State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

June 25, 2021
Sent via email

Patricia Villagomez
Associate Planner
City of Desert Hot Springs
11999 Palm Dr.
Desert Hot Springs, CA 92240

Dos Cabezas Cultivation (Project)
Initial Study/Mitigated Negative Declaration (IS/MND)
SCH# 2021060118

Dear Ms. Villagomez:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of Desert Hot Springs for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

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 appreciates the opportunity to respond the Draft IS/MND. Likewise, we appreciate 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 California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the state. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need

[1] CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: Dos Cabezas Management, LLC.

Project Description: The Draft IS/MND proposes the development of a cultivation facility on approximately 3.77 acres of vacant land on a 5.03-acre lot in the City of Desert Hot Springs. The remaining acreage on the lot is designated for flood control and will be fenced off and not developed. The cultivation facility will include three, one-story buildings for the cultivation and processing of cannabis. Project construction will include the development of a 10,026-square-foot building for offices and the processing of cannabis, and two 14,994-square-foot greenhouses, for a total of a building area of 40,014 square feet (sf) at total buildout. Two retention basins are proposed for construction on the east and west sides of the Project site. Access to the site will occur from two gated points on Cabot Dr. The project proposes to provide 36 parking spaces, 4 of which are designated as ADA parking stalls. Associated improvements along Cabot Dr. include curb and gutter, sidewalks, and landscaped areas. The site is currently vacant and undisturbed, and characterized by scattered desert vegetation. The project is located in the Light Industrial district in the City of Desert Hot Springs, where similar uses currently exist.

Location: The parcel lies on the east side of Cabot Dr. and approximately 310 feet north of 15th Ave. in the city of Desert Hot Springs, CA; APN 665-070-003: GPS Coordinates: 33.94093, -116.52002; in the Morongo Wash (HUC 12) subwatershed. To the east of the parcel lies the Morongo Wash. The Project site is within the Coachella Valley Multi-Species Habitat Conservation Plan and is directly adjacent to the Upper Mission Creek/Big Morongo Canyon Conservation Area.

Timeframe: The Draft IS/MND gives no timeframe for the construction of the Project.

COMMENTS AND RECOMMENDATIONS

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

In addition to the sections below, CDFW is concerned that no timeframe is provided for the construction of the project. The surveys used to establish the significance of impacts from the Project were completed in February and March of 2020. CDFW generally considers wildlife surveys valid for one year, and recommends that new surveys be completed before the Project begins. Also, the Draft IS/MND states that project landscaping will consist of

large trees and shrubs found in the region. CDFW recommends xeriscaping with locally native California species and installing water-efficient and targeted irrigation systems (information on drought-tolerant landscaping and water-efficient irrigation systems is available on California's Save our Water website: http://saveourwater.com/what-you-can-do/tips/landscaping/). In addition, Section 4.0 of the CVMSHCP includes "Table 4-112: Coachella Valley Native Plants Recommended for Landscaping" (pp. 4-180 to 4-182; https://cvmshcp.org/Plan_Documents.htm). Finally, The Draft IS/MND does not analyze cumulative impacts from the increasing concentration of cannabis projects in the City of Desert Hot Springs and the surrounding area. Cannabis cultivation requires large quantities of water, which can impact groundwater-dependent species and ecosystems. CDFW recommends that the IS/MND include an analysis of cumulative impacts of cannabis projects on biological resources.

ASSESSMENT OF IMPACTS ON BIOLOGICAL RESOURCES

Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP)

Within the Inland Deserts Region, CDFW issued Natural Community Conservation Plan Approval and Take Authorization for the CVMSHCP per Section 2800, et seq., of the California Fish and Game Code on September 9, 2008. The CVMSHCP establishes a multiple species conservation program to minimize and mitigate habitat loss and provides for the incidental take of covered species in association with activities covered under the permit. Compliance with approved habitat plans, such as the CVMSHCP, is discussed in CEQA. Specifically, Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed Project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. An assessment of the impacts to the CVMSHCP as a result of this Project is necessary to address CEQA requirements. To obtain additional information regarding the CVMSHCP please go to http://www.cvmshcp.org/.

