



**TRINITY COUNTY**  
**COMMUNITY DEVELOPMENT SERVICES**  
BUILDING ♦ PLANNING ♦ ENVIRONMENTAL HEALTH  
P.O. BOX 2819, WEAVERVILLE, CALIFORNIA 96093  
PHONE (530) 623-1351 ♦ FAX (530) 623-1353

**Ed Prestley, Interim Deputy Director**

**MEMORANDUM**

DATE: June 9, 2023  
TO: Project Files P-23-06  
FROM: Deborah Rogge Administrative Coordinator-Planning  
SUBJECT: Agenda Item 4 P-23-06 Appeal of CCL-132

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Dear Members of the Planning Commission and public,

The following public comments have been received as of end of day June 7, 2023.

## Deborah Rogge

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**From:** Peggy Wellock  
**Sent:** Tuesday, June 6, 2023 1:48 PM  
**To:** info.planning

As downstream residents of the property and permit to grow in question, my husband and I are strongly opposed to this property ever being permitted to grow cannabis. My husband's grandparents were prior owners of the property in question and we know that there are graves of three people who were buried on the property in question. This fact alone should be cause enough to never allow a marijuana grow on the property.

Also, since we irrigate our property, garden, lawns and orchards with water drawn from the Trinity River near the confluence of Grass Valley Creek, we are also concerned about the health of the water we use daily. We also draw water from a well on our property and have concerns about the possible contaminates that another grow above us could cause. We have lived on our property for 46 years, have paid our taxes, raised six children who attended and graduated from Trinity County Schools, as did both of us. We have been actively involved in our community and our county and the well-being of it has always been with us all this time. We have done this and continue to live here because we have a love of our land and want what is best for it, as well as what is best for all our neighbors. Good neighbors care about each other, not just about themselves and the ways they can profit from detrimental activities.

Sincerely,

Peggy Wellock

Lewiston, CA 96052

## Deborah Rogge

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**From:** Gayl Ward  
**Sent:** Wednesday, June 7, 2023 8:14 PM  
**To:** info.planning  
**Cc:** L Wills; Gayl Ward  
**Subject:** Re Appeal P-23-06 CCL-132 (Coffin Rd, Lewiston)

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

We, as homeowners and residents of Lewiston, located in an approved opt-out area, absolutely support the appeal of this cannabis license issuance. We do not agree with this license having been approved since they continued to operate prior to approval and have not mitigated the negative environmental cumulative effects that have been repeatedly reported by nearby residents. We urge you to revoke the approval of this license.

Roy and Gayl Ward

Lewiston, CA 96052

**BALLANCO LAW GROUP, APC**  
**P.O. Box 2878**  
**Weaverville, CA 96093**  
**650-296-9782 Bar # 194345**

June 7, 2023

Trinity County Planning Commission  
530 Main St.  
Weaverville, CA 96093

Greetings Commissioners,

This office represents Emerald Choice, Inc. in response to the Appeal of the Director's decision to issue CCL-132, which was noticed in the Trinity Journal on February 22, 2023. The letter accompanying the Appeal identifies 6 separate "reasons," none of which are supported by sworn affidavit or any other evidence.

The first three reasons, titled, "Cumulative Impacts," "Precedence" and "Sensitive Receptors" seem to indicate a general dissatisfaction with Staff's analysis of Cumulative Impacts. There are no specific allegations as to this particular license, so it is unclear whether the letter-writer is upset about this license or Staff procedure generally. There is also a misplaced allegation that "the county continues to violate the TAA Settlement Agreement." The TAA Settlement Agreement was entered into by the Trinity Action Association, Inc. ("TAA") and Trinity County. [Attachment A] By its terms, the TAA Settlement Agreement specifies that it "shall bind the heirs, personal representatives, successors and assigns of the Parties, and inure to the benefit of each Party, its successors and assigns." [Attachment A, pg 6, paragraph 15]

Unlike the Friends of the Grass Valley Creek (hereafter the "Friends"), TAA is a legal entity that is currently active, meaning it does not have any "successors." TAA has more than demonstrated its ability to advocate for, and litigate, on its own behalf and it does not appear anywhere on the purported Appeal. There is nothing to indicate that

TAA has assigned any of its rights or interests to the Appellant. The Friends are not parties to the TAA Settlement and have no interests therein to assert.

If the Friends were parties to the TAA Settlement Agreement, they might be more familiar with its language regarding “Cumulative Impacts.” In paragraph 3(G)(ii) on page 4 of the TAA Settlement Agreement, the parties agree that “the County will describe its methodology for determining” where cumulative impact considerations are significant enough to render Categorical Exemptions to CEQA inappropriate. The Director’s decision to issue CCL-132 is not dependent on a Categorical Exemption, but rather relies on the compliance determination provided by the Applicant’s Appendix C to the TC Programmatic EIR (PEIR). That determination, reflected in the Notice of Decision (NOD) for this license was posted on February 21, 2023. [Attachment B]

Public Resources Code § 21167 specifies the strict timelines that apply to the commencement of actions attacking an NOD. In no case are such actions allowed beyond 30 days. *See* PRC § 21167(b, c & e), *see also* CEQA Guidelines § 15230. Accordingly, even if the Appellants raised valid CEQA issues, they are both in the wrong forum and time-barred.

Despite the lack of justiciability of Appellant’s CEQA claims, we will address them briefly. Section 4 of the PEIR titled, “Cumulative Impacts” presents a detailed analysis and discussion of cumulative impacts in each of the CEQA resource areas. Some of these impacts are identified as “cumulatively considerable,” “significant and unavoidable.” These significant and unavoidable impacts are reiterated in Section 5 of the PEIR titled, “Alternatives.”

In short, the cumulative impact of licensed commercial cannabis activities in Trinity County, including those that are significant and unavoidable, were identified, analyzed and discussed in the PEIR. The PEIR was certified on December 28, 2020. The time to challenge any aspect of the PEIR expired 30 days later on January 27, 2021, more than two years ago. The Friends presents no allegation, let alone evidence, that the

operation of CCL-132 would lead to any cumulative impacts not already analyzed under the PEIR and Applicant's Appendix C.

The same is true for sensitive receptors and the potential impacts of licensed commercial cannabis activity. The PEIR discusses sensitive receptors, typically including children, the elderly, asthmatics or others who might be uniquely susceptible to air pollutants or noise and identifies specific considerations when they are present. Some Air Quality and Noise impacts analyzed and discussed in the PEIR are identified as "significant and unavoidable." The time to challenge findings or conclusions in the PEIR expired in January 2021.

The Applicant's Appendix C is consistent with the PEIR and its Project Description states that there are not sensitive receptors in the vicinity of the Project. The Friends seems to question this assertion, while failing to offer any of their own evidence. As discussed above, even if such evidence existed, the time to bring an action based on it has long passed.

