

Chapter 11 – Septic System

Section A: Mitigated Negative Declaration--no significant effect on the environment by the project

Principle: By preparing a Mitigated Negative Declaration (MND), the lead agency (Community Development Department) concluded that the project will not cause a significant effect on the environment [A1].

Argument: The proposed septic system's effects on the environment cannot be studied when the proposed septic system's location does not appear on the Site Plan. Yet, astonishingly, the Initial Study Mitigated Negative Declaration's (IS MND) Evaluation of Environmental Impacts section concluded that whether the project would "... (h)ave soils incapable of adequately supporting the use of the septic tanks..." has "less than significant impact." [A2] Similarly, the project does not identify the location on project documents (e.g. Site Plan) of the current and damaged septic field.

Consequently, the environmental impacts of current and damaged septic system as well as the proposed septic system have not been determined as required by CEQA (California Environmental Quality Act). The location of the current (damaged) septic system and proposed septic system are not described in the Initial Study Mitigated Negative Declaration (ISMND).

The Site Plan features the proposed processing building with ADA restroom, yet the proposed septic (leach) field does not appear on the Site Plan. A septic field is not optional for a processing building.

The MND states that the current septic system must be replaced [A3]. The Staff Report noted that the Mendo-Complex Fire damaged the current leach field [A4]. Lake County Environmental Health requires the onsite septic system to be repaired or decommissioned and reconstructed for domestic or cannabis activities [A5]. A damaged septic system is a nuisance under Lake County Code [A6][A7]. Septic repair and removal requirements are typically imposed under California Health & Safety Code and California Water Code authority to prevent public health hazards.

Conclusion: Agencies asked to comment on the project's effect on the environment did not receive complete project documentation to make a full assessment. The proposed septic system is not on the Site Plans; proposed septic system location is not described in the MND. Without this information, agencies cannot assess the project's effects on the environment. For example, the Central Valley Regional Water Quality Control Boards

cannot determine whether project defined setbacks are adequate when the proposed leach field is not on the Site Plans.

The impacts of removing the existing damaged septic system have not been addressed by the project. The damaged septic system's distance to watercourses is not known nor is the risk of any waste water runoff from the damaged system.

Footnotes for Section A

[A1] Pub. Res. Code § 21080(c); Guidelines §15070 et seq. (negative declaration process)

[A2] See [00] Draft Initial Study Mitigated Negative Declaration redlined UP23-29.pdf, p. 37.

[A3] Ibid., p. 41.

[A4] See [00] Staff Report Poverty Flats Ranch, PDF, p. 4.

[A5] See [00] Draft Initial Study Mitigated Negative Declaration redlined UP23-29.pdf, p. 12.

[A6] Lake County Code Chapter 9, Article 1. CA Water Code §13050 (m) (“discharge of waste that causes pollution”).

[A7] Lake County Environmental Health, Poverty Flats Major Use Permit UP 23-29, IS 23-20 Memo to Lake County Community Development Department (March 4, 2024).

Section B: CEQA requires stable project description and scope, examination of impacts

Principle: CEQA requires a stable project description and scope plus examination of impacts of the project. [B1]

Argument: Poverty Flats project scope varies depending on whether the project site can meet the requirements for the preferred plan. The IS MND proposes a materially different change in project scope depending on whether the project site can support a new septic field, meeting requirements (regarding e.g. steep slopes, shallow soils, setbacks). The project states that it will abandon its cannabis processing facility if the project site cannot support a suitable septic field. The project introduces a binary contingency in project scope.

Conclusion: CEQA requires environmental review of the complete project. A two-path scenario leaves operational impacts undisclosed until both paths are exhausted. When approved by the Planning Commission, the project did not present data for either path: a) septic system site evaluation; septic suitability investigation (with test pits to understand soil profiles, slope gradient and direction) and suitability of project topography, soils, area,

and vegetation for the septic system; or b) impacts of not replacing the septic system and abandoning the processing facility. Under (CEQA) §15073.5(a), [B1] this potential scope change should have triggered recirculation of the project's IS MND prior to its approval by the Planning Commission. A materially different project scope based on permitting outcome (e.g. for required septic work) can render the prior cannabis project permit review incomplete or misleading.

The project's binary contingency added a new operational constraint affecting project activities (onsite trimming is conditional). This could be considered a new significant effect avoidance strategy not previously disclosed. Adding an operational restriction to avoid wastewater impacts (septic system) could qualify as new mitigation for a potentially significant impact.

Whether the project builds a new septic system or not, the project is required to repair and or replace the damaged septic system currently onsite. The IS MND suggests that the applicant would likely apply for permits to repair and or replace the septic system. This is curious wording since Lake County Environmental Health's agency comments on this project clearly required repair and or replacement of the septic system with requisite permits, studies and fees.

