

**From:** [Michelle Irace](#)  
**To:** [Adam Noah](#); [Mary Claybon](#); [Mireya Turner](#); [communitydevelopment@lakecountyca.gov](mailto:communitydevelopment@lakecountyca.gov)  
**Cc:** [rhowlettlaw@gmail.com](mailto:rhowlettlaw@gmail.com)  
**Subject:** RE: [EXTERNAL] Fwd: Comment Letter IS/MND for the Lake County Farm Commercial Cannabis Project.  
**Date:** Wednesday, April 24, 2024 4:23:28 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image005.png](#)

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Good Afternoon Mr. Noah,

These additional comments have been received and are being forwarded to the Planning Commission for consideration. We have also forwarded them to the applicant.

Lastly, I wanted to let you know that we do not have Planning Commission quorum tomorrow, so the hearing is being rescheduled for May 9. We have sent the notice to the newspaper and when we receive confirmation of the hearing date we will also send the notice of hearing to you. All comments received thus far and up to that date will be included in the May 9 hearing packet.

Thank you  
Michelle

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**From:** Adam Noah <[adampnoah@gmail.com](mailto:adampnoah@gmail.com)>  
**Sent:** Wednesday, April 24, 2024 2:32 PM  
**To:** Michelle Irace <[Michelle.Irace@lakecountyca.gov](mailto:Michelle.Irace@lakecountyca.gov)>; Mary Claybon <[Mary.Claybon@lakecountyca.gov](mailto:Mary.Claybon@lakecountyca.gov)>; Mireya Turner <[Mireya.Turner@lakecountyca.gov](mailto:Mireya.Turner@lakecountyca.gov)>; [communitydevelopment@lakecountyca.gov](mailto:communitydevelopment@lakecountyca.gov)  
**Cc:** [rhowlettlaw@gmail.com](mailto:rhowlettlaw@gmail.com)  
**Subject:** Re: [EXTERNAL] Fwd: Comment Letter IS/MND for the Lake County Farm Commercial Cannabis Project.

Good afternoon

Thank you again for providing the new materials yesterday.

I submit the attached further comment / objections letter concerning the proposed project.

Regards, Adam

On Tue, Apr 23, 2024 at 8:29 PM Adam Noah <[adampnoah@gmail.com](mailto:adampnoah@gmail.com)> wrote:

Dear Ms. Irace,

Thank you very much for your prompt reply and inclusion of the letter from LACO to the applicant and the revised hydrology report from the applicant.

We are reviewing.

Thank you, Adam

On Tue, Apr 23, 2024 at 2:51 PM Michelle Irace <[Michelle.Irace@lakecountyca.gov](mailto:Michelle.Irace@lakecountyca.gov)> wrote:

Good Afternoon Mr. Noah,  
Your comments have been received and are being distributed to the Planning Commission for consideration.

The revised Hydrology Report included in Attachment 5 can be found online at [countyoflake.legistar.com/View.ashx?M=F&ID=12870380&GUID=923D26F9-4011-4796-9418-43B7C83C9A0F](https://countyoflake.legistar.com/View.ashx?M=F&ID=12870380&GUID=923D26F9-4011-4796-9418-43B7C83C9A0F) or from the main agenda here [AGENDA \(legistar.com\)](https://legistar.com)  
I have also attached it to this email to ensure you have it for review.

Regarding the comments noted below (dated August 4, 2023-attached fir reference), on August 7, 2023, Associate Planner Eric Porter forwarded your comments to LACo, the County's contracted Hydro-Geologist at the time, for review. Upon completion of their review, LACo (and CDD Staff) provided comments on the Hydrology Study to the applicant on September 23, 2024 (see attached). In response to the September 23, 2024 letter, the applicant submitted the revised Hydrology Report (dated January 16, 2024) that is included in Attachment 5 of the Planning Commission packet for the 4/25 hearing.