Moving beyond the CEQA-based allegations, the fourth reason for the Appeal identified as, "Habitual Violations" is equally unclear as to whether it applies to this specific license, the manner the county applies its rules or the rules themselves. The TC Commercial Cultivation Ordinance identifies violation of its provisions as a nuisance and imposes existent remedies for nuisance abatement in TC Code, specifically Sections 8.64 and 8.90. These TC Code Sections and the associated 7-day cure period were not developed for cannabis cultivation and apply equally to illegal rentals, unpermitted construction and other potential nuisances, see TC Code § 8.90.120(A)(3). To the extent the Friends have a complaint about the procedures in TC Code, those concerns should be addressed directly to the Board of Supervisors. In their most recent filing labeled, "Appellant's Response" (to Staff Report), the Friends attached an exhaustive list of complaints against this property. The list includes 1 complaint from Mar, 2021, 6 complaints from Feb 2021, 32 complaints from 2020 and 2 from 2018. The Applicants

took over this operation on April 27, 2021. None of these historical complaints are relevant to Applicant's operation.

The fifth reason, "Variance Regulations" seems to surmise that since the neighboring cultivation CCL-133 required a set-back Variance from Applicant's residence, then the Applicant's must require a set-back Variance from the neighbors. As properly evaluated by Staff, this is not the case. Applicant's cultivation is more than 350' from the neighboring residence. In contrast, the neighbor's cultivation is within 350' of Applicant's residence and a set-back Variance was required. Based on the "Appellant's Response" to the Staff Report, it seems the Friends are dropping this issue from consideration.

The final reason, titled, "Failure to Comply with State and Local Reporting Requirements" raises concerns about State Water Board requirements for diversions from Grass Valley Creek. In addition to their legal diversion from Grass Valley Creek, the Applicant also maintains a permitted well, where it derives the bulk of the water it uses for its commercial cultivation. Applicant's State Water Board reporting is currently up to date.

Accordingly, we ask that the Appeal be dismissed and that the Director's decision to issue CCL-132 be upheld and the license issued forthwith.

Sincerely,



Thomas J. Ballanco  
Attorney for  
Emerald Choice, Inc.  
CCL-132

## SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF CLAIMS

This Settlement Agreement and Mutual Release of Claims (“Agreement”) is entered into between Petitioner Trinity Action Association and Respondents, County of Trinity and Richard Tippett (collectively, “County”), regarding *Trinity Action Association v. County of Trinity et al.*, Trinity County Superior Case No. CV19-0001 (the “Legal Action”). Collectively, TAA and the County are “Parties” to this Agreement and each is, individually, a “Party” to this Agreement. This Agreement shall be deemed to have been entered into on August 9, 2019 (“Effective Date”).

### RECITALS

A. TAA commenced the Legal Action on January 3, 2019. The Legal Action seeks traditional mandamus and declaratory relief and injunctive relief concerning (1) the County’s obligation to conduct environmental review under the California Environmental Quality Act (“CEQA,” Pub. Res. Code, 21000 et seq.) before issuing licenses under the County’s Cannabis Ordinances (Trinity County Code Chapter 17.43); and (2) the County’s obligations to produce records under the California Public Records Act (“CPRA,” Gov. Code, § 6250 et seq.) related to cannabis licenses the County issues.

B. The County filed an answer to TAA’s operative pleading on March 26, 2019. The Answer denied the material facts alleged in TAA’s pleading and asserted a number of affirmative defenses.

C. Without making any admissions, the Parties through this Agreement seek to resolve the Legal Action in a manner that allows them to forego the expenses, burdens, and time commitment of a trial and any further proceedings in the Legal Action.

D. The County is presently in the process of preparing an environmental impact report (“EIR”) for its Cannabis Program. The County commits to, and will act in good faith and use its best efforts to, certify a properly prepared EIR by December 31, 2019. Notwithstanding the County’s intention to take this action by the end of 2019, the Parties understand the County must certify an EIR that fully complies with the California Environmental Quality Act (“CEQA”) and that the County may need to certify the EIR after December 31, 2019 if additional preparation and consideration becomes necessary in light of:

- (i) Public or agency comments received regarding the EIR; or
- (ii) New legislation or regulations, new decisional authority, or other related developments.

Should the County not certify the EIR by December 31, 2019, it will act in good faith and use its best efforts to certify the EIR as soon as reasonably possible after that date.



## AGREEMENT

1. The Parties agree the Recitals stated above are true and are incorporated by reference as material terms of this Agreement. The Parties further agree as follows:

2. As concerns the CPRA, the parties agree as follows:

A. For purpose of this Agreement, the terms “document,” “documents,” “information,” “writing,” or “writings,” or any similar term have the same meanings as “writing” (or “writings”) as defined in Government Code Section 6252(e) and 6252(g).

B. For purpose of this Agreement, the term “CCL” includes all commercial cannabis license applications, including applications for new or renewal licenses, and all commercial cannabis licenses issued by the County.

C. Public records, as defined by the CPRA, include but are not limited to:

i. All writings relating or referring to CCLs (including but not limited to license applications, staff notes and memoranda, inspection records, emails, text messages, etc.), and/or County Code Chapter 17.43 and any cannabis-related county ordinances; and,

ii. All writings relating to or referring to compliance with CEQA and/or County Code 17.43 with respect to any individual CCL, or group of CCLs, or CCLs in general; and

iii. All writings referring to or relating to policies, procedures, instructions, directions, guidance, or correspondence in any form relating to compliance with CEQA and/or County Code 17.43 and/or any cannabis-related County Ordinance, including but not limited to writings received from or addressed to any State of California agencies or other County officials or employees.

D. Public records related to CCLs may be subject to redaction in accordance with the express provisions of the CPRA. Redactions that may be applied may, to the extent authorized by the CPRA, include personal telephone numbers, copies of drivers’ licenses, proprietary information such as custom legal documents, and security plans. Nothing in this Agreement is intended to, nor shall be interpreted to, create any exemption from disclosure not provided in the CPRA. Reliance on any exemption, including the “catchall” provision of Government Code section 6255(a), is permissible only if, in a timely written response to the CPRA request, the County communicates a specific, articulable, and legally supportable basis exists for redaction on the asserted ground.

E. Any person desiring to review and/or copy a Public Record in the County’s possession or control will be required to submit a written public records request on a form to be provided at the public counter of the County Planning Department. The form will require the requesting party to provide his, her, or its name, address, telephone number, and email address.

F. The Planning Department shall promptly schedule a time to provide for a supervised inspection of the requested Public Records at its office. Prior to the inspection, the Public Records shall be redacted in accordance with 2(D) above, if redactions are justified. Nothing in this Agreement is intended to, nor shall be interpreted to, limit the public's rights under the CPRA or create any exemption from disclosure not provided in the CPRA.

G. Copies of any requested records shall be made only by Planning Department Staff and shall be provided to the requesting party upon full payment of the cost for the copies charged at the County's published duplication rate, not to exceed the actual cost of such service.

