



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

Kim Hunter, Director

MEMORANDUM

DATE: December 3, 2020
TO: Planning Commissioners and members of the public
FROM: Kim Hunter, Director of Planning *KH*
SUBJECT: Agenda Item 1 – Comments Received

The attached two comments were received via email regarding this agenda item.

To: Trinity County Planning Department
PO Box 2819
Weaverville, CA 96093

11/30/2020

From: Brit O'Brien
O'Brien Biological Consultants

2407 Frank St

Eureka, CA 95501

obrien_biological@yahoo.com

RE: Northern Spotted Owl rules in the Trinity County FEIR

Dear Trinity County Planning Department,

I am a consulting wildlife biologist based in Eureka, CA with over 25 years working in northern California's forests, primarily on behalf of the threatened Northern Spotted Owl (NSO) and Marbled Murrelet, among other sensitive species. I have recently been contracted by Patrick Kahan (APN # 008-080-32) to address NSO survey concerns regarding cannabis cultivation on his property along the south fork of the Trinity river.

As an interested party, I attended the online FEIR meeting on 11/19/20, but due to connection issues, I was unable to observe or comment during the NSO discussion. However, I have reviewed the recording of the meeting. Based on comments made at the meeting, and a review of Volume 1, the FEIR for the Trinity County Cannabis Program, and Volume II, the revised DEIR, I have concerns regarding Trinity County's revised DEIR language regarding potential cannabis cultivation impacts to NSO.

In Volume II, there is discussion of mitigation measures for NSO:

"If the area of proposed new development activities (e.g., any application for commercial cannabis operations or renewal of an existing licensed cultivation site that is planning to expand its Designated Area) is within suitable habitat for northern spotted owl (e.g., coniferous forest), and is within 1.3 miles (average species home range) of a known occurrence of northern spotted owl, as determined by a qualified biologist familiar with the species and protocol, and approved by the County, the following measures shall be followed:

- *Prior to removal of any trees, or ground-disturbing activities adjacent or within suitable nesting, roosting, or foraging habitat (e.g., forest clearings) for spotted owl, a qualified biologist approved by the County and familiar with the life history of the northern spotted owl shall conduct preconstruction surveys for nests within a 1.3-mile buffer around the site as described in Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls (USFWS 2012). 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 presence or absence of northern spotted owl.*

- *If northern spotted owls are determined to be absent 1.3 miles from the site, then further mitigation is not required.*
- *If northern spotted owls are determined to be present within 1.3 miles of the site, then it is presumed that habitat removal could cause harm to northern spotted owl populations in the area and could result in direct take of northern spotted owls. If northern spotted owls are determined to be present within 1.3 miles of the site, proposed cultivation activities, including expansion of an existing Designated Area, will not be permitted.”*

The 1.3 miles is the estimated average home range of NSO in the California Coast Ranges (Douglas fir/mixed conifer zone), as discussed in the Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls (USFWS 2012, pg. 7). This protocol is designed to provide a standardized method for determining whether roosting or nesting NSO are located close enough to a certain activity, usually resulting in habitat loss from logging or other development, to potentially be negatively impacted to the point of ‘take’. As the primary purpose of the NSO protocol is to limit habitat loss due to logging or forest clearing within NSO home ranges, any new or expanded cannabis sites which propose habitat removal or habitat conversion should be subject to the guidelines of the full 2-year NSO protocol. Additionally, noise disturbance to NSO can also cause ‘take’, defined as harassment that may cause NSO to flush from a nest, or to interrupt feeding of young.

As NSO have continued on a population decline trend since their federal listing as threatened in 1990, a greater emphasis on protecting NSO territories and individual birds, whether breeding or not, is fully warranted.

However, the proposed mitigation of requiring surveys to determine NSO presence within the 1.3-mile buffer area, in which an NSO occurrence could theoretically automatically preclude any expansion of permitted cultivation sites, should probably be adapted to allow for an individual site analysis approach.

Perhaps existing cultivation operations, seeking new permits or expansion, and not proposing forest habitat clearing, but that may impact a known NSO Activity Center or potential habitat, should be identified and prompted to provide a more detailed analysis of their current/proposed operations, all associated wildlife habitats, and light and noise mitigations from current/proposed operations.

Additional assessments of the effectiveness of light exposure mitigations could be conducted and improved if necessary, to minimize environmental impact footprint.