The Project occurs within the CVMSHCP area and is subject to provisions and policies of the CVMSHCP. The Project shares its eastern boundary with the Upper Mission Creek/Big Morongo Canyon Conservation Area of the CVMSHCP. To be considered a covered activity, Permittees should demonstrate that proposed actions are consistent with the CVMSHCP and its associated Implementing Agreement. CDFW appreciates inclusion of Mitigation Measures BR-2 and BR-3 (Table 2-1, p. 13-14) to assure compliance with the CVMSHCP and associated Implementing Agreement, payment of the CVMSHCP Local Development Mitigation Fee for the Project, and incorporation of applicable CVMSHCP Land Use Adjacency Guidelines throughout approvals and the life of the project.

Burrowing Owl (*Athene cunicularia*)

The Draft IS/MND states that burrowing owl habitat was present on the site and includes Mitigation Measure BR-4 (Table 2-1, p. 15) requiring preconstruction burrowing owl surveys. CDFW appreciates inclusion of the measure and provides the following revision to specify current focused surveys, and additional detail and action to be taken in the event surveys confirm occupied habitat:

MM BIO-1: Burrowing owl habitat has been confirmed on the Project site; therefore, focused burrowing owl surveys shall be conducted in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version). If the focused burrowing owl surveys detect active burrowing owl burrows outside the breeding season (September 1 through January 31), or within the breeding season (February 1 through August 31) but owls are not nesting or in the process of nesting, passive relocation may be conducted following consultation with the CDFW and USFWS. A relocation plan will be required by CDFW and USFWS if relocation is necessary. The relocation plan will outline the basic relocation process, provide options for avoidance and minimization, and identify the entity responsible for all financial costs associated with the relocation plan.

Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012 or most recent version). Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation*. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. CDFW shall be notified of burrowing owl survey results within 48 hours of detection. The qualified biologist shall coordinate with USFWS and CDFW to conduct an impact assessment to develop avoidance and minimization measures to be approved by CDFW prior to commencing Project activities.

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) for proposed MM BIO-1. The draft MMRP with MM BIO-1 through MM BIO-10 is enclosed as Attachment 1 at the end of this letter.

Desert Tortoise (Gopherus *agassizii*)

The Draft IS/MND acknowledges the potential for desert tortoise to be found on the Project site although no tortoises or signs of tortoises were present during the biological survey (Section IV Biological Resources, p. 47). CDFW considers survey results valid for one year and, given that the referenced survey is more than a year old, recommends a new desert tortoise survey is completed. CDFW recommends the addition of a mitigation measure requiring a survey for desert tortoise prior to commencing Project activities and to specify actions to be taken if desert tortoise presence is confirmed during the survey:

MM BIO-2: Prior to commencing Project activities, a focused survey for desert tortoise shall be conducted by a qualified biologist, according to protocols in chapter 4 of the *Desert Tortoise (Mojave Population) Field Manual* (USFWS 2018 or most recent version), during the species' most

active periods (April through May or September through October). CDFW recommends working with USFWS and CDFW concurrently to ensure a consistent and adequate approach to planning survey work and that biologists retained to complete desert tortoise protocol-level surveys submit their qualifications to CDFW and USFWS prior to initiation of surveys.

No more than 14 calendar days prior to start of Project activities, a qualified biologist shall conduct pre-construction surveys for desert tortoise as described in the USFWS *Desert Tortoise (Mojave Population) Field Manual* (USFWS 2018 or most recent version). Pre-construction surveys shall be completed using perpendicular survey routes within the Project area and 50-foot buffer zone. Pre-construction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until two negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Should desert tortoise presence be confirmed during the survey, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance and minimization measures.