3. As concerns CEQA, the parties agree as follows:

A. The County acknowledges and agrees that an application for a CCL (or renewal of a CCL) constitutes a "project" under CEQA as that term is defined in Public Resources Code Section 21065 and CEQA Guidelines (California Code of Regulations Title 14) Section 15378.

B. In conducting review under CEQA, the County shall follow CEQA, including the CEQA Guidelines, applicable case law, and all formal and informal guidance documents that have been published by, or may in the future be published by, the State Cannabis Agencies (California Department of Food and Agriculture, Bureau of Cannabis Control, and Manufactured Cannabis Safety Branch), which are incorporated herein by reference.<sup>1</sup> The County shall provide TAA copies of all guidance documents it receives from these agencies promptly upon receipt of any such documents.

C. All forms required to be signed by an applicant for a CCL shall be signed under penalty of perjury swearing that all information, documentation, and other records provided by the applicant or the applicant's agents is true and correct. Before issuance of any CCL, the County shall conduct and document at least one site inspection of the property for which the license is requested.

D. All printed documents provided by the County regarding new and renewal CCL applications and licenses, including but not limited to the application packet and any associated documents, guidelines, instructions, and Frequently Asked Questions, shall clearly state that the premises containing the cultivation site(s) will be subject to inspections both before and after license issuance, and that providing false or inaccurate information to the County at any time may result in denial or revocation of the license in addition to any applicable criminal penalties.

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<sup>1</sup> As of the Effective Date, the County has received the following documents from State cannabis licensing agencies: California Guidelines, CEQA Practice Recommendations from CDFA for Cannabis Licensing; CEQA Practice Recommendations from CDFA for Cannabis Cultivation – Categorical Exemptions (Dated March 7, 2019), including CDRA Instructions for Completing Categorical Exemption Evaluation Forms for each class of categorical exemption; and CEQA Practice Recommendations from CDFA for Cannabis Cultivation – General Recommendations (Dated March 5, 2019).

E. License applications, including those for new and renewal licenses, shall include appropriate documentation to allow the County to assess whether a categorical exemption is appropriate under CEQA Guideline 15300.2 (and other applicable CEQA Guidelines and State Cannabis Agencies guidance).

F. Prior to issuing any license application, the County Planning Director, or his or her designee, shall give notice by publication, posting, and mailing of its intended approval of the application, in a manner meeting or exceed the notice requirements of CEQA, along with any determination it intends to make under CEQA. All notices (posted, mailed, and published) will advise of the right to inspect license application files at the County Planning Department in accordance with the Public Records Act. Published and mailed notices shall provide the same information as provided by the posted notices. To the extent space limitations for published and mailed notice prevent the same information being included as in the posted notices, the mailed or published notices shall provide a link/URL to the County website where the full amount of information can be obtained on a readily accessible area of the website.

G. The County Planning Department, to facilitate a consistent, defined and certain methodology for assessing whether or not a categorical exemption is appropriate in light of all applicable CEQA Guidelines, shall write and publish on its web-site by no later than August 31, 2019, and thereafter adhere to evaluation standards or guidelines, including but not limited to those addressing how the County will evaluate CEQA Guidelines 15300.2 exceptions (i.e., where otherwise applicable Categorical Exemptions may not be used), including:

i. *Location Based Impacts.* The County will describe in writing its methodology, including documentation to be obtained and considered, for determining if the CEQA Guidelines section 15300.2 (a) exception applies for Class 1, 3, 4, and 5 projects;

ii. *Cumulative Impacts.* The County will describe its methodology for determining, for the purpose of application CEQA Guidelines section 15300.2 (b), “when the cumulative impacts of successive projects of the same type in the same place, over time,” in a manner that considers license specific site, vicinity and county-wide impacts;

iii. *Significant Impacts.* The County will describe its methodology for and adopt thresholds of significance to be used in determining, for the purpose of application of CEQA Guidelines section 15300.2 (c) applies, because “there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.”

iv. *Scenic Highways.* The County will describe its methodology for determining if the CEQA Guidelines section 15300.2 (d) exception applies, because a project “may result in damage to scenic resources, including but not limited to

trees, historic buildings, rock outcroppings, or similar resources” along applicable corridors.

v. *Hazardous Waste Sites.* The County will describe its methodology for determining if the CEQA Guidelines section 15300.2 (e) exception applies.

vi. *Historical Resources.* The County will describe its methodology for determining if the CEQA Guidelines section 15300.2 (f) exception applies, because a project “may cause a substantial adverse change in the significance of a historical resource.”

4. Within 30 days of the Effective Date, the County shall pay TAA the sum of \$95,000, made payable as separately stated in a writing TAA’s counsel shall provide the County’s counsel, as compensation for TAA’s attorney fees and costs in this action.

5. Upon the Effective Date, this case shall be stayed for a period of two years, during which the Court shall retain jurisdiction to enforce compliance with this Agreement. During this period of retained jurisdiction, TAA shall have access to all information relevant to the County’s compliance with the terms and covenants herein. In that regard TAA’s attorneys may contact County staff directly to obtain documents and/or discuss compliance so long as counsel for the County is informed of such contact. During this period of retained jurisdiction, should TAA assert the County has failed to comply with any terms or covenants within, it may file a motion to compel the County’s compliance with any such terms or covenants. The motion must be filed on or before two years of the Effective Date. Should the Court be unable to hear the motion on or before that date, the stay period shall be extended until such time as the Court can finally rule on any motion that is filed. If no motion is filed within two years of of the Effective Date, TAA shall promptly file a Notice of Dismissal of the Legal Action, with prejudice, and serve the same on the County when executed by the Court; provided, however, that the terms of this Agreement shall remain binding on the Parties and enforceable by separate legal action, including any motion brought under Code of Civil Procedure section 664.6, notwithstanding such dismissal. If an enforcement motion by TAA is granted the court may, as a remedy, extend the period of retained jurisdiction. Nothing in this section is intended to, nor shall be interpreted to, limit the number of motions TAA may make to compel County compliance with the terms of this Agreement.

6. Should any action, motion, or other legal proceeding be brought to enforce or interpret the terms of this Agreement, the prevailing party in any such proceeding shall be entitled to recover reasonable attorneys’ fees and costs incurred in prosecuting such efforts. Except as outlined in this Agreement, the Parties shall each bear their own attorneys’ fees and costs incurred in connection with the Action.

7. Upon the dismissal of the Legal Action, each Party and his/her/its heirs, executors, administrators, predecessors, successors in interest, affiliates, partners, assigns, agents, officers and directors hereby forever generally, completely and mutually release and discharge the other Parties, including, but not limited to, their heirs, executors, administrators, trustees, settlors, beneficiaries, issue, directors, officers, shareholders, agents, predecessors, assigns, employees and attorneys, from any and all demands, debts, duties, and obligations related to the claims, defenses,

facts, events, errors, and omissions asserted in the Legal Action. The Parties expressly recognize and agree that this release applies to and serves as a bar to any challenge by TAA to any cannabis license the County issued to any person, entity, or party on or before the Effective Date.

