



Draft EIR Meeting for Trinity County Cannabis Program

Trinity County Board of Supervisors

February 11, 2020

Introduction

Three meetings held to receive additional public input on the Draft EIR:

- September 26th Planning Commission Meeting
- November 19th & December 11th Board of Supervisors

Direction to Staff from the Board on December 11th:

- Provide options based on community input received to date
- Provide more information regarding raising or removing the current cultivation license cap of 530 and revising the project description
- Discuss the pros and cons, and the timeline, of proceeding with the existing DEIR

Background

The EIR is not policy

- It is a **process** intended to evaluate the existing program, reveal environmental impacts, and suggest mitigation measures to address those impacts
- It is not intended to fix the past impacts to the environment but avoid or lessen impacts of the program going forward
- The EIR provides options. It is the role of the PC and BOS to choose what path the EIR will take and make substantive changes to shape the program and create regulation

Background

The Ordinance is the policy

The ordinance amendment will combine the existing ordinances into one and will include mitigation measures and performance measures

Other changes with no additional Environmental Impacts may include:

- Multi-year licenses – single fee, annual inspection(s), limitations on site expansion
- Establish a process for Opt-out areas
- Exclusion areas – due to zoning, topographic, hydrologic or geologic considerations
- Revise Cannabis Cultivation Setback Variance provisions

Alternatives

Draft EIR Alternatives (as currently written):

- Alternative 1: No Project Alternative
- Alternative 2: Siting Limitation for Commercial Cannabis Sites
- Alternative 3: Restricted Commercial Cannabis Cultivation
- Alternative 4: Reduced Commercial Cannabis Operations

Alternatives

Describe Alternative 1 – No Project Alternative

- Current Ordinances remain in place (ordinance is not revised)
- EIR is certified to acknowledge environmental impacts
- Each license requires independent CEQA review because no mitigations were adopted into ordinance

Staff does not recommend this Alternative

Alternatives

- Adjusting Alternatives
 - Alternatives may be “adjusted” by the BOS prior to, or at the time of, certification if recirculation is not required
 - BOS may consider and adopt alternative language with stated justification and findings
 - Justification must be stated to adopt or reject each Alternative

Options

1. Modify the DEIR Project Description to expand the Cannabis Program which would require rewriting and recirculation of the DEIR
2. Move forward with the completion of the EIR process of the Cannabis Program with the current project description and Draft EIR with minor revisions to produce the Final EIR and complete the ordinance amendments

Modify the DEIR Project Description to expand the Cannabis Program and Recirculate the DEIR

Option 1 would modify the DEIR to include an increase in the license cap. The DEIR would be reanalyzed and the entire document (or sections) would be recirculated.

The cap increase would include conditions (Example: existing sites, CUP for cultivation on non-agriculturally zoned parcels) and additional modifications would be possible.

Next steps:

- Rewrite the Project Description to increase license numbers
- Reanalyze and rewrite the affected DEIR sections
- Circulate the amended sections for public comment
- Respond to comments and produce Final EIR
- After certification, amend Ordinance to reflect Final EIR

Modify the DEIR Project Description to expand the Cannabis Program and Recirculate the DEIR

Pros:

- EIR may reflect desired changes to the ordinance/program
- Looks forward to future of Cannabis Program
- Increased cap may capture “spirit” of the Cannabis Ordinance to provide opportunities for legal operations
- May bring more Cannabis operations into the legal market
- Recognizes the reduced environmental impact of legal operations compared to illegal operations

Modify the DEIR Project Description to expand the Cannabis Program and Recirculate the DEIR

Cons:

- Certification of Final EIR likely not possible until late 2020
 - Time required for EIR process
 - EIR may not be used for license “tiering” until complete
 - Significant increase in staff and consultant costs

- Required CEQA review conducted for each cannabis license application
 - Negative Declaration for State
 - Potential subsequent Negative Declaration for County
 - Expense and time to complete of CEQA review for each license
 - Each CEQA document approved by Planning Commission

Modify the DEIR Project Description to expand the Cannabis Program and Recirculate the DEIR