Background ambient-noise assessments should be conducted to determine both the range of influence of sound from operations, and the change from background sound level and the effect on nearby habitats.

This information can be used to compare to the guidelines in the tables from the US Fish and Wildlife’s 2006 Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California. These guidelines outline and synthesize a wide range research on

potential noise disturbance effects and ambient-noise backgrounds throughout these species' ranges in California. The disturbance-distance estimations from this document would help calculate, I believe more effectively, the potential impacts to all nearby wildlife habitats from activities associated with development and cannabis cultivation.

The data and analysis needed at each site would impose some additional costs on both landowners and Trinity county, but would also likely allow for some properly-regulated cannabis cultivation expansion approvals when and where possible, potentially offsetting the increased costs to all parties.

A further concern of the proposed mitigation measure is that they are likely to significantly increase the NSO survey calling effort throughout Trinity county. Although the measure is intended to protect NSO by establishing their presence/absence and status, a large increase in calling may unintentionally cause harm to roosting/nesting NSO by drawing females off of a nest and/or by exposing individuals or young to predators (Great Horned Owls, Red-Tailed Hawks) or competitors (Barred Owls). By requiring all proposed or expanded cannabis operations with *any* ground disturbance to conduct NSO surveys on all potential habitat within 1.3 miles may also cause confounded survey results from different Activity Center sites. Any existing sources of current NSO survey data should be shared among stakeholders to minimize survey efforts when possible.

There is currently a Colorado State University long-term NSO demographic study in portions of western Trinity county (Willow Creek Study Area) that has NSO data as far back as the mid 1990's. That study's primary investigator, Peter Carlson, annually monitors historical NSO Activity Centers, but he has requested that any biologists who are planning to survey in western Trinity County should coordinate with him to receive data from his monitoring efforts instead of conducting surveys that may confound his research. To ensure that NSO data is shared, and that unnecessary calling is avoided, a preseason survey meeting is held in Korb, CA, every February for biologists, foresters, and landowners to coordinate their survey efforts in Humboldt county. Perhaps additional Trinity county stakeholders/biologists could join the Korb meeting or facilitate a similar coordination meeting in Trinity county.

In summary, I believe the mitigation measure requiring 2 years of NSO surveys of a 1.3 mile buffer for any cannabis site expansion is a one-size-fits-all approach that will likely prevent most sites from any expansion whatsoever, even when further mitigations and a site-specific habitat analysis could likely prevent significant impacts to NSO roosting/nesting or foraging habitat. The Trinity county planning department should strongly consider developing and approving a process that allows for individual site analysis for proposed expansion at cannabis sites where no habitat removal or conversion is proposed. A process that allows for individual site analysis for NSO mitigations for cultivation expansion would ensure that landowners would have a path to work to expand their operations, while also allowing for a more thorough analysis of potential impacts to NSO. Any further mitigations to protect NSO and their habitats could then be applied on an individual site basis.

I appreciate the opportunity to have my comments considered. Please feel free to contact me at the above addresses with any concerns or questions regarding these comments.

Sincerely,

Brit O'Brien
OBC
707.845.6627

Kim Hunter

From: Lisa Lozier
Sent: Thursday, December 3, 2020 1:45 PM
To: Kim Hunter; Margie DeRose; David Colbeck
Subject: FW: Redraft and Recirculate Air Quality Chapter 3.3 of Trinity County Cannabis Project FEIR

FYI, just received this email in regard to the FEIR.

Thanks, LL

From: Jvorp <jvorp@aol.com>
Sent: Thursday, December 3, 2020 1:36 PM
To: Jvorp <jvorp@aol.com>; Info.Planning <Info.Planning@trinitycounty.org>
Subject: Redraft and Recirculate Air Quality Chapter 3.3 of Trinity County Cannabis Project FEIR

FEIR except for air quality chapter is fine
Air Quality Chapter 3.3 needs to be redrafted and recirculated because:

- Appendix C may not be the worst appendix i've encountered but is top 3.
- dubious assumptions (7500 trips per day during the harvest season)
- failure to set an appropriate baseline (17 u/m³ used in FEIR to establish baseline for PM 10 measured in Eureka)
- important mitigations were not considered: car pooling and natural dispersion
- erroneous conclusion that the impact of cannabis project is Significant and Unavoidable
- most importantly significant information exists contradicting the conclusion of the FEIR that the impact of the Cannabis Project on Air Quality is both Significant and Unavoidable

