

Responses to False Claims about Measure A

A There will be economic catastrophe with Measure A's new regulations. Forcing growers out of business

False

1. So-called 'new' regulations are the same as current regs, policy, and required practices the County uses now. Measure A only codifies these practices by putting them into law (generators, hydrologic analysis of wells, requiring water tanks) and ensuring them in the General Plan.
2. A grower who claims they will be forced out of the business would be acknowledging they would be unwilling to abide by the current regulations, policy, etc, and therefore would appear to be admitting they have not been in compliance with the current requirements.
3. Measure A will make it a little more difficult for growers to circumvent regulations because enforcement would be strengthened by mandating inspections (at least one/yr, on-site, in-person), public complaints would have to be investigated (a new requirement of the county), and all requirements would have to be met within the permitted year, or the permit would expire.
4. Measure A says nothing about taxes.
5. Thus, there is no reason why Measure A would affect the ability of current growers to maintain their existing level of productivity, ***providing they are in compliance with already existing requirements***. The market will continue to have an impact on the industry. In addition, it will be important for the County to interpret and implement the Measure as prescribed by the Measure; it would seem unlikely that the County would implement the Measure in a way that would negatively impact growers.

B Measure A will prevent 'all' improvements on virtually 'all' farms, including any structures like bathrooms, sheds, housing for labor.

False

1. Measure A defines 'expanded' as ***"an increase in the size, intensity, and resource usage of commercial cannabis cultivation activities."*** This could include, for example, an increase in the size or number of structures used "in connection with cultivation" that cause an increase in cultivation area, water usage, or energy usage.
2. Existing permits for cultivation >10,000 square feet could not be "expanded" further under Policy CC-P2. But nothing in Measure A restricts "expanded" uses on existing permits ≤10,000 square feet. Smaller existing farms thus could add structures and expand cultivation area up to 10,000 square feet under Policy CC-P2, even if the modifications increase water and energy usage.
3. Measure A also would allow modifications on existing farms >10,000 square feet so long as there would not be an increase in cultivation area or intensity, or increased usage of resources associated with cultivation. In other words, there is no language that would prohibit bathrooms, sheds, or other structures provided they don't result in an overall increase in cultivation area or resource usage.
4. The County is directed by Measure A to provide implementing ordinances that would further the environmental purposes of Measure A. Thus the County could clarify, without a vote of the people, that Measure A does not restrict modifications or structures that reduce overall energy or resource usage (like water tanks and solar panels).

C Measure A would make farmers and farms non conforming, and that would restrict them from adding structures, or getting tourism permits, or making improvements.

False

1. Measure A would mean, according to County ordinance 17.62.010 (*Continuing nonconforming use or structure*), that the cultivation use indicated in a permit with more than 10,000 sf would be 'Grandfathered-in', with a designation of a 'legally non conforming use'. There is no such thing as a non conforming farmer, grower, or farm; this relates only to use. Here, use is only cannabis cultivation.
2. The county ordinance on non conforming use says only that a legally non conforming use '--- may be continued but may not be altered or expanded.'. It says nothing about other aspects of a farm or its operation that does not relate to expansion or alteration of cultivation.
3. Similarly, Measure A says nothing about legally non conforming use.
4. Should there be a need for clarification, Measure A directs the County to do so by developing implementing ordinances.

D After Measure A passes, will the County have discretion to develop ordinances that conform to the intent of A?

No. The County would not have discretion as to whether or not it would develop ordinances or amendments that conform to measure A. Rather, Measure A specifically directs the County to develop ordinances, amended ordinances, policies, etc., as necessary to implement the Measure in conformance with its intent and purpose. The County does have considerable discretion, however, in its interpretation and implementation, providing it adheres to the purpose of the Measure and the clear meanings of its provisions.

E Measure A was written without input from the public and with no consultation with scientists.

False

Measure A was written after extensive input obtained from public officials, planning Director, planning commissioners, the public, including review of all public comment made for the DEIR and FEIR, growers association, individual growers, water board staff and biologists, DFW staff and biologists, bird biologists, water quality scientists, laboratory scientists, water quality experts, the scientific literature, CEQA documents and experts, foresters, hydrology publications, UC Berkeley researchers, local hydrology data, scientific papers, and risk assessment experts, to mention some. Public input was obtained from public documents and hearings, personal interviews, and the media. This input was extensive, perhaps covering more public input than was received in creation of the ordinances. Further, public validation was obtained through the petition process involving well over 10,000 people.