Desert Kit Fox (*Vulpes macrotis arsipus*)

Desert kit fox is protected as a fur-bearing mammal under Title 14 of the California Code of Regulations (Chap. 5, § 460) and may not be taken at any time. While no desert kit foxes were observed on the Project site according to the Draft IS/MND (Section IV Biological Resources, pg. 46), BIOS data layers showing connectivity modeling for the California Desert Linkage Network indicate that the Project site falls within core breeding habitat for kit fox, and CDFW's California Wildlife Habitat Relationship model indicates the Project site is within habitat that is highly suitable for kit fox. Because desert kit fox has high fidelity to natal dens, it is crucial to adequately assess whether desert kit fox is present on the Project site well in advance of commencing Project activities. If desert kit fox is found on-site during breeding season, it could delay Project activities until appropriate vegetation and construction buffers can be established on the Project site. Therefore, CDFW recommends focused and pre-construction surveys for desert kit fox as follows:

MM BIO-3: Prior to commencing Project activities, a qualified biologist shall conduct a focused survey for desert kit fox, including assessment of all burrows in the Project area. If potential burrows are located, they should be monitored by the qualified biologist. If a burrow is determined to be active, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance, minimization, and mitigation measures. No more than 14 days prior to the beginning of ground disturbance and/or Project activities, a qualified biologist shall conduct pre-construction surveys to determine if potential desert kit fox burrows/dens are present in the Project area. Pre-construction surveys should include 100-percent visual coverage of the Project area

and cannot be combined with other surveys conducted for other species while using the same personnel. If the pre-construction surveys confirm occupied desert kit fox habitat, Project activities shall be immediately halted, and the qualified biologist shall notify CDFW and USFWS to develop avoidance, minimization, and mitigation measures. No disturbance of active dens shall take place when juvenile desert kit fox may be present and dependent on parental care.

Nesting Birds

It is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. The Draft IS/MND proposes Mitigation Measure BR-5 (Table 2-1, p. 15) requiring nesting bird surveys prior to vegetation clearing or ground disturbance activities. CDFW recommends that pre-construction surveys be completed no more than 3 days prior to vegetation clearing or ground disturbance activities; instances of nesting could be missed if surveys are conducted sooner. Please note that nesting bird surveys must be conducted regardless of the time of year to protect species that may nest outside the peak breeding season, such as raptors and hummingbirds. CDFW recommends BR-5 be revised as follows:

MM BIO-4: Regardless of the time of year, nesting bird surveys shall be conducted by a qualified avian biologist no more than three (3) days prior to vegetation clearing or ground disturbance activities. Preconstruction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the preconstruction nesting bird surveys, a Nesting Bird Plan (NBP) shall be prepared and implemented by the qualified avian biologist. At a minimum, the NBP shall include guidelines for addressing active nests, establishing buffers, ongoing monitoring, establishment of avoidance and minimization measures, and reporting. The size and location of all buffer zones, if required, shall be based on the nesting species, individual/pair's behavior, nesting stage, nest location, its sensitivity to disturbance, and intensity and duration of the disturbance activity. To avoid impacts to nesting birds, any grubbing or vegetation removal shall occur outside peak breeding season (February 1 through September 1).

Special Status Plants

The Draft IS/MND should include measures to fully avoid and otherwise protect special status plant species from Project-related direct and indirect impacts. Plants constituting California Rare Plant Ranks 1A, 1B, 2A, and 2B generally meet the criteria of a CESA-listed species and should be considered as an endangered, rare or threatened species for the purposes of CEQA analysis. CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural*

Communities (2018 or most recent version; https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline) states, "The failure to locate a known special status plant occurrence during one field season does not constitute evidence that this plant occurrence no longer exists at this location, particularly if adverse conditions are present." CDFW appreciates the inclusion of Mitigation Measure BR-1 (Table 2-1, p. 13) that requires focused surveys for rare plants. CDFW recommends revising the measure as follows to include actions to be taken in the event that any special status plant species are present at the Project site:

MM BIO-5: A focused plant survey shall be conducted by a qualified biologist for rare plants, between April and May (prior to commencing Project activities), when most plant species would be identifiable. The survey should follow CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Species Native Plant Populations and Natural Communities (CDFW 2018 or most recent version),* and survey results should report any additional special status plant species found to be present in the Project area. Should any state-listed plant species not covered by the CVMSHCP be present in the Project area, the Project proponent shall obtain an ITP for those species prior to the start of Project activities. Should other special status plants be present in the Project area, a qualified restoration specialist shall assess whether perennial species may be successfully transplanted to an appropriate natural site or whether on-site or off-site conservation is warranted to mitigate Project impacts. If successful transplantation of perennial species is determined by a qualified restoration specialist, the receiver site shall be identified, and transplantation shall occur at the appropriate time of year. Additionally, the qualified restoration specialist shall perform seed collection and dispersal from special status annual plant species to a natural site as a conservation strategy to minimize and mitigate Project impacts. If these measures are implemented, monitoring of plant populations shall be conducted annually for 5 years to assess the mitigation's effectiveness. The performance standard for mitigation shall be no net reduction in the size or viability of the local population.