Thank you again for your interest in this project,



*Michelle Irace*

Principal Planner, Community Development Department  
[255 N. Forbes St. Lakeport, CA 95453](https://www.lakecountyca.gov/255-N-Forbes-St-Lakeport-CA-95453)  
Phone: (707) 263-2221 x 38121  
Email: [michelle.irace@lakecountyca.gov](mailto:michelle.irace@lakecountyca.gov)  
STAY CONNECTED:



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**From:** Adam Noah <[adampnoah@gmail.com](mailto:adampnoah@gmail.com)>

**Sent:** Tuesday, April 23, 2024 10:30 AM

**To:** Mary Claybon <[Mary.Claybon@lakecountyca.gov](mailto:Mary.Claybon@lakecountyca.gov)>; Michelle Irace  
<[Michelle.Irace@lakecountyca.gov](mailto:Michelle.Irace@lakecountyca.gov)>

**Cc:** Rachel Mansfield-Howlett <[rhowlettlaw@gmail.com](mailto:rhowlettlaw@gmail.com)>

**Subject:** [EXTERNAL] Fwd: Comment Letter IS/MND for the Lake County Farm Commercial Cannabis Project.

Dear Principal Planner Michelle Irace and Associate Planner Mary Claybon,

My name is Adam Noah and I am an adjacent landowner to the applicant of Major Use Permit UP 20-60 and MND IS 20-74; I write in follow-up to a voice message I just left with Ms. Irace.

Below and attached is a August 4, 2023 Comment Letter that my attorney Ms. Mansfield-Howlett submitted to the Community Development Dept. and Associate Planner Eric Porter last year.

We understand that there is a hearing scheduled this Thursday in Lakeport on this proposed project.

Our August 4, 2023 Comment Letter identified several inadequacies in the Hydrology Report relied upon by the IS / MND and included expert testimony that the water assessments in the IS / MND are inaccurate and incomplete, and fail to provide an adequate analysis of the project's potentially significant impacts in the areas of groundwater sufficiency and impacts to adjacent well.

We understand from p. 4 of the Staff Report that a revision dated January 16, 2024 to the water report was prepared by North Bay Civil Consulting - it is identified as Attachment 5 but it is not included in the online version of the Staff Report.

Could you kindly provide a copy of the January 16, 2024 revision to the water report and provide any information regarding further investigation by the Department following our Comment Letter concerning the impact on the groundwater supply for this project?

Thank you and please do not hesitate to reach out to me at (408) 598-9382 if I can be of assistance.

Thank you, Adam Noah

3868 Bemore Valley Rd.  
Lakeport, CA 95453

----- Forwarded message -----

From: **Rachel Mansfield-Howlett** <[rhowlettlaw@gmail.com](mailto:rhowlettlaw@gmail.com)>

Date: Sat, Aug 5, 2023 at 3:17 PM

Subject: Comment Letter IS/MND for the Lake County Farm Commercial Cannabis Project.

To: <[communitydevelopment@lakecountyca.gov](mailto:communitydevelopment@lakecountyca.gov)>, [eric.porter@lakecountyca.gov](mailto:eric.porter@lakecountyca.gov)  
<[eric.porter@lakecountyca.gov](mailto:eric.porter@lakecountyca.gov)>

Cc: Adam Noah <[adampnoah@gmail.com](mailto:adampnoah@gmail.com)>

Dear Associate Planner Eric Porter and the Community Development Department:

Please accept these comments on the IS/MND for the Lake County Farm Commercial Cannabis Project.

Please confirm receipt and please also inform me of the date of the public hearing.