Data:

- **3 independent sources of measured data**
- **measured data from Trinity County**
- **all sources have real time and archived data**
- **measures cumulative impact of all sources impacting air quality including the Cannabis Project**
- **impact of Cannabis Project on Air Quality is a relatively small fraction of the total cumulative impact**
- **consistent results across all data sets**
- **one inescapable conclusion: spoiler alert- the cumulative impact on air quality from all sources is not significant. Therefore the impact of the Cannabis Project on air quality is not significant.**

Data Sources and Data Sets

1) Weaverville Court House BAM
Measures PM 2.5
Archived Data from 2005
Set: 2019

Sample Data

Trinity County
Daily Average PM25 at Highest Site
2019

Micrograms/Cubic Meter (ug/m³)

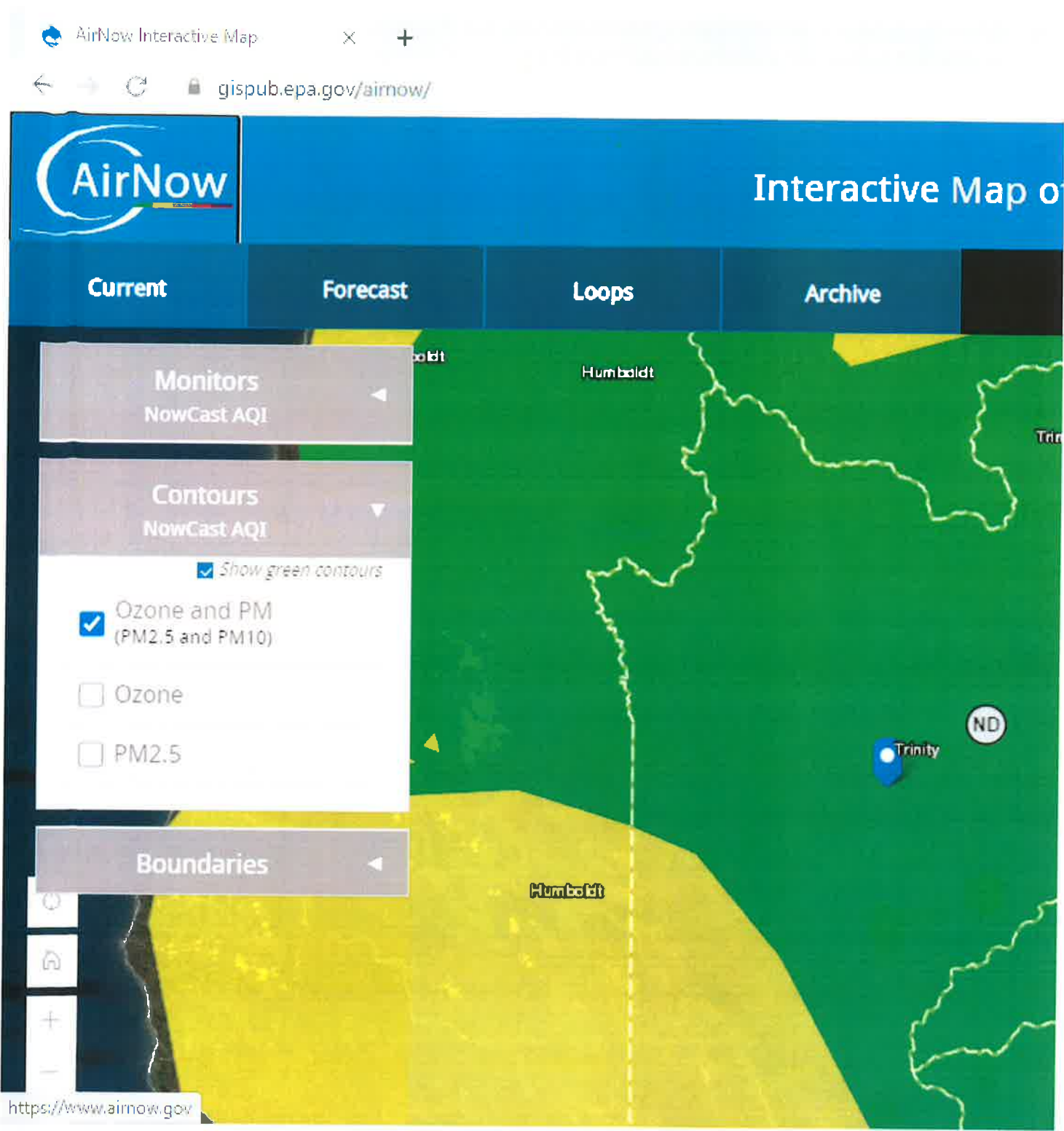
Day	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
1			1.3		4.5	3.4		2.9	2.2	3.3	7.8	11.7
2		0.4			3.4	3.4	2.2	1.8		3.5	6.1	18.7
3	3.4			0.8	4.7	6.1		2.3	2.3	3.3	5.9	15.9
4			1.5		4.8	8.3		3.8		2.5	6.0	22.7
5		0.7			4.1	2.4	3.8	3.9	5.1	4.4	8.2	17.9
6	0.2			0.7	5.8	2.7		4.2	6.6	1.5		8.3
7			0.8		4.0		4.3	3.8	6.7	2.7	9.2	15.8
8		1.4			3.2	0.7	5.5	4.5	1.8	3.3	8.4	13.3