8. This Agreement pertains to the Legal Action and is the result of compromise. No Party admits any fault or liability with respect to the claims alleged in the Legal Action, and this Agreement does not constitute, and will not in any circumstance be deemed to constitute, an admission or fault or liability by any Party. The Parties expressly recognize that this Agreement does not seek to resolve any claim or dispute concerning the County's compliance with any applicable laws, regulations, or ordinances concerning or affecting the issuance of cannabis licenses on or after the Effective Date. The Parties also agree that the Legal Action was brought by TAA in the public interest and to resolve ongoing disputes between TAA and the County. This Agreement does not resolve any past, present, or future disputes between the County and any other individuals or organizations.

9. The Parties acknowledge they have read this Agreement, have had the opportunity to have the Agreement explained to them by counsel of their choice, are aware of its content and legal effect, and are signing this Agreement freely and voluntarily.

10. This Agreement shall be effective upon its full execution. Each of the undersigned represents that he/she has the authority to bind the Party on whose behalf he/she has executed this Agreement. The Agreement may be executed in counterparts and in duplicate originals. If so executed, then upon proof of execution of at least one copy, the Agreement shall be effective from the date of the last signature. If executed in duplicate, each duplicate copy shall be valid as an original copy.

11. In the event any party seeks enforcement of the terms hereof the confidentiality provisions of Evidence Code Section 1115 *et seq* are expressly waived and this Agreement and each of its terms as well as all communications, documents and writings, as defined by Evidence Code Section 250, shall be disclosed and are admissible in any motion or action seeking such enforcement.

12. This Agreement has been jointly negotiated and drafted. The language of this Agreement shall be construed as a whole according to its fair meaning, and not strictly for or against any Party.

13. This Agreement constitutes the entire agreement between the Parties. No modification of this Agreement shall be valid unless in writing and signed by the Parties. The Parties shall not be bound by any representation, warranty, promise, or statement unless it is specifically set forth in this Agreement.

14. This Agreement shall be deemed to have been entered into and shall be construed and enforced in accordance with the laws of the State of California. Should any term of this Agreement be deemed unlawful, that provision shall be severed, or construed in accordance with applicable law as nearly as possible to reflect the Parties' mutual original intent, and all remaining

terms shall continue to be valid and fully enforceable. Furthermore, the place of performance shall be the County of Trinity State of California, in the event of litigation.

15. This Agreement shall bind the heirs, personal representatives, successors, and assigns of the Parties, and inure to the benefit of each Party, its successors and assigns.

16. The Parties agree to execute and deliver any other instrument or document convenient or necessary to carry out the terms of this Agreement.

17. Failure of any of the Parties to insist upon the strict observance of, or compliance with, all of the terms of this Agreement in one or more instances, shall not be deemed to be a waiver of any of the Parties' right to insist upon such observance or compliance with the other terms of this Agreement.

18. This Agreement may be signed by PDF signatures. This stipulation may be signed in counterparts.

SO AGREED.

TRINITY ACTION ASSOCIATION

  
\_\_\_\_\_  
By: David Laffranchini,  
Secretary

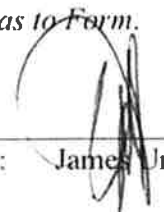
8.7.19  
\_\_\_\_\_  
Dated

COUNTY OF TRINITY

\_\_\_\_\_  
By: Judy Morris, Chair  
Board of Supervisors

\_\_\_\_\_  
Dated

*Approved as to Form.*

  
\_\_\_\_\_  
By: James Underwood

8/2/19  
\_\_\_\_\_  
Dated

\_\_\_\_\_  
By: Derek P. Cole

\_\_\_\_\_  
Dated

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SO AGREED.

TRINITY ACTION ASSOCIATION

By: David Laffranchini,  
Secretary

Dated

COUNTY OF TRINITY

Judy Morris  
By: Judy Morris, Chair  
Board of Supervisors

8/7/19  
Dated

*Approved as to Form.*

James Underwood  
By: James Underwood

Dated

Derek P. Cole  
By: Derek P. Cole

August 7, 2019  
Dated

FROM: 2-21-23 TO: 3-21-23

Notice of Determination

Appendix D

To:  Office of Planning and Research  
 U.S. Mail: \_\_\_\_\_ Street Address: \_\_\_\_\_  
 P.O. Box 3044 1400 Tenth St., Rm 113  
 Sacramento, CA 95812-3044 Sacramento, CA 95814

County Clerk

County of: Trinity  
 Address: 11 Court Street, P.O. Box 1215,  
Weaverville, CA 96093

From: Public Agency: Trinity County  
 Address: 530 Main Street P.O. Box 2819  
 Weaverville, CA 96093  
 Contact: Drew Plebani  
 Phone: 530-623-1351

Lead Agency (if different from above): \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Contact: \_\_\_\_\_  
 Phone: \_\_\_\_\_

**SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.**

State Clearinghouse Number (if submitted to State Clearinghouse): 2018122049

Project Title: Emerald Choice, Inc, Natalie Koehler

Project Applicant: Natalie Koehler

Project Location (include county): 200 Coffin Road, Lewiston (Trinity), CA 96052

Project Description: The proposed cultivation project described herein (Project) includes the cultivation of 10,000 square feet (sf) of mature mixed-light cannabis and 2,951 sf of support area located in Trinity County on Assessor's Parcel Number (APN) 025-180-38-00. The applicant is seeking a Small Mixed-Light Cannabis Cultivation License from the County (CCL-132) and currently holds a provisional Small Mixed-Light Cannabis Cultivation License from the Department of Cannabis Control (DCC; CCL19-0002038). Existing activities include the cultivation of up to 10,000 sf of mature mixed-light cannabis in four (4) greenhouses of different size, with two (2) being for mature light deprivation canopy and two (2) being for mature mixed-light canopy. The total mature canopy square footage of all four existing greenhouses is 10,000 sf. Existing cannabis support infrastructure includes one (1) 2,000-sf building to be used for immature cannabis cultivation (1,000 sf) and as a harvest drying area (1,000 sf), one (1) 26-sf pump house, three (3) 120-sf sheds to be used for various storage, one (1) 10-sf shelf on the exterior of one of the sheds to be used for petroleum storage, and a 555-sf cannabis waste and composting area. Water for cultivation would be stored on-site in five(5) water tanks of different sizes and would be sourced from an existing permitted groundwater well. Power for the project site is provided through an existing connection to Trinity Public Utility District's grid. There is an existing septic system on-site, and crop irrigation would be conducted by a drip system. No construction or reconfiguration of existing elements is proposed for this project.



