

CEQA Findings of Fact
and
Statement of Overriding Considerations
Licensing of Commercial Cannabis Cultivation in Mendocino
County Project
SCH Number: 2023080049

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LIST OF ABBREVIATIONS

Findings	Findings of Fact
project	Licensing of Commercial Cannabis Cultivation in Mendocino County Project
CEQA	California Environmental Quality Act
EIR	Draft Environmental Impact Report
DCC	California Department of Cannabis Control
MMRP	Mitigation Monitoring and Reporting Program
MAUCRSA	Medicinal and Adult-Use Cannabis Regulation and Safety Act
NOP	notice of preparation
SR	State Routes
CNDDDB	California Natural Diversity Database
BIOS	Biogeographic Information and Observation System
CESA	California Endangered Species Act
dBA	A-weighted decibels
SWRCB	State Water Resources Control Board
MMRP	mitigation monitoring and reporting program

1 FINDINGS OF FACT

1.1 INTRODUCTION

1.1.1 Purpose

This statement of Findings of Fact (Findings) and Statement of Overriding Considerations addresses the environmental effects associated with the Licensing of Commercial Cannabis Cultivation in Mendocino County Project (project). These Findings are made pursuant to the California Environmental Quality Act (CEQA) under Sections 21081, 21081.5, and 21081.6 of the Public Resources Code and Sections 15091 and 15093 of the State CEQA Guidelines, California Code of Regulations (CCR), title 14, section 15000, et seq. (State CEQA Guidelines). The potentially significant impacts were identified in both the Draft Environmental Impact Report (EIR) and the Final EIR, as well as additional facts found in the complete record of proceedings.

Public Resources Code section 21081 and Section 15091 of the State CEQA Guidelines require that the lead agency prepare written findings for identified significant impacts, accompanied by a brief explanation for the rationale for each finding. The California Department of Cannabis Control (DCC) is the lead agency responsible for preparation of the EIR in compliance with CEQA and the State CEQA Guidelines. Section 15091 of the State CEQA Guidelines states, in part, that:

- a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - 1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
 - 2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - 3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

In accordance with Public Resource Code section 21081 and Section 15093 of the State CEQA Guidelines, whenever significant impacts cannot be mitigated to below a level of significance, the decision-making agency is required to balance, as applicable, the benefits of the proposed project against its unavoidable environmental risks when determining whether to approve the project. If the benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse effects may be considered "acceptable." In that case, the decision-making agency may prepare and adopt a Statement of Overriding Considerations, pursuant to the State CEQA Guidelines.

Section 15093 of the State CEQA Guidelines states that:

- a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
- b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091 [of the State CEQA Guidelines].

The Final EIR for the project identified potentially significant effects that could result from project implementation. However, the DCC Director finds that the inclusion of certain mitigation measures as part of the project approval will reduce most, but not all, of those effects to less than significant levels. Those impacts that are not reduced to less than significant levels are identified and overridden due to specific project benefits in a Statement of Overriding Considerations, below.

In accordance with CEQA and the State CEQA Guidelines, the DCC Director adopts these Findings as part of its certification of the Final EIR for the project. Pursuant to Section 21082.1(c)(3) of the Public Resources Code, the DCC Director also finds that the Final EIR reflects the DCC Director's independent judgment as the lead agency for the project. As required by CEQA, the DCC Director, in adopting these Findings, also adopts a Mitigation Monitoring and Reporting Program (MMRP) for the project. The DCC Director finds that the MMRP, which is incorporated by reference and made a part of these Findings, meets the requirements of Section 21081.6 of the Public Resources Code by providing for the implementation and monitoring of measures intended to mitigate potentially significant effects of the project.

1.1.2 Organization and Format of Findings

Section 1.1, Introduction, contains a summary description of the project and background facts relative to the environmental review process.

Section 1.2 discusses the CEQA findings of independent judgment. Section 1.2.1 identifies the project's potential environmental effects that were determined not to be significant and, therefore, do not require mitigation measures. Section 1.2.2 describes the environmental effects determined not to be significant and therefore were not further evaluated in detail in the EIR. Section 1.2.3 identifies the potentially significant effects of the project that would be mitigated to a less than significant level with implementation of the identified mitigation measures. Section 1.2.4 of these Findings identifies the significant impacts of the project that cannot be mitigated to a less than significant level, even though all feasible mitigation measures have been identified and incorporated into the project.

Section 1.3 identifies the feasibility of the project Alternatives that were studied in the EIR.

Section 1.4 discusses findings with respect to mitigation of significant adverse impacts, and adoption of the Mitigation, Monitoring, and Reporting Program (MMRP).

Section 1.5 describes the certification of the Final EIR.

Section 2.0 contains the Statement of Overriding Considerations providing the DCC Director's views on the balance between the project's significant environmental effects and the merits and objectives of the project.

1.1.3 Summary of Project Description

The project consists of commercial cannabis cultivation conducted under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) in Mendocino County.

As of April 2023, there are 623 commercial cannabis cultivation sites, 23 of which have associated cannabis distribution transport-only operations, within the unincorporated areas of Mendocino County that hold provisional state cannabis cultivation licenses and distribution transport-only licenses and that may therefore operate under MAUCRSA, on a conditional basis, for a limited period. DCC is considering whether to transition some or all of these provisional licenses to annual licenses (i.e., whether to issue annual licenses to some or all of these provisional licensees). DCC may also consider other annual licensing actions (e.g., the issuance of new, additional annual cultivation licenses) for future commercial cannabis cultivation within the unincorporated areas of Mendocino County.

1.1.4 Project Objectives

The objectives of the project are to:

- ▶ Implement the California Department of Cannabis Control's (DCC) cultivation licensure program in the County, in an effort to minimize the public health and safety risks associated with unlicensed commercial cannabis activity, while promoting a robust and economically viable legal cannabis industry in the County;
- ▶ Effectively transition qualified existing provisional cannabis cultivation licenses to annual licenses through a streamlined cannabis licensing process to ensure that such provisional cannabis cultivation license holders complete the annual license process by the statutory timeframes identified in Business and Professions Code section 26050.2;
- ▶ Provide a mechanism for future cannabis cultivation license applicants to obtain annual licenses through a streamlined cannabis licensing process;
- ▶ Ensure that cannabis cultivation by licensees is conducted in accordance with applicable state and local laws related to land conversion, air quality, electricity usage, water usage, water quality, biological resources, agricultural discharges, and similar matters;
- ▶ Protect natural and built resources in Mendocino County; and
- ▶ Minimize potential adverse effects of cannabis cultivation activities on the environment.

1.1.5 Environmental Review Process

NOTICE OF PREPARATION

In accordance with CEQA (Public Resources Code section 21092) and the State CEQA Guidelines (State CEQA Guidelines, section 15082), a notice of preparation (NOP) was distributed on August 2, 2023, to the State Clearinghouse, responsible agencies, interested parties and organizations, and private organizations and individuals that could have interest in the project. A virtual public-scoping meeting was held on August 22, 2023.

DRAFT EIR

On May 3, 2024, the DCC released the Draft EIR for a 52-day public review and comment period. The Draft EIR was submitted to the State Clearinghouse for distribution to reviewing agencies and posted on the DCC's website at <https://cannabis.ca.gov/2023/07/mendocino-county-environmental-impact-report/>. The Draft EIR was also made available at the following locations:

- ▶ Department of Cannabis Control (Headquarters), 2920 Kilgore Road Rancho Cordova, CA 95670;
- ▶ Department of Cannabis Control (Eureka Office), 930 6th Street Eureka, CA 95501; and
- ▶ Mendocino County, 860 North Bush Street Ukiah, CA 95482.

FINAL EIR

Section 15088 of the State CEQA Guidelines requires that the Lead Agency responsible for the preparation of an EIR evaluate comments on environmental issues received during the noticed comment period and prepare written responses addressing each of the comments. The intent of the Final EIR is to provide a forum to address comments pertaining to the information and analysis contained within the Draft EIR, and to provide an opportunity for clarifications, corrections, or revisions to the Draft EIR as needed and as appropriate.

While not required under State CEQA Guidelines, section 15088, the Final EIR provides summaries of common comments received at these meetings and responses to these comments.

The Final EIR assembles in one document all the environmental information and analysis prepared for the proposed project, including comments on the Draft EIR and responses by the County to those comments.

In accordance with State CEQA Guidelines, section 15132, the Final EIR (in two volumes) for the proposed project consists of: (i) the Draft EIR and subsequent revisions; (ii) comments received on the Draft EIR; (iii) a list of the persons, organizations, and public agencies commenting on the Draft EIR; (iv) written responses to significant environmental issues raised during the public review and comment period and related supporting materials; and, (v) other information contained in the EIR, including EIR appendices.

The Final EIR will be released on October 17, 2024, and will be made available for review by commenting agencies, in accordance with CEQA requirements. The Final EIR will also be made available to the public online at <https://cannabis.ca.gov/2023/07/mendocino-county-environmental-impact-report/>.

1.2 CEQA FINDINGS OF INDEPENDENT JUDGMENT

1.2.1 Certification of the Final Environmental Impact Report

The DCC Director certifies that the Final EIR has been completed in compliance with CEQA and the State CEQA Guidelines, that the EIR was presented to the DCC Director, and that the DCC Director reviewed and considered the information contained therein before approving the proposed Licensing of Commercial Cannabis Cultivation in Mendocino County Project, and that the EIR reflects the independent judgment and analysis of the DCC Director. (State CEQA Guidelines, section 15090.)

1.2.2 Effects Determined Not to Be Significant

Section 15128 of the State CEQA Guidelines requires an EIR to contain a statement briefly indicating the reasons that various possible significant effects of a project were determined not to be significant and were, therefore, not discussed in detail in the EIR. This information is addressed under the heading “Issues Not Discussed Further” in each resource section of the Draft EIR. Based on these discussions, implementation of the project was determined to result in no potentially significant impacts related to the following issues, which were therefore not discussed in detail in the EIR:

- ▶ Air Quality: the project would not result in impacts associated with substantial contribution to traffic congestion at affected intersections such that local carbon monoxide (CO) “hot spots” occur in exceedance of the California ambient air quality standards (CAAQS) or national ambient air quality standards (NAAQS).
- ▶ Air Quality: the project would not expose existing receptors to substantial toxic air contaminant (TAC) concentrations.
- ▶ Air Quality: the project would not include stationary sources that could potentially exceed established emissions limits for reactive organic gas (ROG), oxides of nitrogen (NO_x), Respirable particulate matter (PM₁₀), Fine particulate matter (PM_{2.5}), CO, or sulfur dioxide (SO₂).
- ▶ Biological Resources: the project is not expected to result in significant impacts to green turtle, Pacific leatherback sea turtle, ashy storm-petrel, Hawaiian petrel, short-tailed albatross, tufted puffin, Steller sea lion, Behren's silverspot butterfly, and lotis blue butterfly.
- ▶ Biological Resources: Mendocino County currently has no adopted habitat conservation plan (HCPs). Although an HCP/natural community conservation plan (NCCP) associated with Mendocino Redwood Company is currently in the planning stage, commercial cannabis cultivation operations under the project would not qualify as a covered activity under this HCP/NCCP.
- ▶ Geology, Soils, and Mineral Resources: the project would not result in the loss of availability of a known mineral resource that would be a value to the region and the residents of that state and would not result in the loss of availability of a local important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.
- ▶ Hydrology and Water Quality: the project would be required to comply with existing ordinances and regulations which would ensure water quality impacts would not occur in floodplains.

- ▶ Hydrology and Water Quality: the project would not exacerbate any existing conditions related to the potential for seiche, tsunami, mudflow, or dam failure.
- ▶ Land Use and Planning: the project would not introduce any major infrastructure or other uses that would result in the physical division of established communities.
- ▶ Noise and Vibration: long-term operational activities associated with new or expanded licensed commercial cannabis cultivation sites are not anticipated to result in permanent or substantial levels of ground vibration.
- ▶ Noise and Vibration: compliance with Airport Comprehensive Land Use Plan (ACLUP) policies and criteria would ensure people working within an ACLUP area would not be exposed to excessive airport noise.
- ▶ Population, Employment, and Housing: the project would not require the elimination of housing, nor would it prohibit the construction of future housing identified in the Mendocino County General Plan.
- ▶ Public Services and Recreation: the project is not expected to result in an increased demand for schools, libraries, or other public facilities.
- ▶ Public Services and Recreation: commercial cannabis cultivation sites are agricultural in nature and would not trigger the need for new or modified park facilities.

1.2.3 Less than Significant Impacts

The DCC Director finds that, based upon substantial evidence in the record, including information in the Draft and Final EIR, the following impacts have been determined to be less than significant and no mitigation is required.

AESTHETICS

An evaluation of the project's aesthetics impacts is found in Section 3.1, "Aesthetics," of the Draft EIR. Limitations on size, coverage, and location of commercial cannabis cultivation provided under State and local regulations would limit substantial adverse impact on scenic vistas. Additionally, commercial cannabis operations are aesthetically not substantially different in appearance from similar agricultural and rural land uses in the County (**Impact 3.1-1**). Portions of State Routes (SRs) 1, 20, and 128 and US 101 are considered eligible for official designation under the California Scenic Highway Program within the County. State and local regulations limit the potential for commercial cannabis-related uses to substantially degrade scenic resources within state scenic highways (**Impact 3.1-2**). Operation of existing and new licensed commercial cannabis cultivation sites under the project would be visually consistent with the existing rural and agricultural character and would not be substantially different in appearance from other agricultural operations (**Impact 3.1-3**). Operation of existing and new licensed commercial cannabis cultivation sites under the project could involve the use of artificial lighting. State and local regulations include lighting standards to address nighttime lighting and glare impacts (**Impact 3.1-4**).

Finding

The DCC Director finds that, based upon substantial evidence in the record, the potential impact related to the project's effects on aesthetics described above is less than significant, and no mitigation measures are required. (Draft EIR, section 3.1, pages 3.1-14 through 3.1-20 and Final EIR pages 3-1 through 3-4.)

AGRICULTURE AND FORESTRY RESOURCES

An evaluation of the project's agricultural and forestry resources impacts is found in Section 3.2, "Agriculture and Forestry Resources" of the Draft EIR. Business and Professions Code section 26060(a) defines medical and adult-use cannabis as agricultural products; therefore, the project would not result in conversion of farmland to nonagricultural uses, nor conflict with zoning for agricultural use or a Williamson Act contract. Additionally, the MCCR and Mendocino County policies allow commercial cannabis cultivation sites on agricultural lands, including Williamson Act contracted lands, including allowable zoning designations for existing and future cultivation activities within the County, including land zoned for agricultural uses (**Impact 3.2-1**). Existing and new licensed commercial cannabis cultivation sites could lead to the clearing of forest areas and conflict with timber production activities. However, the MCCR and Attachment A (General Requirements and Prohibitions) of the State Water Resources Control Board (SWRCB) Order WQ 2023-0102-DWQ (Section 1) include protection measures for timber resources (**Impact 3.2-2**).

