MEMORANDUM #4

DATE: July 2, 2020

TO: Chair Frasier and Members of the Planning Commission

FROM: Bella Hettke, Associate Planner

SUBJECT: Agenda Item 3 – Annual Initial Variance (CCV-19-63)

Dear Chair Frasier and Members of the Planning Commission,

The purpose of this memo is to:
1) provide a clear document list of all documents prepared by staff for this project and;
2) provide new material that staff was directed to provide to the Planning Commission during the June 4th, 2020 Planning Commission meeting.

Document List:
The following documents (5 in total) have been prepared for this commercial Cannabis variance request (CCV-19-63) and are attached to this memo:

1) Staff Report (Published Date of April 17, 2020)
2) Memo #1 (Published Date of April 22, 2020)
3) Memo #2 (Published Date of May 21, 2020)
4) Memo #3 (Published Date of May 29, 2020)
5) Memo #4 (Published Date of July 2, 2020)

June 4, 2020 Planning Commission Meeting:
During the June 4th, 2020 Planning Commission meeting the Planning Commission moved to continue this item to the July 9th, 2020 Planning Commission meeting and directed staff to return to the Commission with Conditions of Approval and Findings for granting the variance.

As directed by the Planning Commission, staff has prepared and attached the following documents:
1) A Conditions of Approval list that is commonly associated with approved commercial Cannabis variance requests.
2) A list of Findings that are commonly associated with approved commercial Cannabis variance requests. The Commission will provide justification for Finding #3 during the July 9th, 2020 Planning Commission meeting.
FINDINGS: The following findings shall apply to the S. Xiong Commercial Cannabis Setback variance (CCV-19-63) for APN 025-140-32-00:

1. **No Special Privilege.** A variance cannot be a special privilege extended to one individual property owner. The circumstances must be such that the same variance would be appropriate for any property owner facing similar circumstances.

There are special circumstances (topography, irregular shape of parcels, and size of parcels) applicable to the project parcels that, with strict application of the Trinity County Zoning Code, deprives the property owner of privileges available to other property owners with similar zoning in the vicinity that plan to establish or have established a commercial Cannabis cultivation operation within the Trinity County Commercial Cannabis licensing program.

2. **Use Variance Prohibited.** The consideration of "use variance" is specifically prohibited. These are variances, which request approval to locate a use in a zone from which it is prohibited by ordinance.

This variance is to reduce the 350’ setback requirement in Trinity County Code 17.43.050.A.8, not to allow a specific use in the Rural Residential zoning district that is not currently allowed by ordinance.

3. **Disservice Not Permitted.** A variance must not be injurious to the public welfare, nor to adjacent properties.

*The Commission will provide justification for Finding #3 during the July 9th, 2020 Planning Commission meeting.*

4. **Not Adverse to General or Specific Plan.** A variance must be in harmony with the general purpose and intent of the Zoning Ordinance and cannot adversely affect the general plan or specific plans of the county.

While the applicant’s parcel is unable to meet the 350’ residential setback requirement, as per Trinity County Code Section 17.43.050.A.8., the proposed project is substantially in compliance with the Zoning Code provisions for Commercial Cannabis Cultivation, which the County has found are necessary to reduce the potential impacts associated with unregulated Cannabis cultivation. Trinity County Code Section 17.43.050.A.8. allows for variance requests to reduce the residential setback that are consistent with the requirements for variances in State law and the County Zoning Code. The subject parcel contains special circumstances, such as narrow lot shape and unusual topography, which justifies the granting of a variance from the residential setback requirement and would be appropriate for any property owner facing similar circumstances. As such, the proposed variance is consistent with the general purpose and intent of the Zoning Code and would not adversely affect the general plan or specific plans of the County.

5. **RD-1 Overlay Zone.** Prior to approval of a variance for property within the RD-1 overlay zone, permission must be granted or deemed not necessary by the Secretary of Agriculture.

This site is not within an RD-1 Overlay Zone.

END OF FINDINGS
CONDITIONS OF APPROVAL: Upon approval by the Planning Commission, the following Conditions of Approval shall apply to the S. Xiong Commercial Cannabis Setback variance (CCV-19-63) for APN 025-140-32-00:

1. The variance is approved for a period of one year and shall expire on the same date as the Commercial Cannabis License that this variance and parcel is associated with; provided, however, that the variance shall be renewed annually through the Director’s Use Permit application process.
   a. Application for renewal shall be submitted by the applicant or designated agent/consultant prior to expiration of the variance and preferably no later than 60 days in advance.
   b. The renewal shall not require a formal public hearing, unless specified by the Planning Director or referred to the Planning Commission; however, written notice shall be provided by the County to surrounding property owners at least ten (10) days prior to the Planning Director’s decision to approve or deny the annual renewal.
   c. Shall be subject to a filing fee as specified by resolution of the Board of Supervisors.
   d. The Planning Director, at their discretion, may approve, deny or refer the annual renewal request to the Planning Commission. The director shall not add or modify conditions of approval applied by the Planning Commission. If submitted to the Planning Commission by the Planning Director for action, no additional fees will be required.
   e. Action to renew the variance by the Planning Director may be appealed to the Planning Commission in accordance with Section 34 of the Zoning Ordinance.

2. The variance shall be subject to the securing of all necessary permits, licenses, and approvals for the proposed Commercial Cannabis Cultivation operation from all County and State agencies having jurisdiction over any aspect of the operation.

3. Structures on the property shall be in compliance with the California Building Code and Trinity County Code.

4. The applicant has the sole responsibility for renewing this variance before the expiration date listed above. The County will not provide a notice prior to the expiration date.

5. No building permit or other county permit involving a variance shall be issued until the ten-day appeal period has expired. No building permit or other county permit involving a variance shall be issued while a variance hearing or appeal therefrom is pending.

END OF CONDITIONS
DATE PUBLISHED: April 17, 2020

PLANNER: Bella Hedtke, Associate Planner

APPLICANT: Sor Xiong

PROPERTY OWNER: Chee Pheng Vang

CONSULTANT/AGENT: The Flowra Platform

REQUEST: An application requesting a variance from the required 350' Cannabis cultivation setback from one neighboring residential dwelling (TCC 17.43.050.A.8).