This is to advise that the Trinity County Planning Department- Cannabis Division has approved the above  
( Lead Agency or  Responsible Agency)

described project on February 17, 2023 and has made the following determinations regarding the above  
(date)  
described project.

1. The project [ will  will not] have a significant effect on the environment
2.  An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.  
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [ were  were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [ was  was not] adopted for this project.
5. A statement of Overriding Considerations [ was  was not] adopted for this project.
6. Findings [ were  were not] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:

Trinity County Planning Department- Cannabis Division (530 Main Street, Weaverville CA 96093)

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The County finds that the adoption of the proposed project falls within the Trinity County Cannabis Program Environmental Impact Report ("EIR") (SCH# 2018122049), Certified by the Board of Supervisors on December 21, 2020 (Resolution 2020-103). Pursuant to CEQA Guidelines (California Code of Regulations, Title 14) Section 15168, the impacts associated with the proposed project were studied, and mitigation measures concerning such impacts were developed, in the Cannabis Program EIR. No further environmental review is required because the County finds, based on substantial evidence in the Record of Proceedings, that approval of this project is a "later activity" associated with the Cannabis Program EIR, as defined by subsection (c) of Section 15168, in that (i) all impacts associated with the approval of this project are within the scope of environmental review previously studied, and (ii) the requirements and mitigations required by Chapter 17.43 and 17.43G of the Trinity County Code, adequately serve to mitigate the impacts associated with approval of this project.

Signature (Public Agency):  Title: Cannabis Division Director

Date: 2/17/23 Date Received for filing at OPR: \_\_\_\_\_

Authority cited: Sections 21083, Public Resources Code.  
Reference Section 21000-21174, Public Resources Code.

Revised 2011

## Deborah Rogge

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**From:** Kristel Bell  
**Sent:** Wednesday, June 7, 2023 8:01 PM  
**To:** info.planning; Carol Fall; Todd Heaton; Rory Barrett; William Sharp; Don Ellis  
**Subject:** 6/8/2023 Agenda Item 4: P-23-06  
**Attachments:** Sean Connell Email Excerpt.pdf; ATT00001.htm

**Importance:** High

**Follow Up Flag:** Follow up

**Flag Status:** Flagged

Dear Commissioners:

First off, I wish to express how disappointing it is to be writing this letter - how unfortunate it is to be in this predicament today, as all elements of the appeal in front of you have been discussed with County representatives numerous times over the past two years. This appeal could have and should have been avoided.

At the time of the Lewiston Expansion Opt Out approval in July 2021, it was confirmed only two licenses were grandfathered into the carve out area, and yes – CCL-132 is one of them. And we accepted that ruling knowing that CEQA analysis would be conducted and impacts would be mitigated.

I and other Appellant members attended the Cannabis Ad Hoc and subsequent private meetings religiously from November 2021 through August 2022. Supervisors Frasier and Groves conducted these meetings, along with varying administrative bodies throughout the time period to include Richard Kuhns, Ed Prestley, Sean Connell and others. We were guaranteed expeditious access to Appendix C files and had a platform to discuss concerns as they arose when we started review of the CEQA documents. This group was fully aware our efforts were to assist in prevention of future appeals.

We first reviewed CCL-132's Appendix C in July 2022 and noted there were issues such as the lack of discussion and documentation regarding the project vicinity - most particularly pertaining to sensitive receptors and cumulative impacts, and the lack of requirements for mitigating impacts such as odor, noise, and aesthetics - areas of major concern within our neighborhood and the basis of the voluminous number of complaints leading to appeals and the approved carve out.

Our concerns were immediately brought forth to the Cannabis ad hoc members who asked the Director at the time, Sean Connell, to research the issues. In the attached email correspondence excerpt you will see that Mr. Connell did indeed reach out to County Counsel and CEQA counsel for answers. Also, please note Prentice Long was cc'd on his email correspondence. Unfortunately, we never received the final outcome.

This brings us to February 2023 when CCL-132's approval was noticed in the newspaper. A new file review was conducted and to our dismay, the issues in contention had not been resolved in the Appendix C. At the time of the file review, we discussed our concerns with Director Plebani and presented a copy of the Sean Connell memo, asking for clarification. We were told they would check into it and would get back to us. No word from staff by the appeal filing date deadline. Now all our attempts at communication and requests for file review are deemed public records act requests and treated as such by submission to Prentice Long for review without our knowledge. And for ordinary citizens such as us, that process takes months.

So here we are.

As we were never granted the privilege of obtaining answers to our concerns, I would encourage the Commission to ask Staff the following:

1. ***What is your procedure to ensure sensitive receptors are properly addressed?*** According to County Counsel's response to Mr. Connell, sensitive receptors must be addressed as they are the reason in which they adopted the mitigation measures to reduce the impacts.
2. ***Have you incorporated any mechanisms or procedures to determine potential noise level impacts, such as for fans, prior to license/permit approval?***
3. ***Have you obtained CEQA counsel legal opinion as to the issue of cumulative impacts – when and how they are to be addressed?*** According to Mr. Connell, he reached out for guidance from both CEQA counsel Cole and County Counsel.
4. ***Have any Appendix C approvals required mitigation measures be implemented prior to license/permit approval (such as odor control)?***
5. ***How are you analyzing the project vicinity for potential impacts prior to license/permit approval?***

In closing, after all the cannabis ad hoc meetings, meetings with Cannabis Directors, emails after emails after emails - all the strides to prevent future appeals were for not.

It's unfortunate we are in front of the Commission yet again. We hope one day we won't need to file appeals, paying \$500 each time, to merely get answers to our questions or for the County to deem our appeals "moot".

Please ensure CCL-132's cumulative impacts are properly addressed and outcomes mitigated prior to license/permit approval.

Sincerely,

Kristel Bell



**From:** Sean Connell [sconnell@trinitycounty.org](mailto:sconnell@trinitycounty.org)  
**Subject:** RE: Update - CCL-132 and CCL-133  
**Date:** August 31, 2022 at 1:21 PM  
**To:** Kristel Bell [REDACTED]  
**Cc:** Sean Cameron [Sean@prenticelongpc.com](mailto:Sean@prenticelongpc.com)

Hello Kristel,

I have been away from the office [REDACTED]. I wanted to provide you answers to your questions. Please see below in blue.

