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Governor's Office of Planning & Research

APR 09 2019

STATE CLEARINGHOUSE

April 9, 2019

Ms. Crystal Acker
 Sonoma County Permit and Resource Management Department
 2550 Ventura Avenue
 Santa Rosa, CA 95403
Crystal.Acker@sonoma-county.org

Dear Ms. Acker:

Subject: Petaluma Hills Farm (Cannabis Cultivation Operation), Mitigated Negative Declaration, SCH #2019039068, Sonoma County

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Completion of a Mitigated Negative Declaration (MND) provided for the Petaluma Hills Farm, LLC (Project) located at 38.247778 degrees latitude, and -122.743056 degrees longitude in Sonoma County. The MND was received in our office on March 13, 2019.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. CDFW also appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA) §15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Native Plant Protection Act, the Lake and Streambed Alteration Agreement (LSAA), and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our jurisdiction, CDFW has the following concerns, comments, and recommendations regarding the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: Petaluma Hills Farm, LLC

Objective: The Proponent proposes one acre of cultivation and on-site processing, including some construction. The Proponent will demolish old poultry barns and develop outdoor cultivation with security fencing in the same general area as the demolished barns. The Proponent will demolish an existing dairy barn to construct a greenhouse/indoor cultivation building in the same general area as the demolished dairy barn. Inside the greenhouse perimeter fence, the Proponent will construct a compost area, four 10,000-gallon water tanks,

Ms. Crystal Acker
April 9, 2019
Page 2 of 6

three additional irrigation tanks, two additional fire suppression/irrigation tanks, a new sidewalk, a covered enclosure for solid waste, and a fire turnaround. The Proponent will demolish an existing hay barn and construct a new barn for drying plants and for non-cannabis storage in its footprint. A repurposed concrete block building will be used for processing and storage. The Proponent will repurpose an appurtenant structure to the existing residence, referred to as a "granny unit," to become an office, restroom, and breakroom for employees. The existing residence will be used to house the on-site cultivation manager. The existing driveway will be widened, and parking spaces will be provided.

Location: The Project is located at 334 Purvine Road, Petaluma, Sonoma County, CA 94952, APN 022-230-018.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations below to assist Sonoma County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

Lake or Streambed Alteration Notification

Pursuant to Business and Professions Code 26060.1(b)(3), every license for cultivation issued by the California Department of Food and Agriculture (CDFA) must comply with Section 1602 of the Fish and Game Code or receive written verification from CDFW that an LSAA is not required. Therefore, for any such activities, the Project proponent must provide written notification to CDFW pursuant to section 1600 et seq. of the Fish and Game Code. Based on this notification and other information, CDFW determines whether an LSAA with the applicant is required prior to conducting the proposed activities. The notification process for cannabis cultivation projects is described on CDFW's website at <https://wildlife.ca.gov/Conservation/Cannabis>.

Rare Plants

There is a historic congested-headed hayfield tarplant (*Hemizonia congesta* ssp. *congesta*; California Rare Plant Rank 1B.2¹) record in the California Natural Diversity Database (CNDDB) within one mile of the property; other more recent records are within five miles of the property (accessed April 4, 2019). This plant occurs in fields, short-grass, irrigated pasture, and open grassy places (California Native Plant Society 2019) and may occur in grassland habitat on the site (Pinecrest Environmental 2017). The species was not observed during a one-day survey on May 22, 2017, during the flowering season (May to November). CDFW floristic survey protocols indicate more than one field visit is usually necessary to adequately capture the floristic diversity of a project area (e.g., in early, mid and late-season) to determine if special-status plants are present (CDFW 2018). The timing and number of visits necessary to determine if special-status plants are present is determined by geographic location, the natural communities present, and the weather patterns of the year(s) in which botanical field surveys are conducted. Additional

¹ The California Native Plant Society defines plants in the "California Rare Plant Rank 1B" category as plants that are considered rare, threatened or endangered in California or elsewhere.

pre-construction surveys are recommended to verify whether congested-headed hayfield tarplant is present on the site. If this species is found, CDFW should be consulted.

California Tiger Salamander

California tiger salamander (*Ambystoma californiense*; CTS) is endemic to central California, with an isolated Distinct Population Segment in Sonoma County (U.S. Fish and Wildlife Service (USFWS) 2014) that is federally endangered and state threatened. CTS rely on seasonal wetlands or freshwater ponds for reproduction and adjacent or accessible terrestrial habitat for migration and aestivation, making the quality of both aquatic and terrestrial habitat essential for CTS survival (70 FR 49380). CTS depend on upland habitats that contain underground refugia, such as mammal burrows, for food, shelter, and protection. Thus, the main threat to CTS is habitat loss and fragmentation, including loss of dispersal habitat between breeding pools and upland refugia. CTS spend the majority of its lifecycle underground (Trenham et al. 2000) and is susceptible to being crushed or entombed during ground disturbance. There is no CDFW-accepted upland habitat survey protocol that can determine absence while CTS is underground.

