Mark West and Palmer Creek/ Mill Creek

Small Group Meeting - August 24th
We represent two similar, highly sensitive watersheds

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* Mill Creek is all Class IV
4 topics for today

- Water
- Roads
- Security
- Enforcement

We would like to hear your feedback on our concerns as part of a 20 min discussion following our presentation.
Water
First and foremost, we ask that there be a moratorium on all ministerial and CUP applications and that the current applications in the pipeline are expedited to hearing.
- We have a great deal of previous submissions that demonstrate why water is so important in the Mark West Watershed and similar impaired watersheds and why the various cannabis ordinances as written will have significant impacts on our resources.

- We have a great deal of scientific information about hydrology and streamflow in the Mark West Watershed (see the study highlights, or the full study) that demonstrates this watershed is already in a delicate balance. Similar studies/analysis data of remaining upland watersheds are needed to form a clear picture of current state of water resources and their maximum carrying capacity.

- The EIR needs to include a measure of cumulative impacts, and needs to consider the worst case drought scenarios.

- Proposals to mitigate water concerns, based on science already available:
  - Exclude cannabis production in water availability zones 3 & 4 entirely
  - OR
  - Exclude Mark West Watershed and other critical habitat, impaired upland watersheds like Mill Creek
Roads
Cannabis cultivation and ‘tasting’ adds recurring, high volume, commercial truck and passenger vehicle traffic to roads
Fire safety

- Most parcels in both our watersheds are accessed using long, single lane, dead end roads, frequently unpaved, with limited turnouts and mostly <20ft wide
  - They fail to meet EVERY standard set by the Board of Forestry for Fire Safe Roads
- We are in high risk fire zones -- both watershed are in wildfire burn scars -- with very poor connectivity and nearly ~20-30 min from adequate fire response
- EIR needs to review and delineate:
  - Realistic ability for roads such as these to be improved to meet all the specifications code before any projects are approved
  - If improvements can be conducted without other negative consequences for the watershed
  - What, if any, mitigations are truly equivalent and how they can be monitored adequately
- Ordinance needs to affirm that where a road cannot realistically meet code guidelines, no cultivation or ‘tasting’ should be permitted
Road use impacts

- **Our roads were never designed with the intent of supporting commercial traffic**
  - They serve a limited number of residents, who use them to access their residences and are subject to only occasional use by trucks.
  - They are private roads, maintained by residents at own expense, and with no provisions for supporting the additional wear and tear.

- **Adding any amounts of ongoing commercial traffic to these roads without ANY provisions for their maintenance, improvement, or addressing of fire safety deficiencies as part of their use permit:**
  - Creates an **immediate and major financial and physical burden** on the rest of the community.
  - Increased **road degradation**, increased **chances of accidents** from vehicles driven by drivers not familiar with the road, and increased chances of poor road conditions leading to **loss of access to residences**.
  - Dramatically increases the **risk of fatalities during a fire emergency** if trucks associated with the facility either block road access to fire department personnel or block evacuation routes for residents.

- **EIR needs to study, impacts of and set guidelines for:**
  - Impacts from expected traffic increases from cultivation, realistic mitigations for both public and private roads, monitoring and penalties from excess wear and tear.

- **Ordinance** should include specific, delineated requirements related to cultivations on private roads. All user of shared private roads need to agree on its use for commercial cannabis operations.
Security
The county considers security risks for cultivation sufficient as to require fences, cameras, alarms and restricted access
Security risk to neighbors

- Cultivations -- if permitted in RRD zones -- will be going in next to private residences, frequently on all sides
  - We are typically 20-30 minutes away from police response, once reached
  - Neighbors do not have security cameras, personnel, or resources to respond to trespassers

- Some grows are arguing for armed security to be permitted*
  - This would introduce potential for neighbors to be caught in crossfire, have property entered by potentially armed trespassers, risk security guards mistakenly fire at them

- EIR must review and address:
  - How security will be addressed for neighborhoods, not just grows; this should include minimal response time standards for police, additional county resources needed to support, insurance carried by grows to protect neighbors, setbacks to neighboring property lines as buffer zones (on grower’s, not neighbor’s properties) and what penalties and/or remediations are available to neighbors for repeated disturbance

