

Cannabiz Continues

From Page 15

During the January 21 hearing, Commissioner Alan Biagio argued that logging is going on on the parcel and in the vicinity and so that justified the road's adequacy because logging trucks were using it. Which was startling for small farmers to hear who have had to fork over thousands of dollars sometimes mortgaging their homes just to afford to fix logging legacies in order to get a permit, despite there often being no change in traffic on their roads.

"Behind both ordinances was a desire to prevent large grows out in the hills and to prioritize large development in already impacted areas," said Tom Wheeler, Executive Director of the Environmental Protection Information Center [EPIC]. He urged the board to join EPIC, and its 15,000 members, and deny the project. He said he agrees with Holders' interpretation of CEQA, that the project is too big and impactful for the area.

McCann has a population of about 17, that could increase many times said Richards, a neighbor at the March meeting. "There's already 20-30 or more [employees] at the Black Bear project when there's less than 20 full time residents."

"The idea of putting 22 or 30 people going up and down there is really crazy. This is not a place for industrial grows," said Civil Liberties Monitoring Project Co-Founder Bonnie Blackberry in the March 9 meeting. She said she lived off Alderpoint Road and it was "a mess."

In their press release the plaintiffs agreed, saying, "The Project's potential to induce growth in a remote rural area was not adequately analyzed."

The Project's estimates read no one will live onsite, but a rotating 24/7 security person will oversee the facilities. This will span thousands of acres, posing safety concerns for workers and the surrounding community. Theft, violence, potential threat to life, is not unusual on these large project sites. Last winter one Mendocino cannabis farm security guard nearly lost his life before forfeiting millions in product to armed robbers.

"At \$500 per pound, the value will be [up] to \$60 million per year," said Jason Browne, Expert Cannabis Witness. He broke down the value and approximate pounds produced at the project. He estimates that a greenhouse canopy of 240,000 square feet, with four harvests a year, could yield as much as 120,000 pounds.

The plaintiffs assert the project violates CEQA in several ways, including, "The Project's description has been unstable, inconsistent, and uncertain, lack of accuracy in assessing the true scope of its potential impacts ... resulting in a "piece-mealed" analysis."

One of those project changes happened in November 2020, when instead of two light deprivation cycles annually, the project proposed to operate year round, with up to four cycles.

"Humboldt County is working so hard to lower our carbon footprint, this development is going in the complete opposite direction," said Robie Tonorio, a Co-Founder of CLMP, and one of the members of CSH who helped file the lawsuit. She wrote to the Board about the inappropriateness of a new project that is so heavily reliant on fossil fuels. Tonorio also said her understanding was that the Supervisors' intention with the ordinance was to protect the environment, but that, "an industrial size grow in a remote location ... is not living up to those goals."

The County's argument was that the project size is justified because it created a similar footprint when compared to other subdivided land holdings and the concentration of farms in the respective communities.

Subdividing major land holdings such as this is not only profitable but standard practice Supervisor Wilson noted, and said this could incentivize more development on ranches.

Supervisor Bushnell also asked Director Ford if the landowner could subdivide this property, and he clarified that it could.

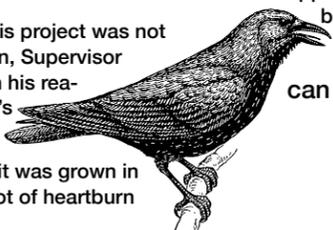
Machata is a business owner and property investor from Florida. He has an expansive business portfolio, with interests in frozen citrus commodities (fined 130k by... for breaking the law in...). But he is not a farmer by trade, nor does he support the recreational use of cannabis. Machata bought the expansive ranch as an investment and the county supported his right to make a profit on the land.

In the Commission hearing, Biagio explored other ways the owner could make money instead, and said, "Growing anything else would have a greater impact and logging would be way more destructive." Biagio also said the project seemed to have a small impact on a large piece of property.

"Is the priority of our local governance to insure that an out of state landowner receives something back on their investment over the health of our natural and human communities?" asked Tonorio in the March 9 hearing. Tonorio commented that she was "struck" by the county's support for the property owner to make a return on his investment he bought in the 90s.