Finding

The DCC Director finds that, based upon substantial evidence in the record, the potential impact related to the project's effects to agriculture and forestry resources described above is less than significant, and no mitigation measures are required. (Draft EIR, section 3.2, pages 3.2-15 through 3.2-18.)

AIR QUALITY

An evaluation of the project's air quality impacts is found in Section 3.3, "Air Quality" of the Draft EIR. The operation of heavy-duty equipment, vendor and worker commute trips, and application of architectural coatings associated with construction related to the potential expansion of existing and new licensed commercial cannabis cultivation sites and associated processing and/or distribution operations could result in emissions of ROG, NO_x, PM₁₀, and PM_{2.5}. From a project-level, construction of individual licensed commercial cannabis cultivation sites would not generate construction emissions of ROG, NO_x, PM₁₀ exhaust, or PM_{2.5} exhaust exceeding MCAQMD's average daily mass emissions thresholds of significance (**Impact 3.3-1**). Operation of existing provisionally licensed, expansion of existing provisionally licensed, and operation of new licensed commercial cannabis cultivation sites and associated processing and/or distribution transport-only operations could generate operational emissions of criteria air pollutants and ozone precursors exceeding MCAQMD's average daily mass emissions thresholds of significance. However, individual commercial cannabis cultivation sites would not generate emissions greater than MCAQMD's daily mass emissions threshold (**Impact 3.3-2**).

Finding

The DCC Director finds that, based upon substantial evidence in the record, the potential impact related to the project's effects on short-term construction-related emissions and long-term operational emissions described above is less than significant, and no mitigation measures are required. (Draft EIR, section 3.3, pages 3.3-16 through 3.3-20.)

ARCHAEOLOGICAL, HISTORICAL, TRIBAL CULTURAL RESOURCES

An evaluation of the project's archaeological, historical, and tribal cultural resources impacts is found in Section 3.4, "Archaeological, Historical, Tribal Cultural Resources," of the Draft EIR. Licensed commercial cannabis cultivation sites associated with implementation of the project

could be located on properties that contain known or unknown archaeological resources, and ground-disturbing activities could result in discovery or damage of previously undiscovered archaeological resources as defined in State CEQA Guidelines, section 15064.5. Implementation of existing state regulations would ensure that these potential impacts are addressed and mitigated (**Impact 3.4-2**). Pursuant to AB 52, the DCC sent tribal consultation letters to the 22 tribal contacts identified by the NAHC. Although no responses were received and no tribal cultural resources, defined by Public Resources Code section 21074, were identified, it is possible that tribal cultural resources could be identified through the development of new or expanded licensed commercial cannabis cultivation sites. Compliance with Public Resources Code sections 21080.3.2 and 21084.3(a) would ensure potential impacts are addressed (**Impact 3.4-3**). Previously undiscovered human remains could be discovered when soils are disturbed during construction of licensed commercial cannabis cultivation sites under the project. Compliance with Health and Safety Code section 7050.5 and Public Resources Code section 5097 would ensure potential impacts are addressed (**Impact 3.4-4**).

Finding

The DCC Director finds that, based upon substantial evidence in the record, the potential impact related to the project's effects on archaeological resources, human remains, and tribal cultural resources described above is less than significant, and no mitigation measures are required. (Draft EIR, section 3.4, pages 3.4-24 through 3.5-28.)

BIOLOGICAL RESOURCES

An evaluation of the project's biological resource impacts is found in Section 3.5, "Biological Resources," of the Draft EIR. Surface water diversions for licensed commercial cannabis cultivation sites that may occur under the project could adversely affect several special-status fish species. Special-status fish species are protected under the Endangered Species Act (ESA), California Endangered Species Act (CESA), and other regulations (**Impact 3.5-3**). Several policies in the Mendocino County General Plan, Ukiah Valley Area Plan, Brooktrails Township Specific Plan, and Mendocino County Code protect biological resources. Mitigation measures identified Impacts 3.5-1, 3.5-2, 3.5-3, 3.5-4, 3.5-5, and 3.5-6 would be consistent and would assist in implementing Mendocino County policies and requirements that protect biological resources (**Impact 3.5-7**).

Finding

The DCC Director finds that, based upon substantial evidence in the record, the potential impact related to the project's effects on the disturbance to or loss of special-status fisheries and conflicts with Mendocino County policies and requirements that protect biological resources described above are less than significant, and no mitigation measures are required. (Draft EIR, section 3.5, pages 3.5-95 through 3.5-110.)

ENERGY

An evaluation of the project's energy impacts is found in Section 3.6, "Energy," of the Draft EIR. Operation of expanded provisionally licensed and new licensed commercial cannabis cultivation sites and associated processing and distribution transport-only operation would have a projected energy use similar to existing provisionally licensed commercial cannabis sites currently operating in Mendocino County. Additionally, potential expansion of existing

provisionally licensed and new licensed commercial cannabis cultivation sites would be more energy efficient (**Impact 3.6-1**). As required by SB 100, PG&E's electricity would be generated by increasingly more renewable sources to meet the state's progressive renewable energy targets. Additionally, section 10A.17.040(D) of the MCCR would require that indoor and mixed-use cultivation sites use alternative forms of electricity and not rely on generators as their primary source of energy (**Impact 3.6-2**).

Finding

The DCC Director finds that, based upon substantial evidence in the record, the potential impact related to the project's effects from wasteful, inefficient, or unnecessary consumption of energy or wasteful use of energy resources or conflict with or obstruct a state or local plan for renewable energy or energy efficiency described above is less than significant, and no mitigation measures are required. (Draft EIR, section 3.6, pages 3.6-9 through 3.6-12.)

GEOLOGY, SOILS, AND MINERAL RESOURCES

An evaluation of the project's geology, soils, and mineral resources impacts is found in Section 3.7, "Geology, Soils, and Mineral Resources," of the Draft EIR. Existing provisionally licensed, expansion of existing provisionally licensed, and new licensed commercial cannabis cultivation operations would not exacerbate existing seismic hazards and would be required to comply with existing state and local regulatory requirements related to seismic hazards (e.g., building codes and other laws and regulations) (**Impact 3.7-1**). The potential for commercial cannabis cultivation sites being located on expansive soils, substantial soil erosion, or loss of topsoil from implementation of the project would be addressed through compliance with SWRCB Order WQ 2023-0102-DWQ, Mendocino County Code's Grading Ordinance, and the California Building Code (CBC) (**Impact 3.7-2**). Licensed commercial cannabis cultivation sites would be required to comply with state and local regulatory requirements (e.g., building codes and other laws and regulations) related to geologic hazards, such that the risk to life or property through exposure to expansive or unstable soils because of the project would be reduced (**Impact 3.7-3**). Portions of the County may contain areas with soils not suitable for wastewater treatment. Such systems must be sited, designed, and constructed in accordance with applicable state and local requirements (**Impact 3.7-4**). Compliance of Mendocino County General Plan policy DE-116, would require paleontological resources analyses to be conducted for each new site to avoid damage to resources (**Impact 3.7-5**).

Finding

The DCC Director finds that, based upon substantial evidence in the record, the potential impact related to the project's effects from loss, injury, or death, involving seismic hazards; substantial soil erosion of the loss of topsoil of located on expansive soils; being located on a geologic unit or soil that is unstable and potential result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse; operation of septic systems; or unique paleontological resource or site or unique geologic feature described above is less than significant, and no mitigation measures are required. (Draft EIR, section 3.7, pages 3.7-19 through 3.7-27.)

HAZARDS AND HAZARDOUS MATERIALS

An evaluation of the project's hazard impacts is found in Section 3.9, "Hazards and Hazardous Materials," of the Draft EIR. Commercial cannabis cultivation operations may involve the use of

pesticides, herbicides, rodenticides and other chemicals; however, compliance with existing, applicable rules and regulations specifically designed to protect public health would ensure that contamination or exposure does not occur (**Impact 3.9-1**). Also, existing regulations effectively reduce the potential for licensed commercial cannabis sites to expose the public to existing on-site hazardous materials (**Impact 3.9-2**). Setbacks stated under the MCCR would reduce the potential for accident or upset conditions within the vicinity of schools (**Impact 3.9-3**). Existing provisionally licensed, potential expansion of existing provisionally licensed, and new licensed commercial cannabis cultivation sites would also not create a safety hazard or excessive noise exposure for people working or residing near a public airport (**Impact 3.9-4**). Construction and operation of licensed commercial cannabis cultivation sites are subject to and constructed in accordance with applicable State and Mendocino County policies and standards, including established roadway design and safety standards, such as Caltrans Standard Specifications and the County Roads and Development Standards. These standards prevent the development of transportation infrastructure that would result in inadequate emergency access or would significantly impair emergency response or evacuation plans (**Impact 3.9-5**).

Finding

The DCC Director finds that, based upon substantial evidence in the record, the potential impact related to the project's effects associated with hazardous materials and airport hazards described above are less than significant, and no mitigation measures are required. (Draft EIR, section 3.9, pages 3.9-18 through 3.9-25.)

HYDROLOGY AND WATER QUALITY

An evaluation of the project's hydrology and water quality impacts is found in Section 3.10, "Hydrology and Water Quality," of the Draft EIR. Compliance with the requirements SWRCB Order WQ 2023-0102-DWQ and County regulations would address water quality impacts (**Impact 3.10-1**). Existing MCCR requirements would address the potential effects of short-term and long-term well operation in isolated locations that could affect the operability of adjacent wells. In addition, licensed commercial cannabis cultivation sites within the Ukiah Valley Groundwater Basin would not conflict with the Ukiah Valley Basin GSP (**Impact 3.10-2**). Compliance with SWRCB Order WQ 2023-0102-DWQ requires that certain flow and gauging requirements be met and that a surface water diversion forbearance period be implemented (**Impact 3.10-3**).

Finding

The DCC Director finds that, based upon substantial evidence in the record, the potential impact related to the project's effects associated with hydrology and water quality described above is less than significant, and no mitigation measures are required. (Draft EIR, section 3.10, pages 3.10-39 through 3.10-45.)

LAND USE AND PLANNING

An evaluation of the project's land use impacts is found in Section 3.11, "Land Use and Planning," of the Draft EIR. Potential expansion of existing provisionally licensed and new licensed commercial cannabis cultivation sites and associated processing and/or distribution transport-only operations would be required to comply with the MCCR, which defines allowable County zoning designations within which commercial cannabis uses may occur. In addition, such licensees would also need to comply with the Mendocino County Zoning Code, the

Mendocino County General Plan and, and state commercial cannabis cultivation licensing requirements, which includes protection of environmental resources (**Impact 3.11-1**).

Finding

The DCC Director finds that, based upon substantial evidence in the record, the potential impact related to the project's effects associated with land use and planning described above is less than significant, and no mitigation measures are required. (Draft EIR, section 3.11, pages 3.11-8 through 3.11-10.)

NOISE AND VIBRATION

An evaluation of the project's noise impacts is found in Section 3.12, "Noise," of the Draft EIR. Existing, expanded, and new licensed commercial cannabis cultivation sites would be required to comply with setback distance requirements and would generate construction and operation noise levels below the Federal Transit Administration (FTA)'s daytime and nighttime thresholds (**Impact 3.12-1**). New or expanded licensed commercial cannabis cultivation sites would not exceed noise standards in the Mendocino County Code of Ordinances (**Impact 3.12-3**).

Finding

The DCC Director finds that, based upon substantial evidence in the record, the potential impact related to the project's effects from generation of significant operational noise levels described above is less than significant, and no mitigation measures are required. (Draft EIR, section 3.12, page 3.12-17 through 3.12-29.)

POPULATION, EMPLOYMENT, AND HOUSING

An evaluation of the project's population, employment, and housing impacts is found in Section 3.13, "Population, Employment, and Housing," of the Draft EIR. It is expected that new commercial cannabis cultivation jobs could be filled by employment resources in the County and region and would not trigger the need for substantial housing development beyond what is planned under the Mendocino County General Plan (**Impact 3.13-1**).

Finding

The DCC Director finds that, based upon substantial evidence in the record, the potential impact related to the project's population, employment, and housing impacts described above is less than significant, and no mitigation measures are required. (Draft EIR, section 3.13, page 3.13-8 through 3.13-10.)

PUBLIC SERVICES AND RECREATION

An evaluation of the project's public services and recreation impacts is found in Section 3.14, "Public Services and Recreation," of the Draft EIR. All existing and future licensed sites would be required to comply with state and local regulations (including the MCCR and fire code regulations) for fire protection services (**Impact 3.14-1**). Potential expansion of existing provisionally licensed and new licensed commercial cannabis cultivation sites and associated processing and/or distribution transport-only operations would not require increased law enforcement services that would result in the need for new or altered facilities to ensure compliance with state and local security requirements for commercial cannabis cultivation sites (**Impact 3.14-2**).

Finding

The DCC Director finds that, based upon substantial evidence in the record, the potential impact related to the project's public services and recreation impacts described above is less than significant, and no mitigation measures are required. (Draft EIR, section 3.14, pages 3.14-15 through 3.14-18.)

TRANSPORTATION

An evaluation of the project's transportation impacts is found in Section 3.15, "Transportation," of the Draft EIR. Compliance with existing regulations and policies would address impacts related to conflict with a program, plan, ordinance, or policy addressing the circulation system, hazards due to a design feature or incompatible uses, and inadequate emergency access (**Impact 3.15-1, Impact 3.15-3, and Impact 3.15-4**).

Finding

The DCC Director finds that, based upon substantial evidence in the record, the potential impact related to the project's transportation impacts described above is less than significant, and no mitigation measures are required. (Draft EIR, section 3.15, pages 3.15-14 through 3.15-22.)

UTILITIES AND SERVICE SYSTEMS

An evaluation of the project's utilities and service systems impacts is found in Section 3.16, "Utilities and Service Systems," of the Draft EIR. Compliance with existing regulations and policies would address impacts related to wastewater treatment systems, water supplies, and solid waste (**Impact 3.16-1, Impact 3.16-2, and Impact 3.16-3**).

Finding

The DCC Director finds that, based upon substantial evidence in the record, the potential impact related to the project's utilities and service system impacts described above is less than significant, and no mitigation measures are required. (Draft EIR, section 3.16, pages 3.16-13 through 3.16-18.)