- Ordinance must acknowledge and exclude all areas where minimal response times cannot be achieved and where minimum distances cannot be met so as to provide true protection
Enforcement
Ultimately, the goal will be to determine if this new use will have significant impacts, and mitigations and conditions are required to be publicly measurable, verifiable, and enforceable
There are numerous issues with the current approach

We cannot continue to draft mitigations and conditions that rely on measures that:

- Are self reported
- Are imprecisely defined
- Non-publicly verifiable
- Do not use county-established benchmarks
- Do not automatically flag non-compliance

We cannot center our enforcement plans on:

- Neighbors reporting neighbors
- Complaints as only mechanism for tracking non-compliance
- Manual, ad hoc, subjective monitoring by individual county employees
## Examples of provisions with no enforcement

### Net Zero Plans
- Net Zero Plans are not effective for applying conditions on water use - not enforceable, not verifiable, not measurable
- Impounded sheetflow currently does not require a state water right, despite removing water from watershed
- No estimates for how much would have otherwise gone to infiltration
- Net Zero to “replace” a previous use - no standards for measuring prior use or verification of submitted figures

### Planned Trip Assessments
- Self reported per project -- no county benchmarks to assess plans against
- No reporting or revision requirements subsequent to permit vesting
- No penalties for exceeding provided estimates
- Relies on neighbors to monitor and report violations / egregious behavior
- No recourse to county enforcement on private roads
EIR should study and stipulate

- **Metric used** and specific **benchmarks** from actual studies
- **Method of verification** -- including 3rd party or other **objective sources of data** to cross check data
- **Frequency** of monitoring
- **Records** produced, reported and retained for each identified potential adverse impact
- How records should be made **available to the public**
- **Response to be taken** when any exceptions or exceedences are detected including notification of the County and the steps necessary to remedy and to assure no similar future violations
- All of the requirements for such **“Mitigation Monitoring Plans”** that are necessary to objectively demonstrate, record and report project compliance
- **County resources (human and other) required** to implement the monitoring and compliance
Proposal to address accountability where cannabis is permitted:

- Requirement of applicant to prepare and submit a “Mitigation Monitoring and Reporting Plan” tailored to their particular project and subject to County approval prior to beginning any construction or operations.
- Annually, each operation must be required to produce for the County a “Compliance Report”.
- Permits should be written to expire annually subject to automatic renewal upon County review and approval of the Annual Compliance Report.
- Approval of compliance reports should be an action of the BZA or Planning Commission after a public hearing.
- Every operation should be required to post a “Facility Removal and Site Reclamation Bond”.

Proposal to address accountability where cannabis is permitted:
Q&A

We would like to hear your questions and reaction and understand where we can provide further clarification.
Ordinance must at a minimum include:

- Requirement of applicant to **prepare and submit a “Mitigation Monitoring and Reporting Plan”** tailored to their particular project and subject to County approval prior to beginning any construction or operations
  - Address the monitoring necessary to demonstrate and document compliance with each required mitigation measure and permit condition
  - All monitoring data demonstrating compliance must be science based and independently verifiable and available to the public

- Annually, each operation must be required to **produce for the County a “Compliance Report”** that:
  - Compiles all of the required monitoring data for each condition and mitigation measure
  - Identifies all exceptions and exceedences that have occurred
  - Describes and documents the steps taken to prevent future exceptions and violations
  - Presents subsequent monitoring data to demonstrate that the operation has resolved the issue and is now in full compliance

- Permits should be written to expire annually subject to automatic renewal upon County review and approval of the Annual Compliance Report
  - This avoids the prolonged process necessary to abate a non-compliant operation with the drawn out administrative and potential Court appeals

- Approval of compliance reports should be an action of the BZA or Planning Commission after a public hearing
  - If the report is not approved, the operation must cease immediately.
  - Operators can appeal a determination of non-compliance, but cannot operate again unless and until the decision of the public body is reversed in which case the permit will be reinstated and operations can resume.
  - Based on the Annual Compliance Report, the public body should be able to add or modify permit conditions in order to assure future compliance

- Every operation should be required to post a “Facility Removal and Site Reclamation Bond”
  - In the event of noncompliance or project abandonment, the funds are available to restore the site without requiring the county to lien the property and engage in a lengthy collection proceeding. Bonds should be in cash or cash equivalent such as a bank letter of credit or other acceptable instrument that is immediately liquid