Timeframe: approximately 275 days – depending of Planning Commission and Board of Supervisor meetings

- Consultant Contract Amendment (30 days – BOS meeting)
- Rewrite the Project Description to include an increase in license numbers (30 days)
- Reanalyze and rewrite the affected DEIR sections (60 days)
- Circulate the amended sections for public comment (45 days)
- Respond to comments and produce Final EIR (20 days)
- Certification (PC and BOS meetings – minimum 60 days)
- Amend Ordinance to reflect Final EIR (30 days)

Move forward with the completion of the EIR process and Cannabis Program ordinance amendments

Option 2 is to proceed with the certification with the current Draft EIR. This may include modifications of the mitigations and proposed alternatives. The next steps would be:

- Produce the Final EIR
- Planning Commission advisory meeting
- Board of Supervisors certification meeting
- Publish Final EIR
- Amend Ordinance reflecting the Certified Final EIR

Move forward with the completion of the EIR process and Cannabis Program ordinance amendments

Pros:

- Earliest possible Programmatic CEQA coverage
 - Consider 2020 licensing season
 - Does not require Recirculation
- Streamlined application process with County Tiering document
- Certified EIR becomes basis for future program amendments

Move forward with the completion of the EIR process and Cannabis Program ordinance amendments

Pros:

- EIR may be added to in the future if needed
- Mitigations and Alternatives may be modified for Final EIR
- Some data and assumptions can be modified
- Lower staff and consultant costs
- Less impact to the ongoing Commercial Cannabis Program

Move forward with the completion of the EIR process and Cannabis Program ordinance amendments

Cons:

- Does not allow for license cap increase above 530
- May require a Supplemental EIR or Addendum for future Ordinance changes

Move forward with the completion of the EIR process and Cannabis Program ordinance amendments

Timeframe: Approximately 150 days – depending on Planning Commission and Board of Supervisor meetings

- Produce the Final EIR (50 days)
- Planning Commission advisory meeting (minimum 30 days)
- Board of Supervisors Certification meeting (minimum 30 days)
- Publish Final EIR (10 days)
- Amend Ordinance to reflect Final EIR (30 days)

Staff Recommendation

Staff Recommends that the Board of Supervisors directs staff to:

- Move forward with the completion of the EIR process with the current project description and Draft EIR with minor revisions to produce the Final EIR and complete the ordinance amendments
- Consider a modified Alternative 2 allowing the current licensing cap of 530



Thank You!

Final EIR

Final EIR is comprised of:

- Inclusion of all comments received
- Description of changes from Draft EIR – including minor edits
- Description of whether changes to the Ordinance

Final EIR

Ability to comment on the Final EIR – how can we get the changes we want?

- At the time of EIR certification, or beforehand, changes may be suggested to the PC and BOS. For example – alter, add or remove a mitigation or support a specific alternative. One may also advocate for changes to the project description.
- The PC and BOS must choose what path the program will take by shaping the ordinance.

Provisional Licenses

Provisional Licenses expiring per month
(as of 11/2019)

<u>Category</u>	<u>Quantity</u>
Provisional County Licenses	146
Annual County Licenses	168
Total Valid County Licenses	314

<u>Expiration Month</u>	<u>Quantity</u>
January	0
February	0
March	15
April	36
May	20
June	29
July	21
August	8
September	10
October	7
November	TBD
December	TBD
TOTAL	146

Mitigation

The image features a vibrant, abstract background. The left side is dominated by a solid orange color, which transitions into a series of overlapping, semi-transparent green shapes on the right. These green shapes are geometric, with sharp angles and varying shades from light lime to dark forest green. A thick, solid black horizontal bar spans across the bottom of the image, partially overlapping the orange and green areas. The overall composition is modern and dynamic.

Mitigations

- Duty to limit identified Environmental Impacts with Mitigations
- Allows BOS to consider Mitigation feasibility and economic/social impacts
- Individual Mitigations may be “tweaked” by the BOS prior to, or at the time of, certification
- PROCESS: BOS debates mitigation, justifications are stated, mitigation language is modified, mitigation findings are voted on at time of EIR certification.
- Note: Justification must be sufficient to remove/alter a mitigation.