Several public commenters noted this project was not what they had in mind for legalization, Supervisor Madrone included. He elaborated on his reasoning for voting against the project's approval,

"For me I wish it was smaller, I wish it was grown in the ground and in the sun. I have a lot of heartburn



Fuse Feed Print ⇨ Distribute

about these large industrial grows...I certainly didn't imagine our cannabis industry going in this direction... I wish we had maintained the small farms and high quality and lower industrial use."

County data also aligns with Madrone's concerns while shedding light on a greater trend regarding how cannabis legalization has unfolded in Humboldt County with respect to both compliance and enforcement.

According to the 2020 Code Enforcement Unit report done by the Planning Dept., 73% of all the approximately one thousand abatement notices were distributed in District Two where Rolling Meadows is located. As you may recall, the Humboldt County abatement program has been fining farmers anywhere from \$0-\$900,000 for abatements for the past four years (and still), so far collecting a total of 22.3 million in liens, fines and fees, despite substantial evidence that the costs and complexities are the primary barrier to compliance.

According to Director Ford in the March 16 Supervisors' meeting, the majority of farms who have annual permits are over 10k sq ft. of the current approximately 660 "Approved Annual Permits" cited (not including all interim permits). That means that the majority of abated farms are less than 10k sq ft (link to penalties, costs, fines...) while the majority of the permitted farms are 10k sq ft and greater.

The applicant anticipates sourcing employees from locally unemployed and abated farmers in Garberville and surrounding areas explains that there are cannabis cultivation operations in the surrounding areas that employ many people. When these operations disappear, the area will likely see a net loss in the number of people needing housing. Often the illegal operations are eradicated by county action.

It then cites the effectiveness of Humboldt County's abatement program and claims the project will have "no impact" on housing. The applicant states, "To some extent, the project will replace this previously existing industry and the employees that were previously attending illegal cannabis gardens."

Mary Gaterud, the "neighbor" bringing the lawsuit asked, "Should [abated farmers] just be glad of their new corporate employment, [and] for their possible minimum wage jobs?"

She asked the county how this informs the overarching vision. She wanted to know if the Project is approved, will it exploit and capitalize on the Abatement Policy.

Gaterud asks the county,

"Out of work farmers, who have been living and growing on their property, will now be forced into daily, long one way commutes (1-2.5 hours) to this Project...owned by a Florida based developer? And this is deemed environmentally responsible? What are the long term impacts to the character of the community?" She also asked about small farms who struggle with abatement and the regulatory and financial barriers to compliance Adding that they made it possible for us to even be having a conversation about "legalized" cannabis cultivation.

During the Supervisor and Planning Commission hearings the county presented a list of the community's concerns for the project and at the bottom of that list was "equity for legacy cultivators."

Theora Jackson, the Former Director of the Humboldt Sun Growers Guild mentions in a letter to the Board,

"This [project] is a prime example of what every local farmer has feared since the beginning. Folks from outside of the area, with lined pockets coming to spoil our natural landscape and capitalize on the Humboldt name. A legacy that has been built over decades for the love of a plant and our area...[A]llowing an operation such as this to be owned by folks from Florida... [means] all the profits will leave the area and [will] not be stimulating our local economy..."

Supervisor Bushnell stated up to 75% of the comments she received, "[People] had a problem because the applicant was not from Humboldt County." Bushnell then requested Director Ford's input regarding the intention of the ordinance.

Ford responded, "The Ordinance regulates land use, it does not regulate people. The ordinance never had an objective of giving deference to people because of where they live or anything else."

Bushnell voted to support the project in her district, though she stated the need to make cannabis ordinance changes. Bushnell said, "I have heard a lot of feedback that...this isn't how we want cannabis to go in Humboldt County...So out of this hearing today I'm going to need to recognize that maybe we need to change some ordinance issues."

Bushnell, then explained her obligation to represent all of her constituents, including those who live out of the area, concluding,

"We as a county have set up that these are the parameters ... Mr. Machata... seems willing to bend over backwards...not only are my obligations to my own constituents, but he, also being a landowner in my district, is one of my constituents."