Thank you,  
Rachel

Law office of Rachel Mansfield-Howlett  
Santa Rosa CA 95404  
707-291-6585  
[rhowlettlaw@gmail.com](mailto:rhowlettlaw@gmail.com)

Law Office of Rachel Mansfield-Howlett  
(707) 291-6585  
Rhowlettlaw@gmail.com

Lake County Community Development Department  
Associate Planner, Eric Porter  
[eric.porter@lakecounty.gov](mailto:eric.porter@lakecounty.gov)  
[communitydevelopment@lakecountyca.gov](mailto:communitydevelopment@lakecountyca.gov)

August 4, 2023

Subject: Comments on the MND prepared for the Initial  
Study / Mitigated Negative Declaration (IS / MND UP 20-60, IS 20-  
74) prepared for the Lakeport Farm Commercial Cannabis Project

*Via email*

Dear Mr. Porter:

On behalf of concerned resident and adjacent neighbor, Adam Noah, thank you for the opportunity to comment on the Initial Study / Mitigated Negative Declaration (IS / MND) prepared for the Lakeport Farm Commercial Cannabis project.

The project in Benmore Valley includes 44,000 sq. ft. of cannabis cultivation in nineteen 30' x 100' greenhouses and 43,560 sq. ft. of cannabis cultivation in 54 raised planted beds that are 4' wide x 200' long. The estimated water demand of the cultivation is 4,478 gallons per day, or about 1,209,000 gallons per 270-day cultivation period (Initial Study at pgs. 3-4). All of the water to be used for the crops' cultivation is to be derived exclusively from groundwater coming from a single well.

I'm writing to inform you that expert Mark Woyshner, Principal Hydrogeologist / Hydrologist for Balance Hydrologics in Berkeley, CA, has reviewed the North Bay Civil Consulting Technical Memo that is relied upon by the IS / MND for the assessment of the project's potentially significant environmental impacts to ground water supply and nearby wells and has found several inadequacies in the memo's analysis, including several errors, omissions, and other failures. (Attachment 1, email from Mark Woyshner to Adam Noah, with CV, dated August 2, 2023.)

I offer this assessment as expert testimony that the water assessments in the IS/MND are inaccurate and incomplete and fail to provide an adequate analysis of the project's potentially significant impacts in the areas of groundwater sufficiency and impacts to adjacent wells. The IS/MND's claim that the project will not result in any unmitigated impacts associated with the project's taking of 4,478 gallons per day from the groundwater for a total of about 1,209,000 gallons per 270-day cultivation period is therefore unsupported and further analysis must be completed prior to any further consideration of the project.

In summary, Mark Woyshner explained, *inter alia*:

- The memo's preparer does not have the technical expertise to evaluate the sufficiency of groundwater for the project.
- The driller's well report reflects a short-term test insufficient to reliably estimate groundwater availability; a constant-rate pumping and recovery test is commonly expected or required for a CEQA analysis, with a pumping duration long enough (12 hours minimum and commonly 24 to 72 hours) to evaluate bedrock aquifer boundaries.
- The preparer assesses the wrong aquifer.
- The method of estimating recharge rate produced an unreasonable conclusion and years of different dryness along with the geologic structure of the bedrock aquifer must be assessed in order to fairly assess the recharge rate.
- The cumulative effect to neighboring wells cannot be adequately determined using the data relied on in the memo.
- The characteristics of the surrounding wells such as depth, geology, screened interval, yield, and water quality must be considered to determine the relative potential impacts to nearby wells.
- The Pollock and Sons Pump well report must be provided in order to assess its validity (this report was not contained in the North Bay Memo or the IS/MND but only cited in the IS/MND).
- The IS/MND fails to provide a Drought Management Plan as required by Ordinance 3106.

Based upon this assessment, Mark Woyshner presents substantial evidence of a fair argument that the operation of this large Cannabis production project may overdraft water supply and impact adjacent wells, and sufficient mitigation measures have not been crafted to overcome potentially significant water supply shortfalls.

Further evidence concerning the lack of sufficient water in Benmore Valley for commercial-scale cannabis cultivation is reflected in the pleadings in a pending litigation involving the Benmore Valley Ranch, which lies immediately adjacent and to the west of this project's parcel. The case is *Benmore Valley Ranch v.*

*ProFarms et. al*, in the County of Santa Cruz Superior Court Case No. 22cv00184. The complaint was filed on January 25, 2022 and a cross-complaint was filed on September 27, 2022.