9	0.8			0.8	3.8		8.0	5.5	1.7	3.3	8.5	12.0
10			0.6		1.0	4.3		5.2	4.0	2.5	4.3	9.2
11	3.2	1.2		0.7	4.8	3.4	2.1	2.8	1.8	5.1	6.4	17.9
12	12.4			1.0	4.1		1.8	4.0	2.2	6.5	6.9	17.3
13	10.7			1.0			1.4	4.5	1.3	9.2	8.5	11.8
14	8.7			-0.5	4.5	3.4	1.9	4.9	5.3	8.5	10.7	5.0
15	2.3			2.2	4.6		1.7	5.2	2.9	10.5	18.0	11.6
16	40.4		1.9	1.5			1.9	4.5	1.5	8.7	9.9	7.5
17	18.4	1.0				2.6	2.7	5.2	3.8	3.7	8.0	7.2
18	7.2			1.5	1.1		4.9	6.6	1.5	6.2	8.8	8.4
19	9.4		3.4				4.8	6.2	1.7	4.9	3.2	17.8
20	4.1	0.5				1.9	5.8	6.1	2.3	4.9	5.9	17.8
21	0.5			1.2	1.5		6.1	3.6	2.3	4.8	9.7	8.3
22			1.1	0.9	2.4		5.1	1.4	2.9	6.7	7.9	7.5
23		2.1		0.9	2.5	2.1	3.5	4.0	1.1	4.7	9.6	11.3
24	0.8			1.5	3.9		3.9	5.5	2.5	5.7		17.0
25			1.1		3.3		5.0	4.6	1.2	5.0		16.5
26		0.1			2.0	1.2	8.3	3.6	3.3	3.5	11.7	11.7
27	1.3			4.0	3.0		21.0	5.0	3.5	3.7	9.1	11.9
28			0.8		4.7		14.7	5.9	2.3	7.1	10.5	18.4
29					7.7	2.0	16.6	5.0	3.2	6.6	10.0	36.8
30	2.8			3.8	5.5		5.8	3.4	2.6	6.9	9.0	20.5
31			1.2		4.3		6.3	2.0		6.4		16.2
MAX:	40.4	2.1	3.4	4.0	7.7	8.3	21.0	6.6	6.7	10.5	18.0	36.8
MIN:	0.2	0.1	0.6	-0.5	1.1	0.7	1.4	1.4	1.1	1.5	3.2	5.0

Download Data: [Quick](#) or [Select Format](#)

Cell color is red if national 24-hour standard level is exceeded.
Blank values indicate data not available.

