly.

Below, we discuss each of these issues in more detail.

1. Clarifying the Scope of Resolution 18-43: Annual Watershed Data Analysis is Not Required

Because the implementation of Resolution 18-43 has been the subject of considerable conversation, we believe it is important to clarify the actual scope of Resolution 18-43.

Resolution 18-43 does require the county to conduct an annual, public review of county permitting, including code enforcement actions, and to invite relevant public officials to these meetings:

Following the establishment of a countywide cap on the total number of permits and acreage of cultivation that may be approved, beginning in May of 2019, the Board of Supervisors agrees to conduct an annual review of the limits and prescribed distribution of permitting and acreage allowances found in the above table. Review shall occur at a noticed public hearing held during a meeting of the Board of Supervisors, during which



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the Board shall receive and consider a report providing an update on local permitting efforts. The report shall provide information detailing the number and status of all applications received, permits approved, compliance agreements that have been executed, and code enforcement actions undertaken by the Department. Law enforcement and other relevant officials from local and state agencies shall be contacted and invited to provide and present input and information to be considered by the Board during annual review. After holding a public hearing and considering all information and testimony received, the Board may choose to establish new caps on acreage and permits as well as change their distribution within watersheds.

However, Resolution 18-43 does not require the county to conduct an annual review of watershed data prepared by state and local agencies; instead, it requires such a review to take place only if the county wishes to increase the existing caps. Resolution 18-43 states:

“WHEREAS, by approving this Resolution, the Board of Supervisors establishes a limit on the number of permits and acres permits which may be approved for Open Air Cultivation Activities (including Outdoor and Mixed-Light Cultivation, and Nurseries) and Indoor Cultivation to ensure that further permitting beyond that limit will not proceed until the County has performed further analysis of the condition of these planning watersheds, including review of water flow data and applicable studies or information prepared by the following state and local agencies: California Department of Fish & Wildlife, North Coast Regional Water Quality Control Board, State Water Resources Control Board, and the Department of Forestry and Fire Protection.”

Several public comments submitted for this agenda item cite the above section of Resolution 18-43 beginning with the phrase “further analysis,” suggesting that the county is unconditionally required to perform this analysis; when, in fact, reading the full section clarifies that analysis is required only if permit caps are proposed to increase.

2. Data Collection and Analysis of Legal Cannabis Cultivation is Already Occuring, and Substantiates Marginal Impacts Associated with Permitted Cultivation

While we do not believe the county has a legal obligation under Resolution 18-43 to conduct annual reviews of watershed data, we do believe that data-informed policy is critical. Fortunately, considerable data regarding the impacts of cannabis cultivation, both permitted and unpermitted, are already available. Permitted cannabis farmers are held to an exponentially greater degree of scrutiny and surveillance than any other agricultural producer, including site-specific CEQA review for every permit application, public hearings on most permits, detailed site plans which are required to be filed with both the county and state, and detailed water reporting requirements for multiple agencies, including CDFW and the regional Water Board.



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In 2023, a UC Berkeley team published a [comprehensive analysis of water usage](#) from permitted and unpermitted cultivation sites in Humboldt and Mendocino based on Water Board data obtained through public records act request. This research was summarized in a [two-page fact sheet](#) sheet in February 2024 which concluded that:

- In 91 watersheds assessed under the study, licensed cannabis farm water demand was found, on average, to be one-tenth the amount of residential water demand.
- Water demand from non-cannabis agriculture far exceeded cannabis water demand in these watersheds.
- Water demand for unlicensed cultivation also exceeds that of licensed cultivation, even before accounting for water storage on licensed farms.
- Irrigation demand for licensed cannabis was estimated not to exceed 4% of available August streamflow in any watershed, even under conditions of no water storage.

Other forms of data are available to all members of the public upon request. The location, size, production method, and permitting status of all Humboldt cultivation sites is available through the county, as well as the publicly-available DCC state licensing database, and the county has repeatedly reported on the number of approved, pending, and denied permits countywide and in each watershed on multiple occasions, most recently in a Board of Supervisors meeting on November 23, 2023, and again in the current staff report.

While we are not opposed to further data collection, we are unclear on the necessity of this data collection, and believe it is important to consider whether limited resources are better spent on implementation rather than assessment (for example: rather than assessing data on roads, it may be more prudent to simply utilize these same resources for implementing road improvements).

Further, we do not understand the accusations leveled towards the county for “failing” to engage in data collection when this data collection is 1) not legally required by either Resolution 18-43 or the EIR, and 2) within the technical scope of state agencies and university researchers rather than the county. If priorities for data collection are identified, we believe the appropriate request should be directed towards state agencies or university researchers, not the county.

