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8:30 AM

Virtual

Tuesday, August 31, 2021

To: Sonoma County Board of Supervisors

From: Cecilia Jaroslowsky, Project Planner

Re: UPC17-0069 Response to Comments

Date: 8/31/2021

Permit Sonoma received one comment letter on the UPC17-0069 Freestone Ranch LLC Cannabis Project Initial Study and Mitigated Negative Declaration (IS/MND) during the 30-day public review period, which ended on July 22, 2021. The commenter is listed below.

- California Department of Cannabis Control (DCC), Lindsay Rains, Licensing Program Manager (Attachment 9)

Staff is offering the following written response to these comments. The submitted comments do not identify potential impacts that had not already been considered and do not result in the need for revisions that change the impact conclusions or mitigation needs identified in the Initial Study and Mitigated Negative Declaration.

Commenter

1. California Department of Cannabis Control. Written comment 7.20.21. Contact Lindsay Rains, Licensing Program Manager.

Comment GC 1: Acknowledgement of DCC Regulations. The IS/MND does not acknowledge that the Proposed Project requires a cultivation license from DCC. The IS/MND could be improved if it acknowledged that DCC is responsible for licensing, regulation, and enforcement of commercial cultivation activities, as defined in the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) and DCC regulations related to cannabis cultivation (Bus. & Prof. Code, § 26103(a)). Additionally, the IS/MND's analysis could benefit from discussion of the protections for environmental resources provided by DCC's regulations, similar to the discussion provided with regard to County regulations. In particular, the impact analysis for each of the following resource topics could be further supported by a discussion of the effects of state regulations on reducing the severity of impacts for each applicable topic:

- Aesthetics (See § 8304(c); § 8304(g).)
- Air Quality and Greenhouse Gas Emissions (See § 8102(s); § 8304(e); § 8305; § 8306.)
- Biological Resources (See § 8102(w); § 8102(dd); § 8216; § 8304(a-c); § 8304(g).)
- Cultural Resources (See § 8304(d).)
- Hazards and Hazardous Materials (See § 8102(q); § 8106(a)(3); § 8304(f); § 8307.)
- Hydrology and Water Quality (See § 8102(p); § 8102(v); § 8102(w); § 8102(dd); § 8107(b); § 8216; § 8304(a and b); § 8307.)
- Noise (See § 8304(e); § 8306.)
- Utilities and Service Systems (See § 8102(s); § 8108; § 8308.)
- Energy (See § 8102(s); § 8305; § 8306.)
- Cumulative Impacts (related to the above topics).

Response GC 1: Comment noted. Effective July 12, 2021, the California Department of Cannabis Control is the central agency responsible for licensing and oversight of cannabis operations.¹ Permit Sonoma is recommending a modification to Table 2 in the initial study to reflect this change.

Table 2. Agencies and Permits Required

Agency	Activity	Authorization
Regional Water Quality Control Board (North Coast or San Francisco Bay)	Discharge or potential discharge to waters of the state	California Clean Water Act (Porter Cologne) – Cannabis Cultivation Waste Discharge Program
State Water Resources Control Board	Generating stormwater (construction, industrial, or	National Pollutant Discharge Elimination System (NPDES) requires submittal of NOI

¹ <https://cannabis.ca.gov/about-us/about-dcc/>

	municipal)	
California Department of Fish and Wildlife	Cannabis cultivation	Fish and Game Code, Section 1600, Lake or Streambed Alteration Agreement or waiver
<u>California Department of Cannabis Control</u>	<u>Cannabis operations</u>	<u>Commercial cannabis licensing</u>
Bay Area Air Quality Management District (BAAQMD)	Stationary air emissions	BAAQMD Rules and Regulations (Regulation 2, Rule 1 – General Requirements; Regulation 2, Rule 2 – New Source Review; Regulation 9 – Rule 8 – NOx and CO from Stationary Internal Combustion Engines; and other BAAQMD administered Statewide Air Toxics Control Measures (ATCM) for stationary diesel engines
Native American Heritage Commission	Potential impact on Tribal resources	

Comment GC 2: AB 52 Compliance: The IS/MND does not contain a description of the AB 52 compliance process for the Proposed Project. The document would be strengthened if it included a detailed description of this process, including a list of tribes that were contacted, the date(s) upon which those tribes were contacted, and any responses received.