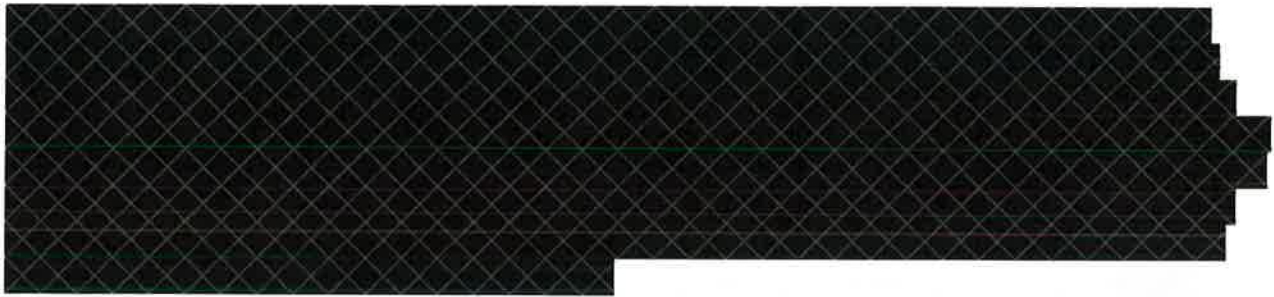
-----Original Message-----

**From:** Kristel Bell [REDACTED]  
**Sent:** Monday, August 29, 2022 2:41 PM  
**To:** Sean Connell <[sconnell@trinitycounty.org](mailto:sconnell@trinitycounty.org)>  
**Subject:** Update - CCL-132 and CCL-133  
**Importance:** High

Hello Sean. Checking in to see if you have answers to the questions we discussed last Tuesday. [REDACTED]

I'm still concerned about the following:

- 1) The "sensitive receptors" language both 133 and 132 included in their Appendix Cs. Neither give any indication to the fact that they are adjacent to a public business and many, many residents are within the project vicinity. I believe Kern County's language stated the project vicinity for sensitive receptors is within a 2 mile radius of the project site - which is language specified in our EIR. I know you said the State's definition is different from our EIR, but we must adhere and abide by our EIR.- I have reached out to the applicant and the consultant to reflect the changes per the EIR. I did receive confirmation from Counsel that those receptors should be addressed. It is the reason in which they adopted the mitigation measure to reduce the impact.
- 2) Have you validated decibel levels for fan noise? We discussed a test at their property line to determine what their decibel level is prior to approval of the Appendix C. – To test decibel levels we need to have a monitoring meter, that we do not possess at this time. We have researched and selected a meter and are awaiting on arrival. This is something we should have had on hand already, and this is something we will tighten up on inspections and review.
- 3) Have you received a legal opinion regarding the need to consider cumulative impacts as neither 133 nor 132 indicate any exist. However, the EIR stipulates two or more should be considered cumulative impacts (especially with the two being adjacent to each other within a rural residential area).- I have reached out to both County Counsel and CEQA counsel Cole for their opinion on the cumulative impacts of the 2 garden sites within the close proximity and the relationship to the Opt-Out area. I will follow their guidance once I receive it. I can keep you abreast of the resulting information once I receive it.



Thank you, and I hope to hear back from you soon.

Kristel Bell

## Deborah Rogge

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**From:** Phyllis Swanson  
**Sent:** Wednesday, June 7, 2023 11:48 AM  
**To:** info.planning  
**Subject:** Email in support of Appellant's appeal of Director's CEQA approval and renewal of CCL-132 on Coffin Rd. Agenda Item No.5 (P-23-06)

To: Trinity County Planning Commission  
Re: Support of Appellant's appeal of Director's CEQA approval and renewal of CCL- 132 on Coffin Road, Lewiston, CA

Here we go again, sound like a broken record? Well it is...

**Here we go again - defending – defending again, our lives, our quality of life on our own properties that have been here well before this cannabis industry moved in. Well It is worth defending – so we defend, again. I just pray that this is the end. Let me paint the picture again...**

Imagine a neighborhood where...

One can feel safe day and night, where you don't have to worry about your home, car being permeated with the pungent smell of pot odor the next morning every day, where the only sounds at night that you may hear is the creek running, perhaps the call of a fox or the rustle of the breeze, instead of fans.

Sound good?

If you will recall our group has spent many hours attending BOS meetings, several thousands of dollars in legal fees, to fight against these license renewals. As it's been said over and over again the county needs to do the right thing by requiring these cultivators to implement their mitigation plans. The county is turning their heads when they say the above permit is not currently operating. Well we can tell you someone is and we can pretty much tell where that is. There is definitely an odor coming from there again (and again). And if they are operating without that permit it tells me that they blatantly don't care and that they are above the law/rules. Why should they be rewarded with a permit under these circumstances? Doesn't this set a precedent for others to follow suit? They've had numerous odor complaints, they've been told to cease, yet they continue. Please do what's right, deny the renewal until such time they can uphold their end of the deal/CEQA.

I've included below copies a few emails or letters that have been sent to the county on these ongoing matters in our neighborhood, read them if you so choose.

How many more ways, how many more times do we have to say it - Enough is Enough.

Thank you

Phyllis & Don Swanson

Lewiston Rd, Lewiston

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February 20, 2023

To: Trinity County Board of Supervisors

RE: Dos Santos/Sabai Family Farms

Here we go again - defending – But, **we believe our lives, our quality of life on our own properties that have been here well before the cannabis industry moved in are worth defending – so we defend, again.**

Imagine a neighborhood where...

One can feel safe day and night, where you don't have to worry about your home, car being permeated with the pungent smell of pot odor the next morning every day, where the only sounds at night that you may hear is the creek running, perhaps the call of a fox or the rustle of the breeze, instead of fans. Imagine a day you don't have to keep looking down your driveway to see who may be coming up that you don't know.

Sound good?

Well, Let's take a step back for a minute, if you will recall our group has spent many hours attending BOS meetings, several thousands of dollars in legal fees, to fight against the license renewal to Dos Santos/Sabai Family Farms. Let's further recall that the county allowed the original license to transfer to Dos Santos under questionable circumstances. Furthermore, there was lack of current compliance for this site and this site had also had numerous neighborhood complaints.

***Pursuant to the Planning Director's email to the appellant(s) dated back in January 21, 2021, that license was not one of the initial licenses issued in the first two years (2016-2017) of the program. This license was issued in May 2018. This told us that this project is ineligible for the categorical exemption under CEQA.***

We are really hoping that the board does not even consider approving the issuance of a license to Dos Santos. An Opt Out has been approved here and if the BOS were to issue the license despite its previous decision our fear is that it would start a precedent for others who will want to attempt to get grandfathered into our area. As it's been said before, ENOUGH IS ENOUGH, this is an Opt Out, let's keep it that way.

We worked hard to get where we are now, our Opt Out. It's not perfect, but we can live with it. Don't take it away from us. A decision was made – don't go back on it. It's done. Explore the other options that have been discussed about providing incentives to set up their farms outside of residential, rural residential and most importantly designated Opt Out areas.

We ask that all Supervisors please consider the language of the Opt Out Ordinance. For what it is, let's not cause any more damage.