3. The Staff Report Likely Underestimates the Cumulative Decrease in Cannabis Cultivation Impacts Post-Legalization

While we agree with the staff report that cumulative impacts associated with cannabis cultivation have decreased post-legalization, we believe that this decrease in impacts is likely considerably more significant than suggested in the staff report.



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Based on available data, the staff report estimates that 1,413 cannabis cultivation sites have been eliminated in the county post-legalization: 986 resolved code enforcement cases, plus 427 withdrawn applications for pre-existing cultivation. However, this count does not account for cultivation sites that ceased operations without either being abated, or filing a permit application (e.g., farms that voluntarily ceased cultivation following the passage of the land use ordinances, or who avoided abatement but ceased cultivation due to depressed market conditions).

Given that pre-legalization, the number of unregulated cultivation sites [was estimated at 12,000](#) - compared with what is now 1,068 currently-approved permits and 400 pending permits - it is likely that far more than the 1,413 cannabis cultivation sites estimated in the staff report are no longer operating.

Additionally, as noted in the Berkeley study and EIR, permitted cannabis farms are required to adopt comprehensive mitigation measures that are designed to substantially decrease or eliminate impacts.

Between the thousands of farms no longer cultivating, and the comprehensive mitigation measures permitted farms are required to follow, it is clear to us that cumulative impacts associated with cannabis cultivation have *dramatically* decreased over the past eight years.

4. County Environmental Policy Discussions Should Address All Land Uses and Activities, Not Only Permitted Cannabis Cultivation

All county land uses have environmental impact, including residential uses, agricultural uses, and unpermitted cannabis cultivation. To effectively address environmental impacts within the county, it is evident to us that the conversation must progress beyond singling out permitted cannabis cultivation, to address all land uses and activities within the county.

Despite the overwhelming defeat of Measure A in March, we are concerned that permitted cannabis cultivation continues to be singled out as a scapegoat for larger environmental concerns. Whether the goal is addressing environmental issues within the county or supporting a viable cannabis industry, we believe a meaningful conversation cannot progress unless all land uses and additional factors (e.g. impacts of aging public infrastructure, potential diversions of water to the Central Valley), are included in any analysis.

5. Options to Incentivize Environmental Best Management Practices for Cannabis Farmers

HCGA has supported, and continues to support, incentives for environmental best management practices for cannabis cultivation. In order to move these incentives forward, however, we believe it's necessary to consider the history of this conversation, as well as realistically



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available funding sources. We previously conducted such an analysis in a [letter to your Board on October 31, 2022](#), and largely reiterate this analysis below.

In November of 2019, the Board of Supervisors [voted to direct staff](#) to develop Measure S tax incentives for cannabis farms that implemented environmental improvements such as road improvements and renewable energy. HCGA supported this proposal. Despite this direction, no tax incentive program was subsequently brought forward by staff for consideration. In July of 2021, HCGA [again requested](#) that the county develop a Measure S tax incentive program to encourage adoption of water storage by permitted farms. The Board of Supervisors agreed and once again [directed staff](#) to develop a tax incentive program. Once again, no subsequent proposal was brought forward by staff.

Following this Board direction, our understanding is that the reason no incentive program was brought forward is that staff determined such a program would be very difficult and resource-intensive to administer from a practical standpoint.

Additionally, since summer of 2021, collapsing market conditions have led the Board to either significantly reduce or fully suspend Measure S tax collection. As a result, we stated in our October 31, 2022 letter, and still believe, that there is no longer a viable Measure S tax base against which to leverage a tax incentive program.

Resourcing incentives for environmental best management practices is further challenged by significant county and state budget deficits. In this environment, we view state equity funds as the most significant opportunity to resource environmental incentives. Equity funds could potentially be utilized to incentivize best management practices on-farm, or to support the collective development of terroir-based appellations which can provide long-term market support for sun-grown and sustainable cultivation methods.

On April 9th, however, your Board directed staff to conduct a financial analysis to determine whether the county should continue to support the local equity program. As this conversation continues, we strongly encourage the county to continue to support the equity program as the most viable source for incentivizing environmental stewardship.

Additionally, we have previously requested that the county work in collaboration with allies at the state level to establish a state-level property tax incentive for the installation of water storage on rural properties. Currently, water storage installation on any property - whether connected with cannabis cultivation or not - triggers a property tax reassessment and an increased tax rate. Addressing these skewed incentives through policy change at the state level would have the added benefit of incentivizing sustainable water practices by all rural landholders in the county, not just cannabis cultivators.