Minimizing Impacts to Other Species

According to the Draft IS/MND (Section IV Biological Resources, p. 46), the Project site has suitable habitat for the following CDFW Species of Special Concern: Palm springs ground squirrel (*Spermophilus tereticaudus chlorus*), Palm Springs pocket mouse (*Perognathus longimembris bangsi*), LeConte's thrasher (*Toxostoma lecontei*), and loggerhead shrike (*Lanius ludovicianus*). Because of the potential for these and other special status species to occur on-site, CDFW recommends inclusion of the following mitigation measure:

MM BIO-6: A qualified biologist shall be on-site prior to and during all ground- and habitat-disturbing activities to move out of harm's way wildlife that

would otherwise be injured or killed from Project-related activities. Movement of wildlife out of harm's way should be limited to only those individuals that would otherwise by injured or killed, and individuals should be moved only as far as necessary to ensure their safety. Measures shall be taken to prevent wildlife from re-entering the Project site. Only biologists authorized by a Memorandum of Understanding issued by CDFW shall move CESA-listed species.

Pesticides, Including Fungicides, Herbicides, Insecticides, and Rodenticides

Cannabis cultivation sites (whether indoor or outdoor) often use substantial quantities of pesticides, including fungicides, herbicides, insecticides, and rodenticides. Wildlife, including beneficial arthropods, birds, mammals, amphibians, reptiles, and fish, can be poisoned by pesticides after exposure to a toxic dose through ingestion, inhalation, or dermal contact (Fleischli et al. 2004, Pimentel 2005, Berny 2007). They can also experience secondary poisoning through feeding on animals that have been directly exposed to the pesticides. Even if used indoors, rodenticides may result in secondary poisoning through ingestion of sickened animals that leave the premises or ingestion of lethally poisoned animals that are disposed of outside. Nonlethal doses of pesticides can negatively affect wildlife; pesticides can compromise immune systems, cause hormone imbalances, affect reproduction, and alter growth rates of many wildlife species (Pimentel 2005, Li and Kawada 2006, Relyea and Diecks 2008, Baldwin et al. 2009).

CDFW recommends minimizing use of synthetic pesticides, and, if they are used, to always use them as directed by the manufacturer, including proper storage and disposal. Toxic pesticides should not be used where they may pass into waters of the state, including ephemeral streams, in violation of Fish and Game Code section 5650(a)(6). Anticoagulant rodenticides and rodenticides that incorporate "flavorizers" that make the pesticides appetizing to a variety of species should not be used at cultivation sites (the passage of AB 1788, signed by the governor on September 29, 2020, banned the general use of second-generation anticoagulants in California). Alternatives to toxic rodenticides may be used to control pest populations at and around cultivation sites, including sanitation (removing food sources such as pet food, cleaning up refuse, and securing garbage in sealed containers) and physical barriers (e.g., sealing holes in roofs and walls). Snap traps should not be used outdoors as they pose a hazard to nontarget wildlife. Sticky or glue traps should be avoided, as these pose a hazard to nontarget wildlife and result in a prolonged/inhumane death. The California Department of Pesticide Regulation (CDPR) stipulates that pesticides must meet certain criteria to be legal for use on cannabis. For details, visit https://www.cdpr.ca.gov/docs/cannabis/questions.htm and https://www.cdpr.ca.gov/docs/county/cacltrs/penfltrs/penf2015/2015atch/attach1502.pdf.