WILDFIRE

An evaluation of the project's wildfire impacts is found in Section 3.17, "Wildfire," of the Draft EIR. Compliance with existing State and local requirements related to fire protection and management, postfire slope instability or drainage changes, and exposure to wildfire hazards and associated affects from a wildfire event would ensure that impacts are reduced (**Impact 3.17-1, Impact 3.17-3, and Impact 3.17-4**).

Finding

The DCC Director finds that, based upon substantial evidence in the record, the potential impact related to the project's wildfire impacts described above is less than significant, and no mitigation measures are required. (Draft EIR, section 3.17, pages 3.17-21 through 3.17-28.)

CUMULATIVE

An evaluation of the project's cumulative impacts is found in Chapter 4, "Cumulative Impacts," of the Draft EIR. Implementation of the project is not projected to result in cumulatively considerable impacts in the following areas:

- ▶ Impact CUM-1: Contribution to Cumulative Aesthetic Impacts
- ▶ Impact CUM-2: Contribution to Cumulative Agriculture and Forestry Resource Impacts
- ▶ Impact CUM-4: Contribution to Cumulative Archaeological, Historical, and Tribal Cultural Resources Impacts
- ▶ Impact CUM-5: Contribution to Cumulative Biological Resource Impacts
- ▶ Impact CUM-6: Contribution to Cumulative Energy Impacts
- ▶ Impact CUM-7: Contribution to Cumulative Geology, Soils, and Mineral Resource Impacts
- ▶ Impact CUM-9: Contribution to Cumulative Hazards and Hazardous Material Impacts
- ▶ Impact CUM-10: Contribution to Cumulative Hydrology and Water Quality Impacts
- ▶ Impact CUM-11: Contribution to Cumulative Land Use and Planning Impacts
- ▶ Impact CUM-12: Contribution to Cumulative Noise Impacts
- ▶ Impact CUM-13: Contribution to Cumulative Population and Housing Impacts
- ▶ Impact CUM-14: Contribution to Cumulative Public Services and Recreation Impacts
- ▶ Impact CUM-15: Contribution to Cumulative Transportation Impacts
- ▶ Impact CUM-16: Contribution to Cumulative Utilities and Service Systems Impacts
- ▶ Impact CUM-17: Contribution to Cumulative Wildfire Impacts

Finding

The DCC Director finds that, based upon substantial evidence in the record, the potential impact related to the project's contribution to the above cumulative impacts are not cumulatively considerable or less than cumulatively considerable. (Draft EIR, Chapter 4.)

1.2.4 Potentially Significant Impacts that Can Be Mitigated Below a Level of Significance

Pursuant to Section 21081(a) of the Public Resources Code and Section 15091(a)(1) of the State CEQA Guidelines, the DCC Director finds that, for each of the following significant effects identified in the Draft EIR and Final EIR, changes or alterations have been required in, or incorporated into, the proposed project which avoid or mitigate the identified significant effects on the environment to less than significant levels. These findings are explained below and are supported by substantial evidence in the record of proceedings.

BIOLOGICAL RESOURCES – DISTURBANCE TO OR LOSS OF SPECIAL-STATUS PLANT SPECIES AND HABITAT

An evaluation of the project's impacts to biological resources is found in Section 3.5, "Biological Resources," of the Draft EIR. Potential land use conversion and development from the potential expansion of existing provisionally licensed and new licensed commercial

cannabis cultivation sites and associated processing and/or distribution transport-only operations under the project could result in disturbance to or loss of special-status plant species if they are present. Additionally, expanded and new licensed commercial cannabis cultivation sites could result in the introduction or spread of invasive plants during vegetation removal, ground disturbance, or introduction of off-site soils, which could result in exclusion of special-status plants (**Impact 3.5-1**).

Mitigation Measures

Mitigation Measure 3.5-1a: Conduct Preapproval Biological Surveys

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A: General Requirements and Prohibitions – Term 4 and 10 and MCCR 10A.17.100(A)(2)), the DCC shall require provisional licensees who propose to expand their cultivation activities prior to their transition to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to provide the following technical information. It shall be used to determine whether there is potential for special-status plant species, special-status wildlife species, or sensitive habitats identified in this Program EIR to be present within a proposed expanded or new commercial cannabis cultivation sites seeking a license from DCC. This mitigation measure and Mitigation Measures 3.5-2a through 3.5-2p do not apply to cannabis cultivation operations on licensed sites that existed prior to August 2, 2023.

- ▶ Before approval of any application for commercial cannabis operations, a biological survey shall be conducted by a qualified biologist. A qualified biologist would, at a minimum:
 - Hold a bachelor's or advanced degree in wildlife biology, botany, ecology, forestry, or other relevant degree from an accredited university;
 - Have at least 2 years of field experience in the biology and natural history of local plant, fish, and wildlife resources present in the region surrounding the cannabis cultivation site;
 - Be knowledgeable in relevant species life histories and ecology;
 - Be able to correctly identify relevant species and habitats;
 - Be knowledgeable about survey protocols;
 - Be knowledgeable about state and federal laws regarding the protection of special-status species; and
 - Have experience with CDFW's California Natural Diversity Database (CNDDDB) and Biogeographic Information and Observation System (BIOS).
- ▶ The survey area shall include the proposed expanded or new commercial cannabis cultivation sites, including areas of anticipated construction and ground disturbance, as well as staging areas, areas of anticipated light or noise impact, ingress and egress routes, and utility routes. The survey area shall be large enough to encompass areas subject to both direct and indirect impacts. The qualified biologist shall assess the habitat suitability of the proposed development area for all special-status plants, special-status wildlife, and sensitive habitats identified as having potential to occur in the County. The biologist shall provide a letter report to the project applicant and DCC with evidence to support a conclusion as to whether special-status species and sensitive habitats are present or are likely to occur in the proposed development area. DCC staff will review the letter report and

conclusions and determine whether the evidence provided to support the conclusions is sufficient. At a minimum, the letter report shall include:

- Date, time, and weather conditions;
 - A description and explanation of whether the site conditions are considered typical or atypical;
 - A map depicting the proposed development area and the unique, rare, and special-status species, sensitive habitats, or sensitive natural communities found;
 - A vegetation map of the proposed development area using the National Vegetation Classification System (e.g., *A Manual of California Vegetation*) and an associated table, including acreage of vegetation types that could be adversely affected by project implementation;
 - A special-status species table generated from review of the CNDDDB, the California Native Plant Society Inventory of Rare and Endangered Plants, lists maintained by USFWS, and the most recent, best-available range information for special-status species;
 - A description of survey methods and any protocols utilized during the survey; and
 - A list of common and special-status species and habitats observed in the proposed development area.
- ▶ If the biological survey identifies no potential for special-status plants, special-status wildlife, or sensitive habitats to occur, the applicant shall not be subject to any additional biological resource protection measures identified in the ordinance.
- ▶ If special-status species or sensitive habitats are present or have the potential to be present, the letter report will include a discussion of potential direct and indirect impacts on these resources, and the appropriate biological resource protection measures identified in Mitigation Measures 3.5-1b, 3.5-1c, 3.5-2a through 3.5-2o, 3.5-4a, 3.5-4b, 3.5-5, and 3.5-6b shall be implemented.

Mitigation Measure 3.5-1b: Conduct Special-Status Plant Surveys and Implement Avoidance Measures and Mitigation

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 4 and 10), the DCC shall require provisional licensees requesting to expand their sites prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to provide the following information should special-status plant species be determined to have potential to be present on the proposed commercial cannabis cultivation sites:

- ▶ During the blooming period for the special-status plant species with potential to occur on the site, a qualified botanist shall conduct protocol-level surveys for special-status plants in all proposed disturbance areas following survey methods from the CDFW *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW 2018a). A qualified botanist would, at a minimum:
- Hold a bachelor's or advanced degree in biology, botany, ecology, forestry, or other relevant degree from an accredited university;

- Have at least 2 years of field experience in the biology and natural history of local plant, fish, and wildlife resources present in the region surrounding the cannabis cultivation site;
 - Be knowledgeable about plant taxonomy;
 - Be familiar with plants of the region, including special-status plants and sensitive natural communities;
 - Have experience conducting floristic botanical field surveys as described in the CDFW Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities, or experience conducting such botanical field surveys under the direction of an experienced botanical field surveyor;
 - Be familiar with the California Manual of Vegetation (Sawyer et al. 2009 or current version, including updated natural communities data at <http://vegetation.cnps.org/>); and
 - Be familiar with federal, state, and local statutes and regulations related to plants and plant collecting.
- ▶ If special-status plants are not identified, the botanist shall document the findings in a letter report to the applicant, DCC, and CDFW, and no further mitigation shall be required.
- ▶ If special-status plant species are found, the qualified botanist shall consult with CDFW to designate a no-disturbance buffer and/or redesign of the commercial cannabis cultivation site improvements that shall be reflected in application materials to DCC. If special-status plants cannot be avoided, then the applicant shall consult with CDFW to determine if an incidental take permit should be obtained (i.e., for special-status species listed under CESA) or if compensatory mitigation would be required. Impacts on special-status plant species would be mitigated such that there would be no net loss of occupied habitat or individuals. Mitigation measures shall include, at a minimum, preserving and enhancing existing populations, establishing populations through seed collection or transplantation from the site that is to be affected, and restoring or creating habitat in sufficient quantities to achieve no net loss of occupied habitat or individuals. Habitat and individual plants lost shall be mitigated at a minimum 1:1 ratio, considering acreage, as well as function and value. Success criteria for preserved and compensatory populations will include the following conditions:
- The extent of occupied area and plant density (number of plants per unit area) in compensatory populations will be equal to or greater than the affected occupied habitat.
 - Compensatory and preserved populations will be self-producing. Populations will be considered self-producing when:
 - Plants reestablish annually for a minimum of 5 years with no human intervention, such as supplemental seeding; and
 - Reestablished and preserved habitats contain an occupied area and flower density comparable to existing occupied habitat areas in similar habitat types in the project vicinity.
 - If off-site mitigation includes dedication of conservation easements, purchase of mitigation credits, or other off-site conservation measures, the details of these measures will be included in the mitigation plan, including information on responsible parties for long-term management, conservation easement holders, long-term

management requirements, success criteria such as those listed above, and other details, as appropriate to target the preservation of long-term viable populations.

- ▶ Any mitigation plan for unavoidable impacts on special-status plants must be reviewed and approved by DCC and CDFW.

Mitigation Measure 3.5-1c: Implement Measures to Avoid Introduction or Spread of Invasive Plant and Animal Species

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 11), the DCC shall require provisional licensees requesting to expand their sites prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to provide documentation that the following measures will be implemented:

- ▶ The application shall include identification of invasive plant species that occur on the site and where they are located. The application shall identify specific measures to be employed for the removal of invasive species and on-site management practices.
- ▶ Invasive plant species (defined above in the impact discussion) shall be removed from the site to the extent feasible, using measures appropriate to the species. For example, species that cannot easily reroot, resprout, or disperse seeds may be left on site in a debris pile. Species that resprout readily (e.g., English ivy) or disperse seeds (e.g., pampas grass) should be hauled off-site and disposed of appropriately at a landfill site. A qualified botanist shall determine the appropriate percent cover of invasive species to remove for the site and what type of restoration plantings will be appropriate for the site.
- ▶ The site shall be monitored by a qualified botanist annually for 3 years or until the following success criteria are met, whichever is longer.
- ▶ Cover of existing invasive plants has either decreased or remained unchanged, there are no new infestations of invasive plants that existed on the site before project implementation, and there are no new invasive plant species that were not present onsite before project implementation.
- ▶ Heavy equipment and other machinery shall be inspected for the presence of invasive species before on-site use, and shall be cleaned before entering the site, to reduce the risk of introducing invasive plant species.
- ▶ No nonnative fish species shall be introduced into ponds on project sites. This measure does not apply to any activities conducted pursuant to the California Health and Safety Code, including mosquito control activities conducted by local vector control agencies.
- ▶ If storage ponds would be constructed, the applicant shall hire a qualified biologist to prepare an aquatic invasive species management plan, which will include details regarding monitoring for aquatic invasive species, including bullfrogs (*Lithobates catesbeianus*) and appropriate measures for preventing establishment of these species and controlling invasive species populations. The aquatic invasive species management plan shall be reviewed and approved by DCC prior to construction of stock ponds.

Finding

The DCC Director finds that the above mitigation measures are feasible, will reduce the potential biological resource-related impacts of the project to less-than-significant levels, and are adopted by the DCC Director. Accordingly, the DCC Director finds that pursuant to Public

Resources Code section 21081(a)(1), and the State CEQA Guidelines, section 15091(a)(1), changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Rationale

Implementation of Mitigation Measure 3.5-1a, 3.5-1b, and 3.5-1c would reduce significant impacts on special-status plants to a less-than-significant level because it would require applicants to identify and avoid special-status plants and would prevent the spread of invasive weeds by removal of existing populations on-site and inspecting machinery. These mitigation measures are consistent with the requirements of Attachment A (General Requirements and Prohibitions) of SWRCB Order WQ 2023-0102-DWQ. (Draft EIR, section 3.5, pages 3.5-67 through 3.5-71 and Final EIR pages 3-4 through 3-11.)

BIOLOGICAL RESOURCE – DISTURBANCE TO OR LOSS OF SPECIAL-STATUS WILDLIFE SPECIES AND HABITAT

An evaluation of the project's impacts to biological resources is found in Section 3.5, "Biological Resources," of the Draft EIR. Potential land use conversion and development from the potential expansion of existing provisionally licensed and new licensed commercial cannabis cultivation sites and associated processing and/or distribution transport-only operations under the project could adversely affect several special-status wildlife species. Expanded and new licensed commercial cannabis cultivation sites may include ground disturbance, vegetation removal, and overall conversion of wildlife habitat, which could result in the disturbance to or loss of individuals and reduced breeding productivity of these species. Special-status wildlife species are protected under the ESA, CESA, the Fish and Game Code, CEQA, and other regulations (**Impact 3.5-2**).

Mitigation Measures

Mitigation Measure 3.5-2a: Conduct Preconstruction Surveys for Special-Status Amphibians

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 4 and 10), the DCC shall require provisional licensees requesting to expand their sites prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to demonstrate compliance with the following measures if special-status amphibian species are determined to have potential to be present on the proposed commercial cannabis cultivation sites:

- ▶ If California red-legged frogs are detected during the initial biological survey (see Mitigation Measure 3.5-1a) or are determined to be likely to occur (i.e., aquatic or upland habitats potentially suitable for the species are present on the site), then it shall be assumed that commercial cultivation activities could result in take of this species, and the application shall be denied.
- ▶ If special-status amphibians other than California red-legged frog are detected during the initial biological survey (see Mitigation Measure 3.5-1a) or are determined to be likely to occur, consultation with CDFW shall be initiated to determine whether mitigation measures, such as project design modifications, relocation of the site, relocation of individual animals, or installation of exclusionary fencing, shall be necessary and appropriate.

