



# Monterey County

Item No.

## Board Report

Board of Supervisors  
Chambers  
168 W. Allsai St., 1st Floor  
Salinas, CA 93901

Legistar File Number: RES 20-207

December 01, 2020

Introduced: 11/23/2020

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Resolution

Public hearing to consider adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Report Plan for multiple pending applications requesting entitlements to cultivate and process cannabis located on 45 sites within the Salinas Valley in the unincorporated areas of Monterey County. [REF150048 Multi-site Cannabis Cultivation Environmental Review]

### RECOMMENDATION:

Staff recommends that the Board of Supervisors adopt a resolution:

- a. Adopting the Mitigated Negative Declaration for Multiple Cannabis Cultivation Facilities in Unincorporated Monterey County;
- b. Adopting a Mitigation Monitoring and Report Plan; and
- c. Accepting a checklist to be used with each individual permit application that will rely on the MND to ensure that the potential environmental impacts of the individual applications were addressed by the analysis in the IS/MND.

### SUMMARY

A draft initial study (IS) was prepared and submitted by multiple parties from the cannabis industry applicants that analyzes potential impacts of 45 sites totaling 9,106,981 square feet of cultivation building area. Staff reviewed the document for compliance with California Environmental Quality Act (CEQA), and made edits so that what is being presented to the Board of Supervisors reflects the County's independent judgement.

The purpose of this IS/ Mitigated Negative Declaration (MND) (**Attachment B**) is to help facilitate processing land use permits for multiple cannabis cultivation sites. Sites evaluated under this MND will be able to rely on this IS/MND to the extent that the permits are consistent with the analysis and assumptions contained in the IS/MND. Some cannabis operations were allowed to begin ahead of receiving their land use entitlements, so this analysis considers conditions prior to the cannabis industry, as best it can. Cannabis operations are required to locate where there were pre-existing buildings/operations. For example, greenhouses for the cut flower industry that is no longer active. As such, the primary impact identified is related to changes in traffic. Mitigation includes traffic improvements for both direct and indirect impacts. By analyzing multiple site together, the mitigation is divided equitably rather than evaluating each application as it is processed. The analysis and mitigation from this MND can be used to help inform CEQA analysis on other cannabis operations that are not included in this package.

The applicants must mitigate the direct traffic impact(s) prior to beginning operations. The applicants drafted a MND where they pay a proportional fee and the County takes a lead role on the intersection improvements of Old Stage/Spence Road. Staff recommends that the mitigation measure be revised so that the applicants are responsible for coordinating financing and construction of the needed improvement. The improvements must be completed prior to clearing the mitigation/condition for the first operation. Funding would not be complete until after all the applications are processed and the applicants pay their fees. If the County is responsible, the County would need to front funding for the intersection improvements, subject to reimbursement. In addition, the County has legal requirements (e.g., competitive bidding, prevailing wage, construction management) that would increase the cost of the project, and which is not covered in the amount of fee identified in the MND.

A checklist was developed to evaluate consistency of individual applications with the analysis in the IS/MND (**Attachment D**). The checklist is an administrative tool intended to ensure use of the IS/MND is appropriate in each case and to provide CalCannabis with site-specific information on each project covered in the IS/MND. A separate IS is being prepared for five applications not covered in the IS/MND located in the geographically distinct northern Monterey County area. The North County IS is currently being drafted and will be presented to the Board of Supervisors once ready. Any permits not directly covered by this IS/MND or by the North County IS will require individual CEQA review. Individual review will tier from the larger analysis contained in the geographically applicable study.

DISCUSSION:

The County of Monterey has received more than 100 applications for commercial cannabis operations in the unincorporated areas since the program began in 2016. Over 70 of those applications are for commercial cannabis cultivation in existing greenhouses or industrial buildings. Since 2016, 13 applications have been approved. Each of those applications were found categorically exempt from the CEQA); however, staff determined that the unusual circumstances of this industry starting all at once created potential cumulative impacts that warranted evaluation. CEQA requires consideration of the effects of past, present, and probable future projects (cumulative considerations) when making a determination for individual projects (CEQA Guidelines Section 15064). With 62 more cultivation permits pending, in addition to the 13 already approved, staff identified the need to review the cumulative effects of the cannabis permits on the whole rather than on a case-by-case basis, particularly in the areas that contain a higher concentration of greenhouses. Typically, programmatic CEQA coverage is considered in adoption of enabling regulations (the cannabis ordinances). However, in this case, the ordinances were found statutorily exempt from CEQA (Business & Professions Code Section 26055(h)) with the caveat that individual permits authorized by the ordinances are themselves subject to CEQA.