Section IX Hazards and Hazardous Materials (p. 74-75) of the Draft IS/MND states that pesticides and fungicides may be used in the cannabis cultivation facilities, therefore CDFW recommends the following mitigation measure:

MM BIO-7: Prior to construction and issuance of any grading permit, Dos

Cabezas Cultivation shall develop a plan, to be approved by the City of Desert Hot Springs, with measures to avoid, minimize, or mitigate the impacts of pesticides used in cannabis cultivation, including fungicides, herbicides, insecticides, and rodenticides. The plan should include, but is not limited to, the following elements: (1) Proper use, storage, and disposal of pesticides, in accordance with manufacturers' directions and warnings. (2) Avoidance of pesticide use where toxic runoff may pass into waters of the State, including ephemeral streams. (3) Avoidance of pesticides that cannot be used on cannabis in the state of California, as set forth by the Department of Pesticide Regulation. (4) Avoidance of anticoagulant rodenticides and rodenticides with "flavorizers". (5) Avoidance of sticky/glue traps. (6) Inclusion of alternatives to toxic rodenticides, such as sanitation (removing food sources such as pet food, cleaning up refuse, and securing garbage in sealed containers) and physical barriers.

Artificial Light

Cannabis cultivation operations often use artificial lighting or "mixed-light" techniques in indoor operations to increase yields. If not disposed of properly, these lighting materials pose significant environmental risks because they contain mercury and other toxins (O'Hare et al. 2013). In addition to containing toxic substances, artificial lighting often results in light pollution, which has the potential to significantly and adversely affect fish and wildlife. Night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication (e.g., birdsong; Miller 2006), determining when to begin foraging (Stone et al. 2009), behavioral thermoregulation (Beiswenger 1977), and migration (Longcore and Rich 2004). Phototaxis, a phenomenon that results in attraction and movement toward light, can disorient, entrap, and temporarily blind wildlife species that experience it (Longcore and Rich 2004).

The Draft IS/MND indicates that Project activities will involve new sources of artificial light for buildings and security. Because of the potential for artificial light to impact nocturnal wildlife species and migratory birds that fly at night, CDFW recommends the following mitigation measure:

MM BIO-8: Light shall not be visible outside of any structure used for cannabis cultivation. Employ blackout curtains where artificial light is used to prevent light escapement. Eliminate all nonessential lighting from cannabis sites and avoid or limit the use of artificial light during the hours of dawn and dusk when many wildlife species are most active. Ensure that lighting for cultivation activities and security purposes is shielded, cast downward and toward developed areas, and does not spill over onto other properties or upward into the night sky (see the International Dark-Sky Association standards at http://darksky.org/). Use LED lighting with a correlated color temperature of 3,000 Kelvins or less, properly dispose of hazardous

waste, and recycle lighting that contains toxic compounds with a qualified recycler.

Role of Lake and Streambed Alteration (LSA) Program in Cannabis Licensing

Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may adversely impact any river, stream, or lake. According to the Draft IS/MND (Project Vicinity, p. 5), the Project parcel shares a border with the Morongo Wash. CDFW's LSA Program should be notified of Project activities prior to construction so that impacts to streams and associated resources may be assessed, and, if appropriate, avoidance and minimization measures may be proposed.

The California Department of Food and Agriculture (CDFA) requires cannabis cultivators to demonstrate compliance with Fish and Game Code section 1602 prior to issuing a cultivation license (Business and Professions Code, § 26060.1). To qualify for an Annual License from CDFA, cultivators must have an LSA Agreement or written verification from CDFW that one is not needed. Cannabis cultivators may apply online for an LSA Agreement through the Environmental Permit Information Management System (EPIMS; https://epims.wildlife.ca.gov) and learn more about cannabis cultivation permitting at https://wildlife.ca.gov/Conservation/Cannabis/Permitting. CDFW recommends the following mitigation measure:

MM BIO-9: Prior to construction and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from CDFW stating that notification under section 1602 of the Fish and Game Code is not required for the Project, *or* the Project Sponsor should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.