- ▶ Regardless of detection during the initial biological survey, if habitat suitable for special-status amphibians other than California red-legged frog is present in the proposed development area, a qualified biologist familiar with the life cycle of California giant salamander, foothill yellow-legged frog, northern red-legged frog, Pacific tailed frog, red-bellied newt, and southern torrent salamander shall conduct preconstruction surveys of proposed new development activities 48 hours before new development activities. Preconstruction surveys for special-status amphibian species shall be conducted throughout the proposed construction area and a minimum 400- foot buffer around the proposed development area or other buffer size as recommended by CDFW. Surveys shall consist of “walk and turn” surveys of areas beneath surface objects (e.g., rocks, leaf litter, moss mats, coarse woody debris) for salamanders, and visual searches for frogs. Preconstruction surveys shall be conducted during the appropriate season to maximize potential for observation for each species, and appropriate surveys shall be conducted for the applicable life stages (i.e., eggs, larvae, adults).
- ▶ If special-status amphibians are not detected during the preconstruction survey and, for California red-legged frog, the species is determined to be unlikely to occur, then further mitigation is not required.
- ▶ If special-status amphibians other than California red-legged frog are detected during the preconstruction survey, work on the site shall not commence until the applicant has consulted with CDFW as described above. Injury to or mortality of special-status amphibians shall be avoided by modifying project design, relocating the commercial cannabis cultivation site, or relocating individual animals.

Mitigation Measure 3.5-2b: Conduct Surveys for Western Pond Turtle and Relocate Individuals

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 4 and 10), the DCC shall require provisional licensees requesting to expand their sites prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to demonstrate compliance with the following measures if western pond turtle are determined to have potential to be present on the proposed commercial cannabis cultivation sites:

- ▶ If pond turtles are detected during the initial biological survey (see Mitigation Measure 3.5-1a) or are determined to be likely to occur, consultation with CDFW shall be initiated to determine whether additional measures, such as project design modifications, relocation of the site, relocation of individual animals by a qualified biologist with a valid CDFW Scientific Collecting Permit, or installation of exclusionary fencing, shall be necessary and appropriate.
- ▶ Regardless of detection during the initial biological survey, if aquatic habitat suitable for western pond turtle is present in the proposed development area, a qualified biologist familiar with the life history of western pond turtle shall conduct preconstruction surveys of proposed new development activities within a minimum of 1,500 feet of any aquatic habitat 24 hours before such development activities or as recommended by CDFW.
- ▶ If pond turtles are not detected during the preconstruction survey, then no further mitigation is required.
- ▶ If pond turtles are detected during the preconstruction survey, then consultation with CDFW shall be initiated as described above. Injury or mortality of western pond turtle shall be avoided through project design modification, commercial cannabis cultivation site

relocation, or relocation of the turtle by a qualified biologist with a valid CDFW Scientific Collecting Permit. If relocation of western pond turtles is determined to be necessary, turtles shall be relocated to similar nearby habitat free of predators (e.g., racoon, coyote, raptors, bullfrog, nonnative turtles, other western pond turtles) as determined by the qualified biologist. If western pond turtles are relocated, a report shall be submitted electronically to CDFW within 15 days of the relocation. The report shall include the location, date, time, and duration of collection and release; the number of individuals relocated; and identification of the qualified biologist.

- ▶ If western pond turtle, which is currently a candidate for listing under the ESA, is listed as threatened in the future, take shall be prohibited. If take cannot be avoided, the application shall be denied.

Mitigation Measure 3.5-2c: Conduct Preconstruction Nesting Raptor Surveys and Establish Protective Buffers

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 4 and 10), the DCC shall require provisional licensees requesting to expand their sites prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to demonstrate compliance with the following measures for the protection of nesting raptors (excluding burrowing owl and northern spotted owl) that have potential to be present on or adjacent the proposed commercial cannabis cultivation sites:

- ▶ To minimize the potential for loss of nesting raptors, tree removal activities shall occur only during the nonbreeding season (September 1–January 31), if feasible.
- ▶ If removal of trees cannot be avoided during the breeding season, before removal of any trees or ground-disturbing activities between February 1 and August 31, a qualified biologist shall conduct preconstruction surveys for nesting raptors and shall identify active nests within a certain distance, depending on the species that are known or have potential to be present. For northern harrier, surveys shall occur at a minimum of 500 feet of the proposed development area or as recommended by CDFW. For northern goshawk and/or white-tailed kite, surveys shall occur at a minimum of 0.25 mile of the proposed development area or as recommended by CDFW. Additionally, for American peregrine falcon, bald eagle, and golden eagle, surveys shall occur at a minimum of 0.5 mile of the proposed development area or as recommended by CDFW. The surveys shall be conducted between February 1 and August 31.

Impacts on nesting raptors, including direct impacts and indirect impacts (e.g., noise, presence of construction crews) shall be avoided by establishing appropriate buffers around active nest sites identified during preconstruction raptor surveys. Factors to be considered for determining buffer size shall include the presence of natural buffers provided by vegetation or topography, nest height, locations of foraging territory, and baseline levels of noise and human activity. Buffer size may be adjusted if the qualified biologist and the applicant, in consultation with CDFW, determine that such an adjustment would not be likely to adversely affect the nest. The buffer areas shall be protected with construction fencing, and no activity shall occur within the buffer areas until the qualified biologist has determined, in coordination with CDFW, that the young have fledged, the nest is no longer active, or reducing the buffer would not likely result in nest abandonment. Monitoring of the nest by a qualified biologist during and after construction activities (e.g., ground

disturbance, vegetation removal, installation of commercial cannabis cultivation sites) shall be required if the activity has potential to adversely affect the nest.

- ▶ Removal of bald and golden eagle nests is prohibited regardless of the occupancy status under the federal Bald and Golden Eagle Protection Act. If bald or golden eagle nests are found during preconstruction surveys, then the nest tree shall not be removed.
- ▶ To avoid the potential for loss of northern goshawk and their nests, or loss or fragmentation of occupied or habitat suitable for northern goshawk, removal of old-growth habitat shall be prohibited, as outlined in Mitigation Measure 3.5-4a.
- ▶ Trees shall not be removed during the breeding season for nesting raptors unless a survey by the qualified biologist verifies that there is not an active nest in the tree.

Mitigation Measure 3.5-2d: Conduct Take Avoidance Survey for Burrowing Owl, Implement Avoidance Measures, and Compensate for Loss of Occupied Burrows

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 4 and 10), the DCC shall require provisional licensees requesting to expand their sites prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to demonstrate compliance with the following measures for the protection of burrowing owl that have potential to be present on or adjacent the proposed commercial cannabis cultivation sites:

- ▶ A qualified biologist shall conduct a focused survey for burrowing owls in areas of habitat suitable for the species (e.g., grasslands, agricultural areas) on and within a minimum of 1,640 feet (500 meters) of the commercial cannabis cultivation site no less than 14 days before initiating ground disturbance activities using survey methods described in Appendix D of the Staff Report on Burrowing Owl Mitigation (CDFG 2012) or as recommended by CDFW.
- ▶ If no occupied burrows are found, the qualified biologist shall submit a report documenting the survey methods and results to the applicant and CDFW, and no further mitigation shall be required.
- ▶ If an active burrow is found within a minimum of 1,640 feet of ground-disturbing activities (or as recommended by CDFW) that would occur during the nonbreeding season (September 1 through January 31), the applicant shall establish and maintain a minimum protection buffer of 164 feet (50 meters) around the occupied burrow throughout construction. The actual buffer size shall be determined by the qualified biologist based on the time of year and level of disturbance in accordance with guidance provided in the Staff Report on Burrowing Owl Mitigation (CDFG 2012). The protection buffer shall be adjusted if, during consultation with CDFW, a qualified biologist determines that an alternative buffer would not disturb burrowing owl use of the burrow because of particular site features or other buffering measures.
- ▶ If an active burrow is found during the breeding season (February 1 through August 31), occupied burrows shall not be disturbed and shall be provided with a protective buffer at a minimum of 164 feet unless a qualified biologist verifies through noninvasive means that either (1) the birds have not begun egg laying or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival. There is an option for the size of the buffer to be adjusted depending on the time of year and level of disturbance as outlined in the burrowing owl staff report. The size of the buffer shall be reduced if a

broad-scale, long-term monitoring program acceptable to CDFW is implemented so that burrowing owls are not adversely affected.

Mitigation Measure 3.5-2e: Conduct Northern Spotted Owl Preconstruction Habitat Suitability Surveys and Determine Presence or Absence of the Species

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 4 and 10), the DCC shall require provisional licensees requesting to expand their sites prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to demonstrate compliance with the following measures for the protection of northern spotted owl from proposed commercial cannabis cultivation sites:

- ▶ To avoid the potential for loss of northern spotted owl and their nests, or loss or fragmentation of occupied or habitat suitable for northern spotted owl, removal of old-growth habitat shall be prohibited, as outlined in Mitigation Measure 3.5-4.
- ▶ If the area of proposed new development activities is within habitat suitable for northern spotted owl (e.g., mature forest), and a qualified biologist determines it is within a minimum of 1.3 miles (average species home range) of a known occurrence of northern spotted owl, or as recommended by CDFW, the following measures shall be followed:
 - Before removal of any trees or ground-disturbing activities adjacent or in nesting, roosting, or foraging habitat (e.g., forest clearings) for spotted owl, a qualified biologist familiar with the species and protocol, shall conduct preconstruction surveys for nests within a minimum 1.3-mile buffer around the site as described in *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls* (USFWS 2012) and the 2019 revision to *Northern Spotted Owl Take Avoidance Analysis and Guidance for Private Lands in California* (USFWS 2019) or as recommended by CDFW. Surveys shall take place between March 1 and August 31. Three complete surveys spaced at least 7 days apart must be completed by June 30. Six complete surveys over the course of 2 years must be completed to determine the presence or absence of northern spotted owl.
 - If northern spotted owls are determined to be absent at a minimum of 1.3 miles from the site or as recommended by CDFW, then further mitigation is not required.
 - If northern spotted owls are determined to be present within a minimum of 1.3 miles of the site or as recommended by CDFW, then it is presumed that habitat removal, loud noises, or visual stimuli could cause disturbance and harm to northern spotted owls in the area and could result in direct take of northern spotted owls. If northern spotted owls are determined to be present within a minimum of 1.3 miles of the site or as recommended by CDFW, proposed commercial cannabis cultivation activities shall not be permitted.

Mitigation Measure 3.5-2f: Conduct Preconstruction Special-Status Nesting Bird Surveys and Establish Protective Buffers

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 4 and 10), the DCC shall require provisional licensees requesting to expand their sites prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to demonstrate compliance with the following

measures for the protection of grasshopper sparrow, little willow flycatcher, olive-sided flycatcher, purple martin, tricolored blackbird, western yellow-billed cuckoo, yellow warbler, yellow-breasted chat, or other bird nests from proposed commercial cannabis cultivation sites:

- ▶ To minimize the potential for disturbance to or loss of grasshopper sparrow, little willow flycatcher, olive-sided flycatcher, purple martin, tricolored blackbird, western yellow-billed cuckoo, yellow warbler, yellow-breasted chat, or other bird nests, vegetation removal activities shall occur only during the nonbreeding season (September 1–January 31).
- ▶ If little willow flycatcher is detected during the initial biological survey (see Mitigation Measure 3.5-1a) or is determined to be likely to occur based on the presence of suitable habitat, a protocol-level survey shall be conducted by a qualified biologist familiar with the species and the protocol before removal of any vegetation or any ground disturbance. The protocol-level survey shall include methods outlined in A Willow Flycatcher Survey Protocol for California (Bombay et al. 2003).
- ▶ If little willow flycatcher is determined to be present during the protocol-level survey, no development activity shall occur during the breeding season (May 1 through August 31) in and within a minimum of 300 feet of the little willow flycatcher habitat, or as recommended by CDFW. Development activities in or adjacent to identified little willow flycatcher habitat shall not damage or destroy willows or other riparian shrubs unless agreed upon through consultation with CDFW.
- ▶ If grasshopper sparrow, olive-sided flycatcher, purple martin, tricolored blackbird, western yellow-billed cuckoo, yellow warbler, yellow-breasted chat, or other bird nests are detected during the initial biological survey (see Mitigation Measure 3.5-1a) or are determined to be likely to occur based on the presence of suitable habitat, before removal of any vegetation or any ground disturbance between February 1 and August 31, a qualified biologist shall conduct preconstruction surveys for nests on any structure or vegetation planned for removal, as well as nests located within a 100-foot buffer around the site or as recommended by CDFW. The surveys shall be conducted no more than 7 days before construction commences. If no active nests are found during focused surveys, no further action under this measure shall be required. If active nests are located during the preconstruction surveys, the biologist shall notify CDFW. If deemed necessary by CDFW, modifications to the project design to avoid removal of occupied habitat while still achieving project objectives may be required. If DCC determines in consultation with CDFW that avoidance is not feasible or conflicts with project objectives, construction shall be prohibited within a minimum of 100 feet of the nest to avoid disturbance, depending on the species identified, until the nest is no longer active. Final avoidance buffer size shall be determined by a qualified biologist in consultation with CDFW.

Mitigation Measure 3.5-2g: Conduct Marbled Murrelet Preconstruction Habitat Suitability Surveys and Determine Presence or Absence of the Species

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 4 and 10), the DCC shall require provisional licensees requesting to expand their sites prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to demonstrate compliance with the following measures for the protection of marbled murrelet from proposed commercial cannabis cultivation sites:

- ▶ To avoid the potential for loss of marbled murrelet and their nests, or loss or fragmentation of occupied or habitat suitable for marbled murrelet, removal of old-growth habitat shall be prohibited, as outlined in Mitigation Measure 3.5-4a.
- ▶ If the area of proposed new development activities is in or adjacent to habitat suitable for marbled murrelet (e.g., coniferous forest), as determined by a qualified biologist, the following measures shall be followed:
 - Before removal of any trees or ground-disturbing activities adjacent to or in habitat suitable for marbled murrelet between April 15 and August 5, a qualified biologist familiar with the life history of the marbled murrelet shall conduct preconstruction surveys for nests within a 0.25-mile buffer around the site as described in Methods for Surveying Marbled Murrelets in Forests: A Revised Protocol for Land Management and Research (Evans Mack et al. 2003) or as recommended by CDFW.
 - If marbled murrelets are determined to be absent at a minimum of 0.25 mile from the site or as recommended by CDFW, then further mitigation is not required.
- ▶ If marbled murrelets are determined to be present on the site, a 0.25-mile buffer shall be established around occupied nest sites or a buffer as recommended by CDFW. No project activity may occur within the 0.25-mile buffer area or other recommended buffer by CDFW until the end of marbled murrelet breeding season (August 6). The nest tree and any adjacent trees that provide screening or canopy cover to the nest shall be retained regardless of the diameter of the tree.