Response GC 2: Comment noted. Permit Sonoma coordinates project review with the tribe(s) that have traditional and cultural affiliation with the area. PRMD cannabis review process includes outreach to local tribal partners in accord with AB 52 and SB 18 consultation. The project site is located within Aboriginal Territory of the Stewarts Point Rancheria Kashia Band of Pomo Indians. After reviewing the proposed project, the Kashia Band of Pomo Indians, on November 12, 2019, indicated they do not have concerns with the project, but reserved the right to comment should any post review discoveries be made.

Comment GC 3: Permits and Approvals: The IS/MND does not list DCC as a public agency whose approval would be required to operate the Proposed Project. The IS/MND could be improved if it listed all agencies requiring approval of the Proposed Project, including DCC and the California Department of Fish and Wildlife, as well as other state cannabis business licensing agencies, if applicable. It would also be more informative if the permit required from each agency was listed.

Response GC 3: Comment noted. As discussed in Response CG-1, Permit Sonoma is recommending that the initial study be modified to identify the DCC as a permitting agency.

Comment GC 4: Site-Specific Reports and Studies: The IS/MND references several project-specific plans, studies, and project-specific data, including Biological Resources Assessment, Greenhouse Gas Emission Reduction Plan, Fire Safety and Evacuation Plan, Water Conservation Plan, Stormwater Management Plan, Erosion and Sediment Control Plan, and Noise Study. In addition, to ensure that DCC has supporting documentation for the IS/MND, DCC requests that the County advise applicants to provide copies of all project-specific plans and supporting documentation with their state application package for an annual cultivation license to DCC.

Response GC 4: Comment noted. Permit Sonoma will recommend a modification to the conditions of approval (separate from the CEQA Document) to alert the applicant to include technical reports, project specific plans in conjunction with the DCC permit application.

Comment GC 5: Evaluation of Cumulative Impacts: It is important for CEQA analysis to consider the cumulative impacts of cannabis cultivation in Sonoma County. Of particular importance are topics for which the impacts of individual projects may be less than significant, but where individual projects may make a considerable contribution to a significant cumulative impact. These topics include, but are not limited to:

- cumulative impacts from groundwater diversions on the health of the underlying aquifer, including impacts on other users and impacts on stream-related resources connected to the aquifer;
- cumulative impacts related to transportation; and
- cumulative impacts related to air quality and objectionable odors.

The IS/MND would be improved by acknowledging and analyzing the potential for cumulative impacts resulting from the Proposed Project coupled with other cannabis cultivation projects being processed by the County, and any other reasonably foreseeable projects in Sonoma County that could contribute to cumulative impacts similar to those of the Proposed Project.

Response GC 5: Comment noted. The Sonoma County permit process includes systems and standards that address cumulative effects of projects related to water supply, transportation, biological resources, and air quality. In the Draft Initial Study/Mitigated Negative Declaration, there is specific discussion of potential cumulative impacts in Sections 3.b (Air Quality), 8.a (Greenhouse Gas), and 21.b (Mandatory Findings). Where the environmental document is silent on cumulative effects it is because none were identified.

Specific Comments and Recommendations

Comment 1

Section No. V. Setting: The quality of the Site Plan (Figure 3) is such that details cannot be discerned. DCC requests that the County advise applicants to provide a higher resolution copy of the Site Plan with their state application package for their annual cultivation license to DCC.

Response 1: Comment noted. The applicant will be so advised.

Comment 2

Section No. VI. Project Description: The IS/MND would be improved if it included a description of any equipment that will be used for cultivation operations, including tractors, forklifts, mowers, etc.

Response 2: Comment noted. The use of mechanical equipment will be limited to planting and harvesting periods and would result in infrequent and short-term use. Other mechanical equipment may operate more frequently and could include fans (circulation, ventilation, exhaust, etc.), blowers (heaters, etc.). In both instance, staff believes these uses tend to be typical for agricultural related uses and that existing standards related to noise and air quality are adequate to ensure the use is compatible with surrounding uses.