To address the CEQA needs for individual permits, 45 cannabis applicants agreed to fund the preparation of technical reports and an IS that examines the cumulative effects on the environment of multiple cannabis cultivation sites in the area surrounding the City of Salinas, including a few outlying sites between Chualar and the City of Gonzales and along River Road. Cannabis applicants hired Rincon Consultants to prepare an IS pursuant to CEQA, and the preliminary draft IS was submitted to County staff for review. County staff reviewed and edited the IS working with Rincon Consultants, and it reflects staff's independent judgment and analysis. The IS concludes the impacts of all 45

cannabis sites are less than significant with the exception of potential traffic impacts. As such, mitigation measures, including funding and constructing intersection improvements at Old Stage Road and Spence Road intersection, payment of regional impact fees, and payment of fair-share contributions toward cumulative road and intersection improvements, were developed to reduce traffic impacts to a less than significant level, and a MND was prepared. The MND was circulated for public comment from June 17, 2020 through July 17, 2020.

As drafted, and circulated to the public, the traffic mitigation language identified Monterey County Public Works as the entity responsible for collecting contributions from the subject project applicants and constructing the needed improvements at Old Stage Road and Spence Road intersection once the funding for the improvements had been collected. Following the close of the public review period, staff discussed revising the traffic mitigation measure to require the 45 applicants collectively fund and construct the intersection improvements, rather than County taking responsibility. Staff recommends that the mitigation measure of Old Stage/Spence Road be revised so that the applicants are responsible for coordinating financing and construction of the needed improvement because the impact is caused by the industry and the intersection improvements would require additional funding and project management costs if the County takes responsibility. The applicants would like the County to take a lead role on the intersection improvements because of the complications with coordinating 45 different parties and identifying a person to take the lead role in managing the project. The Board of Supervisors may direct staff to coordinate improvements on behalf of the applicants, in which case, the cost per applicant would be approximately 30% more than previously identified, or adopt staff suggested revisions to the mitigation that would require the industry coordinate the necessary improvements.

During the review period on the IS/MND, three comment letters were received from CalCannabis, CalTrans, and the Monterey Bay Air Resources District (MBARD). CalCannabis focused on clarification of site-specific conditions that will be needed for State licensing purposes. MBARD requested clarification of permit requirements for activities covered by their regulations CalTrans appreciated the consideration of traffic impacts on State Highways. Responses to the comments and revisions to the IS/MND have been prepared (**Attachment C**) by Rincon Consultants. Again, draft responses were shared with County staff, and the responses attached to this report reflect staff's input and independent judgement. The revisions made in response to comments clarify and amplify the discussion in the IS/MND, do not change the conclusions in the IS/MND, and do not require recirculation of the IS/MND. A copy of the final IS/MND, entitled Mitigated Negative Declaration for Multiple Cannabis Cultivation Facilities in Unincorporated Monterey County, is attached to this staff report. (**Attachment B.**)

In anticipation of adoption of the IS/MND, staff is preparing to process the 62 individual cannabis cultivation administrative permits. Processing will be prioritized to include consideration of permits for applicants who are not currently in operation with the intent to get those applicants permitted and able to begin operations if the permits are approved. Staff anticipates using consulting services for the preparation of staff reports and resolutions to provide the most expeditious processing of these permit applications.

The first step will include processing 20 administrative permit applications that have been deemed

complete and are awaiting this CEQA analysis. Permits for those currently operating will follow closely behind. The remaining 42 permits (out of the 62 total) have not submitted information sufficient for processing their permit applications at the time this report was prepared. Those incomplete applications will be processed when the applicants submit the necessary information. Funding for consulting services is proposed to be reimbursed from Cannabis Program funding.

OTHER AGENCY INVOLVEMENT:

This report has been drafted by the Resource Management Agency, with assistance from the Cannabis Program.

FINANCING:

Preparation of the IS/MND was funded by cannabis applicants. Funding for staff time associated with review of the IS/MND and for preparation of this report is included in the FY 2020/2021 adopted budget for each department involved, supported with permit fee revenue.


If consultant services are used for processing of cannabis cultivation permits, a professional services agreement will be required by separate action. Based on the average cost of report preparation from previous fiscal year consulting contracts, staff anticipates that each report will cost approximately \$3,500. Processing of the initial 20 applications is estimated to cost approximately \$70,000, while processing of all 62 applications is estimated to cost \$217,000. Funding for the consultant services could come from the existing budget for the Cannabis Program, which includes \$230,000 for as needed services and enforcement overtime costs. This effort represents a significant step in permitting of cannabis cultivation activities which have a net positive fiscal impact due to the cannabis taxes.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Cannabis permitting would align with several of the Board's Strategic Initiatives. Adoption of the MND would allow the County to process applications in a timely manner.

Check the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

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Reviewed by: Kelly Donlon, Office of County Counsel

Approved by: Carl P. Holm, RMA Director

cc: Front Counter Copy; Planning Commission; County Counsel; Sheriff; Treasure/Tax Collector; Agricultural Commissioner; District Attorney; CAO's Budget Office; CAO's Cannabis Program; Craig Spencer, Project Planner; The Open Monterey Project (Molly Erickson); LandWatch; John H. Farrow; Cannabis Interested Parties List: Planning File REF150048

The following attachments are on file with the Clerk of the Board:

- Attachment A - Draft Resolution for adoption of IS/MND
- Attachment B - Initial Study/Mitigated Negative Declaration
- Attachment C - Response to Comments
- Attachment D - Proposed site-specific checklist