LOCATION: 27 Log Cabin Ln., Douglas City (APN: 025-140-32-00)

APPROX. ACREAGE: 2.70

ZONING DISTRICT: Rural Residential 5-Acre Minimum (RR5)

GENERAL PLAN DESIGNATION: Rural Residential (RR)

STAFF RECOMMENDATION: Deny Request

ADJACENT LAND USE AND ZONING INFORMATION:

<table>
<thead>
<tr>
<th>Direction</th>
<th>Land Use</th>
<th>Zoning</th>
<th>General Plan Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Residential/Cannabis Cultivation</td>
<td>RR5</td>
<td>RR</td>
</tr>
<tr>
<td>South</td>
<td>Residential</td>
<td>RR10</td>
<td>RR</td>
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<tr>
<td>East</td>
<td>Residential</td>
<td>RR5</td>
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</tr>
<tr>
<td>West</td>
<td>Residential</td>
<td>RR5</td>
<td>RR</td>
</tr>
</tbody>
</table>

ATTACHMENTS:
1 – Project Location Map
2 – Site Plan (Provided by Consultant)
3 – 350' Setback with Comment Status Map
4 – Site Visit Photos
5 – Concerned Comment from Neighboring Parcel Owner
PROJECT DESCRIPTION: The applicant has applied for a variance for Trinity County Code (TCC)17.43.050.A.8. (Limitation on Location to Cultivate Cannabis) to reduce the required 350’ residential setback to allow their cultivation site to be located less than 350’ from one (1) neighboring residence. The applicant has a pending Small Outdoor Commercial Cannabis Cultivation license application in the Trinity County’s Commercial Cannabis Program. A Small Outdoor license type would allow the applicant to cultivate between 5,001 and 10,000 sq. ft. of total canopy.

The applicant is requesting a variance to reduce the required neighboring dwelling setback for the following residence:

<table>
<thead>
<tr>
<th>APN</th>
<th>APPROX. DISTANCE FROM CULTIVATION SITE</th>
<th>COMMENT STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>025-140-33-00</td>
<td>210’</td>
<td>Concerned Comment Received</td>
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</tbody>
</table>

AGENCY COMMENTS: Project referrals were sent to the following agencies for comments:

<table>
<thead>
<tr>
<th>AGENCIES</th>
<th>COMMENT STATUS</th>
</tr>
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<tbody>
<tr>
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<td>County Building Department</td>
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<td>County Environmental Health Division</td>
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<tr>
<td>County Cannabis Code Compliance</td>
<td>No Comment</td>
</tr>
<tr>
<td>Caltrans (District 2)</td>
<td>No Comment</td>
</tr>
<tr>
<td>CALFIRE</td>
<td>No Comment</td>
</tr>
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</table>

PUBLIC COMMENTS: As notated in the above referenced table, staff received a concerned comment from the property owner with the only residence that is located less than 350’ from the proposed cultivation site (Attachment 5). No other comments were received from neighboring parcels.

Discussion:

Trinity County Code Section 17.31.010. provides the Planning Commission with five guiding principles when deciding whether to approve or deny a variance request. These five guiding principles have been used as findings to support approval of previous variances. The five guiding principles are listed below:

1. **No Special Privilege.** A variance cannot be a special privilege extended to one individual property owner. The circumstances must be such that the same variance would be appropriate for any property owner facing similar circumstances.
2. **Use Variance Prohibited.** The consideration of "use variance" is specifically prohibited. These are variances, which request approval to locate a use in a zone from which it is prohibited by ordinance.
3. **Disservice Not Permitted.** A variance must not be injurious to the public welfare, nor to adjacent properties.
4. **Not Adverse to General or Specific Plan.** A variance must be in harmony with the general purpose and intent of the Zoning Ordinance and cannot adversely affect the general plan or specific plans of the county.
5. **RD-1 Overlay Zone.** Prior to approval of a variance for property within the RD-1 overlay zone, permission must be granted or deemed not necessary by the Secretary of Agriculture.

Given Mr. Hennis’ extensive list of objections, staff is unable to fully justify the third guiding principle (Disservice Not Permitted).

For this reason, staff recommends that the Planning Commission does the following:

1) Makes a motion to deny variance request CCV-19-63, Applicant Sor Xiong, APN 025-140-32-00 because this variance request, if approved, has the potential to be injurious to the public welfare, health and safety of the adjacent property owner due to any or all of the following reasons (per the letter displayed as Attachment 5 of this staff report):

   - Water Quantity Issues
   - Air Quality Issues
   - Pollution Issues
   - General Nuisance Issues

The Planning Commission can modify or add to the above issues as appropriate.

2) After the above motion is voted on, staff then recommends that the Planning Commission inform the applicant and their consultant that this denial is subject to the Appeal process as mentioned in Trinity County Code Section 17.34.110 if they wish to pursue this option.
ATTACHMENT 2
Site Plan

*Veg occurs in same area as flower, .95 indicates max veg state size

Total Mature Canopy Area:
6' x 6' = 36'(187) +
7' x 7' = 49'(50)
Total = 9,182 sq. ft.

Total Immature Canopy Area:
9,182'(.95%)MAX
Total = 8,722.9 sq. ft.
Current Cultivation Site Conditions

View of Upper Cultivation Site

Current Cultivation Site Conditions

RV without RV permit and unpermitted addition

View of Neighboring Residence on APN 025-140-33-00
We would like to express our objection to the commercial medical marijuana grow permit proposed for the property next door to ours. I understand that this is about the proximity of their plants to our house, but our objection is based on a lot more than just that. What we mainly object to is not following the rules, and disrespect for the rights and wishes of their neighbors.