Employee Awareness of Wildlife Resources

CDFW is concerned that because the Project area is surrounded by open land, Project development will bring biological hazards common to urban-wildland interface areas. Waste management must be a priority as accessible waste can encourage opportunistic species such as rats, ravens, and coyotes to become more prevalent, posing a substantial predation hazard to wildlife. Predators like ravens and coyotes are both known to prey on desert tortoise and other sensitive species. Waste management plans should include waste receptacles with closing, lockable lids and a waste removal schedule that does not allow for excess waste to accrue. Increased traffic may also pose a hazard to species in the form of vehicle-animal collisions which often lead to the death of the animal. For slow moving species like desert tortoise, busy roads or driveways in their territory can have a significant impact on populations.

Project activities, including construction and routine work for the life of the Project, will affect local wildlife. Part of the Project Proponent's responsibility is to educate individuals that will be on-site, whether they are employees of Dos Cabezas Cultivation or contractors,

on the wildlife species that may be present and how to limit impacts to wildlife species in the area. CDFW recommends that the following Employee Education Program be added to the Draft IS/MND as a mitigation measure:

> **MM BIO-10: A qualified biologist shall conduct an education program for all persons employed or otherwise working on the Project site prior to performing any work on-site. The program shall consist of a presentation that includes a discussion of the biology of the habitats and species that may be present at the site. The qualified biologist shall also include as part of the education program information about the distribution and habitat needs of any special status species that may be present, legal protections for those species, penalties for violations, and mitigation measures. The Employee Education Program should include, but not be limited to: (1) Best practices for managing waste and reducing activities that can lead to increased occurrences of opportunistic species and the impacts these species can have on wildlife in the area. (2) Protected species that have the potential to occur on the Project site including, but not limited to, burrowing owl, desert tortoise, rare and sensitive plants, and nesting birds. (3) The location of the Morongo Wash along the east side of the parcel and the importance of ensuring that no refuse or pollution enters the streambed habitat. (4) The location and purpose of the adjacent CVMSHCP conservation area, the importance of ensuring that no Project activities negatively impact that area, and that no refuse or pollution from the Project site enters the conservation area. Interpretation shall be provided for any non-English speaking workers, and the same instruction shall be provided for any new workers prior to their performing any work on-site.**

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 (CNDDB). The CNNDB field survey form can be found at the following link: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=25739. The completed form can be mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov. The types of information reported to CNDDB can be found at the following link: https://wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

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 for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the Draft IS/MND for Dos Cabezas Cultivation to assist the City of Desert Hot Springs in identifying and mitigating Project impacts on biological resources. CDFW has assessed the Draft IS/MND and found that it does not adequately identify or mitigate for all of this Project's impacts on biological resources. CDFW recommends that prior to the adoption of the MND, the City of Desert Hot Springs revise the document to include a more complete assessment of impacts to biological resources on the Project parcel and adjacent parcels, as well as appropriate avoidance, minimization, and mitigation measures.

CDFW has Cannabis Unit staff who are available to provide guidance on identifying, minimizing, and mitigating impacts to biological resources and any CDFW permitting that will be associated with this project. If you have questions or would like to set up a meeting with CDFW staff to discuss this letter, please contact Kevin Francis, Environmental Scientist, at kevin.francis@Wildlife.ca.gov.

Sincerely,

DocuSigned by:
Alisa Ellsworth
84FBB8273E4C480...

Alisa Ellsworth
Environmental Program Manager I

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

ec: Kevin Francis, Environmental Scientist, CDFW
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ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Mitigation Measure	Schedule	Responsible Party
MM BIO-1: Burrowing owl surveys Burrowing owl habitat has been confirmed on the Project site; therefore, focused burrowing owl surveys shall be conducted in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version). If the focused burrowing owl surveys detect active burrowing owl burrows outside the breeding season (September 1 through January 31), or within the breeding season (February 1 through August 31) but owls are not nesting or in the process of nesting, passive relocation may be conducted following consultation with the CDFW and USFWS. A relocation plan will be required by CDFW and USFWS if relocation is necessary. The relocation plan will outline the basic relocation process, provide options for avoidance and minimization, and identify the entity responsible for all financial costs associated with the relocation plan. Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version). Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the Staff Report on Burrowing Owl Mitigation. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. CDFW shall be notified of burrowing owl survey results within 48 hours of detection. The qualified biologist shall coordinate with USFWS and CDFW to conduct an impact assessment to develop avoidance and minimization measures to be approved by CDFW prior to commencing Project activities.	**Preconstruction surveys:** No more than 14 days prior to any ground- or vegetation-disturbing Project activities	Dos Cabezas Cultivation
MM BIO-2: Desert Tortoise Prior to commencing Project activities, a focused survey for desert tortoise shall be conducted by a qualified biologist, according to protocols in chapter 4	No more than 14 days prior to beginning any Project activities.	Dos Cabezas Cultivation