Comment 3

Section No. VII. Issues Raised by the Public or Agencies: DCC requests that the County include DCC on the list of agencies to receive referral packets for future cannabis projects. In addition, the IS/MND would be strengthened if it included a summary of the responses received from local and state agencies.

Response 3: Comment noted. Permit Sonoma has added DCC to the list of agencies to receive referral packets.

Comment 4

Section no. VIII. Other Related Projects: The IS/MND would be improved if it included an analysis of the cumulative impacts of these neighboring cannabis projects. See GC 5.

Response 4: Comment noted. Refer to Response GC-5 above. In addition to the cumulative analysis conducted under CEQA, Permit Sonoma regularly evaluates other cannabis operations within a mile of a proposed operation to determine whether there might be concerns with overconcentration. Adjacent parcels, APN 026-080-008 (1400 Freestone Valley Ford Rd) and 026-080-007 (1364 Freestone Valley Ford Rd), each hold permits to cultivate 10,000 square feet of cannabis on each parcel. These adjoining parcels have the potential for up to 3 acres of cultivation. The aggregate cultivation area would be 1.46 acres 48% of the potential allowed by the Cannabis Ordinance. There are no other cannabis operations within 3 miles of the project site. All three projects will comply with County standards related to cannabis cultivation, including requirements related to odor, water, and security, and the analysis of all three permits included consideration of cumulative issues.

Comment 5

Section No. 1.d. Aesthetics: The IS/MND would be improved if it referenced DCC's requirements that all outdoor lighting for security purposes must be shielded and

downward facing, and that lights used in mixed-light cultivation activities must be fully shielded from sunset to sunrise to avoid nighttime glare (Cal. Code Regs., tit. 3 §§ 8304(c), 8304(g)).

Response 5: Stated within the Staff Report, on page 10, security measures adopted by the County require all exterior lighting would be downward casting and not project on to neighboring properties or the night sky and shall be motion-sensor and be installed with capability to record activity beneath the canopy but shall not be visible from surrounding parcels and shall not be pointed at or recording activity on surrounding parcels.

Comment 6

Section No. 3.c. Air Quality: Section 3.b does not appear to discuss Ordinance and permit requirements related to long-term operational air emissions. The document would be improved if it included a description of criteria air pollutant emissions that could result from cannabis cultivation operations and routine maintenance at the project site, including emissions resulting from heavy equipment, delivery trucks, and employee vehicles on dirt and gravel roads. Further, the document would be improved if it provided an analysis of whether such emissions would impact nearby sensitive receptors.

Response 6: Comment noted. Permit Sonoma evaluated emissions from the project using BAAQMD's *CEQA Air Quality Guidelines*. In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. Therefore, additional analysis to assess cumulative impacts is unnecessary.

Comment 7

Section No. 3.d. Air Quality: The document would be improved if it described how compliance with the code requirements would ensure odor impacts would be less than significant.

Response 7: Comment noted. Conditions of Approval were incorporated to specifically address potential odor impacts, including requiring the applicant to install and maintain an odor control air filtration and ventilation system to control humidity and mold and to ensure there will be no off-site odor generated by the cannabis operation and maintain a log of odor incidents, odor control equipment inspection results, and actions taken to resolve any odor issue shall be kept and an annual report shall be submitted to Permit Sonoma by January 31 of each year the permit is active. Odor complaints received shall be documented, along with the complaint resolution and the timeframe required to address the odor issue and shall be included in the annual report. For odor complaints related to outdoor cultivation, additional measures could include planting of additional buffer or windbreak vegetation to deflect odors upwards to more effectively dissipate into the atmosphere or use of engineered solutions such as Vapor-Phase Systems (Fog Systems).

Comment 8

Section No. 4 Biological Resources: The IS/MND would be improved if it provided an analysis of potential impacts to biological resources resulting from Proposed Project operations. This could include an analysis of impacts resulting from increased light, noise, vehicles, or heavy machinery.

