



September 25, 2020

Governor's Office of Planning & Research

**Sep 28 2020**

Mr. Rob Hickey, City Planner

City of Rio Vista

One Main Street

Rio Vista, CA 94571

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## STATE CLEARINGHOUSE

Subject: Snowtill Project, Initial Study/Mitigated Negative Declaration,  
SCH No. 2020089027, City of Rio Vista, Solano County

Dear Mr. Hickey:

CDFW has reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) prepared by the City of Rio Vista for the Snowtill Project (Project). CDFW is submitting comments and recommendations on the IS/MND regarding potentially significant impacts to biological resources associated with the Project. CDFW is providing these comments and recommendations for Project activities within CDFW's area of expertise and relevant to its statutory responsibilities (Fish and Game Code, § 1802), and/or which are required to be approved by CDFW (California Environmental Quality Act (CEQA) Guidelines, §§15096 and 15204).

### CDFW ROLE

CDFW is a Trustee Agency with responsibility under CEQA (Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources (e.g., biological 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 (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

### PROJECT DESCRIPTION SUMMARY

The Project site is located on a 1.48-acre parcel at 40 Richard Brann Drive, in the City of Rio Vista, County of Solano, in the state of California, Assessor Parcel Number (APN) 0178-230-180. Project activities include construction of two approximately 15,000-square-foot buildings in two phases. Phase I includes constructing one 15,000-square-foot building on the southwesterly portion of the site. A 20-foot fire lane will be installed on the southern side of the site to provide emergency access to the northern side. The road will loop around the building to connect to the 20-space parking lot. Phase II involves constructing a second 15,000-square-foot building between the

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parking lot and the Phase I structure. The site will be used for manufacturing, distribution, and cannabis cultivation.

## **REGULATORY REQUIREMENTS**

### *California Endangered Species Act*

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in “take” of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c), 21083; CEQA Guidelines, §§ 15380, 15064, and 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency’s FOC does not eliminate the Project proponent’s obligation to comply with Fish and Game Code section 2080.

### *Lake and Streambed Alteration*

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 LSA Agreement is not required. Therefore, for any such activities (including construction for the purpose of cannabis cultivation), the Project applicant (or “entity”) must provide written notification to CDFW pursuant to section 1600 et seq. of the Fish and Game Code.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the below comments and recommendations to assist the City of Rio Vista in adequately identifying and/or mitigating the Project’s significant, or potentially significant, direct and indirect impacts on biological resources.

### **Migratory and Nesting Birds**

**MM BIO-1** addresses Swainson’s hawk nesting bird survey requirements. The measure should also address pre-construction survey parameters for passerine and other raptor species.

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Nesting bird surveys for passerines should include a minimum of two surveys (draft IS/MND states only one survey will be conducted). The first survey should be conducted at least within 7 days prior to the beginning of Project related activities, and an additional survey conducted within 48 hours prior to the start of Project related activities. If there is a lapse of 7 days or longer in Project related activities, another focused survey should be conducted. Additional surveys for raptors may be necessary especially earlier in the nesting season when raptor nesting behavior is more conspicuous.

Additionally, CDFW recommends that a qualified biologist, experienced in raptor behavior, be required to monitor any raptors nesting within disturbance distance of Project activities. The qualified biologist should have authority to order the cessation of all Project activities if the birds exhibit abnormal nesting behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young). Abnormal nesting behaviors which may cause reproductive harm include but are not limited to defensive flights/vocalizations directed towards Project personnel, standing up from a brooding position, interrupted feeding patterns, and flying away from the nest. Project activities within line of sight of the nest should not resume until the qualified biologist has consulted with CDFW and both the qualified biologist and CDFW confirm that the bird's behavior has normalized, or the young have left the nest.

**MM BIO-1** states that if construction activities are planned to begin after March 1, a pre-construction breeding survey for Swainson's hawks will be conducted throughout areas of suitable nesting habitat within 0.25 miles of the Project site.

CDFW recommends that Project-related disturbance within a minimum of 0.25 miles (and up to 0.5 miles depending on site-specific conditions) of any active Swainson's hawk nest site be reduced or eliminated during the critical phase of the nesting cycle (March 1 through September 15) in order to avoid significant impacts to the hawk. If Project activities must be conducted during this critical phase, then appropriate buffers should be established by a qualified biologist. Please refer to the CDFW guidance document on Swainson's hawk on take avoidance, minimization, and mitigation measures that is available at:

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83992>.