Mitigation Measure 3.5-2h: Conduct Crotch Bumble Bee and Western Bumble Bee Preconstruction Habitat Suitability Surveys and Focused Surveys

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 4 and 10), the DCC shall require provisional licensees requesting to expand their sites prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to demonstrate compliance with the following measures for the protection of Crotch bumble bee and western bumble bee from proposed commercial cannabis cultivation sites:

- ▶ Before implementation of ground-disturbing activities, a qualified biologist shall conduct a habitat assessment for Crotch bumble bee and western bumble bee following the guidance in the Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (CDFW 2023). Results of the habitat assessment shall be submitted to the applicant, DCC, and CDFW before initiating ground-disturbing activities. If the area of proposed new development activities contains habitat suitable for Crotch bumble bee or western bumble bee (e.g., nesting habitat, foraging habitat), the following measures shall be followed:
 - To avoid impacts on Crotch bumble bee and western bumble bee, cannabis-related development activities shall not occur in habitats suitable for these species from April through September (i.e., flight season) if feasible.
 - Focused surveys for Crotch bumble bees and western bumble bees shall be conducted following the guidance in the Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (CDFW 2023). Crotch bumble bee and western bumble bee presence may also be assumed. If Crotch bumble bees or western

bumble bees are detected during focused surveys or presence is assumed, the following measure shall be implemented:

- If Crotch bumble bees or western bumble bees are detected during review and surveys or presence is assumed, the qualified biologist shall contact CDFW for coordination regarding avoidance and mitigation. Avoidance and mitigation measures may include seasonal avoidance or physical avoidance of nest or overwintering sites.

Mitigation Measure 3.5-2i: Avoid Overwintering Monarch Habitat and Conduct Preconstruction Monarch Survey

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 4 and 10), the DCC shall require provisional licensees requesting to expand their sites prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to demonstrate compliance with the following measures for the protection of the monarch from proposed commercial cannabis cultivation sites:

- ▶ To avoid impacts on monarch butterfly, new development related to cannabis activities shall not occur in overwintering sites identified by Xerces (2023).
- ▶ No more than 14 days before implementing project activities that would result in ground disturbance or vegetation removal during the time when milkweed plants could host monarch eggs or caterpillars (approximately mid-March through late September), a qualified biologist shall conduct focused surveys for milkweed plant and inspect these plants for monarch eggs, larvae (i.e., caterpillars), and pupae. If monarch eggs, caterpillars, or pupae are found, the host plants shall be avoided until metamorphosis is completed and adult butterflies emerge and leave the host plant. If no eggs or caterpillars are detected, no additional protection measures are necessary.

Mitigation Measure 3.5-2j: Conduct Preconstruction American Badger Survey and Establish Protective Buffers

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 4 and 10), the DCC shall require provisional licensees requesting to expand their sites prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to demonstrate compliance with the following measures for the protection of the American badger from proposed commercial cannabis cultivation sites:

- ▶ Before the commencement of construction activities, a qualified wildlife biologist shall conduct surveys of the grassland or agricultural habitats slated for conversion or disturbance on the site to identify any American badger burrows/dens. These surveys shall be conducted no more than 30 days before the start of construction.
- ▶ If occupied American badger burrows are not found, further mitigation shall not be required.
- ▶ If occupied American badger burrows are found, impacts on active badger dens shall be avoided through an exclusion zone around all active dens, the size and shape of which shall be established by a qualified biologist, in consultation with CDFW. Within the exclusion zone, all project activities shall be prohibited until denning activities are complete or the den is abandoned. The qualified biologist shall monitor each den once per week to track the status of the den and to determine when it is no longer occupied.

Mitigation Measure 3.5-2k: Conduct Preconstruction Fisher Survey and Preserve Active Den Sites and Associated Habitats

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 4 and 10), the DCC shall require provisional licensees requesting to expand their sites prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to demonstrate compliance with the following measures for the protection of the fisher from proposed commercial cannabis cultivation sites:

- ▶ To minimize the potential for loss of or disturbance to fisher habitat and dens, removal of old-growth habitat shall be prohibited, as outlined in Mitigation Measure 3.5-4. Habitat features within non-old-growth habitat, such as large trees, large snags, coarse woody debris, and understory vegetation (e.g., shrubs), in sites that overlap the range of fisher shall be retained on the site to the extent feasible, to maintain connectivity of fisher habitat.
- ▶ Before commencement of new development related to cannabis activities occurring during the fisher denning season (March 1 to July 31), including tree removal (non-old-growth), a qualified wildlife biologist shall conduct preconstruction surveys of all suitable habitat on the site and shall identify sightings of individual fishers, as well as potential dens.
- ▶ If individuals or potential or occupied dens are not found, further mitigation shall not be required.
- ▶ If fishers are identified or if potential dens of this species are located, an appropriate method shall be used by the qualified wildlife biologist to confirm whether a fisher is occupying the den. This may involve use of remote field cameras, track plates, or hair snares. Other devices, such as a fiber optic scope, may be used to determine occupancy. If no fisher occupies the potential den, the entrance shall be temporarily blocked so that no other animals occupy the area during ground disturbance, vegetation removal, or installation of commercial cannabis cultivation sites, but only after it has been fully inspected. The blockage shall be removed after these activities have been completed.
- ▶ If a den is found to be occupied by a fisher, a no-disturbance buffer shall be placed around the occupied den location. The no-disturbance buffer shall include the den tree (or other structure) plus a suitable buffer as determined by the biologist in coordination with CDFW. Construction activities in the no-disturbance buffer shall be avoided until the nest is unoccupied as determined by a qualified wildlife biologist in coordination with CDFW.

Mitigation Measure 3.5-2l: Conduct Preconstruction Surveys for Ringtail and Implement Avoidance Measures

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 4 and 10), the DCC shall require provisional licensees requesting to expand their sites prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to demonstrate compliance with the following measures for the protection of the ringtail from proposed commercial cannabis cultivation sites:

- ▶ Before commencement of new development related to cannabis activities occurring during the ringtail nesting season (not well defined but likely approximately March 1 to July 31), including tree or shrub removal, a qualified wildlife biologist shall conduct preconstruction surveys of all habitat suitable for ringtail on the site and shall identify sightings of individual ringtails, as well as potential dens.

- ▶ If individuals or potential or occupied dens are not found, further mitigation shall not be required.
- ▶ If ringtails are detected or if potential dens of this species are located, an appropriate method shall be used by the qualified wildlife biologist to confirm whether a ringtail is occupying the den. This may involve use of remote field cameras, track plates, or hair snares. Other devices, such as a fiber optic scope, may be used to determine occupancy. If no ringtail occupies the potential den, the entrance shall be temporarily blocked so that no other animals occupy the area during ground disturbance, vegetation removal, or installation of commercial cannabis cultivation sites, but only after it has been fully inspected. The blockage shall be removed after these activities have been completed.
- ▶ If a den is found to be occupied by a ringtail, a no-disturbance buffer shall be placed around the occupied den location. The no-disturbance buffer shall include the den tree (or other structure) plus a buffer the size of which shall be determined by the biologist in coordination with CDFW to prevent disturbance and abandonment. Construction activities in the no-disturbance buffer shall be avoided until the den is unoccupied as determined by a qualified wildlife biologist in coordination with CDFW.

Mitigation Measure 3.5-2m: Conduct Preconstruction Bat Surveys and Establish Protective Buffers

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 4 and 10), the DCC shall require provisional licensees requesting to expand their sites prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to demonstrate compliance with the following measures for the protection of the pallid bat, Townsend’s big-eared bat, and western red bat from proposed commercial cannabis cultivation sites:

- ▶ Before commencing any development related to cannabis activities, a qualified biologist shall conduct surveys for roosting bats. If evidence of bat use is observed, the species and number of bats using the roost shall be determined. Bat detectors may be used to supplement survey efforts. If no evidence of bat roosts is found, then no further study shall be required.
- ▶ If pallid bats, Townsend’s big-eared bats, or western red bats are detected during the surveys, a program addressing mitigation for the specific occurrence shall be submitted to CDFW by the qualified biologist subject to the review and approval of CDFW. Implementation of the mitigation plan shall be a condition of project approval. The mitigation plan shall establish a buffer area around the roost during hibernation or while females in maternity colonies are nursing young that is large enough to prevent disturbance to the colonies.

Mitigation Measure 3.5-2n: Conduct Preconstruction Point Area Mountain Beaver Surveys and Avoid Active Burrows

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 4 and 10), the DCC shall require provisional licensees requesting to expand their sites prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to demonstrate compliance with the following measures for the protection of the Point Arena mountain beaver from proposed commercial cannabis cultivation sites:

- ▶ To avoid impacts on Point Arena mountain beaver, focused surveys (i.e., burrow searches) for the species shall be conducted by a qualified biologist before new development related to cannabis activities within a minimum of 200 feet of aquatic habitat (e.g., near creeks and drainages) in coastal habitats in Point Arena, the immediate area surrounding Point Arena, and up to approximately 5 miles inland of Point Arena or as recommended by CDFW.
- ▶ If an active Point Arena mountain beaver burrow is not detected during focused surveys, then further mitigation for the species shall not be required.
- ▶ If an active Point Arena mountain beaver burrow is identified by a qualified biologist, a no-disturbance buffer of at least 250 feet shall be established around the burrow, or as recommended by CDFW, and no project related activities shall occur within this buffer.

Mitigation Measure 3.5-2o: Conduct Preconstruction Sonoma Tree Vole Surveys and Relocate Individuals

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 4 and 10), the DCC shall require provisional licensees requesting to expand their sites prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to demonstrate compliance with the following measures for the protection of the Sonoma tree vole from proposed commercial cannabis cultivation sites:

- ▶ To minimize the potential for loss of or disturbance to Sonoma tree vole habitat and nests, removal of old-growth habitat shall be prohibited, as outlined in Mitigation Measure 3.5-4a.
- ▶ Before commencing any tree or other vegetation removal activities or ground disturbance, a qualified biologist shall conduct surveys for Sonoma tree vole nests (e.g., searching for nests in trees on the site and confirming that nests belong to voles rather than squirrels or birds). If no evidence of Sonoma tree vole nests is found, then no further mitigation for the species shall be required.
- ▶ If occupied trees or nests are identified within a minimum of 100 feet of the site or as recommended by CDFW, the qualified biologist shall determine whether project development activities shall adversely affect the voles, based on factors such as noise level of development activities or line of sight between the tree and the disturbance source. If it is determined that development activities would not affect the voles, then development can proceed without protective measures.
- ▶ If the biologist determines that development activities would likely disturb Sonoma tree voles, the proposed area of disturbance shall be relocated a minimum of 200 feet from the nest or as recommended by CDFW.

Mitigation Measure 3.5-2p: Implement Generator Noise Reduction Measures

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 4 and 10), the DCC shall require provisional licensees requesting to expand their sites prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses who wish to use a generator to comply with the following performance standards for generator noise levels to protect wildlife (USFWS 2020):

- ▶ The operation of generators at full operational speed shall meet the noise level standards as set forth in the MCCR and the Mendocino County General Plan policies DE100, 101,

and 103. Conformance with these standards shall be confirmed by an acoustical engineer or some other mechanism or device acceptable to Mendocino County. All generators shall be, at a minimum, equipped with the manufacturer's specified muffler. Additional measures for noise attenuation may include additional muffler features or a structure to enclose the generator designed for sound suppression. (MCCR section 10A.17.070(F)(1)) The following additional noise performance standards shall apply to generator use for sites within 0.25 miles of habitat determined to be suitable for northern spotted owl or marbled murrelet by a qualified biologist:

- Project-generated sound must not exceed ambient nesting conditions by 20–25 dBA.
 - Project-generated sound, when added to existing ambient conditions, must not exceed 90 A-weighted decibels (dBA).
- ▶ Time of day adjustment: Marbled murrelet and northern spotted owl are most active during dawn and dusk. Within approximately 2 hours of sunrise and sunset, ambient sound levels are lower than during the middle of the day (by approximately 5–10 decibels). This shall be accounted for when determining impacts of project-generated sound.

Finding

The DCC Director finds that the above mitigation measures are feasible, will reduce the potential biological resource-related impacts of the project to less-than-significant levels, and are adopted by the DCC Director. Accordingly, the DCC Director finds that pursuant to PRC section 21081(a)(1), and the State CEQA Guidelines, section 15091(a)(1), changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Rationale

Implementation of Mitigation Measures 3.5-2a through 3.5-2p would address impacts because actions including preconstruction surveys, establishment of protective buffers, and avoidance of individual animals would reduce the potential impacts of injury, mortality or other disturbance of individual animals and habitat. These mitigation measures would reduce the project's impacts to special-status wildlife species and habitat impacts to a less-than-significant level. (Draft EIR Section 3.5, pages 3.5-71 through 3.5-95 and Final EIR pages 3-11 through 3-13.)

BIOLOGICAL RESOURCES – DISTURBANCE TO OR LOSS OF SENSITIVE NATURAL COMMUNITIES, RIPARIAN HABITAT, OLD-GROWTH HABITAT, OR OTHER SENSITIVE HABITATS

An evaluation of the potential biological resource impacts of the project is provided in Section 3.5, "Biological Resources," of the Draft EIR. Potential land use conversion and development that may occur from potential expansion of existing provisionally licensed and new licensed commercial cannabis cultivation sites and associated processing and/or distribution transport-only operations could adversely affect riparian habitat, old-growth habitat, and other sensitive natural communities if they are present on the site (**Impact 3.5-4**).

Mitigation Measures

Mitigation Measure 3.5-4: Identify, Avoid, and Protect Sensitive Natural Communities, Riparian Habitat, and Wetland Vegetation or Provide Compensation

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions –Term 10 and 37), the DCC shall require provisional licensees requesting to expand their sites to comply with a new license type that allows for a future new larger cannabis cultivation area prior to transitioning to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to demonstrate compliance with the following measures for the protection of sensitive natural communities, riparian habitat, old-growth habitat, and other sensitive habitats from proposed commercial cannabis cultivation sites. This mitigation measure does not apply to cannabis cultivation operations on licensed sites that existed prior to August 2, 2023.