F Measure A creates an entirely new section in Humboldt County’s General Plan only for legal cannabis (no other industry is regulated in the GP) that establishes new rules, requirements, prohibitions, and restrictions. These requirements then mandate the BOS to create a new implementing ordinance to fulfill the objectives of the initiative. The existing two ordinances become obsolete—resulting in the majority of existing farmers becoming “nonconforming.”

False

1. The massive number of illegal growers, some turning legal, as well as the massive green rush, dictated the need for two land use ordinances, versions 1.0 and 2.0. This is because much of the county’s land had now come under very intensive cannabis cultivation, some on an industrial scale, affecting watersheds, rivers, people, wildlife, soil, water, and air quality, night light pollution, plastics, chemicals, and other potential insults to the land. The state requires that ordinances, particularly those addressing a significant influence to our land and people, such as for cannabis, must have a necessary and appropriate foundation in the General Plan. The General Plan gives the goals, purpose, and other requisite guidelines for ordinances, policy, plans, etc. Currently, there is no General Plan foundation for cannabis cultivation land use in Humboldt County.

Illegal grows come under the auspices of the Sheriff Dept, which must follow the law to identify and remove illegal grows. These laws clearly would protect the county from illegal cultivation, and they should be enforced. No initiative or measure can require a sheriff to enforce the law, but the state constitution does.

2. Other agriculture industries are very heavily regulated, such as the dairy industry, where inspectors, veterinarians, public health officials, and the public are able to ‘inspect’ dairies at any time, night or day---24/7 for such things as sanitation, chemicals, antibiotics, animal welfare, human welfare, pollution, air quality, methane production, nitrate levels, water use, as examples. Equipment can be inspected at any time, without notice, with laboratory tests conducted. Milk is tested twice daily for quality, bacteria, and evidence of contamination. Zoonotic diseases are monitored, cattle are tested for Tb and brucellosis. Regulations are extensive and intensive, and inspections necessary for enforcement are frequent. Dairy owners cannot hide from the inspectors, or cry foul if they are not given a week’s notice of an inspection. Violation of code can result in milk being dumped, not just a slap on the wrist or a fine.

3. There is no reason that the existing two ordinances, 1.0 and 2.0, should become obsolete. The county will be required to amend these ordinances in a few places to ensure they conform to the Measure and to add any appropriate procedural language to clarify and ease implementation. It is a fallacious claim to say it will be necessary to declare the ordinances obsolete. It would incur unnecessary costs if the County chose to do that.

4. Farmers will not become non conforming. There is no such thing as a non conforming farmer, or a non conforming farm. The County has an ordinance (No. 17.62.010) for legally non conforming uses (not farms or farmers); here cannabis cultivation would be the ‘use’. Measure A limits new or expanded permits to 10,000 sf; thus, any existing permit >10,000 sf would be ‘grandfathered in’ as a legally non conforming use. The county has no restrictions on permits with a non conforming use, other than the use (cultivation) cannot be expanded or altered. Measure A does not allow approval of any expanded permit that would result in more than 10,000 sf, but it has no restrictions on improvements or modifications that are not associated with increase cultivation

area, intensity, or resource usage, including for permits >10,000 sf. Generators will be phased out to 50 hp max, and a hydrological study will be necessary for new wells.

5. The regulations in Measure A directed to growers already exist either as a regulation, a practice, or non codified requirement. Measure A codifies and tightens these regulations and includes them in the General Plan. The claim that the Measure adds new regulatory burdens to the growers is not true. The Measure does have new requirements for the county to inform the public and to allow the public more say in permit approvals and renewals.

G. The intent and purpose of the initiative are irrelevant –the specific words used in definitions and amendments are binding and don't allow for interpretation in accordance with the intent.

False

The language is clear and unambiguous, and clearly consistent with the Purposes. The County is mandated to follow the intent and purpose of the Measure, and would be in violation of the law (eg the Measure) if it did not. The Measure gives the County considerable latitude in interpreting the Measure

H. Does Measure A subject growers to increased taxation?

No.