Thank you for your time and attention to this important matter

Don and Phyllis Swanson

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Every night starting on July 6, 2022 is when I really started to take notice and began documenting that the fans next door on Coffin Road at one (or all?) of the cannabis grows have been running. With the evening twilight is when they become noticeable and I KNOW they run well into the early morning hours. It's been nice to have a window open at night, but it's annoying to have to listen to fans run all night instead of the crickets, a breeze even a dog barking. Fans running all night outdoors in a rural setting is not normal - this is not an industrial zone. If I can hear them so clearly, I can't even imagine how my neighbors who live closer must feel to have to listen to them much louder. I've heard through the cannabis grapevine that these particular growers are frustrated that they do not have their permits yet, and have basically said "screw it" we're moving forward we need money. In each and every complaint that I had from the last couple of years regarding the cannabis grows at this location I expressed how UNFAIR it is that I have to give up my precious time each and every day to lodge the same complaints regarding the never-ending issues - noise and smell. If they want to go against whatever ordinance, policy, regulation, whatever is the county put in place a few months ago until CEQA and ultimate approvals to get back to growing, then go ahead, but man please be quiet and make sure there is no smell. Being so blatant about it, tells me they have total disregard for the "law" and will do whatever it takes to make their money at the expense of the rest of us in the neighborhood who just want a nice quality of life. Please have Code Violation personnel check it out. They will need to come out at night to hear the fans. But if the cannabis growers are

not supposed to be growing then they need to be held accountable for growing when they do not have a valid permit. Please don't disregard my complaint by doing absolutely nothing about it. I know I speak for some of the neighbors near this location, and I hope they too have lodged complaints. The noise still exists and I'm sure the odor is not far behind. Thanks

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January 24, 2021

Re: Appeal - Commercial Cultivation License (CCL) 2020-453

Trinity County Planning Dept,

I, like the vast majority in my community, very strongly urge you to deny the renewal of the CCL for the above referenced parcel.

In addition to the known cumulative effects such as noise of dozers working, unsightly viewshed, premature destruction of Lewiston Road including rocks and mud left on the road from rain runoff and truck traffic leaving their access road, unsavory element among others, I would like to address just one. The smell.

What would you do if you had a dead skunk on your porch? You would get rid of it because the smell would be overwhelming. This is the sickening smell that we live with almost every day here. I realize offensive smells are subjective, but this should not be allowed to continue. Nearly everyone who visits us comments on the odor. In the evenings, when the wind subsides and the cooler air settles in, it is nauseating. The stench permeates into our home, our vehicles and out buildings.

It scares me to think of the effects that are not yet known. The ground water we drink, for example.

It is unconscionable to believe that you would allow this to continue by granting this renewal.

Don Swanson

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We, Don & Phyllis Swanson live on Lewiston Road next door to Coffin Road where an additional cultivation permit has been requested. We are strong supporters of a future opt-out area in this location. In the meantime, we are writing our letter of support to implore you to consider our feelings on this matter. We have lived in Trinity County for 40 years and have seen and experienced its demise due to the pot farms. Enough is enough. There should be a cap on the number of farms allowed. We chose to live here in Trinity County, settling in the Lewiston Valley for its beauty, peacefulness and the wonderful people that live here. We did not settle here for the noise, the smell, the criminal element that it brings and the destruction of the natural resources the now plague this once peaceful valley. We understand that its legal now, we understand what is here now is here; however as stated before enough is enough – please. Continued approval of additional farms, greenhouses etc impacts our quality of life and we think its only fair that you take that into consideration. Its not fair that the growers get what they ask for no matter what the rest of us think or how we feel. Please don't allow the additional permit on Coffin Road or any others in this zone. Its destroying our neighborhood, our quality of life, our surrounding habitat. Enough is Enough.

Thank you.

Don & Phyllis Swanson



## Deborah Rogge

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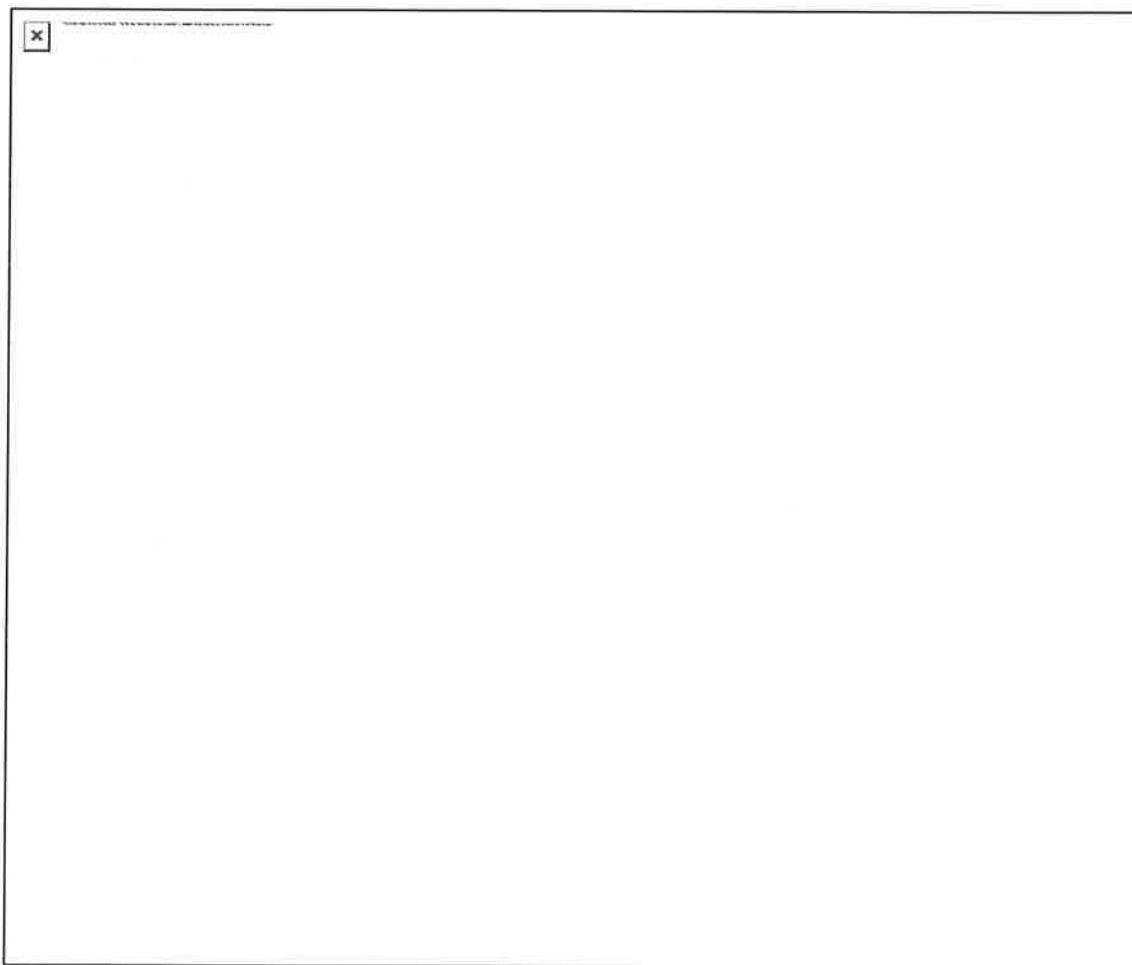
**From:** L Wills  
**Sent:** Thursday, June 8, 2023 12:53 AM  
**To:** info.planning; Deborah Rogge; Carol Fall; Don Ellis; Rory Barrett; Todd Heaton; William Sharp  
**Subject:** Supplemental Info to Appellants' Brief P-23-06 / CCL-132  
**Attachments:** Code Violation Complaints June2023.pdf; 2-Mile Radius Map.png