- ▶ For new commercial cannabis cultivation uses that could disturb sensitive natural communities or riparian habitat, the application shall include a report prepared by a qualified biologist that summarizes the potential presence of any of these sensitive resources as identified during the biological survey conducted under Mitigation Measure 3.5-1a, including riparian habitat associated with aquatic features, old-growth forests, oak woodlands, special-status fish stream habitats, and sensitive natural communities. Further, the qualified biologist shall perform a protocol-level survey following the CDFW *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (current version dated March 20, 2018) of the site before the start of new development related to cannabis activities. Sensitive natural communities shall be identified using the best means possible, including keying them out using the most current edition of A Manual of California Vegetation (including updated natural communities data at <http://vegetation.cnps.org/>) or referring to relevant reports (e.g., reports found on the VegCAMP website).
- ▶ The report shall include the requirements that all sensitive areas identified above shall be flagged or fenced with brightly visible construction flagging and/or fencing under the direction of the qualified biologist before development activities begin and that grading, excavation, other ground-disturbing activities, and vegetation removal shall not occur in these areas during development activities. Foot traffic by construction personnel shall also be limited in these areas to prevent the introduction of invasive or weedy species. Periodic inspections during construction shall be conducted by the monitoring biologist to maintain the integrity of exclusion fencing/flagging throughout the period of construction involving ground disturbance.
- ▶ If the report documents that site development would affect the bed, bank, channel, or associated riparian habitat subject to CDFW jurisdiction under Fish and Game Code section 1602, a Streambed Alteration Notification shall be submitted to CDFW, pursuant to section 1600 et seq. of the Fish and Game Code. If proposed activities are determined to be subject to CDFW jurisdiction, the applicant shall abide by the conditions of any executed agreement before any ground disturbance.
- ▶ Old-growth habitat identified shall be avoided. Applications proposing to alter old-growth habitat shall be denied. “Old-growth habitat alteration” is defined as any tree removal, change in canopy cover, removal of understory vegetation, or impact on the root systems of a tree within old-growth habitat.

- ▶ MCCR section 10A.17.040(K) prohibits the removal of any commercial tree species, as defined by CCR, title 14, section 895.1, including the removal of any true oak species (*Quercus* spp.) or tan oak for the purpose of developing a commercial cannabis cultivation site. This section prohibits the removal of certain tree species that may occur in sensitive natural communities found in Mendocino County. Compliance with this requirement in the form of a memo or report shall be provided to DCC.
- ▶ In consultation with DCC and CDFW, applicants shall compensate for permanent loss of riparian habitat at a minimum of a 2:1 ratio through contributions to a CDFW-approved wetland mitigation bank or through the development and implementation of a Compensatory Stream and Riparian Mitigation and Monitoring Plan for creating or restoring in-kind habitat in the surrounding area. If mitigation credits are not available, stream and riparian habitat compensation shall include establishment of riparian vegetation on currently unvegetated bank portions of streams affected by the project and enhancement of riparian habitat through removal of nonnative species, where appropriate, and planting of additional native riparian plants to increase the cover, continuity, and width of the riparian corridor along streams in the site and surrounding areas. Construction activities and compensatory mitigation shall be conducted in accordance with the terms of a streambed alteration agreement, as required under section 1602 of the Fish and Game Code, as well as SWRCB Order WQ 2023-0102-DWQ.

The Compensatory Stream and Riparian Mitigation and Monitoring Plan shall identify:

- Compensatory mitigation sites and criteria for selecting these mitigation sites;
- In-kind reference habitats for comparison with compensatory riparian habitats (using performance and success criteria) to document success;
- Monitoring protocol, including schedule and annual report requirements (compensatory habitat shall be monitored for a minimum of 5 years from completion of mitigation, or human intervention (including recontouring and grading), or until the success criteria identified in the approved mitigation plan have been met, whichever is longer);
- Ecological performance standards, based on the best available science and including specifications for native riparian plant densities, species composition, amount of dead woody vegetation gaps and bare ground, and survivorship; at a minimum, compensatory mitigation planting sites must achieve 80-percent survival of planted riparian trees and shrubs by the end of the 5-year maintenance and monitoring period, or dead and dying trees shall be replaced and monitoring continued until 80-percent survivorship is achieved;
- Corrective measures if performance standards are not met;
- Responsible parties for monitoring and preparing reports; and
- Responsible parties for receiving and reviewing reports and for verifying success or prescribing implementation or corrective actions.

Finding

The DCC Director finds that the above mitigation measures are feasible, will reduce the potential biological resource-related impacts of the project to less-than-significant levels, and are adopted by the DCC Director. Accordingly, the DCC Director finds, that pursuant to PRC section 21081(a)(1), and the State CEQA Guidelines, section 15091(a)(1), changes or

alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Rationale

Implementation of Mitigation Measure 3.5-4 would apply to this impact and would determine if there is potential for the sensitive natural communities to be present. Mitigation Measures 3.5-4 would reduce significant impacts to sensitive natural communities and riparian habitat to less-than-significant levels because it would require applicants to identify and avoid sensitive resources or provide compensation for the loss of riparian habitat through enhancement of existing populations, creation and management of off-site populations, conservation easements, or other appropriate measures and to restore cultivation and nursery sites upon revocation of a license or abandonment. (Draft EIR Section 3.5, pages 3.5-99 through 3.5-103 and Final EIR pages 3-13 through 3-17.)

BIOLOGICAL RESOURCES – DISTURBANCE TO OR LOSS OF STATE OR FEDERALLY PROTECTED WETLANDS

An evaluation of the potential biological resource impacts of the project is provided in Section 3.5, “Biological Resources,” of the Draft EIR. Potential land use conversion and development from potential expansion of existing provisionally licensed and new licensed commercial cannabis cultivation sites and associated processing and/or distribution transport-only operations could adversely affect state or federally protected wetlands, such as streams, rivers, lakes, and wetlands (**Impact 3.5-5**).

Mitigation Measures

Mitigation Measure 3.5-5: Identify State or Federally Protected Wetlands and Avoid These Features

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions – Term 1, 10, and 37), the DCC shall require provisional licensees who propose to expand their cultivation activities prior to their transition to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to demonstrate compliance with the following measures for the protection of state and federally protected wetlands from proposed commercial cannabis cultivation sites: This mitigation measure does not apply to cannabis cultivation operations on licensed sites that existed prior to August 2, 2023:

- ▶ The application shall include a report prepared by a qualified biologist that includes a summary of sensitive resources, including wetlands, streams, and rivers, that were identified during the biological survey conducted under Mitigation Measure 3.5-1a. State and federally protected wetlands are of special concern to resource agencies and are afforded specific consideration, based on section 404 and section 401 of the CWA, the Porter-Cologne Water Quality Control Act, and other applicable regulations.
- ▶ If the report documents that state or federally protected wetlands are present, a delineation of these resources, including wetlands that would be affected by the project, shall be prepared by a qualified biologist. The delineation shall be submitted to DCC and the North Coast RWQCB.
- ▶ If, based on the verified delineation, it is determined that fill of any state or federally protected wetlands would result from implementation of the project, then the applicant shall

modify the proposed project to avoid these resources by providing a buffer of at least 100 feet around these features. Depending on site features, a buffer of greater than 100 feet may be required. Buffer size shall be determined in consultation with CDFW and the North Coast RWQCB.

- ▶ Commercial cannabis cultivation activities would be subject to Term 3 of Attachment A (Section 1, General Requirements and Prohibitions) of SWRCB Order WQ 2023-0102-DWQ, which requires operations to comply with Fish and Game Code section 1602. When commercial cannabis cultivation activities would affect the bed, bank, channel, or associated riparian habitat subject to CDFW jurisdiction under Fish and Game Code section 1602, a Streambed Alteration Notification shall be submitted to CDFW, pursuant to section 1600 et seq. of the Fish and Game Code. If proposed activities are determined to be subject to CDFW jurisdiction, the applicant shall abide by the conditions of any executed agreement before any ground disturbance in areas under section 1600 et seq. jurisdiction.

Finding

The DCC Director finds that the above mitigation measures are feasible, will reduce the potential biological resource-related impacts of the project to less-than-significant levels, and are adopted by the DCC Director. Accordingly, the DCC Director finds that pursuant to PRC section 21081(a)(1), and the State CEQA Guidelines, section 15091(a)(1), changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Rationale

Implementation of Mitigation Measure 3.5-5 would apply to this impact and would determine if there is potential for wetlands to be present. Mitigation Measure 3.5-5 would reduce impacts to wetlands and other waters of the United States to a less-than-significant level because it would require the proposed projects to avoid any wetlands or waters of the United States. (Draft EIR Section 3.5, pages 3.5-103 through 3.5-105 and Final EIR pages 3-17 and 3-18.)

BIOLOGICAL RESOURCES – INTERFERE WITH RESIDENT OR MIGRATORY WILDLIFE CORRIDORS OR NATIVE WILDLIFE NURSERY SITES

An evaluation of the potential biological resource impacts of the project is provided in Section 3.5, “Biological Resources,” of the Draft EIR. Potential land use conversion and development from potential expansion of existing provisionally licensed and new licensed commercial cannabis cultivation sites and associated processing and/or distribution transport-only operations could adversely affect resident or migratory wildlife corridors, as well as nursery sites, through habitat fragmentation; degradation of aquatic habitat (e.g., streams and rivers); disturbance from increased noise and human presence, as well as increased trash, which may attract predators and discourage wildlife use of surrounding natural habitat; and blockage of important wildlife migration paths (**Impact 3.5-6**).

Mitigation Measures

Mitigation Measure 3.5-6a: Implement Mitigation Measure 3.5-5: Identify State or Federally Protected Wetlands and Avoid These Features

The reader is referred to Impact 3.5-5 above for a complete description of this mitigation measure.

Mitigation Measure 3.5-6b: Implement Mitigation Measure 3.5-2k: Conduct Preconstruction Fisher Survey and Preserve Active Den Sites and Associated Habitats and 3-5.4: Identify, Avoid, and Protect Sensitive Natural Communities, Riparian Habitat, and Wetland Vegetation or Provide Compensation

The reader is referred to Impact 3.5-2 and Impact 3.5-4 above for a complete description of these mitigation measures.

Finding

The DCC Director finds that the above mitigation measures are feasible, will reduce the potential biological resource-related impacts of the project to less-than-significant levels, and are adopted by the DCC Director. Accordingly, the DCC Director finds that pursuant to PRC section 21081(a)(1), and the State CEQA Guidelines, section 15091(a)(1), changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Rationale

Implementation of Mitigation Measure 3.5-6a would reduce impacts to aquatic corridors to a less-than-significant level because it would require approval and permits from CDFW and RWQCB and result in no net loss of functions and acreage of wetlands, including aquatic corridors through avoidance of these features. Implementation of Mitigation Measure 3.4-6b would reduce impacts to terrestrial wildlife movement corridors to a less-than-significant level because it would prohibit removal of old-growth habitat and would retain features important for habitat connectivity for the fisher. (Draft EIR Section 3.5, pages 3.5-106 through 3.5-109.)

WILDFIRE – INSTALLATION OR MAINTENANCE OF INFRASTRUCTURE (SUCH AS ROADS, FUEL BREAKS, EMERGENCY WATER SOURCES, POWER LINES, OR OTHER UTILITIES) THAT MAY EXACERBATE FIRE RISK OR THAT MAY RESULT IN TEMPORARY OR ONGOING IMPACTS TO THE ENVIRONMENT

An evaluation of the potential biological resource impacts of the project is provided in Section 3.17, “Wildfire,” of the Draft EIR. Implementation of the project would include the development of on-site and offsite infrastructure improvements to support new commercial cannabis cultivation uses that could create new fire hazards, largely due to the presence of new electrical infrastructure that could create new ignition points (**Impact 3.17-2**).

Mitigation Measures

Mitigation Measure 3.17-2a: Implement Fire Prevention Measures for New Electrical Infrastructure

The DCC shall require provisional licensees who propose to expand their cultivation activities prior to their transition to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to place new electrical power lines to the premises underground, if feasible. If electric infrastructure cannot be placed underground, fuel breaks along power lines and any stand-alone electrical facilities in a manner that would avoid ignition of adjacent vegetation to the satisfaction of Mendocino County, local fire protection agency, and/or CAL FIRE. This mitigation measure does not apply to cannabis cultivation operations on licensed sites that existed prior to August 2, 2023.

Mitigation Measure 3.17-2b: Implement Fire Prevention Measures for On-Site Construction

The DCC shall require provisional licensees who propose to expand their cultivation activities prior to their transition to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to prepare and implement a fire protection plan that includes the following provisions. This mitigation measure does not apply to cannabis cultivation operations on licensed sites that existed prior to August 2, 2023:

- ▶ Fire watch personnel responsible for watching for the occurrence of fire during and after equipment use shall be identified.
- ▶ Equipment shall be located so that exhausts do not discharge against combustible materials.
- ▶ Equipment shall not be refueled while in operation and not until after a cooldown period.
- ▶ Water and tools dedicated to firefighting shall be on hand in the area of onsite construction and maintenance activities at all times.
- ▶ Fire protection plans created by local jurisdictions shall be submitted to the DCC as part of licensing requirements.

Finding

The DCC Director finds that the above mitigation measure is feasible, will reduce wildfire hazard impacts of the project to less-than-significant levels, and is adopted by the DCC Director. Accordingly, the DCC Director finds, that pursuant to PRC section 21081(a)(1), and the State CEQA Guidelines, section 15091(a)(1), changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Rationale

Implementation of Mitigation Measures 3.17-2a and 3.16-2b would require that power lines and electrical facilities maintain fuel breaks and that the use of outdoor motorized equipment be conducted in a manner to avoid accidental fire. (Draft EIR Section 3.17, pages 3.17-23 through 3.17-25 and Final EIR pages 3-19 and 3-20.)

1.2.5 Potentially Significant Impacts That Cannot Be Mitigated Below a Level of Significance

This section identifies the significant unavoidable impacts that require a statement of overriding considerations to be issued by the DCC Director, pursuant to Section 15093 of the State CEQA Guidelines if the project is approved. Based on the analysis contained in the Draft EIR and Final EIR, the following impacts have been determined to be significant and unavoidable:

AIR QUALITY- EXPOSE A SUBSTANTIAL NUMBER OF PEOPLE TO ODORS CONSIDERED OBJECTIONABLE AND THAT HAVE ADVERSE EFFECTS

An evaluation of the project's impacts to air quality is found in Section 3.3, "Air Quality," of the Draft EIR. The cultivation, processing, and distribution of cannabis by potentially expanded existing provisionally licensed, and new licensed commercial cannabis cultivation sites could generate objectionable odors with adverse effects for residents and other sensitive land uses. This impact would be significant and unavoidable (**Impact 3.3-3**).

Mitigation Measures

No feasible mitigation is available to address this impact.