We cannot control how county staff might interpret or apply Measure A in a specific situation, and we certainly cannot give anyone legal advice. But, we can say how we intend the measure to be applied if it passes.

Measure A does not address taxes and there is no intent in Measure A for taxes to be increased.

In addition, in a decision regarding the lawsuit filed by the Growers Alliance and some growers attempting to stop Measure A from appearing on the ballot, Humboldt Superior Court Judge Canning ruled "Measure A does not propose to raise taxes. Measure A changes some definitions of growing techniques, but whether those would result in tax changes is up to county officials. The county has the power under Measure S to reduce taxes, and it has used this power in the past to relieve growers of tax liability."

I. Provisions in Measure A cannot be changed or removed except by another vote of the people. It would take 20 years to amend and would be very costly. Very difficult.

True – and False

1. This is correct with a few exceptions. The language could be changed if: a) new state law or state definitions were to affect the Measure. b) the Board of Supervisors approved lower caps on permits and/or acreage (but not higher)

2. It is important to understand the reasons for the mandate that does not allow changes to be made without a vote of the people.

Without a mandate, the peoples' vote could be erased in a month or two, or a year by the Board of Supervisors. As an example, they changed Measure S (which has no mandate), providing for relief from taxes several times. A new board could do away with Measure A altogether, thus dismissing entirely the vote of the people.

3. We do not have faith that even a well-meaning Board will do what it promised, as shown by the failure of the Board to keep its promise in 2018 when it resolved to have an annual public hearing assessment of cannabis activities, including reports from all applicable agencies. No such annual assessment has ever been done. (See Humboldt County Resolution 18-43, end of the Initiative.)

4. The County is directed to provide its interpretation for implementing ordinances, so the County has its say in how language is to be interpreted. The County has demonstrated a profound propensity to side with growers, thus it expected that the County interpretation will be favorable to the growers. It is a state requirement that county ordinances follow the goals and policy laid out in the General Plan. Currently, there is no General Plan section or language regarding commercial cannabis cultivation. In other words, current cannabis ordinances lack the necessary General Plan underpinnings. Measure A will, for the first time, amend the General Plan with language that provides foundation for cannabis cultivation ordinances and policies. The General Plan addition proposed in Measure A offers broad environmentally and socially- based goals that would serve to promote an environmentally responsible future for cannabis cultivation. It is important that General Plans not be too easily changeable.

5. It would be easy for the County to put changes before the voters. In Nov-Dec 2023, at the encouragement of the Growers Alliance, the Board brought forward a proposed initiative to be placed on the ballot, intended to compete with Measure A. The Board and Planning Department followed the same process that would be followed if Measure A were to be amended. From beginning to end, the process, including drafting language and two 'public hearings', took 4-5 weeks. Not onerous or difficult, not 20 years--- perhaps even this coming November.

J. Measure A would forbid solar panels and water tanks, making it an anti-environmental measure.

False

1. This claim derives from a twisted interpretation of the definition (under 4.9.3 Definitions) for 'Expansion', which 'shall mean an increase in size, intensity, or resource usage of cultivation activities'. Examples of 'expanded uses' include--- 'the number and size of any structures used in connection with cultivation'. The county's definition of 'structure' includes solar panels and water tanks. Thus, opponents say that any farm would be prevented from adding solar panels and water tanks, because they are 'structures' and because farms over 10,000 sf are not allowed to expand. This reasoning becomes obscure for farms less than 10,000 sf.

2. Opponents have ignored the 'meaning' of expansion. Under Definitions, Measure A tells us what 'expansion' means, literally, '[Expansion]--- shall mean an increase in size, intensity, or resource allocation.' A farm that simply wishes to add more water storage, without increasing water usage, would not, by definition, constitute 'expansion'. Similarly, addition of solar panels to reduce reliance on fossil fuel power, or simply to provide more stable battery back up power, without utilizing more power, would not meet the meaning of 'expansion'. The County has a say in interpretation.