When they first moved in we supplied them with water for free, then we started charging them for our excess water, so they decided to drill their own well. They ask me how deep my well is, I said 185 feet but the water bearing strata is at about 85 feet. I also told them of the rule about wells being 100 feet apart, so they moved as far as the could and contracted to drill to 300 feet from the same elevation/bench as my well! That hole was solid blue shale with no water bearing strata at all, dry hole. The next year they moved up the hill to their main bench, contracted for 400 feet and drilled another well, without a new permit. I told them they could not drill because of the proximity to my well and their septic system. They stopped the drilling at 280 feet because of very little water, told the driller to go home they would decide what to do tomorrow. The next day it was caved in to less than 200 but they had him set casing anyway because the water was above that level. The second hole was not a good water producer, they blamed the driller. The next year they contracted with Shasta well drilling to go to 400 feet, moved over a few feet got a small amount of water and have pumped out of it nonstop for years. My water supply has depleted since their new well was put in and now there is hardly enough water for my household, let alone gardening! This is my main objection to their permit, they have pumped all my water supplies down to worse than the driest drought years.

When doing a project like a commercial grow it is imperative that you get along with the neighbors, these people do not they are bullies, tell us what they are going to do (close our secondary access road to our lower level/bench) and that there is nothing we can do about it. He told me he had a commercial permit and it was required by the state that he close the road, so he was going to put up green houses on the road. He didn’t give me a chance to object just insisted he has a deed. He could of made a deal with me to reroute the road but was unwilling to consider any other options, he was closing the road weather I liked it or not. I do not handle intimidation well and felt very scared from the threats for many months. I have endured so much from these inconsiderate people, and I do not mean Hmong, I get along very well with most of the Hmong. I have been exposed to smells of every kind from super chemical to disgusting sewage smells, nasty cooking smells, probably from the wildlife they poached, the smell of burning plastic on a regular basis because they use the trash to start the cooking fire, they use outdoor fire to cook with so they are allowed to burn on no burn days and even on red flag days I have seen them burn trash for cooking.

I further object on the basis of unchecked pollution, on their other parcel APN 025-140-11-00 there is fertilizer left on the ground leaching into the runoff from the rain right onto my property, and they claim to be organic! They run their generator 24/7 in order to pump all the water they can, now they have PUD, how is that possible? They do not have a permitted structure anywhere, they have been living in tents and travel trailers for years if they planned on building a legal structure, they would have already done it. Years ago they broke the septic tank with a bulldozer left sewage running down the driveway for a week while they went home to Fresno. The dust from them flooring it to drive up their driveway, the noise OMG sometimes sounds like they wrecked they go so fast, at all hours.
Our objection is about following the rules neighborly considerations and decency, it is a very bad look on the county to allow this type of flagrant disregard of the laws and rules. From the highway you can see the plants and their green houses stand out like sore thumbs at night with all those lights plainly visible for miles.

One more thing we strongly object to is the animal abuse, I have called the ACO in the past. They leave the dogs tied up all the time and go back to Fresno, and the dog will bark non stop for literally days, no food or water for many days at a time. I have asked many times for them to stop the barking dog but he says he can’t hear it barking, because it barks when he is gone. I very much object to the snaring and killing of wildlife they participate in. There are still snares left on the other piece of ground they leased, APN mentioned above. I would like to see all these messes cleaned up but would be happy to just get some water out of my well and spring like I used to. They left me with no choice, failure to negotiate. Furthermore I have legal easement to the upper road but he refuses to give me a key because he doesn’t like the Chinese guy that they leased from anymore and is afraid I would let him up his road.

Thank You for considering my objections.

Philip and Elizabeth Hennis
(530)623-4229

Sent from Mail for Windows 10

From: Bella Hedtke
Sent: Tuesday, March 17, 2020 10:59 AM
To: 'feliparo54@gmail.com'
Subject: Comment on CCV-19-63

Hi Philip,

Here is my email so you can provide your comment regarding the variance request for application S. Xiong on APN 025-140-32-00. You can reply back to this email directly or attach a letter.

Let me know if you have any questions.

Best wishes,

Bella Hedtke
Associate Planner
Trinity County Community Development Services
(Planning Department & Cannabis Division)
61 Airport Rd, Weaverville, CA 96093
Box 2819, Weaverville, CA 96093
bhedtke@trinitycounty.org
530-623-1351 ex. 5

- Trinity County Planning Department Webpage
- Trinity County Cannabis Division Webpage
DATE: Wednesday, April 22, 2020

TO: Members of the Planning Commission

FROM: Lisa Lozier, Deputy Director of Planning

SUBJECT: Agenda Item 5 – Annual Initial Variance (S. Xiong, CCV-19-63)

On April 22, 2020 staff received an email from the applicant’s consultant requesting that this item be pulled from the Planning Commission meeting.

Given this request, staff recommends that the Planning Commission takes the following actions:

1) Conduct a public hearing.
2) Close a public hearing.
3) Make a motion to continue Item 5 (S. Xiong, CCV-19-63) to an undetermined future meeting date based on the consultant’s request.
MEMORANDUM

DATE: May 21, 2020

TO: Members of the Planning Commission

FROM: Kim Hunter, Director of Building & Planning

SUBJECT: Agenda Item 4 – Annual Initial Variance (CCV-19-63)

Please see the attached response regarding this annual initial variance from applicant Sor Xiong’s authorized agent, Flowra.
Reply to Opposition for Variance Application No. CCV-19-63 – Sor Xiong

This variance application has had two separate letters of opposition sent into Trinity County Planning department. Both letters contain not only barefaced, but also largely untrue, assertions unrelated to the actual variance request. The flaws in these arguments are highlighted below.

Starting with the letter from Mr. Hennis, his first point is the only one that rings true: the variance application asks for permission for the applicant’s garden to be located within 350 feet of a neighbor’s permitted dwelling, pursuant to (Commercial Cannabis Cultivation Ordinance 315-843 section 5(a)viii). The remainder of Mr. Hennis’ arguments are neither based in fact, nor even remotely close to correct. While his additional arguments are irrelevant to the question at hand, we will address them factually.

When looking to approve a variance application, Commissioners are asked to take the facts into consideration, which include the following:

One of the first points of Mr. Hennis’ argument revolves around water availability, usage, and his questions regarding the legitimacy of the source itself. This property was issued a final well permit in 2017 [see Attachment A]. The local well permitting process with Trinity County Environmental Health (TCEH) includes a Well Completion Report that shows the depth and gallons per minute of 150 feet and 3 gallons per minute meet Trinity County’s Cannabis Cultivation requirements of 100 feet deep and 3 gallons per minute [see Attachment A]. A final well permit by TCEH are the only requirements commercial cannabis cultivation applicants must meet (Ordinance 315-843, 3(a)vii). The notion that this well does not meet proper setbacks is moot since TCEH issued a final well permit. Mr. Hennis has not included his own well permit, which TCEH obviously has access to and presumably would have flagged had it been too close to the applicant’s permitted well.