It's important to note that the county does not have to pay for potential costs of the lawsuit. Planning and Building Department Director John Ford explained, "As a component of Cannabis Ordinance 1.0 and 2.0, there is a requirement for applicants to sign an indemnification agreement so they will be required to pay for any litigation."

A copy of the Writ submitted for the lawsuit can be found here: <https://tinyurl.com/4cdvru5u>

- Shakti

CENSORSHIP BY PROXY?

For the third time in less than five months, the U.S. Congress summoned the CEOs of social media companies to appear before them, with the explicit intent to pressure and coerce them to censor more content from their platforms. On March 25, the House Energy and Commerce Committee questioned Twitter's Jack Dorsey, Facebook's Mark Zuckerberg and Google's Sundar Pichai **at a hearing which the Committee announced focused "on misinformation and disinformation plaguing online platforms."**

The Committee's Chair, Rep. Frank Pallone, Jr. (D-NJ), and the two Chairs of the Subcommittees holding the hearings, Mike Doyle (D-PA) and Jan Schakowsky (D-IL), said in a joint statement that the impetus was "falsehoods about the COVID-19 vaccine" and "debunked claims of election fraud." They argued that "these online platforms have allowed misinformation to spread, intensifying national crises with real-life, grim consequences for public health and safety," adding: "This hearing will continue the Committee's work of holding online platforms accountable for the growing rise of misinformation and disinformation."

House Democrats have made no secret of their ultimate goal with this hearing: to exert control over the content on these online platforms. "Industry self-regulation has failed," they said, and therefore "we must begin the work of changing incentives driving social media companies to allow and even promote misinformation and disinformation." In other words, they intend to use state power to influence and coerce these companies to change which content they do and do not allow to be published. Easily overlooked is that while the First Amendment does not apply to voluntary choices made by a private company about what speech to allow or prohibit, it does bar the U.S. Government from coercing or threatening such companies to censor. In other words, Congress violates the First Amendment when it attempts to require private companies to impose viewpoint-based speech restrictions which the government itself would be constitutionally barred from imposing.

It may not be easy to draw where the precise line is — to know exactly when Congress has crossed from merely expressing concerns into unconstitutional regulation of speech through its influence over private companies — but there is no question that the First Amendment does not permit indirect censorship through regulatory and legal threats.

Ben Wizner, Director of the ACLU's Speech, Privacy, and Technology Project, told me that while a constitutional analysis depends on a variety of factors including the types of threats issued and how much coercion is amassed, it is well-established that the First Amendment governs attempts by Congress to pressure private companies to censor:

For the same reasons that the Constitution prohibits the government from dictating what information we can see and read (outside narrow limits), it also prohibits the government from using its immense authority to coerce private actors into censoring on its behalf.

Courts have never required plaintiffs to demonstrate that the government directly attempted to suppress their protected expression in order to establish First Amendment retaliation, and they have often upheld First Amendment retaliation claims involving adverse economic action designed to chill speech indirectly.

Perhaps the ruling most relevant to current controversies occurred in the 1963 Supreme Court case *Bantam Books v. Sullivan*. In the name of combatting the "obscene, indecent and impure," the Rhode Island legislature instituted a commission to notify bookstores when they determined a book or magazine to be "objectionable," and requested their "cooperation" by removing it and refusing to sell it any longer. Four book publishers and distributors sued, seeking a declaration that this practice was a violation of the First Amendment even though they were never technically forced to censor. Instead, they ceased selling the flagged books "voluntarily" due to fear of the threats implicit in the "advisory" notices received from the state.

The court found: "their operation was in fact a scheme of state censorship effectuated by extra-legal sanctions; they acted as an agency not to advise but to suppress."

From **Glenn Greenwald**
[greenwald.substack.com](https://www.greenwald.substack.com)

Enjoying chewing the gristle?

If you like what you see here, consider supporting our all volunteer efforts.



Waking Dogs Present:

GREENFUSE