The cross-complaint contains allegations excerpted in full in Attachment 2 and summarized immediately below concerning (1) the lack of sufficient water and (2) the impact of well pumping over-drafting on neighboring parcel wells:

- The operator defendants invested millions of dollars in infrastructure development including existing well repairs and drilling a new well (para. 36);
- There was insufficient water for irrigation of the planned cultivation (para. 37);
- A neighbor of Benmore Valley Ranch had complained that pumping from “Well #3” was over-drafting the underground aquifer, leading the owner of the Ranch to discontinue pumping from that well (para. 42);
- The lessee defendants abandoned their cultivation effort in Benmore Valley at the end of 2021 on the grounds that there was insufficient water for the planned operation (paras. 46 and 47)

These allegations likewise raise a substantial question about both the availability of groundwater for the project and potentially significant impacts on neighboring wells. Together with the IS/MND’s erroneous and incomplete study of groundwater sufficiency, a fair argument of potentially significant impacts is established that triggers preparation of an EIR in this instance.

The following is the legal basis for determining whether an IS/MND is adequate.

### **The “Fair Argument” Standard of Review**

As a matter of law “an EIR is required ‘whenever it can be fairly argued on the basis of substantial evidence that [a] project *may have* significant environmental impact.’ [citation].” (*Friends of the San Mateo Gardens v. San Mateo Community College District* (2016) 1 Cal. 5th 937, 957, 959 “*Gardens I*”; Pub. Resources Code §§ 21082.2(a), 21100, 21151; Guidelines, §15064(f)(1); *No Oil v. City of Los Angeles* (1974) 13 Cal.3d 68, at 75; *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 111-112, [emphasis added].) “May” means a reasonable possibility. (*League for Protection of Oakland’s Architectural Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 904-05; *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, at 309.)

## Low-Threshold Test

*Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 151, held that the fair argument standard is a “low threshold” test and that an agency should not give an “unreasonable definition” to substantial evidence, “equating it with overwhelming or overpowering evidence, as CEQA does not impose such a monumental burden” on those seeking to raise a fair argument of impacts.

Evidence supporting a fair argument of any potentially significant environmental impact triggers preparation of an EIR ***regardless of whether the record contains contrary evidence.*** (*League for Protection, supra*, 12 Cal.App.4th 896; *Sundstrom, supra*, 202 Cal.App.3d 296 at 310, [emphasis added].) Under this unique test “deference to the agency’s determination is not appropriate and its decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.” (*Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1318.) This low threshold requirement “reflects a preference for resolving doubts in favor of environmental review when the question is whether any such review is warranted.” (*League for Protection, supra*, 52 Cal.App.4th 896, 905.) In *Pocket Protectors v. City of Sacramento, supra*, 124 Cal.App.4th 903 at 927, the court stated that the “fair argument” standard differs significantly from the deferential review normally enjoyed by agencies:

If there is substantial evidence in the whole record supporting a fair argument that a project may have a significant non-mitigable effect on the environment, the lead agency shall prepare an EIR, ***even though*** it may also be presented with other substantial evidence that the project will not have a significant effect. (§ 21151, subd. (a); Cal. Code Regs., tit. 14, § 15064, subd. (f)(1), (2) n17; *No Oil, supra*, 13 Cal.3d 68, 75; *Architectural Heritage Assn. v. County of Monterey* (2004) 122 Cal.App.4th 1095, 1109; *Communities for a Better Environment, supra*, 103 Cal.App.4th 98 at 111-112; [emphasis added].)