3. Opponents ignore the purpose and intent of Measure A. Measure A's overall stated purpose and intent are to protect the environment. The measure's restrictions on "expanded" uses are intended to limit increased cultivation area, resource usage, and environmental impacts, while allowing existing farms to keep operating.

Measure A itself says it must be interpreted broadly by the County to further its purposes; this interpretation is required--- mandated (Section 9). Interpreting Measure A as prohibiting modifications that reduce resource usage and environmental impacts would be contrary to its purposes. Therefore, the County must implement Measure A in a way that allows environmental improvements, such as water tanks and solar panels, at existing farms. (Section 9)

4. Opponents ignore the County’s implementing ordinances. To the extent there is any uncertainty about this, Measure A gives the County additional flexibility for clarification. The Measure allows the County to adopt implementing ordinances that further its purpose without a vote of the people. The County could adopt an implementing ordinance to make clear that Measure A does not prohibit environmental improvements at existing farms. The County also could consider modifying its definition of “structure”—which is not part of Measure A—to address any uncertainty. (Section 7F)

5. Opponents ignore the Measure’s mandate against inconsistent implementation. Measure A forbids the County (including departments, officers, commissions, employees, etc) from granting, or by inaction allowing, any plan, permit, ordinance, policy, or other entitlement that is inconsistent with the Measure. The County is specifically required not to act in any way that is inconsistent with the stated purpose and goals of the measure, namely to protect the environment. (Section 7H)

Thus, Measure A specifically and carefully defines in multiple ways the County’s obligation and duty for implementation that augments and is not inconsistent with the stated environmental purpose and goals of the Measure. Forbidding water tanks and solar panels would clearly violate those mandates. If Measure A were approved and became law, a violation by the County of any of these mandates would seemingly contravene the law.

K. Existing farmers would have to upgrade their roads to meet category 4 standards, costing hundreds of thousands of dollars per mile.

False

Measure A does not change anything about Category 4 road standards other than requiring an engineer to verify compliance where it is already otherwise required under 2.0, but only for new or (some) expanded applications. This provision affects only new applications where Category 4 road standards would already apply (ie ordinance 2.0). Measure A does not change or eliminate any of the existing exceptions from the Category 4 standard. This provision does not affect ANY existing operation, unless the operation expands in a way that would trigger the Category 4 requirement under the current ordinance 2.0. If the current permit is less than 10,000 sf and does not have a category 4 road requirement, Measure A would not require a category 4 road requirement or engineer validation if the farm wanted to expand to 10,000 sf (there would be no trigger). If that same small farm instead had a permit that required a category 4 road, then an engineer would need to validate that the road met the category 4 road standard (basically two lane, or ‘same practical effect’). “Same Practical Effect” means an exception or alternative with the capability of providing equivalent access characteristics, including but not limited to: accommodating safe two-way travel and traffic by regular users in passenger vehicles, and access by emergency wildland fire equipment and simultaneous safe civilian evacuation in the event of a wildland fire.”.(Ordinance 2.0)

L. Our general response to the County Analysis (see HCRI response to Analysis)

1. The Analysis adopts an extreme interpretation that contradicts the Initiative’s environmentally protective purposes and intent—even though the Initiative itself states that it must be interpreted consistent with its purposes.
2. Contrary to the County’s claims, the Initiative’s limitations apply only to “new” and “expanded” uses. The clear intent of these provisions is to allow existing farms to continue operating, but not to expand the amount of cultivation (land usage), energy usage, or water usage.
3. Contrary to the County claim, the current Ordinance 2.0 provides that permits “shall terminate” or “expire” one year after the date of issuance. (County Code §§ 313-55.4.5.6, 314-55.4.5.6.) Policy CC- P3 would simply add these existing requirements to the General Plan, which cannot be changed without a vote of the people.
4. Contrary to the County claims, Policy CC-P2 states that “[t]he limitations in this Policy CC-P2 shall not apply to an application for renewal of an existing permit or zoning clearance that does not propose or involve any expanded use.”
5. The Analysis and accompanying statements made at the March 7 Board of Supervisors meeting are not neutral and fair presentations of relevant facts. Rather, they appear intended to influence and undercut public support for the Initiative—in other words, to take part in the political campaign surrounding the Initiative in advance of the March 2024 election. We now see this is becoming reality.