of the Desert Tortoise (Mojave Population) Field Manual (USFWS 2018 or most recent version), during the species' most active periods (April through May or September through October). CDFW recommends working with USFWS and CDFW concurrently to ensure a consistent and adequate approach to planning survey work and that biologists retained to complete desert tortoise protocol-level surveys submit their qualifications to CDFW and USFWS prior to initiation of surveys. No more than 14 calendar days prior to start of Project activities, a qualified biologist shall conduct pre-construction surveys for desert tortoise as described in the USFWS Desert Tortoise (Mojave Population) Field Manual (USFWS 2018 or most recent version). Pre-construction surveys shall be completed using perpendicular survey routes within the Project area and 50-foot buffer zone. Pre-construction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until two negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Should desert tortoise presence be confirmed during the survey, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance and minimization measures.	Ongoing throughout Project activities.	
MM BIO-3: Desert Kit Fox Prior to commencing Project activities, a qualified biologist shall conduct a focused survey for desert kit fox, including assessment of all burrows in the Project area. If potential burrows are located, they should be monitored by the qualified biologist. If a burrow is determined to be active, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance, minimization, and mitigation measures. No more than 14 days prior to the beginning of ground disturbance and/or Project activities, a qualified biologist shall conduct pre-construction surveys to determine if potential desert kit fox burrows/dens are present in the Project area. Pre-construction surveys should include 100-percent visual coverage of the Project area and cannot be combined with other surveys conducted for other species while using the same personnel. If the pre-construction	No more than 14 days prior to beginning any Project activities.	Dos Cabezas Cultivation

surveys confirm occupied desert kit fox habitat, Project activities shall be immediately halted, and the qualified biologist shall notify CDFW and USFWS to develop avoidance, minimization, and mitigation measures. No disturbance of active dens shall take place when juvenile desert kit fox may be present and dependent on parental care.		
MM BIO-4: Nesting Birds Nesting bird surveys shall be conducted by a qualified avian biologist no more than three (3) days prior to vegetation clearing or ground disturbance activities. Preconstruction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the preconstruction nesting bird surveys, a Nesting Bird Plan (NBP) shall be prepared and implemented by the qualified avian biologist. At a minimum, the NBP shall include guidelines for addressing active nests, establishing buffers, ongoing monitoring, establishment of avoidance and minimization measures, and reporting. The size and location of all buffer zones, if required, shall be based on the nesting species, individual/pair's behavior, nesting stage, nest location, its sensitivity to disturbance, and intensity and duration of the disturbance activity. To avoid impacts to nesting birds, any grubbing or vegetation removal shall occur outside peak breeding season (February 1 through September 1).	Within 3 days of beginning any vegetation clearing or ground disturbing activities.	Dos Cabezas Cultivation
MM BIO-5: Special Status Plants A focused plant survey shall be conducted by a qualified biologist for rare plants, between April and May (prior to commencing Project activities), when most plant species would be identifiable. The survey should follow CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Species Native Plant Populations and Natural Communities (CDFW 2018 or most recent version), and survey results should report any additional special status plant species found to be present in the Project area. Should any state-listed plant species not covered by the CVMSHCP be present in the Project area, the Project proponent shall obtain an ITP for those species prior to	Prior to construction and issuance of any grading permit. Ongoing throughout Project activities.	Dos Cabezas Cultivation