**MM BIO-1** does not include any mitigation if potentially significant impacts to Swainson's hawk foraging habitat cannot be avoided.

MM BIO-1 should include mitigation for potentially significant impacts to Swainson's hawk foraging habitat on the Project site if active nests are found in the Project area. Swainson's hawk has been documented within two miles of the Project site (California Natural Diversity Database (CNDDDB), accessed September 2020).

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CDFW recommends mitigation for loss of Swainson's hawk foraging habitat based on the following ratios:

- For projects within one-mile of an active nest tree, conserve one-acre of land for each acre of development authorized (1:1 ratio).
- For projects within five miles of an active nest tree but greater than one-mile from the nest tree, conserve 0.75 acres of land for each acre of development authorized (0.75:1 ratio).
- For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree, conserve 0.5 acres of land for each acre of development authorized (0.5:1 ratio).

## **Other Considerations**

### *Fencing Hazards*

The Project may result in the use of open pipes as fence posts, property line stakes, signs, etc. CDFW recommends that all hollow posts and pipes be capped to prevent wildlife entrapment and mortality because these structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting, and roosting. Raptor's talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used on the Project site should be plugged with bolts or other plugging materials to avoid this hazard. Further information on this subject may be found at: <https://ca.audubon.org/conservation/protect-birds-danger-open-pipes>.

## **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 CNDDDB. The CNDDDB field survey form, online field survey form, and contact information for CNDDDB staff 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

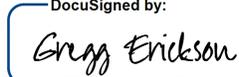
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operative, vested, and final. (Cal. Code Regs., tit. 14, § 753.5; Fish and Game Code, § 711.4; Pub. Resources Code, § 21089).

## CONCLUSION

CDFW appreciates the opportunity to comment on the IS/MND to assist the City of Rio Vista. Questions regarding this letter or further coordination should be directed to Ms. Mia Bianchi, Environmental Scientist, at (707) 210-4531 or [mia.bianchi@wildlife.ca.gov](mailto:mia.bianchi@wildlife.ca.gov); or Mr. Wes Stokes, Senior Environmental Scientist (Supervisory), at (707) 339-6066 or [wesley.stokes@wildlife.ca.gov](mailto:wesley.stokes@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
BE74D4C93C604EA...  
Gregg Erickson  
Regional Manager  
Bay Delta Region

cc: State Clearinghouse #2020089027

## REFERENCES

O'Hare, M., Sanchez, D. L., & Alstone, P. (2013). Environmental risks and opportunities in cannabis cultivation. BOETC Analysis Corp. University of California, Berkeley, CA, USA.

California Department of Fish & Wildlife (CDFW). 2020. California Natural Diversity Database (CNDDDB) Rarefind Electronic database. Sacramento, CA. Search of U.S. Geological Survey 7.5-minute quadrangles Rio Vista. Accessed September 2020.

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**Attachment 1**

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
 RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM  
 (MMRP)**

**PROJECT:** Snowtill Project, City of Rio Vista

**SCH No.:** 2020089027

<b>RECOMMENDED MITIGATION MEASURES</b>	<b>Responsibility for Implementation</b>
<p><b>MM BIO-1</b></p> <p><b>Breeding bird pre-construction surveys</b></p> <ul style="list-style-type: none"> <li>• Nesting bird surveys for passerines should include two surveys (draft IS/MND states only one survey will be conducted). The first survey should be conducted at least <b>within 7 days</b> prior to the beginning of Project related activities, and an additional survey conducted within <b>48 hours</b> prior to the start of Project related activities. If there is a lapse of 7 days or longer in Project related activities, another focused survey should be conducted. Additional surveys for raptors may be necessary especially surveys earlier in the nesting season to document early signs of nesting when raptors are more conspicuous.</li> <li>• A qualified biologist, experienced in raptor behavior, should be required to monitor the behavior of any raptors nesting within disturbance distance of Project activities. The qualified biologist should have authority to order the cessation of all Project activities within disturbance distance of any raptor nest if the birds exhibit abnormal nesting behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young).</li> </ul>	<p>Project Applicant/                      Qualified Biologist</p>

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**Swainson's hawk habitat mitigation**

MM BIO-1 should propose mitigation for potentially significant impacts to Swainson's hawk foraging habitat on the Project site if active nests are found in the Project area. CDFW recommends mitigation for loss of Swainson's hawk foraging habitat based on the following ratios:

- For projects within one-mile of an active nest tree, conserve one-acre of land for each acre of development authorized (1:1 ratio).
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