Finding

The DCC Director finds that there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, this impact would remain significant and unavoidable. However, pursuant to Public Resources Code section 21081(b), the DCC Director finds that there are specific overriding economic, legal, social, technological, and other benefits of the project that outweigh this significant and unavoidable impact as described in the Statement of Overriding Considerations, below.

Rationale

Compliance with MCCR sections 10A.17.040(C), 10A.17.070(P), 10A.17.160, 20.240.070(C), and 20.240.070 (D) would provide all feasible measures to address and minimize odor impacts as well as corrective actions for licensed commercial cannabis cultivation sites that routinely generate nuisance odor impacts off-site. However, it is possible that nuisance odor impacts would occur occasionally before abatement for expansion of existing provisionally licensed and new licensed outdoor and mixed-light commercial cannabis cultivation sites not contained within buildings or greenhouses. There are no feasible mitigation measures for completely avoiding the potential for occasional odor nuisance impacts because there is no reliable method to contain odors on-site under all atmospheric conditions during harvest season. There are no effective mitigation measures to ensure elimination of all cannabis odors. Because there is no other feasible mitigation available, this impact would be significant and unavoidable. (Draft EIR Section 3.3, pages 3.3-20 through 3.3-23.)

ARCHAEOLOGICAL, HISTORICAL, AND TRIBAL CULTURAL RESOURCES- HISTORICAL RESOURCES

An evaluation of the project's impacts to archaeological, historical, and tribal cultural resources is found in Section 3.4, "Archaeological, Historical, and Tribal Cultural Resources," of the Draft EIR. Implementation of the project could result in existing and new licensed commercial cannabis cultivation sites obtaining annual licensure on lands that contain or are near historic resources. This could result in damage to or destruction of a historic building or structure, thereby resulting in a substantial adverse change in the significance of a historical resource as defined in State CEQA Guidelines, section 15064.5. This would be a potentially significant impact. (**Impact 3.4-1**)

Mitigation Measures

Mitigation Measure 3.4-1: Implement Additional Measures to Protect Historic Resources

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1 - Term 21), the DCC shall require new licensed commercial cannabis cultivation sites in Mendocino County to identify and evaluate all historic-age (over 45 years in age) buildings and structures that are proposed to be removed or modified as part of new licensed commercial cannabis cultivation site operations. This shall include preparation of a historic structure report and evaluation of resources to determine their eligibility for recognition under federal, state, or county local official register of historic resources criteria. The evaluation shall be prepared by an architectural historian or historical architect meeting the Secretary of the Interior's

Standards and Guidelines for Archeology and Historic Preservation, Professional Qualification Standards. The evaluation shall comply with State CEQA Guidelines, section 15064.5(b).

If resources eligible for inclusion in the NRHP, CRHR, or local official register of historic resources are identified, an assessment of impacts on these resources shall be included in the report, as well as detailed measures to avoid impacts. If avoidance of a significant architectural/built-environment resource is not feasible, additional mitigation options include, but are not limited to, specific design plans for historic districts or plans for alteration or adaptive reuse of a historical resource that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitation, Restoring, and Reconstructing Historic Buildings.

Finding

The DCC Director finds that implementation of the identified mitigation measure would potentially reduce significant impacts by requiring protection of historic resources within the County's historic districts. However, State CEQA Guidelines, section 15126.4(b)(2) notes that in some circumstances, documentation of a historical resource shall not mitigate the effects of demolition of that resource to a less-than-significant level because the historic resources would no longer exist. Therefore, this impact would remain significant and unavoidable. However, pursuant to Public Resources Code section 21081(b), the DCC Director finds that there are specific overriding economic, legal, social, technological, and other benefits of the project that outweigh this significant and unavoidable impact as described in the Statement of Overriding Considerations, below.

Rationale

Implementation of Mitigation Measure 3.4-1 would reduce potentially significant impacts by requiring protection of historic resources within the County's historic districts. Further, this mitigation ensures that actions will be taken to record, evaluate, avoid, or otherwise treat the resource appropriately, in accordance with pertinent laws and regulations. However, State CEQA Guidelines, section 15126.4(b)(2) notes that in some circumstances, documentation of a historical resource shall not mitigate the effects of demolition of that resource to a less-than-significant level because the historic resources would no longer exist. Therefore, because the potential for permanent loss of a historic resource or its integrity cannot be precluded, impacts on historic resources would be significant and unavoidable. (Draft EIR Section 3.4, pages 3.4-22 through 3.4-24.)

GREENHOUSE GAS EMISSIONS AND CLIMATE CHANGE

An evaluation of the project's impacts to greenhouse gas emissions and climate change is found in Section 3.8, "Greenhouse Gas Emissions and Climate Change," of the Draft EIR. Operation of expanded of existing provisionally licensed and new licensed commercial cannabis cultivation sites and associated processing and/or distribution transport-only operations would result in GHG emissions that could conflict with state GHG reduction targets and decarbonization efforts (**Impact 3.8-1**).

Mitigation Measures

Mitigation Measure 3.8-1: Implement On-Site Project Design Features to Demonstrate the Fair Share in Meeting the State's Long-Term GHG Reduction Targets

DCC shall require provisional licensees who propose to expand their cultivation activities prior to their transition to annual licensure, new annual license applicants for commercial cannabis cultivation, and new annual license applicants for associated processing and distribution uses to apply these requirements. This mitigation measure does not apply to cannabis cultivation operations on licensed sites that existed prior to August 2, 2023:

- ▶ Prohibit on-site natural gas or propane use when access to the electric grid or adequate solar power generation for the cannabis cultivation site operation is available.
- ▶ Implement Tier 2 requirements of the CALGreen Code's EV charging standards.
- ▶ If the aforementioned project design features cannot be feasibly incorporated into the project's design, include other relevant project design characteristics. Examples of measures that could be applied to individual commercial cannabis cultivation sites include, but are not limited to the following:
 - exceeding the requirements of the most recent version of Part 6 of the Title 24 California Building Code (California Energy Code),
 - using low-flow appliances,
 - using Energy Star appliances, and
 - implementing zero net energy buildings.

Finding

The DCC Director finds that implementation of the identified mitigation measure will reduce GHG emissions that could conflict with state GHG reduction targets and decarbonization effort impacts attributable to the proposed project. Pursuant to Public Resources Code section 21081(a)(1) and State CEQA Guidelines, section 15091(a)(1), changes or alterations have been required in, or incorporated into, the project which will mitigate, in part, this significant GHG emission and climate change impact attributable to the project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, this impact would remain significant and unavoidable. However, pursuant to Public Resources Code section 21081(b), the DCC Director finds that there are specific overriding economic, legal, social, technological, and other benefits of the project that outweigh this significant and unavoidable impact as described in the Statement of Overriding Considerations, below.

Rationale

Implementation of Mitigation Measure 3.8-1 would help ensure that the construction and operation of licensed commercial cannabis cultivation sites under the project would provide the necessary infrastructure so that the sites do their fair share in assisting the state in meeting its long-term GHG reduction goal of achieving carbon neutrality by 2045. However, the effectiveness and feasibility of this mitigation could not be assured when this Draft EIR was prepared. Although it is foreseeable that application of Mitigation Measure 3.8-1 would be sufficient to reduce the impact to a less-than-significant level, the specific project design features recommended above may be deemed infeasible in the future due to economic constraints or the rural nature of future cannabis cultivation sites. Because of these uncertainties, the impact of the

project would be cumulatively considerable and significant and unavoidable. (Draft EIR Section 3.8, pages 3.8-12 through 3.8-15 and Final EIR pages 3-18 and 3-19.)

CUMULATIVE IMPACTS – AIR QUALITY

An evaluation of the project's impacts to cumulative air quality impacts is found in Chapter 4, "Cumulative Impacts," of the Draft EIR. Implementation of the project would result in an increase in the number and potentially the density of commercial cannabis cultivation uses throughout the County that are a significant source of cannabis odor, thereby increasing the potential commercial cultivation-related odor sources throughout the County. The project's contribution to cumulative odor impacts would be cumulatively considerable and significant and unavoidable. (**Impact CUM-3**)

Mitigation Measures

No feasible mitigation is available to address this impact.

Finding

The DCC Director finds that there are no feasible mitigation measures that will reduce the identified cumulative significant impact to a level of less than cumulatively considerable. Therefore, this impact would remain significant and unavoidable. However, pursuant to Public Resources Code section 21081(b), the DCC Director finds that there are specific overriding economic, legal, social, technological, and other benefits of the project that outweigh this significant and unavoidable impact as described in the Statement of Overriding Considerations, below.

Rationale

As discussed in Draft EIR Section 3.3, "Air Quality," Compliance with MCCR sections 10A.17.040(C), 10A.17.070(P), 10A.17.160, 20.240.070(C), and 20.240.070 (D) would provide all feasible measures to address and minimize odor impacts as well as corrective actions for licensed commercial cannabis cultivation sites that routinely generate nuisance odor impacts off-site. However, it is possible that nuisance odor impacts would occur occasionally before abatement for expansion of existing provisionally licensed and new licensed outdoor and mixed-light commercial cannabis cultivation sites not contained within buildings or greenhouses. There are no feasible mitigation measures for completely avoiding the potential for occasional odor nuisance impacts because there is no reliable method to contain odors on-site under all atmospheric conditions during harvest season. An increase in the number and potentially the density of commercial cannabis cultivation uses throughout the County that are a significant source of cannabis odor increases the potential commercial cannabis cultivation-related odor sources throughout the County. Thus, the contribution of expansion of existing provisionally licensed and future new licensed commercial cannabis cultivation sites to cumulative odor impacts would be cumulatively considerable and significant and unavoidable. (Draft EIR, Chapter 4, pages 4-10 through 4-11.)

CUMULATIVE IMPACTS – GREENHOUSE GAS EMISSIONS AND CLIMATE CHANGE IMPACTS

An evaluation of the project's impacts to cumulative greenhouse gas emissions and climate change impacts is found in Chapter 4, "Cumulative Impacts," of the Draft EIR. Potential expansion of existing provisionally licensed and new licensed commercial cannabis cultivation

and associated processing and/or distribution transport-only uses would result in significant and unavoidable GHG impacts. The project's contribution to cumulative GHG emission impacts would be cumulatively considerable and significant and unavoidable. (**Impact CUM-8**)

Mitigation Measures

No feasible mitigation is available to address this impact.

Finding

The DCC Director finds that there are no feasible mitigation measures that will reduce the identified cumulative significant impact to a level of less than cumulatively considerable. Therefore, this impact would remain significant and unavoidable. However, pursuant to Public Resources Code section 21081(b), the DCC Director finds that there are specific overriding economic, legal, social, technological, and other benefits of the project that outweigh this significant and unavoidable impact as described in the Statement of Overriding Considerations, below.

Rationale

As discussed in Draft EIR, Chapter 4, "Cumulative Impacts," the cumulative GHG emissions associated with potential new licensed commercial cannabis cultivation sites would be considerable under cumulative conditions. Even with implementation of Mitigation Measure 3.8-1 and CCR, title 4, section 16305 renewable energy requirements, the contribution of expansion of existing provisionally licensed and new licensed commercial cannabis cultivation sites to cumulative GHG impacts would be cumulatively considerable and significant and unavoidable. (Draft EIR, Chapter 4, pages 4-19 through 4-20.)

1.3 FINDINGS REGARDING ALTERNATIVES

Section 15126.6(a) of the State CEQA Guidelines requires the discussion of "a reasonable range of alternatives to a project, or the location of a project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives." The Final EIR identified and considered the following reasonable range alternatives to the proposed project which would be capable, to varying degrees, of reducing identified impacts:

- ▶ Alternative 1: No Project Alternative
- ▶ Alternative 2: Siting Limitation for Cannabis Cultivation Sites Alternative

These alternatives are evaluated for their ability to avoid or substantially lessen the impacts of the proposed project identified in the Final EIR, as well as consideration of their ability to meet the basic objectives of the proposed project as described in the Final EIR.

1.3.1 Alternative 1: No Project

DESCRIPTION

Alternative 1, the No Project Alternative, would consist of continued operation of existing provisional and annual licensed commercial cannabis cultivation sites and associated processing and/or distribution transport-only operations in Mendocino County. However, no new licenses for commercial cannabis cultivation sites would be issued. Thus, licensed commercial cannabis cultivation uses allowed in Mendocino County Alternatives Ascent

Department of Cannabis Control 5-6 Licensing of Commercial Cannabis Cultivation in Mendocino County Project Draft EIR would be limited to 623 sites until licenses expire or are not renewed. After licensed commercial cannabis cultivation sites cease operation, a site closure report would be implemented consistent with SWRCB Order WQ 2023-0102-DWQ, which identifies how sites would be decommissioned to prevent sediment and turbidity discharges that degrade water quality.

Finding

For the reasons set forth below and more fully described in Final EIR and in the record of proceeding, the DCC Director finds that Alternative 1 is infeasible as it fails to meet any of the project objectives involving the implementation of the DCC cultivation licensure program in Mendocino County. This alternative would also not provide substantial environmental benefits over the project as mitigated. Therefore, the DCC Director declines to adopt this alternative pursuant to the standards in CEQA and the State CEQA Guidelines.

Rationale

Alternative 1 would not allow for the issuance of new licenses for commercial cannabis cultivation sites. Thus, licensed commercial cannabis cultivation uses allowed in Mendocino County would be limited to 623 sites until licenses expire or are not renewed. This would be counter to project objectives of transitioning qualified existing provisional cannabis cultivation licenses to annual licenses and ensuring cannabis cultivation is conducted consistent with local and state laws and minimizes adverse effects on the environment.

1.3.2 Alternative 2: Siting Limitation for Cannabis Cultivation Sites Alternative

DESCRIPTION

This alternative would restrict the licensing of new commercial cannabis cultivation sites and associated processing and distribution transport-only uses to land areas in the unincorporated area outside the Cannabis Priority Watersheds designated by SWRCB: Mattole River, Middle South Fork Eel River, East Fork Russian River, Headwaters Russian River, Navarro River, and Dry Creek watersheds. As described in Draft EIR Section 3.10, "Hydrology and Water Quality," Cannabis Priority Watersheds are designated because they have a high concentration of cannabis cultivation. It is expected that the 1,075 future new licensed commercial cannabis cultivation sites assumed for the project would still be used over the next 20 years and would be located in areas of the County outside these watersheds.

Finding

For the reasons set forth below and more fully described in Final EIR and in the record of proceeding, the DCC Director finds that Alternative 2 is infeasible as it restricts cannabis cultivation uses within an area of the county that currently contains several licensed cultivation sites and would not provide flexibility for cannabis cultivation site development. Therefore, the DCC Director declines to adopt this alternative pursuant to the standards in CEQA and the State CEQA Guidelines.