Potentially suitable upland habitat for estivation or dispersal is on the Project site. CTS has been known to use livestock or other constructed ponds, as well as roadside ditches, for breeding (USFWS 2014), and mapped ponds are within 1.3 miles of the site (ESRI World Topographic Map accessed April 8, 2019). Sign of fossorial mammals was observed in the form of excavation mounds in the grassland on the site, likely from California ground squirrel (*Otospermophilus beecheyi*) and California vole (*Microtus californicus*) (Pinecrest Environmental 2017). Potentially suitable CTS habitat within the Santa Rosa Plain south of the City of Cotati and west of the City of Petaluma [Figure 1 and Figure 9, Draft Recovery Plan for the Santa Rosa Plain (USFWS 2014)] has not been systematically surveyed, and presence of CTS in this area is not known. There was a detection of two adults on the U.S. Coast Guard Two Rock Training Center about 1.7 miles from the Project site (CNDDDB accessed April 4, 2019), but the CNDDDB record did not indicate where the adult(s) had been breeding. Therefore, it is possible the observed adults were breeding in ponds within 1.3 miles of the Project site.

Mitigation Measure BIO-1, Amphibian Pre-Construction Survey(s) requires notification to regulatory agencies if special-status amphibians are found during pre-construction surveys. However, since pre-construction surveys would not detect CTS that may be underground, Mitigation Measure BIO-1 should include avoidance of small mammal burrows by at least 30 feet and placing exclusion fencing around the construction sites. This modification would minimize potential impacts to CTS and other special-status amphibians using fossorial habitat on the site or using the site as dispersal habitat.

Special-Status Bat Species

Bats are considered non-game mammals and are protected by state law from take and/or harassment (Fish and Game Code §4150, CCR §251.1). Many bat species are also considered Species of Special Concern.

Mitigation Measure BIO-2 Roosting Bat Pre-Construction Surveys(s) requires an assessment of trees or structures for suitable roosting habitat or limits construction to outside of the maternal roosting season (May 1 to August 31). If suitable roosting habitat is found and construction will take place during the maternal roosting season, Mitigation Measure BIO-2 requires nighttime

emergence surveys to determine if a maternal colony is present and an appropriate disturbance buffer (exclusion zone) to be established around the maternity roost until all young have emerged. Nighttime emergence surveys do not necessarily determine absence of roosting bats, depending on the timing of the surveys. Bats may move from one roosting site to another, and a negative survey finding may be invalid if bats later move into the site. Modifying Mitigation Measure BIO-2 to require emergence surveys immediately prior to construction (within one or two days) will increase the probability of detecting roosting bats. Mitigation Measure BIO-2 should also include phased dismantling of the barns, which may be used by roosting bats, under the guidance of a qualified bat biologist. This will give the bats an opportunity to disperse before demolishing of the structures is completed.

Burrowing Owl

Burrowing owl (*Athene cunicularia*) has been detected within five miles of the Project site (CNDDDB accessed April 4, 2019) and may potentially use foraging and nesting habitat present on the Project site (Pinecrest Environmental 2017). Burrowing owls commonly nest in ground squirrel burrows, which were observed on the site, and could potentially be crushed or entombed in the burrow during construction. Burrowing owls may also use American badger (*Taxidea taxus*), coyote (*Canis latrans*), and gray fox (*Urocyon cinereoargenteus*) dens; or they may use man-made structures, such as culverts, piles of concrete rubble, and pipes (Gervais, Rosenberg, and Comrack 2008).

Mitigation Measure BIO-4 American Badger Pre-Construction Survey requires pre-construction surveys for work during the breeding season (February through May). If a badger is found, CDFW will be contacted to determine the appropriate mitigation measure. Since burrowing owls use similar fossorial habitat for nesting, burrowing owl surveys should be added to Mitigation Measure BIO-4 during its breeding season (March through August), with the same requirement of contacting CDFW for mitigation measures if they are found.

Light Pollution

Artificial light pollution for security around cultivation and construction sites could cause significant impacts to wildlife and associated ecosystems. Artificial light in an ecosystem can alter the natural circadian, lunar, and seasonal cycles under which species have evolved by altering natural patterns of light and dark and sky glow. Such impacts could extend beyond the light source, affecting species' activity patterns; availability and detectability of food resources; movement, navigation, and migration; timing of phenological events; and physiological function. Common bird species, small mammals, amphibians including CTS, and reptiles could be impacted by light pollution, particularly if excess lighting reaches nearby streams, wetlands, ponds, or mammal burrows.

To minimize the trespass of artificial light and ensure illumination outside of the target area is minimized, fixtures should be fully shielded and downward facing. The intensity and/or spectrum of lighting could also be modified to reduce trespass impacts. For example, green and yellow lights have been identified as being wildlife friendly (Longcore and Rich 2016).

Prohibition on Use of Monofilament Netting

Monofilament netting used for erosion control or any other purpose has the potential to ensnare and strangle wildlife, such as small birds, reptiles, and amphibians that may be on the Project

Ms. Crystal Acker
April 9, 2019
Page 5 of 6

site. To minimize the risk of ensnaring and strangling wildlife, the project proponent should not use any erosion control materials that contain synthetic (e.g., plastic or nylon) monofilament netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures should be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey data submittal instructions can be found at the following link:
<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

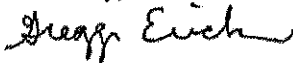
FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish and Game Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the Sonoma County Permit and Resources Management Department in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Ms. Randi Logsdon, Senior Environmental Scientist (Specialist), at (707) 428-2097 or Randi.Logsdon@wildlife.ca.gov, or to Ms. Randi Adair, Senior Environmental Scientist (Supervisory), at (707) 576-2786 or Randi.Adair@wildlife.ca.gov.

Sincerely,



Gregg Erickson
Regional Manager
Bay Delta Region

cc: State Clearinghouse (SCH# 2019039068)

REFERENCES

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Ms. Crystal Acker
April 9, 2019
Page 6 of 6

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