Footnotes for Section B

[B1] CEQA (California Environmental Quality Act) Handbook 2025, Section 15073.5 (a), p.215 https://www.califaep.org/docs/CEQA_Handbook_2025combined.pdf

Section C: CA Plumbing Code/CA Building Code requires toilets for employees working in an enclosed building

Principle: For any enclosed building used by employees, portable toilets alone are not sufficient. OWTS Policy (State Water Board): local Environmental Health implements siting/design through a Local Agency Management Program (LAMP); feasibility is verified through site evaluations. [C1]

Lake County requires site evaluation and approval from Lake County Environmental Health to determine whether and where an OWTS can be permitted and what type/size is required.[C2]

California's Plumbing Code (CPC) requires occupied buildings to provide the minimum number of plumbing fixtures and to be connected to a public sewer or an approved (OWTS) (septic). Cal/OSHA's field-sanitation rule allows serviced portable toilets and hand-wash only for field crews, whereas indoor workrooms must meet general-industry sanitation and CPC/CBC (California Building Code) requirements.

Cal/OSHA's (Occupational Safety and Health Administration) field-sanitation rule allows serviced portable toilets and hand-wash only for field crews, whereas indoor workrooms must meet general-industry sanitation and California's Plumbing Code (CPC) / California Building Code (CBC) requirements: [C3].

California Plumbing Code (2022): minimum plumbing fixtures for occupied buildings (Table 422.1) and "Sewer Required"—every building with plumbing fixtures must connect to a public sewer or an approved Onsite Water Treatment System (OWTS) [C5]

- **Cal/OSHA (Title 8):** §3364 (Toilet Facilities) and §3366 (Washing Facilities) for indoor workplaces; §3457 (Field Sanitation) for outdoor agricultural hand-labor (e.g., 1 toilet + 1 hand-wash per 20 workers; generally within quarter-mile). [C4]
- **Argument:** The project does not clearly state that employees will not be performing work in an enclosed building onsite. The project states that it will abandon trimming if the project site will not support an onsite septic system. Portable toilets are not sufficient for indoor workrooms, which must meet Title 8 general-industry sanitation and CPC plumbing requirements. [C6][C8]

Conclusion: If the project site cannot support a septic system as required for the proposed project plan and the project abandons its processing plans, then a Condition of Use should be added that the project will not engage in activity such as trimming which requires a septic system onsite for work performed in an enclosed building. If OWTS is infeasible (e.g. unattainable slopes/soils/setbacks requirements), no enclosed building may be occupied nor used. [C7]

Footnotes for Section C

[C1] State Water Resources Control Board, OWTS Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems, 2023: Cal Water Board

[C2] Lake County Environmental Health Site Evaluation Guide and Procedures for Installing a Septic System: Lake County+1. Lake County Code, Sanitary Disposal of Sewage (Ch. 9, Art. III): local requirements governing septic tanks/sanitary disposal. Municode Library

[C3] California Plumbing Code (2022) — Table 422.1 (minimum plumbing fixtures); §713.0–§713.4 "Sewer Required." International Association of Plumbing and Mechanical Officials (IAPMO), official e-publication: <https://epubs.iapmo.org/2022/CPC/> . See also 2022 California Building Code, Ch. 29 (Plumbing Systems) (cross-references CPC Table 422.1): <https://codes.iccsafe.org/content/CABC2022P2/chapter-29-plumbing-systems>

[C4] Cal/OSHA requirements for toilet and washing facilities: Cal-Dir+2Trellis Law+2

[C5] CPC plumbing fixtures requirements: SF Media API+1

https://media.api.sfdirect.org/documents/Plumbing_Code_Table_422.1_0.pdf

[C6] California Code of Regulations, Title 8 (Cal/OSHA) — §3364 (Toilet Facilities) and §3366 (Washing Facilities) (general-industry indoor workplaces); §3457 (Field Sanitation) (outdoor agricultural hand-labor—portable toilets/hand-wash rules). California Department of Industrial Relations, official regs: <https://www.dir.ca.gov/title8/3364.html> ; <https://www.dir.ca.gov/title8/3366.html> ; <https://www.dir.ca.gov/title8/3457.html>

[C7] California Plumbing Code (2022) — §713.0 “Sewer Required” / §713.1 “Where Required.” Every building with plumbing fixtures must connect to a public sewer or an approved onsite wastewater treatment system (OWTS). International Association of Plumbing and Mechanical Officials (IAPMO), official e-publication: <https://epubs.iapmo.org/2022/CPC/> . Public mirror (read-only PDF): https://law.resource.org/pub/us/code/ca/2022_California_Plumbing_Code.pdf

[C8] California Code of Regulations, Title 8, §3457 (Field Sanitation). Requires employers of outdoor agricultural hand-labor crews to provide serviced toilets and hand-wash facilities in proximity to the worksite. California Department of Industrial Relations (Cal/OSHA). Official regulatory text: <https://www.dir.ca.gov/title8/3457.html>