A MND is lawful only when “***clearly*** no significant effect on the environment would occur, and ... there is *no* substantial evidence, in light of the whole record” that such impacts may follow project approval, taking into account adopted mitigation measures. (Pub. Resources Code § 21080 subd.(c); Guideline § 15064, subd.(f).) In *Sierra Club v. County of Sonoma, supra*, 6 Cal.App.4th 1307, the Court held that under the fair argument standard:

... the question is one of law, *i.e.*, ‘the sufficiency of the evidence to support a fair argument.’ [Citation.] Under this standard, deference to the agency’s determination is not appropriate and ***its decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.*** (*Id.* at



1317-1318, emphasis added.) *Sierra Club* holds that ***no deference*** be paid to an agency's decision not to require an EIR. (*Id.* at 1316.) *Bowman v. City of Berkeley* (2004) 122 Cal.App.4<sup>th</sup> 572, joined numerous cases that have cited *Sierra Club* with approval. (*Id.* at 580.)

### **Question of Law, Not Fact**

Whether an administrative record contains a fair argument sufficient to trigger preparation of an EIR is a question of law, not fact. *Stanislaus Audubon Society, supra*, 33 Cal.App.4<sup>th</sup> 144 at 151 (citing *Sierra Club* and *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4<sup>th</sup> 1597) rejected approval of a negative declaration for a golf course project, and in requiring preparation of an EIR again held that “[a]pplication of [the fair argument] standard is a question of law and deference to the agency’s determination is not appropriate.” (See also, *Tuolumne County Citizens for Responsible Growth v. City of Sonora* (2007) 155 Cal.App.4<sup>th</sup> 1214, *Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.* (2013) 215 Cal.App.4<sup>th</sup> 1013, 1053.) A conflict in expert opinion over the significance of an environmental impact normally requires preparation of an EIR. (Guideline §15064(g).)

Here, Mark Woyshner presents expert substantial evidence that the IS/MND is inadequate, incomplete, and erroneous, and its conclusions claiming groundwater supply is adequate, are therefore unsupported. Together with the evidence of an adjacent cannabis project’s failure due to alleged insufficiency of groundwater and significant impacts on neighboring wells, and in consideration of the project’s high water demand, a fair argument is established that the project’s cannabis operation may impact groundwater supply and nearby wells such that an EIR must be prepared before further consideration of the project.

Sincerely,  
  
Rachel Mansfield-Howlett



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Hi Colleen,

Mark Woyshner <mwoyshner@balancehydro.com>

Wed, Aug 2, 2023 at 12:15 PM

To: Adam Noah <adampnoah@gmail.com>

Initial notes on the Technical Memo For Lakeport Farm Cultivation Operations by North Bay Civil Consulting, July 29th, 2022.

Ordinance 3106 requires “a hydrology report prepared by a California licensed civil engineer, hydro-geologist, hydrologist, or geologist experienced in water resources” to:

- a. Approximate amount of water available for the project’s identified water source,
- b. Approximate recharge rate for the project’s identified water source,
- c. Cumulative impact of water use to surrounding areas due to project.

Source water for the proposed project is a 136-ft deep well completed in bedrock.

The qualifications of author reported in the North Bay Civil Consulting technical memo are “Professional Engineer with the State of California with 5-years of experience practicing Water Resources Engineering.” Though appropriately qualified to prepare civil engineering plans, with no education and experience in hydrogeology, the author is not qualified to evaluate the groundwater source for the proposed project, which is strikingly obvious by the related errors and omissions in the technical memo as stated below:

1. The basis of the water source and supply analysis was taken from the drillers well completion report as 50 gallons per minute (gpm) then extrapolated to 80.65 acre-feet per year without qualifying this estimate. In fact, the drillers estimate of 50 gpm coarsely estimated by a 1-hour airlift test, an appropriate test to size a pump but grossly inappropriate to estimate groundwater availability for a proposed project. A constant-rate pumping and recovery test is commonly expected or required for a CEQA analysis, with a pumping duration long enough to evaluate bedrock aquifer boundaries. Recommended pumping durations for bedrock aquifers are 12-hours minimum and commonly 24 to 72 hours, depending on conditions.
2. The Groundwater Basin Information and Hydrogeology section starting on Page 5 is irrelevant to the proposed project source well. In this section, the author wrongly interprets the well as and alluvial well within the Scotts Valley groundwater basin. The well, in fact, draws groundwater from an upland fractured bedrock aquifer comprising late-Cretaceous/early-Tertiary sandstone and shale units miles away from surrounding alluvial basins.
3. The method of estimating recharge rate produced unreasonable results. As a basic check, estimated recharge was roughly the same for average and minimum conditions (i.e., ~2 inches). The author is saying that there is roughly the same amount of recharge to groundwater during an extreme drought as during a year of normal rainfall without explaining how this can be possible. It is clearly an artifact of the method and assumptions used. The SCS Runoff Curve Number (CN) method is a method for estimating runoff and can produce highly variable results. There are other more appropriate and commonly applied methods based on geologic and soil conditions that more accurately estimate recharge. Groundwater recharge should be estimated for a normal year, extreme dry year, and a multi-year drought. Note there was also no discussion of the geologic structure of the bedrock aquifer relative to groundwater recharge.
4. The Cumulative Impact to Surrounding Areas is irrelevant by a) analyzing the storage capacity of the Scott Valley basin and b) using their flawed recharge results. Rather, this section should identify and assess potential impacts to surrounding wells and surface-water habitat. Using pumping test results, the capture area for the source well should be estimated for the maximum day demand and the seasonal demand, then interpreted for the fractured bedrock conditions. Characteristics of the surrounding wells such as depth, geology, screened interval, yield, and water quality should be tabulated and discussed relative to potential impact by the project well.

Section X. Hydrology and Water Quality of the July 7, 2023 IS-MND (starting on page 28) references heavily this technical memo. Using their results may likely lead to a flawed CEQA analysis and irrelevant conclusions (pages 30-31).

P 30 of the IS-MND refers to well test results by Pollock and Sons Pump without providing the data of reference. These data should be made available and analyzed in the hydrology report.

Reference 45 of the IS-MND, "Technical Memorandum (Hydrology and Drought Management Plan), prepared by North Civil Consulting, dated July 29, 2022." Seems to be incorrect. The title of the report is "Technical Memorandum For Lakeport Farm Cultivation Operations." This report does not include a Drought Management Plan. Ordinance 3106 requires a Drought Management Plan: "Provide a plan depicting how the applicants plan to reduce water use during a declared drought emergency, to ensure both success and decreased impacts to the surrounding areas."

Mark Woysner

Balance Hydrologics  
(510) 704-1000 x.209

[Quoted text hidden]

Mark Woyshner  
Principal Hydrogeologist / Hydrologist Balance Hydrologics  
Berkeley, CA  
mwoyshner@balancehydro.com  
510-704-1000 x209

Mark Woyshner is a principal engineer/scientist at Balance with more than 35 years of experience in surface and groundwater investigations, spanning a variety of projects primarily related to water resources and habitat needs. With an academic background in hydrogeology, soil behavior, forestry, and physical geography, Mark generally focuses on the technical and interdisciplinary aspects of a project, comprising a blend of traditional analyses and innovative field and modeling work. On a regular basis, he directs stream-gaging and sediment-transport projects for water-rights and/or anadromous-fish habitat compliance, evaporation and evapotranspiration studies for water-balance calibration, and a number of surface-groundwater interaction projects, mainly involving natural and managed recharge of sensitive habitat areas, or assessing the effects of large wells or wellfields on streamflow and riparian habitats. His talent for water-well siting, particularly in bedrock aquifers, has benefited public agencies, private-sector clients, and non-profit groups, not only in the evaluation of potential water-well sites, but also in field recommendations of where not to drill and when to stop drilling. In addition to applying relatively standard techniques to source or 'fingerprint' groundwater and stream baseflows, Mark has particular expertise in isotopic age-dating techniques. He is also a bit of a closet geek when it comes to dataloggers and monitoring instrumentation, deploying advanced soil-moisture, reference-evapotranspiration, and energy-balance systems, as well as standard stream-gaging and groundwater-monitoring techniques. Mark has considerable experience with CEQA and is especially skilled as a project manager with very good report writing and communication skills. He is co-founder of Balance Hydrologics in 1988.