) EPA AirNow
Measures Ozone, PM 2.5, PM 10
Daily Air Quality Contour Map
Four Years Archived data

Typical Contour Map

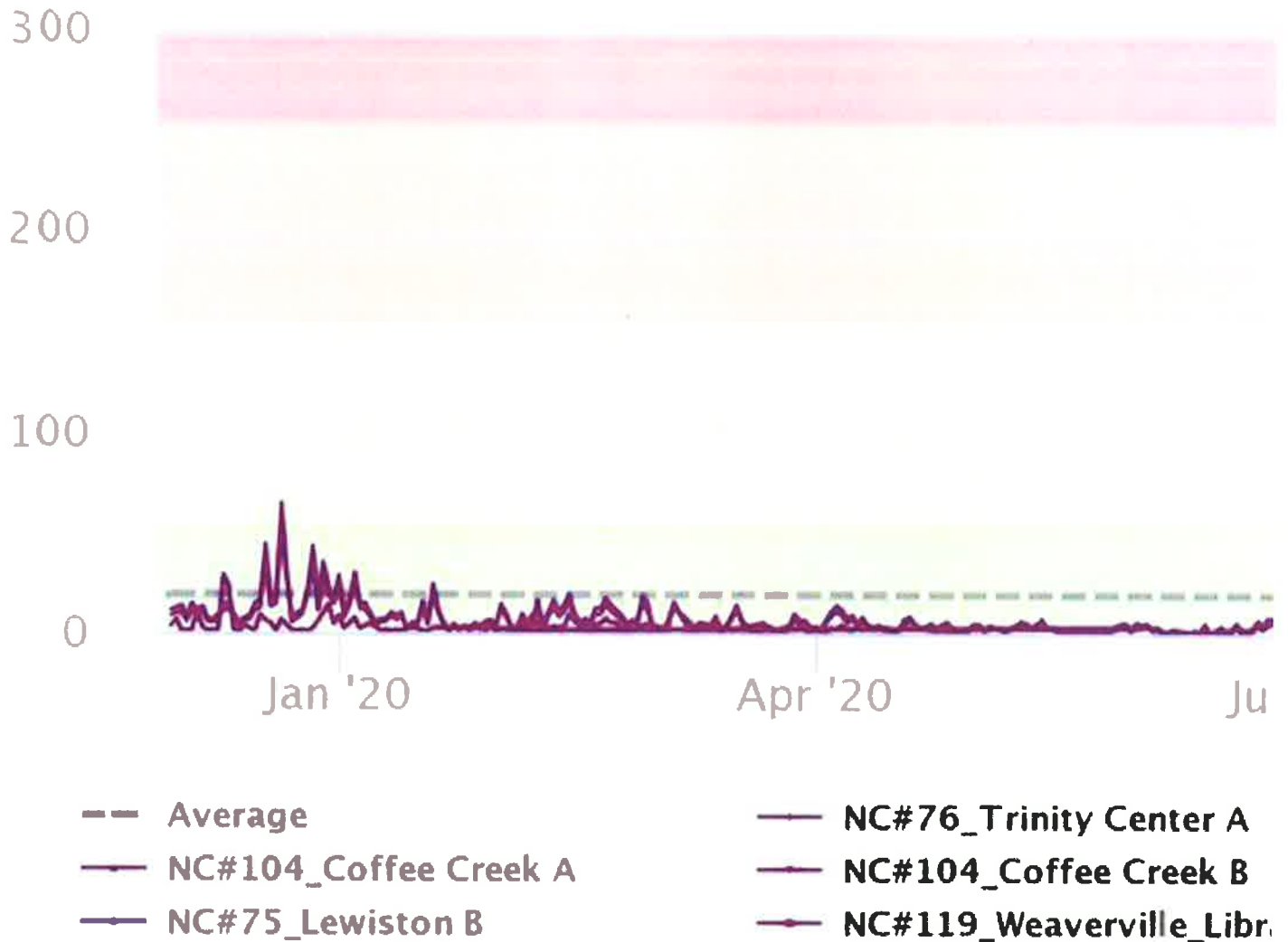


3) Purple Air

Measures PM 2.5 and PM 10
Sites in Weaverville Lewiston Trinity Center Coffee Creek
Real time and archived data



Raw PM10 in $\mu\text{g}/\text{m}^3$ One



Natural Dispersal Capacity: Based on measured dispersion of air quality impacts during wildfire episodes. September 18-19.

Conclude:

- other than wildfires cumulative impact on measured air quality in the county is not significant
- cannabis project impact is a small fraction of cumulative impacts
- impact of cannabis project on air quality is not significant

- dispersion data from wildfire events demonstrates the power of natural air flow in the county in mitigating air quality impacts. the regular flow of mass quantities of high quality air through the county is a major factor in the remarkably consistent air quality measured.