Mitigations - Reliance on Water Board

62	Total number of Mitigation Measures
13	Mitigations that implement another Mitigations Measure
19	Mitigations that relate to Water Board State General Order (SWRCB Order WQ 2017-0023-DWQ)
30	Remaining Mitigations

Mitigations

Mitigation Measure 3.4-1b: Conduct **Special-Status Plant** Surveys and Implement Avoidance Measures and Mitigation

The following shall be included as new performance standards for [the Ordinance(s)]. Compliance documentation will be provided to the County as part of the application materials and may be combined with **required compliance with SWRCB Order WQ 2017-0023-DWQ**:

- Prior to commencement of new development related to cannabis activities or the expansion of the Designated Area for existing licensed cultivation sites and during the blooming period for the special-status plant species with potential to occur on the site, a qualified botanist approved by the County shall conduct protocol-level surveys for special-status plants in all proposed disturbance areas following survey methods from CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (CDFW 2009).
- If special-status plants are not found, the botanist shall document the findings in a letter report to CDFW and the applicant, and no further mitigation will be required.
- If special-status plant species are found, the qualified botanist shall consult with CDFW to designate a no-disturbance buffer that will be reflected in the application to the County. If the special-status plant species cannot be avoided, the application will be denied.

Biological Mitigations

BIOLOGICAL

- 3.4-1a: Preapproval Biological Reconnaissance Surveys
- 3.4-1b: Special-Status Plant Surveys and Implement Avoidance Measures and Mitigation
- 3.4-1c: Implement Measures to Avoid Introduction of Spread of Invasive Plant Species
- 3.4-2a: Preconstruction Surveys for Special-Status Amphibians
- 3.4-2b: Surveys for Western Pond Turtle and Relocate Individuals
- 3.4-2c: Preconstruction Nesting Raptor Surveys and Establish Protective Buffers
- 3.4-2d: Northern Spotted Owl Preconstruction Habitat Suitability Surveys and Determine Presence or Absence of the Species
- 3.4-2e: Preconstruction Special-Status Nesting Bird Surveys and Establish Protective Buffers
- 3.4-2f: Preconstruction Surveys for Trinity Bristle Snail
- 3.4-2g: Preconstruction American Badger Survey and Establish Protective Buffers
- 3.4-2h: Preconstruction Fisher and Humboldt Marten Survey and Preserve Active Den Sites
- 3.4-2i: Preconstruction Surveys for Ringtail and Implement Avoidance Measures
- 3.4-2j: Preconstruction Surveys for Oregon Snowshoe Hare and Implement Avoidance Measures
- 3.4-2k: Preconstruction Bat Survey and Exclusion
- 3.4-2l: Preconstruction Vole Survey and Relocation
- 3.4-2m: Reduce Generator Noise
- 3.4-3: Implement Mitigation Measures 3.10-1a and 3.10-3b
- 3.4-4a: Identify, Avoid, and Protect Sensitive Natural Communities, Riparian Habitat, and Wetland Vegetation or Provide Compensation
- 3.4-4b: Restore Abandoned Cultivation Sites
- 3.4-5: Identify Wetlands and Other Waters of the United States and Avoid These Features
- 3.4-6a: Implement Mitigation Measure 3.4-5: Identify Wetlands and Other Waters of the United States and Avoid These Features
- 3.4-6b: Retention of Fisher and Humboldt Marten Habitat Features
- 3.4-6c: Implement Mitigation Measure 3.1-1b: Maintain Cultivation Parcel

Water Board & CEQA



Water Board and CEQA Compliance

- Key Question:
 - If a cultivator must follow DWQ policies, and DWQ wrote their policies to be exempt from CEQA, is a cultivator then exempt from CEQA if they follow DWQ policies?
 - Answer: No. The County has its own Cannabis Program that dovetails with, but is separate from, DWQ and CDFA licensing. Therefore, any County Cannabis Program decision/action must comply with CEQA.
 - Result: The County is pursuing a Programmatic EIR to comply with CEQA law. Individual licenses must either pursue coverage under the EIR or have an independent/individual CEQA determination.