The next point in Mr. Hennis’ argument revolves around deeded access and who has the right to that access. According to Trinity County Recorder’s records, one easement was officially recorded in 1993 to this applicant’s property [see Attachment B]. The deeded easement is for the road that directly accesses Mr. Hennis’ home, noted in the report and shown in Figures 1 and 2. What Mr. Hennis failed to mention in his letter is his unpermitted cultivation area that uses an easement not included in the deed, as shown below in Figures 3 and 4.
Figure 3

Figure 4

View of Mr. Hennis' garden from Sors access. This access is not included in the granted easement.
The only road that is granted to Mr. Hennis to use is the direct access road to his home [see Attachment B]. Not only is Mr. Hennis currently crossing the applicant’s property to access an unpermitted cultivation area, there is also a dumping ground downhill from his site, still on the applicant’s property, as shown in Figure 5.

Figure 5

This is the area that is proposed to be fenced off, that is mentioned in Mr. Hennis’ letter, so that the applicant does not have to worry about fines for illegal dumping. Mr. Hennis does not have legal access to this part of the applicant’s property, thus has no legal standing to make the argument that it cannot be fenced off. If anything, these are civil matters that are not germane to the variance request.

Another objection from Mr. Hennis claims illegal activity on APN 025-140-11. This is not the applicant’s property, nor do they cultivate or participate in any activity on this APN. As shown in Figure 6 below, whoever is on this parcel is not only illegally accessing it from applicant’s property, but they’ve also cleared trees apparently without a 3 Acre Conversion Permit as proven by the slash piles on the property that go against CALFire guidelines (14 CCR 1104 et.seq.)
In regards to the second letter submitted by Mr. Giassullo, he too had one valid point: issues in his letter that are raised are ones of a civil matter and should not be heard nor considered in this variance application. His argument regarding lack of access to his property if the applicant fences off the portion being used as a dumping ground is not valid as this is the applicant's property, and does not affect the currently recorded easement.

Additionally, this commercial cannabis cultivation site meets the CEQA Categorical Exemption Class 1 requirements of an Existing Facility (CEQA Guidelines Section 15301). If this variance is not granted, and the applicant is forced to move their cultivation outside of the 350 foot setback, greater disturbance and impact will occur through the development required to do so.
This would negate the Class 1 exemption, forcing additional development and greater environmental impact.

This variance application should be granted, and consequently county licensing issued. Mr. Hennis' claims are not tenable, as shown throughout this document. This variance applicant has, and continues to, abide by all required local and state regulations. Current and valid licenses held include licenses from California Department of Food and Agriculture (CCL19-0005027 – Attachment C), California Department of Fish and Wildlife (Notification No. 1600-2019-0360 – Attachment D), and State Water Resources Control Board's Cannabis State General Order (1_53CC414144 – Attachment E). Additionally, per CDFA regulations, this license is registered with METRC Track & Trace, and holds valid records of their operation.

We appreciate the Commission's consideration to the facts of the case, as well as consideration to all steps of the legal licensing process having been fulfilled. We ask that the Commission grant this variance application to avoid greater environmental impact, and to allow a local license to an applicant that has completed all steps required with local and state agencies.

Sincerely,

[Signature]

Flowra, Consultant for Sor Xiong
Notice of Final Inspection
Trinity County Building and Development Services Department
Environmental Health Division
P.O. Box 476
Weaverville, CA 96093
530-623-1459

ASSessor Parcel number (APN): 025-140-32-00
PROPERTY OWNER(S): ___________________________
MAILING ADDRESS: 27 Logcabin LN., Douglas City, CA
PHYSICAL LOCATION: WP2016-016
PROJECT final: PERMIT NO.

☐ ONSITE SEWAGE DISPOSAL SYSTEM ☐ NEW ☐ REPAIR LEACH FIELD SIZE:

BEDROOMS APPROVED: _______ TANK SIZE/STYLE: _______

☐ WELL CONSTRUCTION: ☑ NEW ☐ REPAIR WELL DEPTH/WIDTH: 180 feet/4 in.
ANNULAR SEAL DEPTH: 20 ft. MATERIALS: NH Bentonite, 0 to 180 feet PVC

☐ PUBLIC POOL/SPA: ☑ NEW ☐ REPAIR WELL DEPTH/WIDTH:

☐ FOOD FACILITY: ☑ NEW ☐ REPAIR

DATE OF FINAL: 09/14/2016

INSPECTED/FINALED BY:

WORK PERFORMED BY: Lingemann Well Drilling
CONSTRUCTION DETAILS: Yield 3 GPM

ADDITIONAL COMMENTS:

COPY PROVIDED TO:

☑ OWNER
☑ ASSESSOR
☐ BUILDING
☐ PLANNING
☐ OTHER _______
**WELL COMPLETION REPORT**

**State of California**

**Owner's Well No.**

**Date Work Began**

**Local Permit Agency**

**File No.**

**Quadruplicate**

For Local Requirements

---

**Owner's Well No.**

**Date Work Began**

**Local Permit Agency**

**File No.**

---

**Geologic Log**

<table>
<thead>
<tr>
<th>Orientation (°)</th>
<th>Vertical Angle (°)</th>
<th>Drilling Method</th>
<th>Fluid</th>
</tr>
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</table>

**Description**

Describe material, geometry, color, etc.