M.Sc. Engineering, McGill University, Montréal, 1992.

M.Sc. Graduate Diploma in Waste Management and Groundwater Contamination (non-thesis masters program), McGill University, Department of Civil Engineering and Applied Mechanics, 1990.

B.S. Forestry, University of California, Berkeley, 1979

Bedrock Aquifer, CEQA, Evapotranspiration, GIS Analysis, Grant Strategies and Management, Groundwater, Groundwater and Surface Water

Interactions, Habitat, Illustration, Outreach, Sediment Transport, Source Water Vulnerability

Assessment, Stream Gaging, Water Policy, Water Resources, Water Rights, Water Supply Assessment (WSA)

#### Key Projects:

Groundwater investigations and management, Montara Water and Sanitary District, San Mateo County, CA

McEvoy Ranch water rights compliance, Marin County, CA

Surface and groundwater investigations and monitoring, Big Sur Land Trust, Monterey County, CA

## Attachment 2

Excerpts from Cross-Complaint filed in *Benmore Valley Ranch v. ProFarms et al*, in the Superior Court for the State of California in the County of Santa Cruz, Case No. 22cv00184.

3 36. The Pro Farm parties invested millions of dollars in improvements to cultivate cannabis on  
4 the North Ranch and South Ranch based on the written representation in the South Ranch Lease  
5 that there was adequate surface water to irrigate the cannabis grown on the South Ranch, and the  
6 express oral representation by Cross-Defendant Adelman that there was adequate water resources  
7 on the North Ranch and South Ranch to cultivate cannabis as planned by the Pro Farm Cross-  
8 Complainants. These investments included, inter alia, repairing the existing water supply system  
9 of pumps, irrigation lines, and wells; drilling a new well; improving fencing for security; improving  
10 roads; and money spent to purchase and retrofit the Work Right Building to process, manufacture  
11 and distribute the cannabis grown on the North Ranch and the South Ranch.

12 37. Despite the written representation in Section 14.1(c) of the South Ranch Lease that there  
13 would be sufficient surface water on the South Ranch for Benmore South's planned cannabis  
14 cultivation and the oral representations made to Cross-Complainant Wil Crummer and Keith  
15 Crummer by Cross-Defendant Robert Adelman that there was sufficient water to irrigate both the  
16 North Ranch and the South Ranch, there was not sufficient water to irrigate cannabis as planned  
17 by Cross-Complainants Benmore North on the North Ranch and Benmore South on the South  
18 Ranch.

11 42. In 2021, Robert Adelman instructed employees of Benmore North to shut down and  
12 discontinue use of Well #3 on the North Ranch because of complaints from an adjacent landowner  
13 that wells on the North Ranch were over drafting the underground aquifer.

1 46. On November 24, 2021, the same day the State Water Board reinstated water curtailment  
2 on the North Ranch, Cross-Complainant Benmore North, LLC sent a written notice to Benmore  
3 LPFN, LLC that it was terminating the Sublease pursuant to Section 8 (b)(1) of the Sublease  
4 because there was not sufficient water to irrigate the North Ranch. The Notice lawfully and  
5 effectively terminated Cross-Complainant Benmore North, LLC's obligations under the Sublease  
6 for the North Ranch.

7 47. On December 8, 2021, Cross-Complainant Benmore South, LLC sent a written notice  
8 ("Notice") to Cross-Defendant BVR informing BVR that Benmore South was exercising its rights  
9 to terminate the South Ranch Lease based on the fact that (1) Benmore North had exercised its  
10 right to terminate the North Ranch Sublease, and (2) Cross-Defendant BVR's representations in  
11 the Lease were materially false, including but not limited to falsely representing in Section 14.1(c)  
12 that there was sufficient surface water to irrigate cannabis for Cross-Complainant Benmore  
13 South's actual and planned use to cultivate cannabis on the South Ranch. A true and correct copy  
14 of that Notice d