Dear Chairman Fall and Commissioners Heaton, Sharp, Barrett and Ellis,

Appellants, in the above referenced appeal, wish to submit updated language to the Primary Reasons for Appeal section, Reason 2. Failure to properly identify Sensitive Receptors, and Attachment B (CCL-132 Project Vicinity Map) as **three additional** cannabis licenses within the two-mile radius of CCL-132 were noticed as approved in the Trinity Journal today which even more so intensifies the evidence of potential cumulative impacts.

*As of 6/7/2023, eleven (11) approved commercial cannabis farms exist within a two-mile radius of the proposed project [according to the cannabis division's records]. This description does not take into account past and future cannabis farms pending approval, or illegal cannabis sites known or unknown.*

Appellants also question the determination of the CEQA analysis baseline date. The Notice of Preparation for Trinity County's Cannabis Program EIR published 12/21/2018 established the baseline environmental conditions for CEQA analysis to ALL commercial cannabis cultivation projects, thus failing to determine CEQA environmental baseline dates on a site-by-site basis. In doing so, the County has under-represented the environmental impacts when knowingly CCL-132's project site was undisturbed prior to October 2018 as stated in the applicants Appendix C, Chapter 2 Project Description, Section 2.3 Existing Setting: "...and appeared to have been in some state of cannabis cultivation since October 2018". Furthermore, files held by the County contain site maps of the undisturbed area, which were considered when approving the initial provisional license.



Lastly, two additional code violation complaints have been filed this week (attached hereto) that are pertinent to this appeal. As stated in the complaints, if CCL-132 is unlicensed and not legally operating at this time and the neighboring farm, CCL-133, on the adjoining property is approved and operating with an odor mitigation plan, why are the neighbors smelling a skunky odor of cannabis coming from the Coffin Road area? We believe Coffin Rd is the source of the odor complaints and therefore before the license is renewed/issued for CCL-132, the cumulative impacts must be analyzed and mitigated. Furthermore, odors from any one or more of the 11 commercial cannabis sites approved within a 2-mile radius, as depicted in Appellants' map above, may be contributing to the strong odors that settle at the ground level of the valley and further substantiates the need to identify, analyze and mitigate cumulative impacts before issuing a renewal license to CCL-132. Appellants have provided supportive evidence of code violation complaints and the graphical depiction [above] of the volume of commercial cannabis grows approved in the vicinity, by the lead agency, that compels a "fair argument" there are significant adverse environmental impacts the lead agency *must* identify, analyze and mitigate to less than a significant level, in order to comply with CEQA.

To reiterate our request, Appellants' recommend the Planning Commission make a motion to reverse the Director's approval of CCL-132 and defer licensing until such time 1) a proper cumulative impact analysis that considers the specific site and vicinity is conducted pursuant to CEQA requirements, and 2) the applicant implements their odor control plan and other mitigation measures identified.

Thank you in advance for your mindful consideration.

Laurie Wills / Friends of the Lewiston Grass Valley Creek

Attachment - Code Violation Complaints June 2023



## Your Trinity County Code Violation Complaint Form was successfully submitted

2 messages

Trinity County <no\_reply@trinitycounty.org>

To: [REDACTED]

Wed, Jun 7, 2023 at 9:55 PM

Here is a copy of your submission data for your records.

Submitted on Wednesday, June 7, 2023 - 9:55pm

Submitted by user: Anonymous

Submitted values are:

APN Number and/or Address of reported Violation: Coffin Rd Lewiston (CCL-132 and/or CCL-133)

Name of Owner/ Tenant being reported (or enter unknown):

Koehler/MacNamara/Fernandez

Full Name: [REDACTED]

Address: [REDACTED]

Complainant Phone Number / voicemail : [REDACTED]

Email: [REDACTED]

Date: Sun, 06/04/2023

Time: 5:45 pm

Did you observe any weapons, explosives, traps, shafts, dogs/animals, or anything which appears to be a potential hazard or danger to the inspector on the site? A "YES" response requires a brief explanation: No

COMPLAINT (Please explain): On Sunday, 6/4/2023, while driving to Lewiston Lake with another person in my car, we could smell a strong odor of cannabis when approaching Coffin Rd at approx 5:45 pm. When returning from the lake that same evening I could smell the odor again when approaching Coffin Rd at approx 9:15 pm. If CCL-132 is not currently licensed/operating and CCL-133 is approved and operating with an odor mitigation plan, why are we smelling cannabis specifically at this location in June???? Please investigate and provide a response. Thank you.

Trinity County <no\_reply@trinitycounty.org>

To: [REDACTED]

Wed, Jun 7, 2023 at 10:17 PM

Here is a copy of your submission data for your records.

Submitted on Wednesday, June 7, 2023 - 10:17pm

Submitted by user: Anonymous

Submitted values are:

APN Number and/or Address of reported Violation: Coffin Rd Lewiston (CCL-132 and/or CCL-133)

Name of Owner/ Tenant being reported (or enter unknown):

Koehler/MacNamara/Fernandez

Full Name: [REDACTED]

Address: [REDACTED]

Complainant Phone Number / voicemail : [REDACTED]

Email: [REDACTED]

Date: Tue, 06/06/2023

Time: 2:00 pm

Did you observe any weapons, explosives, traps, shafts, dogs/animals, or anything which appears to be a potential hazard or danger to the inspector on the site? A "YES" response requires a brief explanation: No

COMPLAINT (Please explain):

At some point during the 2 o'clock hour I was outside in my front yard with a neighbor and another individual from Redding looking at some baby chicks when all 3 of us smelled a skunky odor. When I asked if the other two smelled the odor, one person replied, "every day" and the other person replied, "that's definitely cannabis." Once again the odor seems to be coming from Coffin Rd and I just submitted a separate complaint for smelling the same skunky odor while traversing past Coffin Rd on Sunday with a different person. I'll ask the same question again. If CCL-132 is currently unlicensed/not legally operating at this time and CCL-133 is approved and operating with a odor mitigation plan, why are we smelling a strong skunky odor (especially in June)? There have been many other days when I have smelled the odor but have not filed complaints. I guess it's time to start filing daily complaints again if that's what it takes for the County to mitigate these odor nuisance issues. Please investigate and report back as to what action is being taken to resolve these complaints.