---

**Well Location**

**Address:**

**City:**

**County:**

**APN Book/Parcel:**

**Township/Range/Section:**

**Lat/Long:**

---

**Activity**

- New Well
- Modification/Repair
- Direct Push
- Other (Specify)

**Uses:**

- Water Supply
- Domestic
- Irrigation
- Industrial
- Monitoring
- Test Well
- Cathodic Protection
- Heat Exchange
- Direct Push
- Injection
- Vapor Extraction
- Remediation
- Other (Specify)

---

**Water Level & Yield of Completed Well**

**Depth to First Water (ft) Below Surface:**

**Depth of Static Water Level (ft) & Date Measured:**

**Estimated Yield:**

**Test Length (hrs) Total Drawdown (ft):**

*May not be representative of a well's long-term yield.*

---

**Casing (x):**

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<th>Depth From Surface (ft)</th>
<th>Bore-Hole Dia. (in)</th>
<th>Type</th>
<th>Material Grade</th>
<th>Internal Diameter (in)</th>
<th>Gauge or Wall Thickness</th>
<th>Slot Size of Hole (in)</th>
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**Annular Material**

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<th>Cemen</th>
<th>Rev. Torque (lbf)</th>
<th>Fill</th>
<th>Filter Pack (Type/Size)</th>
</tr>
</thead>
</table>

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**Certification Statement**

I, the undersigned, certify that this report is complete and accurate to the best of my knowledge and belief.

**Name:**

**Affidavit:**

**Date:**

---

**Attachments**

- Geologic Log
- Well Construction Diagram
- Geophysical Logs
- Soil/Water Chemical Analyses
- Other

**Attach Additional Information if Necessary**

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**IF ADDITIONAL SPACE IS NEEDED, USE NEXT CONSECUTIVELY NUMBERED FORM**
IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF TRINITY

DAVID DOLLAŠE and EMMA JEAN DOLLAŠE, ) CASE NO. 91CV 090
Plaintiffs, ) JUDGMENT
v. )
RALPH E. BERTSCH and )
BOHNE BERTSCH, )
Defendants. )

This matter came on regularly for trial on January 15, 1993,
before the Honorable Kenneth M. Eymann, Judge, assigned.
Plaintiffs appeared with their attorney William R. Neill.
Defendants appeared with their attorney James Woodward. Both
oral and documentary evidence was introduced. The matter was
submitted and a tentative decision was rendered on January 22,

Subsequent to the rendering of the tentative decision, the
parties negotiated a settlement to resolve real property issues
not presented at trial nor addressed by the tentative decision.
Upon consideration of the stipulation filed for entry of this
judgment, and upon the evidence presented,

IT IS ORDERED, ADJUDGED, AND DECREED that:

1. The coterminous boundary line being the northerly line
   of plaintiffs' property and the southerly line of defendants'
   property is described as follows:

   Beginning at the Northwest corner of the Southeast
   quarter of the Northeast quarter of the North; at
   quarter of the Southeast quarter of Section 33 from
   which the 5/8" rebar monument marked LS 3577 which was
   set to mark the Northwest corner of Parcel 1 as shown
   on the Parcel Map for Walter Lehman Filed in Book 7 of
   Maps and Surveys at Page 33, Trinity County Records
   bears N. 69°38'18" E., 75.12 feet distant; thence

   (1) N.79°19'27" E. along the north line of
   said Southeast quarter of the Northeast
   quarter of the Northwest quarter of the
   Southeast quarter 143.71 feet to a
   point; thence

   (2) 8.55'26'21" E., leaving said North
   line, 57.63 feet to a point on a line
   which is parallel with said North line.
   Said parallel line passes through a
   point which lies 10 feet Southerly
   of the Southerly corner of an A-frame
   building (which existed on said land in
   March, 1993) on the Southerly
   projection of the line of the
   Southeasterly wall of said building;
thence

(3) N. 79°19'27" E. on said parallel line
284.42 feet to the end of this
description on the East line of Parcel
2 as shown on the Parcel Map for Walter
Lehman Filed in Book 7 of Maps and
Surveys at Page 31, Trinity County
Records.

2. Defendants Ralph E. Bertrahe and Bonnie Bertsche shall
deed to plaintiffs David Dollase and Emma Jean Dollase a strip
of land to the south of plaintiffs' existing parcel described as
follows:

All that portion of the Northeast quarter of the
Southeast quarter of the Northwest quarter of the
Southeast quarter of Section 33, Township 33 North,
Range 9 West, M.D.M. in Trinity County, California
described as follows:
Beginning at the Northeast corner of said Northeast
quarter of the Southeast quarter of the Northwest
quarter of the Southeast quarter of Section 33; thence

(1) S.1°28'01" E. along the east line of
said Northeast quarter of the Southeast
quarter 207.73 feet to a point; thence
(2) S. 79°13'49" W., leaving said East line,
398.12 feet parallel with the North line of
said Northeast quarter of the Southeast
quarter of the Northwest quarter of the
Southeast quarter to a point on the West
line of said Northeast quarter of the
Southeast quarter of the Northwest quarter
of the Southeast quarter; thence
(3) N.2°05'39" W. along said West line
207.37 feet to the Northwest corner of said
Northeast quarter of the Southeast quarter
of the Northwest quarter of the Southeast
quarter; thence
(4) N.79°13'49" E., along said North line
400.42 feet to the Point of Beginning.
Said parcel shall be appurtenant to Parcel 2 as shown on the
Parcel Map recorded November 29, 1973 in Maps and Surveys at page
33 in the Office of the County Recorder of Trinity County,
California.
Plaintiffs shall obtain a Lot Line Adjustment for said
conveyance to which defendants shall consent.
3. Defendants shall pay the cost of monumenting the
boundary line described in paragraph 1 above and plaintiffs shall
pay the costs of monumenting the boundary line of the property
to be deeded to them described in paragraph 2 above. The
surveyors' monuments shall be installed by August 31, 1993.
4. Neither party shall be awarded damages.
5. Plaintiffs are permanently enjoined from maintaining
a drainage ditch which discharges rain water accumulating on
plaintiffs' property onto defendants' property by the ditch
previously dug by plaintiffs.
6. Jurisdiction of the Court as to personal property
issues is reserved.
7. Each party shall bear their own costs of suit.

