December 31, 2015

Chairperson Mark Lovelace
Humboldt County Board of Supervisors
Humboldt County Courthouse
825 5th Street
Eureka, CA 95501

Re: Comments on the County’s proposed Medical Marijuana Land Use Ordinance – Phase IV – Commercial Cultivation of Cannabis for Medical Use, Case No. OR-15-003

Dear Chairperson Lovelace and Members of the Board,

These comments are submitted on behalf of the Environmental Protection Information Center (EPIC), Northcoast Environmental Center (NEC), Humboldt Baykeeper, and Safe Alternatives for our Forest Environment (SAFE). We thank the Board, staff, and the Planning Commission for their efforts to develop a land use ordinance regulating commercial medical marijuana cultivation, and we appreciate the opportunity to participate in the public process that we hope will reduce environmental impacts of a largely unregulated industry that has grown exponentially in recent years.

We support several of the Planning Commission’s recommendations adopted on Dec. 3. However, the current draft ordinance taken as a whole will not reduce impacts on the environment as stated in the associated Mitigated Negative Declaration (MND). We believe the Planning Commission’s deletion of Sections 55.4.8 a) and b) would significantly undermine the MND, and we strongly support including these provisions in the final version of the ordinance. Enclosed are our specific recommendations for changes to the ordinance language, which includes several improvements the Planning Commission made to the Oct. 1, 2015 draft.

The County’s draft ordinance brought before the Planning Commission on October 10, 2015 “applies regulations to an existing unregulated land use to help prevent and reduce environmental impacts that are known to result from unpermitted baseline cultivation operations” (MND at 1). However, the County Planning Commission’s recommendations fail to meet this stated goal by including new operations under the same regulatory framework as existing operations. This addition vastly expands the number and extent of potential cultivation operations far above baseline, which is thought to be on the order of 3,000 - 5,000 according to best available information provided by the Humboldt County Sheriff and California Department of Fish and Wildlife.
According to the Humboldt County Land Information System, there are 12,254 parcels over 30 acres in size in one of the zoning categories in which commercial medical marijuana cultivation would be allowed under the Planning Commission recommendations (RA, AE, AG, TPZ, TC, FR, U). Under these recommendations, each of these parcels would be allowed to develop new cultivation operations up to 10,000 square feet without any discretionary review—enabling a potentially massive expansion of marijuana operations. This potential growth would have potential significant unmitigated impacts on the environment that are not analyzed in the MND.

Significant impacts to forest and agricultural resources, water quality, biological resources, and air quality have not been adequately analyzed and mitigated in the MND. Without a reduction in the extent of operations that would be allowed under the ordinance, the Planning Commission recommendations are likely to result in substantial impacts on the environment.

I. Forest Resources

The MND was premised on two important assumptions. First, no new permits would be issued for TPZ-zoned lands. Second, impacts from existing operations on forest resources would be vetted through a discretionary permits to ensure that no significant environmental impacts would occur.

Under the October 10, 2015 draft ordinance, Section 55.4.8.2 (b) stated that “No use permits shall be issued for new cannabis cultivation in the FR, TC or TPZ zones.” Under the Planning Commission recommendations, new operations would result in unmitigated impacts to Forest Resources, including conversion of timberland, impacts to wildlife habitat, and impacts to water quality that have described in our previous comments as well as those submitted by the California Department of Fish and Wildlife, Friends of the Eel River, Humboldt Redwood Company, and others. In addition, impacts to adjacent timberland owners and managers have been described in comments submitted by Baldwin, Blomstrom, Wilkinson, and Associates. Thousands of parcels exclusively within the Timber Production Zone (TPZ) would be eligible for new cultivation operations as follows:

<table>
<thead>
<tr>
<th>Parcel Type</th>
<th># of Parcels</th>
<th>Area of Cultivation Allowed with Zoning Clearance Certificate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parcels zoned exclusively TPZ:</td>
<td>4,941</td>
<td></td>
</tr>
<tr>
<td>&lt;5 acres</td>
<td>371</td>
<td>3,000</td>
</tr>
<tr>
<td>5-10 acres</td>
<td>157</td>
<td>5,000</td>
</tr>
<tr>
<td>10-30 acres</td>
<td>515</td>
<td></td>
</tr>
<tr>
<td>30-320 acres</td>
<td>3,029</td>
<td>10,000</td>
</tr>
<tr>
<td>320+ acres</td>
<td>869</td>
<td>20,000</td>
</tr>
</tbody>
</table>
In addition, 2,958 parcels zoned partially TPZ (and partially AG, U, etc.) would be allowed to develop new cultivation operations up to 10,000 square feet without any discretionary review.

The Planning Commission’s recommendations also allows for the commercial cultivation of cannabis without discretionary review for both existing and new operations up to 10,000 sq. ft. By removing discretionary review, the County cannot ensure that individual or cumulative impacts from numerous substantially sized operations will not significantly impact the environment.

II. Agricultural Resources

The Planning Commission’s recommendation to allow 10,000-20,000 sq. ft. indoor cultivation warehouses without discretionary review on lands zoned AE (Agriculture Exclusive) would significantly impact agricultural resources. Indoor cultivation should not be allowed on such a large scale on lands zoned AE. Commercial indoor cultivation should be limited to lands zoned for industrial and commercial uses (MB, MG, ML, MH, C-2, C-3, CH, or CG).

III. Biological Resources and Water Quality

As described in our previous comments, as well as comments from Friends of the Eel River, California Department of Fish and Wildlife, National Marine Fisheries Service, and others, allowances under the Planning Commission’s recommended ordinance would result in unanalyzed and unmitigated impacts associated with new cultivation operations. Particularly of concern are impacts to water quality and protected salmonids related to sedimentation from new road construction, wet weather road use, and cumulative impacts of surface water diversions and groundwater pumping that already may exceed carrying capacity in many watersheds.

IV. Air Quality

Potential increases in greenhouse gas emissions from indoor cultivation and the potential conversion of timberland under the Planning Commission’s recommendations are not analyzed in the MND, which states that “The primary goal of the ordinance is to provide clear standards and permitting pathways to help bring baseline cultivation activities into compliance with local, regional, and state-wide regulatory schemes” (MND at 10). Limiting indoor cultivation to industrial and commercial zones, as well as limiting the ordinance to existing cultivation on timberlands would minimize impacts to air quality, as well as agricultural and forest resources.

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While we believe that the County’s original draft was able to fit under an MND, we felt that the draft ordinance could have been improved to increase voluntary compliance. The Planning Commission’s recommendations, however, strayed too far from the circulated
MND and risks tying up this necessary and important ordinance in litigation. We urge the Board to return to the framework presented in the County’s original draft ordinance with some additional modifications to encourage compliance and further reduce environmental impacts, as recommended in the attached document.

We believe that the County should move swiftly and with deliberate effort to craft regulations to guide cannabis cultivators for the 2016 season. With that in mind, we believe that the Planning Commission’s recommendations are not appropriate under the circulated MND. The Planning Commission’s recommendations would result in a large expansion of cultivation sizes, addition of zones in which commercial cultivation would be allowable, and expansion of allowances for indoor cultivation without mitigation measures adequate to ensure that no significant environmental impact would occur. To move forward in a timely manner while bringing the cannabis community into the light and improving environmental conditions, we urge the Board to cautiously stay within the bounds of the circulated MND.

Respectfully,

/s/ Natalynne DeLapp
Executive Director, Environmental Protection Information Center

/s/ Larry Glass,
President, NEC & Executive Director, SAFE

/s/ Jennifer Kalt
Director, Humboldt Baykeeper

Enclosed: Recommended Changes to MMLOU, 12-31-15