the start of Project activities. Should other special status plants be present in the Project area, a qualified restoration specialist shall assess whether perennial species may be successfully transplanted to an appropriate natural site or whether on-site or off-site conservation is warranted to mitigate Project impacts. If successful transplantation of perennial species is determined by a qualified restoration specialist, the receiver site shall be identified, and transplantation shall occur at the appropriate time of year. Additionally, the qualified restoration specialist shall perform seed collection and dispersal from special status annual plant species to a natural site as a conservation strategy to minimize and mitigate Project impacts. If these measures are implemented, monitoring of plant populations shall be conducted annually for 5 years to assess the mitigation's effectiveness. The performance standard for mitigation shall be no net reduction in the size or viability of the local population.		
MM BIO-6: Minimizing Impacts to Other Species A qualified biologist shall be on-site prior to and during all ground- and habitat-disturbing activities to move out of harm's way wildlife that would otherwise be injured or killed from Project-related activities. Movement of wildlife out of harm's way should be limited to only those individuals that would otherwise by injured or killed, and individuals should be moved only as far as necessary to ensure their safety. Measures shall be taken to prevent wildlife from re-entering the Project site. Only biologists authorized by a Memorandum of Understanding issued by CDFW shall move CESA-listed species.	Ongoing during Project activities.	Dos Cabezas Cultivation
MM BIO-7: Pesticides Prior to construction and issuance of any grading permit, Dos Cabezas Cultivation shall develop a plan, to be approved by the City of Desert Hot Springs, with measures to avoid, minimize, or mitigate the impacts of pesticides used in cannabis cultivation, including fungicides, herbicides, insecticides, and rodenticides. The plan should include, but is not limited to, the following elements: (1) Proper use, storage, and disposal of pesticides, in accordance with manufacturers' directions and warnings. (2) Avoidance of pesticide use where toxic runoff may pass into waters of the State, including ephemeral streams. (3)	Prior to construction and issuance of any grading permit.	Dos Cabezas Cultivation

Avoidance of pesticides that cannot be used on cannabis in the state of California, as set forth by the Department of Pesticide Regulation. (4) Avoidance of anticoagulant rodenticides and rodenticides with "flavorizers". (5) Avoidance of sticky/glue traps. (6) Inclusion of alternatives to toxic rodenticides, such as sanitation (removing food sources such as pet food, cleaning up refuse, and securing garbage in sealed containers), and physical barriers.		
MM BIO-8: Artificial Light Light shall not be visible outside of any structure used for cannabis cultivation. Employ blackout curtains where artificial light is used to prevent light escapement. Eliminate all nonessential lighting from cannabis sites and avoid or limit the use of artificial light during the hours of dawn and dusk when many wildlife species are most active. Ensure that lighting for cultivation activities and security purposes is shielded, cast downward, and does not spill over onto other properties or upward into the night sky (see the International Dark-Sky Association standards at http://darksky.org/). Use LED lighting with a correlated color temperature of 3,000 Kelvins or less, properly dispose of hazardous waste, and recycle lighting that contains toxic compounds with a qualified recycler.	Ongoing throughout Project activities.	Dos Cabezas Cultivation
MM BIO-9: LSA Program Prior to construction and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from the CDFW stating that notification under section 1602 of the Fish and Game Code is not required for the Project, *or* the Project Sponsor should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.	Prior to construction and issuance of any grading permit.	Dos Cabezas Cultivation
MM BIO-10: Employee Education Program A qualified biologist shall conduct an education program for all persons employed or otherwise working on the Project site prior to performing any work on-site. The program shall consist of a presentation that includes a discussion of the biology of the habitats and species that may be present at the site. The qualified biologist shall also include as part of the education program information about the distribution and habitat	Prior to any person performing work on-site. Ongoing throughout Project activities.	Dos Cabezas Cultivation

needs of any special status species that may be present, legal protections for those species, penalties for violations, and mitigation measures. The Employee Education Program should include, but not be limited to: (1) Best practices for managing waste and reducing activities that can lead to increased occurrences of opportunistic species and the impacts these species can have on wildlife in the area. (2) Protected species that have the potential to occur on the Project site including, but not limited to, burrowing owl, desert tortoise, rare and sensitive plants, and nesting birds. (3) The location of the ephemeral stream along the west side of the parcel and the importance of ensuring that no refuse or pollution enters the streambed habitat. Interpretation shall be provided for any non-English speaking workers, and the same instruction shall be provided for any new workers prior to their performing any work on-site.		