Dated: 8-7-93  
Kennon R. Ritter  
JUDGE OF THE SUPERIOR COURT

Approved as to form and content:

Dated: 7/27/93  
William R. Neill, Attorney for Plaintiffs

Dated: July 27, 1993  
James Woodward, Attorney for Defendants

Dated: July 28, 1993  
David R. Hammer, Attorney for Plaintiffs

END OF DOCUMENT
That real property situated in the County of Trinity, State of California, described as follows:

All that portion of the Southeast quarter of the Northeast quarter of the Northwest quarter of the Southeast quarter of Section 13, Township 33 North, Range 9 West, M.D.B.&M., in Trinity County, California, described as follows:

Beginning at the Northwest corner of said Southeast quarter of the Northeast quarter of the Southeast quarter from which a 5/8" rebar monument marked LS 3577 which was set to mark the Northwest corner of Parcel 1 as shown on the Parcel Map for Walter Lehman, filed in Book 7 of Maps and Surveys at page 33, Trinity County Records, bears North 69°39'18" East, 75.12 feet distant; thence

1) North 79°19'27" East along the North line of said Southeast quarter of the Northeast quarter of the Northwest quarter of the Southeast quarter 143.71 feet to a point; thence

2) South 55°26'21" East, leaving said North line, 57.63 feet to a point on a line which is parallel with said North line. Said parallel line passes through a point which lies 90 feet Southwesterly of the Southerly corner of an A-frame building [which existed in March, 1993] on the Southwesterly projection of the line of the Southwesterly wall of said building; thence

3) North 79°19'27" East on said parallel line 91.66 feet to a point on the East line of said Parcel 1 of said Walter Lehman Parcel Map from which the 5/8" rebar monument tagged LS 3577 marking the Northeast corner of said parcel bears North 0°10'54" East, a distance of 49.97 feet; thence

4) South 0°10'54" West a distance of 281.15 feet to a 5/8" rebar monument tagged LS 3577 marking the Southeast corner of said Parcel 1; thence

5) continuing South 0°10'54" West, a distance of 7.77 feet to the South line of said Southeast quarter of the Northeast quarter of the Northwest quarter of the Southeast quarter; thence

6) South 79°13'49" West along said South line 270.55 feet to the Southwest corner of said Southeast quarter of the Northeast quarter of the Northwest quarter of the Southeast quarter; thence

7) North 2°05'39" West along the West line of said Southeast quarter of the Northeast quarter of the Northwest quarter of the Southeast quarter 326.78 feet to the POINT OF BEGINNING.

TOGETHER WITH the right to construct and maintain a road not to exceed 20 feet in width across the above described property. Said road to be built within the Southerly 100 feet of said property. Grantee, his heirs and assigns hereby covenant with Grantor at all times hereafter to hold the Grantor free of any responsibility for maintenance or repairs of said private road. The two parties shall use the right of way with due regard to the rights of others, to its use, as reserved in the deed to Joseph F. Mayse, et ux, recorded January 3, 1973 in book 156 of Official Records page 1677.

ALSO TOGETHER WITH a non-exclusive easement for ingress, egress and utilities along the existing roadway crossing the Southwest corner of the South half of the Northwest quarter of the Northeast quarter of the Southeast quarter of Section 13, Township 33 North, Range 9 West, M.D.B.&M., according to the official plat thereof, as conveyed in the deed to David Dollase, et al, recorded December 3, 1986 in book 263 of Official Records page 735.
The undersigned grantor(s) declare(s):

Documentary transfer tax is $ 96.25

( ) computed on full value of property conveyed, or

( ) computed on full value less value of liens and encumbrances remaining at time of sale,

( ) Unincorporated area ( ) City of ___________ ___

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

EMMA JEAN DOLLASE, a married woman;

hereby GRANT(S) to PHILIP A. HENNIS and ELIZABETH J. HENNIS, husband and wife,

and CHRISTOPHER D. HENNIS, an unmarried man, all as Joint Tenants

the following described real property in the

County of Trinity, State of California

FOR DESCRIPTION SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

PHILIP A. HENNIS and ELIZABETH J. HENNIS, hereby accept the interest

herein conveyed to them as Joint Tenants with Christopher D. Hennis.

DATE: October 12, 1993

State of California

COUNTY OF Trinity

On October 12, 1993 before

HHH undersigned, a Notary Public in and for said State, personally appeared PHILIP A. HENNIS and ELIZABETH J. HENNIS and EMMA JEAN DOLLASE

and in my presence and in the presence of the above named witnesses, the undersigned, a Notary Public, who after administered the

usual oath, and acknowledged to me that he/she/they executed the

within instrument as the free act and deed of the person(s) whose name(s) is/are subscribed to the

within instrument, and that he/she/they executing the within instrument executed the instrument for the purpose and with the intent that it be executed in accordance with the

purposes of the person(s) whose name(s) is/are subscribed to the

within instrument.

WITNESS my hand and official seal.

EMMA JEAN DOLLASE

Notary Public

This 25th day of October, 1993
PROVISIONAL CANNABIS CULTIVATION LICENSE

legal Business Name:
Sor Xiong

Premises APN:
Trinity County - 025-140-32-00

Premises Address:
27 Log Cabin Ln.
Unincorporated, CA 96024

Valid:
01/14/2020 to 01/13/2021

license Number:
CCL19-0005027

license Type:
Adult-Use-Small Outdoor

---- NON-TRANSFERABLE----

---- POSTIN PUBLIC VIEW ----
June 12, 2019

Sor Xiong
PO Box 331
Douglas City, CA 96024

Dear Sor:

Subject: Refund for Notification of Lake or Streambed Alteration, Notification No. 1600-2019-0360-R1, Trinity County APN 025-140-32-00

The California Department of Fish and Wildlife (Department) has reviewed your Lake or Streambed Alteration Notification (Notification), dated May 6, 2019. Your Notification includes, but is not limited to, the following information: a small outdoor commercial cannabis cultivation project utilizing a 347 foot deep groundwater well yielding more than 3 gallons per minute. Your Notification indicates there are no activities subject to the notification requirements of Fish and Game Code (FGC) section 1602 on the parcel.

The Department has determined that your project as proposed is not subject to the notification requirement in FGC section 1602. For that reason the Department will be issuing you a refund for $596.00 to the applicant address provided in your Notification.