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6. Addressing Misleading and Inaccurate Claims in the “Ad Hoc Watershed Adaptive Management Group” (Measure A Supporter) Letter

The agenda packet contains a letter from Measure A’s former proponents, now self-identifying as the “Ad Hoc Watershed Adaptive Management Group.” This letter contains numerous statements that we believe are misleading or inaccurate, and that we wish to address directly.

a. Resolution 18-43 requirements

As discussed above, Resolution 18-43’s requirement for watershed annual data analysis only applies to a proposal to increase permit caps. There is no blanket requirement for annual data analysis, as implied in the letter.

b. Monitoring of streams and rivers

The Measure A letter asserts that *“in the six years since FEIR approval, however, routine monitoring of streams and rivers stipulated in the FEIR has never taken place,”* citing FEIR 2-23, which discusses Water Board monitoring of in-stream flows. The Water Board does in fact [monitor these flows](#) pursuant to its [Cannabis Cultivation Policy](#).

c. Watershed evaluation studies

The Measure A letter asserts that *“joint watershed evaluation studies the County stated it was willing to undertake with state agencies have never taken place,”* and further states that *“there has never been any watershed carrying capacity analysis or any other study that has justified the current 1400 or so permits.”*

While it’s technically correct that state agencies have not undertaken any formal study (and are not legally required to), UC Berkeley - as stated above - has [conducted these studies](#) based on a PRA of Water Board data, and found minimal impact associated with permitted cannabis cultivation.

d. Mitigation of impacts to watersheds

The Measure A letter asserts that *“the FEIR acknowledges that [impacts on streamflow and water quality] are inadequately mitigated, resulting in passage of the FEIR with “Overriding Concerns.”*

This claim is only partially true, and the critical context from the EIR is omitted. The county’s [resolution certifying the EIR](#) concludes that most watershed impacts are



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mitigated to a “less than significant” level by conditions included in the ordinance and imposed by the Water Board:

“Potentially significant impacts on water quality from cannabis cultivation operations, are mitigated to a less than significant level through ordinance requirements requiring applicants demonstrate compliance with section

55.4.12.1.8.c) requiring roads to be maintained to protect water quality, section 314-61.1 (Streamside Management Area Ordinance) establishing setbacks from streams and regulating activity within those setbacks through a discretionary permit process and compliance with the State Water Resources Control Board Cannabis Cultivation Policy and associated regulatory programs or any subsequent water quality standards in Sections 313-55.4.12.2 and 314-55.4.12.

Read in context, the EIR’s finding of “significant and unavoidable impacts” associated with water use is exclusive to public water supplied by community service districts, and is based solely a concern that CSDs may not be able to meet water demand:

“The DEIR found that the proposed ordinance will lead to commercial cannabis cultivation that would result in increased water demand for cannabis irrigation from public water systems that could exceed supply and related infrastructure, particularly to Community Service Districts who are already at their service capacity... No additional feasible mitigation has been identified that would reduce these impacts to a less than significant level.”

While the EIR expresses this as a theoretical concern, our understanding is that, in reality, there have not been significant impacts associated with cannabis cultivation demand for public water, and most permitted cultivation sites are not utilizing public water. We encourage the county to reach out to CSDs to confirm this.

e. Assessment of cumulative impact

The Measure A letter states that “there have not been any cumulative impact analyses to evaluate social and environmental impacts associated with these permits” and cites FEIR page 2-51 to substantiate that this is necessary.

FEIR 2-51 states that “Section 15130(a) of the State CEQA Guidelines requires a discussion of the cumulative impacts of a project when the project’s incremental effect is cumulatively considerable.” The FEIR then proceeds to discuss cumulative impacts, including the impacts associated with pre-existing unregulated cultivation:



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“DEIR Subsection 4.2.2, “Existing Cannabis Cultivation Operations in Humboldt County,” specifically describes the historic and on-going extent of cannabis cultivation operations in the County and the associated environmental damage that has occurred. This was factored in the cumulative base conditions... Thus, the DEIR properly considers illegal cannabis operations in the County as part of the baseline for project and cumulative impacts as required under CEQA.”

Today’s staff report further substantiates that the cumulative impact of cannabis cultivation has dramatically decreased following the passage of the ordinance. As stated above, we believe that, if anything, the staff report underestimates the extent of this reduced cumulative impact.

We appreciate your consideration on these important issues.

Sincerely,

Ross Gordon
Policy Director
Humboldt County Growers Alliance