Response 8: Comment noted. The project site has historically been used for agriculture and related uses. The proposed cannabis operation exhibits many of the same characteristics of an agricultural operation. Consequently, the operational characteristics are consistent with baseline conditions and the project not expected to result in noticeable operational changes at the site.

Comment 9

Section No. 4.1. Biological Resources: The IS/MND does not clearly indicate whether the surveys must take place prior to construction. In addition, it does not clearly indicate whether these surveys are mandated only one time, or whether they must be completed annually. The document would be improved if it specified the timing of the seasonal surveys for special status plants.

Response 9: Comment noted. Mitigation measures were incorporated into Conditions of Approval to monitor special status plants onsite, prevent the taking of Red-Legged Frogs, conducting preconstruction surveys to prevent nesting bird activities, and improve Western Bumble bee (*Bombus occidentalis*) onsite habitat.

Comment 10

Section No. 10.b. Hydrology and Water Quality: The IS/MND would be improved if it provided support for this statement. The document would be strengthened if it included information regarding the estimated amounts of water use for the Proposed Project, status of the groundwater basin, and any water efficiency equipment that would be installed. In addition, an analysis of the cumulative impacts of the Proposed Project on the groundwater basin should be included. (See GC 5.)

Response 10: Comment noted. A Condition of Approval has been added to require the submittal of a Water Conservation Plan. Prior to issuance of the Conditional Use Permit, a Water Conservation Plan for the building(s) shall be submitted for review and approval by Permit Sonoma. The Plan shall include all reasonably feasible measures to reduce water demand and enhance water resource recovery to the maximum extent feasible. Measures that must be evaluated include installation of ultra-low-flow fixtures, best available conservation technologies for all water uses, rainwater and stormwater collection systems, and graywater reuse. The approved Water Conservation Plan shall be implemented by the applicant/operator and verified by staff prior to issuance of the Use Permit Certificate or operation of the use.

Comment 11

Section No. 19.b. Utilities and Service Systems: The IS/MND would be improved if it provided support for this statement. The document would be strengthened if it included information regarding the estimated amounts of water use for the Proposed Project, status of the groundwater basin, and any water efficiency equipment that would be installed. In addition, an analysis of the cumulative impacts of the Proposed Project on the groundwater basin should be included. (See GC 5.)

Response 11: Stated within the Staff Report on page 10, this project is in a Class 2 groundwater area and outside any priority basin, therefore the Natural Resources Geologist at Permit Sonoma determined that a groundwater study was not required, and standard groundwater monitoring conditions would apply. The project has 13, on-site water tanks that hold up to 28,000 gallons (or 0.08 acre-feet). The cultivation and processing area would use 1,102,000 gallons (3.38 acre-feet) during each growing cycle. The project is unlikely to cause a decline in groundwater elevations or deplete groundwater resources over time and domestic water uses from the existing wells would be negligible. Further, a Condition of Approval has been incorporated that requires the applicant submit a Water Conservation Plan for review and approval by Permit Sonoma. The Plan shall include all reasonably feasible measures to reduce water demand and enhance water resource recovery to the maximum extent feasible. Measures that must be evaluated include installation of ultra-low-flow fixtures, best available conservation technologies for all water uses, rainwater and stormwater collection systems, and graywater reuse. The approved Water Conservation Plan shall be implemented by the applicant/operator and verified by staff prior to issuance of the Use Permit Certificate or operation of the use. Recommended conditions of approval require well monitoring on a monthly basis to verify performance.

Comment 12

Section No. 21.b. Mandatory Findings of Significance (Cumulative Impacts): The IS/MND should identify whether any other cannabis growing operations exist or have been proposed in the vicinity of the Proposed Project, and provide an analysis of whether the Proposed Project would make a considerable contribution to any cumulative impacts from these other projects.

Response 12: Response 2-9: Please refer to Response 4 above. In addition to the cumulative analysis conducted under CEQA, Permit Sonoma regularly evaluates other cannabis operations within a mile of a proposed operation to determine whether there might be concerns with overconcentration.