Please note that if you change your project you will need to submit a new Notification and corresponding fee to the Department if your modified project will do any of the following:

• Divert or obstruct the natural flow of any river, stream, or lake
• Change the bed, channel, or bank of any river, stream, or lake
• Use material from any river, stream, or lake
• Deposit or dispose of material into any river, stream, or lake

In addition, while your project as proposed in your Notification is not subject to the notification requirements of FGC sections 1602, you are still responsible for complying with other applicable local, state, and federal laws. These include FGC sections 5650 and 5652 which make it unlawful to pollute waters of the state. FGC section 5650 makes it unlawful to deposit in, permit to pass into, or place where it can pass into waters of the state any substance or material deleterious to fish, plant life, mammals, or bird life, including, but not limited to gasoline and oil, as well as sediment. FGC section 5652 makes it unlawful to deposit in, permit to pass into, or place where it can pass into waters of the state, or to abandon, dispose of, or throw away, within 150 feet of the high water mark of the waters of the state, any garbage, refuse, or waste, among other materials. A person who violates FGC sections 1602, 5650, and 5652 in conjunction

Conserving California's Wildlife Since 1870
with the cultivation or production of cannabis is subject to significant penalties or fines. Specifically, the Department may impose civil penalties administratively against any person found by the Department to have violated these FGC sections in connection with the production or cultivation of cannabis following a complaint and, if requested, a hearing.

Other statutes in the FGC that might apply to your activity, include, but not limited to the following sections: 2080 et seq. (species listed as threatened or endangered, or a candidate for listing under the California Endangered Species Act); 1908 (rare native plants); 3511, 4700, 5050, and 5515 (fully protected species); 3503 (bird nests and eggs); 3503.5 (birds of prey); 5901 (fish passage); 5937 (sufficient water for fish); and 5948 (obstruction of stream), and the requirements set forth in the Forest Practice Act (Pub. Resources Code, § 4511 et seq.) for projects on private timberlands.

If you have questions regarding this letter, please contact Kate Blanchard, Senior Environmental Scientist, Specialist at (530) 225-2239 or by email at Katherine.Blanchard@wildlife.ca.gov.

Sincerely,

Adam McKannay
Interior Cannabis and Conservation Planning Supervisor

ec: Marinda Cokeley
Flowra
marinda@theflowraplatform.com

Kate Blanchard
California Department of Fish and Wildlife
Katherine.Blanchard@wildlife.ca.gov

Leslie Hubbard
Trinity County Planning Department
lhubbard@trinitycounty.org

North Coast Regional Water Quality Control Board
NorthCoast.Cannabis@Waterboards.ca.gov
June 4, 2019

SOR XIONG
PO BOX331
DOUGLAS CITY, CA 96024

Subject: Notice of Applicability - Waste Discharge Requirements Water Quality Order WQ 2019-0001-DWQ

The attached Notice of Applicability provides notice that the requirements of the State Water Board Cannabis Cultivation Policy - Principles and Guidelines for Cannabis Cultivation (Policy), and the General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities, Order WQ 2019-0001-DWQ (General Order - previously Order WQ 2017-0023-DWQ, with updates and revisions effective April 16, 2019) are applicable to the site as described below. Based on the information provided, the Discharger self-certifies the cannabis cultivation activities are consistent with the requirements of the State Water Board Policy and General Order.

Please direct all submittals, discharge notifications, and questions regarding compliance and enforcement to the North Coast Regional Water Quality Control Board Cannabis Program at (707) 576-2676 or northcoast.cannabis@waterboards.ca.gov.

Sincerely,

Grady

On Behalf

Matthias St. John
Executive Officer
North Coast Regional Water Quality Control Board

190604_1L_1_53CC414144_Sor Xiong_NOA_TW
NOTICE OF APPLICABILITY - WASTE DISCHARGE REQUIREMENTS, WATER QUALITY ORDER WQ 2019-0001-DWQ, SOR XIONG, TRINITY COUNTY APN(s) 025-140-32-00

Sor Xiong (hereafter "Discharger") submitted information through the State Water Resources Control Board’s (State Water Board’s) on line portal on April 04, 2019, for discharges of waste associated with cannabis cultivation related activities. Based on the information provided, the Discharger self-certifies the cannabis cultivation activities are consistent with the requirements of the Policy and General Order. This letter provides notice that the Policy and General Order are applicable to the site as described below. You are hereby assigned waste discharge identification (WDID) number 1_53CC414144.

The Discharger is responsible for all the applicable requirements in the Policy, General Order, and this Notice of Applicability (NOA). This includes making any necessary changes to the enrollment, and the Discharger is the sole person with legal authority to make those changes. The Discharger will be held liable for any noncompliance with the Policy, General Order, and the NOA.

1. FACILITY AND DISCHARGE DESCRIPTION
The information submitted by the Discharger states the disturbed area is equal to or greater than 2,000 square feet and less than 1 acre (43,560 square feet) no portion of the disturbed area is within the setback requirements, no portion of the disturbed area is located on a slope greater than 30 percent, and the cannabis cultivation area is less than or equal to 1 acre.

Based on the information submitted by the Discharger, the cannabis cultivation activities are classified as Tier 1 Low Risk.

2. SITE-SPECIFIC REQUIREMENTS
The Policy and General Order are available on the Internet at: https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_water_quality.html

The Discharger shall ensure that all site operating personnel know, understand, and comply with the requirements contained in the Policy, General Order, this NOA, and the Monitoring and Reporting Program (MRP, Attachment B of the General Order). Note that the General Order contains standard provisions, general requirements, and prohibitions that apply to all cannabis cultivation activities.

The application requires the Discharger to self-certify that all applicable Best Practicable Treatment or Control (BPTC) measures are being implemented, or will be implemented by the onset of the winter period (November 15 - April 1), following the enrollment date. Landowners of the cultivation site in the North Coast Region are required to submit and implement Site Management Plans that describes how BPTC measures are implemented property-wide, including BPTC measures implemented to address discharges from legacy activities (e.g. former timber harvest, road building, mining, etc.) at the site per Provision C.1.a. of the General Order. Dischargers that cannot implement all applicable BPTC measures by the onset of the winter period, following their enrollment date, shall submit to the appropriate Regional Water Board a Site Management Plan that includes a time schedule and scope of work for use by the Regional Water Board in developing a compliance schedule as described in Attachment A of the General Order.
During reasonable hours, the Discharger shall allow the State Water Board or Regional Water Board (collectively Water Boards), California Department of Fish and Wildlife, CAL FIRE, and any other authorized representatives of the Water Boards upon presentation of a badge, employee identification card, or similar credentials, to:

i. enter premises and facilities where cannabis is cultivated; where water is diverted, stored, or used; where wastes are treated, stored, or disposed; or in which any records are kept;

ii. access and copy, any records required to be kept under the terms and conditions of the Policy and General Order;

iii. inspect, photograph, and record audio and video, any cannabis cultivation sites, and associated premises, facilities, monitoring equipment or device, practices, or operations regulated or required by the Policy and General Order; and

iv. sample, monitor, photograph, and record audio and video of site conditions, any discharge, waste material substances, or water quality parameters at any location for the purpose of assuring compliance with the Policy and General Order.