Rationale

As identified in Final EIR, Chapter 5, "Alternatives," the Siting Limitation for Cannabis Cultivation Sites Alternative would restrict the licensing of new commercial cannabis cultivation

sites and associated processing and distribution transport-only uses to land areas in the unincorporated area outside the Cannabis Priority Watersheds designated by State Water Resources Control Board (SWRCB): Mattole River, Middle South Fork Eel River, East Fork Russian River, Headwaters Russian River, Navarro River, and Dry Creek watersheds. The DCC Director, while acknowledging the application of the adopted mitigations, considers this alternative too restrictive for successful and regulated cannabis cultivation development. Through the effective and stable regulation of legal cannabis operations, the project would provide opportunities to transition existing provisional licenses to annual licensure. Moreover, the project would provide opportunities for currently unlicensed cannabis cultivation sites within these watersheds to obtain state licensure provided they are in compliance with all applicable commercial cannabis licensure requirements, including the implementation of the watershed protective measures provided in SWRCB Order WQ 2023-0102-DWQ.

1.4 General CEQA Findings

1.4.1 Mitigation Monitoring and Reporting Program

Based on the entire record before the DCC Director and having considered the unavoidable significant impacts of the project, the DCC Director hereby determines that all feasible mitigation within the responsibility and jurisdiction of the County has been adopted to reduce or avoid the potentially significant impacts identified in the Final EIR, and that no additional feasible mitigation is available to further reduce significant impacts. The feasible mitigation measures are discussed above, and are set forth in the mitigation monitoring and reporting program (MMRP).

Section 21081.6 of the Public Resources Code requires the DCC Director to adopt a monitoring or compliance program regarding the changes in the project and mitigation measures imposed to lessen or avoid significant effects on the environment. The MMRP (Appendix A) for the project is hereby adopted by the DCC Director because it fulfills the CEQA mitigation monitoring requirements through incorporation into the project.

1.4.2 State CEQA Guidelines, Sections 15091 and 15092 Findings

Based on the foregoing findings and the information contained in the administrative record, the DCC Director has made one or more of the following findings with respect to each of the significant effects of the project:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and such changes have been adopted by such other agency, or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly-trained workers, make infeasible the mitigation measures or alternatives identified in the Final EIR.

Based on the foregoing findings and the information contained in the administrative record, and as conditioned by the foregoing:

1. All significant effects on the environment due to the project have been eliminated or substantially lessened where feasible.

2. Any remaining significant effects that have been found to be unavoidable are acceptable due to the overriding considerations set forth herein.

1.4.3 DCC Director's Independent Judgment

The Final EIR for the project reflects the DCC Director's independent judgment. The DCC Director has exercised independent judgment in accordance with Public Resources Code section 21082.1(c)(3) in retaining its own environmental consultant in the preparation of the EIR, as well as reviewing, analyzing and revising material prepared by the consultant.

Having received, reviewed, and considered the information in the Final EIR, as well as any and all other information in the record, the DCC Director hereby makes findings pursuant to and in accordance with Sections 21081, 21081.5, and 21081.6 of the Public Resources Code.

1.4.4 Nature of Findings

Any findings made by the DCC Director shall be deemed made, regardless of where they appear in this document. All of the language included in this document constitutes findings by the DCC Director, whether or not any particular sentence or clause includes a statement to that effect. The DCC Director intends that these findings be considered as an integrated whole and, whether or not any part of these findings fail to cross-reference or incorporate by reference any other part of these findings, that any finding required or committed to be made by the DCC Director with respect to any particular subject matter of the Final EIR, shall be deemed to be made if it appears in any portion of these findings.

1.4.5 Reliance on Record

Each and all of the findings and determinations contained herein are based on substantial evidence, both oral and written, contained in the administrative record relating to the project.

RECORD OF PROCEEDINGS

In accordance with PRC section 21167.6(e), the record of proceedings for the DCC Director's decision on the project includes the following documents:

- ▶ The NOP for the project and all other public notices issued in conjunction with the project;
- ▶ All comments submitted by agencies or members of the public during the comment period on the NOP;
- ▶ The Draft EIR for the project and all appendices;
- ▶ All comments submitted by agencies or members of the public during the comment period on the Draft EIR;
- ▶ The Final EIR for the project, including comments received on the Draft EIR, responses to those comments, and appendices;
- ▶ Documents cited or referenced in the Draft EIR and Final EIR;
- ▶ The MMRP for the project;
- ▶ All findings and resolutions adopted by the DCC Director in connection with the project and all documents cited or referred to therein;

- ▶ All reports, studies, memoranda, maps, staff reports, or other documents relating to the project prepared in compliance with the requirements of CEQA and with respect to the DCC Director's action on the project;
- ▶ All documents submitted by other public agencies or members of the public in connection with the project, up through the close of the final public hearing;
- ▶ Any minutes and/or verbatim transcripts of all information sessions, public meetings, and public hearings held in connection with the project;
- ▶ Any documentary or other evidence submitted at such information sessions, public meetings, and public hearings;
- ▶ Matters of common knowledge, including, but not limited to federal, state, and local laws and regulations;
- ▶ Any documents expressly cited in these findings and any documents incorporated by reference, in addition to those cited above;
- ▶ Any other written materials relevant to the DCC Director's compliance with CEQA or its decision on the merits of the project, including any documents or portions thereof, that were released for public review, relied upon in the environmental documents prepared for the project, or included in the DCC Director non-privileged retained files for the EIR or project; and
- ▶ Any other materials required for the record of proceedings by PRC section 21167.6(e).

The DCC Director intends that only those documents relating to the project and its compliance with CEQA and prepared, owned, used, or retained by the DCC Director and listed above shall comprise the administrative record for the project. Only that evidence was presented to, considered by, and ultimately before the DCC Director prior to reviewing and reaching its decision on the EIR and project.

CUSTODIAN OF RECORDS

The documents and other materials that constitute the record of proceedings on which the DCC Director's decision is based held by DCC's custodian of records, located at:

California Department of Cannabis Control
2920 Kilgore Road
Rancho Cordova, CA 95670

This information is provided in compliance with Public Resources Code section 21081.6(a)(2) and State CEQA Guidelines, section 15091(e).

RECIRCULATION NOT REQUIRED

State CEQA Guidelines, section 15088.5 provides the criteria that a lead agency is to consider when deciding whether it is required to recirculate an EIR. Recirculation is required when "significant new information" is added to the EIR after public notice of the availability of the Draft EIR is given, but before certification. (State CEQA Guidelines, section 15088.5(a).) "Significant new information," as defined in State CEQA Guidelines, section 15088.5(a), means information added to an EIR that changes the EIR so as to deprive the public of a meaningful opportunity to comment on a "substantial adverse environmental effect" or a "feasible way to

mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement.”

An example of significant new information provided by the State CEQA Guidelines is a disclosure showing that a “new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented;” that a “substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted to reduce the impact to a level of insignificance;” or that a “feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.” (State CEQA Guidelines, section 15088.5(a)(1)-(3).)

Recirculation is not required where “the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.” (State CEQA Guidelines, section 15088.5(b).) Recirculation also is not required simply because new information is added to the EIR — indeed, new information is oftentimes added given CEQA's public/agency comment and response process and CEQA's post-Draft EIR circulation requirement of proposed responses to comments submitted by public agencies. Rather, recirculation is “intended to be an exception rather than the general rule.” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1132.)

In this legal context, the DCC Director finds that recirculation of the Draft EIR prior to certification is not required. In addition to providing responses to comments, the Final EIR includes revisions to expand upon information presented in the Draft EIR; to explain or enhance the evidentiary basis for the Draft EIR's findings; to update information; and to make clarifications, amplifications, updates, or helpful revisions to the Draft EIR. The Final EIR's revisions, clarifications and/or updates do not identify any new significant impacts or any increased severity of a previously identified significant impact.

In sum, the Final EIR demonstrates that the project will not result in any new significant impacts or increase the severity of a significant impact, as compared to the analysis presented in the Draft EIR. The changes reflected in the Final EIR also do not indicate that meaningful public review of the Draft EIR was precluded in the first instance. Accordingly, recirculation of the EIR is not required as revisions to the EIR are not significant as defined in Section 15088.5 of the State CEQA Guidelines.

2 STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to Public Resources Code section 21081(b) and State CEQA Guidelines, section 15093, subsections (a) and (b), the DCC Director is required to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological or other benefits of the project, including region-wide or statewide environmental benefits, outweigh the unavoidable adverse environmental effects, those effects may be considered “acceptable.” CEQA requires the agency to support, in writing, the specific reasons for considering a project acceptable when significant impacts are not avoided or substantially lessened. Those reasons must be based on substantial evidence in the Final EIR or elsewhere in the administrative record. (State CEQA Guidelines, section 15093(b).)

Courts have upheld overriding considerations that were based on a variety of policy considerations. (See *Save Panoche Valley v. San Benito County* (2013) 217 Cal.App.4th 503, 531 [furthering state renewable energy goals overrode adverse environmental impacts, despite evidence that other projects could also achieve those goals]; *Cherry Valley Pass Acres & Neighbors v. City of Beaumont* (2010) 190 Cal.App.4th 316, 358 [variety of project benefits, including new housing and freeing up water supply, overrode adverse environmental impacts]; *Towards Responsibility in Planning v. City Council* (1988) 200 Cal.App.3d 671 [new jobs, stronger tax base, and implementation of city's economic development goals overrode environmental impacts of rezoning several parcels as large single-user industrial sites]; *No Oil, Inc. v. City of Los Angeles* (1987) 196 Cal.App.3d 223 [city was entitled to rely on expert evidence that proposed oil field would confer economic benefits on city, county, school district, and special districts, despite other, contrary expert evidence]; *Dusek v. Redevelopment Agency* (1985) 173 Cal.App.3d 1029 [implementation of redevelopment plan was overriding consideration justifying demolition of historic building even though no specific plan for developing property in accordance with redevelopment plan had been adopted]; *City of Poway v. City of San Diego* (1984) 155 Cal.App.3d 1037 [city's growth management policies, shifting development pressures if amended plan were not approved, and need for housing and employment justified project approval despite impacts]; *Markley v. City Council* (1982) 131 Cal.App.3d 656 [conformity to community plan and provision of new housing and new construction jobs were appropriate overriding considerations]; *San Francisco Ecology Ctr. v. City & County of San Francisco* (1975) 48 Cal.App.3d 584 [goals of making international airport more convenient, safe, compact, efficient, and quiet were valid overriding considerations].)

In accordance with the requirements of CEQA and the State CEQA Guidelines, the DCC Director finds that the mitigation measures identified in the Final EIR and the MMRP, when implemented, will avoid or substantially lessen many of the significant effects identified in the Final EIR for the proposed Licensing of Commercial Cannabis Cultivation in Mendocino County Project. However, certain significant impacts of the project are unavoidable even after incorporation of all feasible mitigation measures. These significant unavoidable impacts affect air quality, archaeological, historical, and tribal cultural resources, and greenhouse gas emissions and climate change. The Final EIR provides detailed information regarding these impacts (see Section 1.2.4 Potentially Significant Impacts that Cannot be Mitigated Below a Level of Significance).

The DCC Director finds that all feasible mitigation measures identified in the Final EIR will be implemented with implementation of the project, and that the remaining significant unavoidable effects are outweighed and are found to be acceptable due to the following specific overriding economic, legal, social, technological, or other benefits based upon the facts set forth above, the Final EIR, and the record. Each benefit set forth below constitutes an overriding consideration warranting approval of the project, independent of the other benefits, despite each unavoidable impact.

1. Under MAUCRSA, DCC is charged with regulating state licensing of commercial cannabis cultivation sites and associated uses. (See Business and Professions Code, Division 10; CCR, title 4, Division 19.) These statutory and regulatory provisions do not require the DCC to cap or restrict the number of commercial cannabis licenses in local jurisdictions, such as Mendocino County. The MAUCRSA established a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of commercial cannabis. (Business and Professions Code section 26000(b).) Consistent with MAUCRSA, the project would enable DCC to further the state's goals of regulating

commercial cannabis by issuing commercial cannabis licenses to qualified applicants for state licensure under MAUCRSA, including qualified applicants in Mendocino County. (Business and Professions Code section 26055.)

2. The state has a dual licensing system and commercial cannabis businesses must obtain a city, county, or city and county authorization before a commercial cannabis business can apply for state licensure. Decisions related to commercial cannabis premises locations, land use, or zoning lie within the purview of the applicable local jurisdiction. Local jurisdictions, such as Mendocino County, may adopt and enforce local ordinances or regulations to regulate commercial cannabis business, including but not limited to, local zoning and land use requirements, business license requirements, or may completely prohibit the establishment or operation of one or more types of commercial cannabis businesses. (Business and Professions Code section 26200(a).) The proposed project would enable qualified applicants, who are compliant with Mendocino County's local cannabis ordinances, to obtain state licensure.
3. A vast majority of the provisionally licensed commercial cannabis cultivation sites that are part of the project baseline have been in operation prior to January 1, 2016, and have submitted proof of their prior cultivation to Mendocino County as part of the local jurisdiction's review process. The proposed project would aid the transition of qualified existing provisional cannabis cultivation licenses to annual licenses, which would ensure that such provisional cannabis cultivation license holders complete the annual license process by the statutory time frames identified in Business and Professions Code section 26050.2.
4. Unlicensed commercial cannabis cultivation has resulted in serious concerns among regulators, environmentalists, and the general public. These concerns have resulted in the desire by many local agencies, including Mendocino County, to implement ordinances or regulations to tax and regulate commercial cannabis. Moreover, such concerns have also resulted in both state and local enforcement efforts (e.g., Watershed Enforcement Team operated by the California Department of Fish and Wildlife, the Governor's Unified Cannabis Enforcement Task Force) that address, control, and minimize environmental impacts from cannabis cultivation operations. The proposed project would enable the DCC to implement its cultivation licensure program in Mendocino County to minimize the public health and safety risks associated with unlicensed commercial cannabis activity.
5. The best approach to regulating cannabis operations in the unincorporated area of Mendocino County is through the implementation of the project. Implementation of DCC's annual licensing program, in combination with the eradication of unlicensed operators who choose to avoid or ignore the established commercial cannabis state and regulatory process, is expected to meet the project objectives by promoting a robust, economically viable, and regulated cannabis cultivation industry, while minimizing the potential adverse effects of commercial cannabis on public health and the environment.

Considering all the factors, the DCC Director finds that there are specific economic, legal, social, technological, and other considerations associated with the project that serve to override and outweigh the project's significant unavoidable effects and, thus, the adverse effects are considered acceptable. Therefore, the DCC Director hereby adopts this Statement of Overriding Considerations.

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