3. TECHNICAL REPORT REQUIREMENTS
The following technical report(s) shall be submitted by the Discharger as described below:

A Site Management Plan, by July 02, 2019, consistent with the requirements of General Order Provision C.1.a., and Attachment A, Section 5. Attachment D of the General Order provides guidance on the contents of the Site Management Plan.

A Site Closure Report must be submitted 90 days prior to permanently ending cannabis cultivation activities and seeking to rescind coverage under the General Order. The Site Closure Report must be consistent with the requirements of General Order Provision C.1.e., and Attachment A, Section 5. Attachment D of the General Order provides guidance on the contents of the Site Closure Report.

4. MONITORING AND REPORTING PROGRAM
The Discharger shall comply with all provisions of the Monitoring and Reporting Program (MRP), which appears as Attachment B to the General Order. The Discharger shall also comply with all provisions of the North Coast Regional Supplement to Annual Monitoring and Reporting Requirements for Statewide Cannabis General Order WQ 2017-0023-DWQ (Regional Supplement), which independently appears as Investigative Order No. R1-2019-0023, issued by the Regional Water Board Executive Officer on March 22, 2019. Annual reports for both sets of requirements shall be submitted to the Regional Water Board in a combined report by March 1 following the year being monitored. The Discharger shall not implement any changes to the MRP or to the Regional Supplement unless and until a revised MRP or Regional Supplement is issued by the Regional Water Board Executive Officer or the State Water Board Division of Water Quality Deputy Director, or the State Water Board Chief Deputy Director.

A copy of Attachment B to the General Order can be obtained online at the following location, or by contacting staff at the phone number and email address listed below.

A copy of the Regional Supplement can be obtained online at the following location, or by contacting staff at the phone number and email address listed below.
5. **ANNUAL FEE**
According to the information submitted, the discharge is classified as Tier 1 Low Risk with the current annual fee assessed at $600. The fee is due and payable on an annual basis until coverage under this General Order is formally rescinded. To rescind coverage, the Discharger must submit a Notice of Termination, including a Site Closure Report at least 90 days prior to termination of activities and include a final MRP report.

6. **TERMINATION OF COVERAGE UNDER THE GENERAL ORDER & REGIONAL WATER BOARD CONTACT INFORMATION**
Cannabis cultivators that propose to terminate coverage under the Conditional Waiver or General Order must submit a Notice of Termination (NOT). The NOT must include a Site Closure Report (see Technical Report Requirements above), and Dischargers enrolled under the General Order must also submit a final monitoring report. The Regional Water Board reserves the right to inspect the site before approving a NOT. Attachment C of the General Order includes the NOT form and Attachment D of the General Order provides guidance on the contents of the Site Closure Report. NOT forms should be submitted electronically through the same online portal used to apply for General Order coverage: [https://public2.waterboards.ca.gov/cog](https://public2.waterboards.ca.gov/cog).

If the Discharger cannot comply with the General Order, or will be unable to implement an applicable BPTC measure contained in Attachment A by the onset of the winter period each year, the Discharger shall notify the North Coast Regional Cannabis Unit staff at (707) 576-2676 or northcoast.cannabis@waterboards.ca.gov so that a site-specific compliance schedule can be developed.

Cc: Kevin Porzio, State Water Resources Control Board, dwq.cannabis@waterboards.ca.gov
Adam McKannay, California Department of Fish and Wildlife, adam.mckannay@wildlife.ca.gov
Cheri Sanville, California Department of Fish and Wildlife, cheri.sanville@wildlife.ca.gov
Leslie Hubbard, Trinity County Planning Department, lhubbard@trinitycounty.org
Kristy Anderson, Trinity County Environmental Health, kanderson@trinitycounty.org
Chee Pheng Vang 2376 North McCall Avenue Unit B Sanger, CA 93657
MEMORANDUM #3

DATE: May 29, 2020
TO: Members of the Planning Commission
FROM: Bella Hedtke, Associate Planner
SUBJECT: Agenda Item 4 – Annual Initial Variance (CCV-19-63)

Dear Members of the Planning Commission,

Please see the following two attachments:

1. A public comment that was received on May 4, 2020 from the neighbor located on 271 Old Poker Bar Rd/ APN 025-140-05-00.

2. An updated 350’ Setback with Comment Status Map that includes the attached comment.

The previous memo for this item included a response from the applicant’s consultant, Flowra, that makes reference to the attached comment.

No other public comments have been received by staff as of the date of this memo.
My name is Anthony Giassullo located at 271 old poker bar rd Douglas city. There is a marijuana grow located off of Log Cabin lane and is adjacent to my property and another land owner, the resident is applying for a variance which affects the land owner next to him directly more than my location although my concern is they are going to use a section of their property to put in some hoop houses in the future, they will have to go thru my land which has a road, with intention to fence their grow which in turn will block the adjacent neighbors from entering their properties, the road that has been there for years is on my property. This particular grow has had citations issued against them from Trinity county Health department when Pete Hedtke was in charge, this land owner is the past has also encroached on my property with some excavation, so that is a portion of my concern. I do realize that some of this is more a civil matter, but I feel compelled to help support my neighbors, they risk being locked out off their access plus the county needs to take a closer look at the location of their septic system in relation to wells in that area. I appreciate your consideration in this matter.
ATTACHMENT 3
350' Setback with Comment Status Map
APN 025-140-32-00
CCV-19-63 S. Xiong

Legend
- Parcel Boundaries
- Approx. Cultivation Area
- Approx. 350' Setback (CCV-19-63)