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Governor's Office of Planning & Research

August 31, 2021
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STATE CLEARINGHOUSE

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COACHILLIN' SPECIFIC PLAN AMENDMENT, DHS SP #01-17 (PROJECT)
INITIAL STUDY (IS) SCH# 2021080065

Dear Mr. Carrillo:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation for a Draft Environmental Impact Report from the City of Desert Hot Springs for the Coachillin' Specific Plan Amendment, DHS SP #01-17 (Project) pursuant to 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. 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: City of Desert Hot Springs

Objective: The Project is a proposed amendment to Specific Plan #01-17 (approved in October 2017), which would involve changes to zoning and land use within the Coachillin' Industrial Cultivation and Ancillary Canna-Business Park to allow for the following:

- Construction of a 4-story hotel (150,000 sq. ft.; 65 ft. maximum height) in Parcel 30
- Construction of a 5,000-seat amphitheater (65 ft. maximum height) in Parcel 31
- Private power generation and "other industrial uses" in Parcel 25
- Inclusion of "other types of crops" in the Agricultural zone

The IS indicates that work approved by the Specific Plan constitutes the baseline for environmental analysis. Existing site conditions provided in the IS indicate that all 160 parcels in the cannabis business park have been rough graded; 8-foot fencing has been installed around the perimeter; perimeter lighting has been installed; stormwater retention basins and channels have been completed; water lines from Mission Springs Water District (MSWD) have been installed; interior roads have been graded but not paved; and street improvements outside of the business park have been completed. The IS indicates that water trucks are onsite daily to mitigate dust from construction.

Location: The Project is located in the Coachillin' Industrial Cultivation and Ancillary Canna-Business Park, which encompasses APNs 666-340-008 through 666-340-053 in the City of Desert Hot Springs. The Project site is southeast of the intersection of Indian Road and 18th Avenue in the City of Desert Hot Springs, Riverside County. Major highways include Interstate 10 to the south and Highway 62 to the west. The Project lies west of Mission Creek, and ephemeral streams run through the property on both the east and west. The Project is within the Whitewater River watershed. The Whitewater River has its headwaters in the San Bernardino Mountains and drains to the Salton Sea, southeast of the parcel. The Project is located within the Indio and Mission Creek subbasins of the Coachella Valley Groundwater Basin.

Timeframe: Project construction is expected to take 1 year; no starting date is given.

COMMENTS AND RECOMMENDATIONS

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (i.e., biological resources). The IS has not adequately identified and disclosed the Project's impacts (i.e., direct, indirect, and cumulative) to biological resources and whether

those impacts are less than significant. CDFW offers the following comments and recommendations to assist the City of Desert Hot Springs in adequately identifying and mitigating the Project's potentially significant impacts to biological resources. In addition to the sections below, CDFW has the following concerns, which the City of Desert Hot Springs should address in the Draft EIR:

- **CDFW jurisdictional waters:** Page 35 of the IS states that the Project site does not contain “any streams, creeks, rivers, blue-line streams, vernal pools, or ponds.” However, this is not consistent with the US Geological Survey National Hydrography Dataset (NHD), which shows mapped ephemeral flowlines running through the western and eastern sides of the property. CDFW jurisdiction extends to all rivers, lakes, and streams, including those that are ephemeral. CDFW’s Lake and Streambed Alteration Program (Fish and Game Code section 1602) was notified of activities in the Specific Plan that would impact stream resources onsite, and Streambed Alteration Agreement (SAA) No. 1600-2016-0148-R6 was issued by CDFW with mitigation measures to compensate for permanent loss of 0.28 acres of jurisdictional streambed habitat on the western side of the property and adverse impacts to fish and wildlife resources. Furthermore, the SAA stipulates that the Permittee “shall mitigate project impacts through rehabilitation, conservation, and long-term management of no less than 0.56 acres of streambed and associated riparian habitat onsite” through creation of “an onsite drainage in the approximate location and with similar hydrological characteristics as the existing drainage with at least 0.56 acres of streambed habitat.” The IS (p. 35) indicates that the ephemeral stream was “removed during mass grading of the Specific Plan area in 2017.” The onsite drainage and associated riparian habitat created per the conditions of the SAA are jurisdictional resources, which should be identified and disclosed in the Draft EIR. Potential effects or impacts to these resources as a result of construction and operation of the hotel and amphitheater should be analyzed, as well as any other Project activities that may impact these resources.
- **Description of Project activities:** The Draft EIR should provide a complete description of Project activities, including timing and scope, so that it is possible to determine impacts to biological resources. The Project description should include building/structural specifications for the hotel and amphitheater in Parcels 30 and 31, square footage of each structure, and whether the amphitheater will be open air or enclosed. The Project description should specify the type and scope of power generation onsite in Parcel 25 and specify the “other industrial uses” (p. 6 of the IS) to take place in this parcel. In addition, changes to the Agricultural zone should be specified, including what other crops will be grown and how the existing retention basins will be affected in this area. In addition, any fencing, security lighting, landscaping, and water usage associated with the proposed Project should be specified in the Draft EIR.
- **Management of retention basins:** CDFW is concerned about potential impacts to biological resources resulting from management of the onsite retention basins. Because retention basins have the potential to create habitat that attracts wildlife, CDFW is concerned that the basins be managed properly. The retention basins will have to be maintained, which poses concerns about work period/season, nesting birds, vegetation removal, and sensitive species surveys, as well as the potential need for a Lake and Streambed Alteration Agreement to maintain the basins. The Draft EIR should include an analysis of these issues.

- **Landscaping:** Because California has entered another period of extended drought, CDFW recommends xeriscaping with locally native California species and installing water-efficient and targeted irrigation systems (such as drip irrigation). Local water agencies/districts and resource conservation districts in your area may be able to provide information on plant nurseries that carry locally native species. 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).
- **Cumulative impacts on biological resources:** The IS does not analyze cumulative impacts from the increasing concentration of cannabis-related projects in the City of Desert Hot Springs and the surrounding area. Cannabis cultivation and related activities require large quantities of water, which can impact groundwater-dependent species and ecosystems. These impacts may be compounded by current drought conditions. CDFW recommends that the Draft EIR include an analysis of cumulative impacts of cannabis projects on biological resources.

Assessment of Impacts to Biological Resources

Biological Resources

The IS (p. 34) states that because the site has been rough graded, "there is no remaining habitat for biological resources remaining on the site"; however, in addition to omitting assessment of the 0.58 acres of streambed habitat under SAA 1600-2016-0148-R6, three mitigation measures for biological resources were included following this statement. CDFW is concerned that the IS does not adequately disclose or analyze impacts to biological resources. Open desert surrounds the Project on the eastern and western sides of the property, from which wildlife not deterred by fencing may reoccupy the site. For example, bird species, small mammals, desert kit fox (*Vulpes macrotis arsipus*), and reptiles may enter the site over or through fencing. The IS (p. 10) indicates that water trucks are onsite daily to control dust resulting from construction. Concentrated sources of water in desert environments can act as attractants for wildlife. In addition, the onsite drainage and associated riparian habitat created per the conditions of Streambed Alteration Agreement No. 1600-2016-0148-R6 should support biological resources. CDFW recommends that the Draft EIR disclose and analyze direct and indirect impacts of the Project on biological resources and include measures to enhance and protect the 0.58 acres of streambed habitat which is the mitigation for the previous stream impacts, as well as measures to avoid impacts to the species noted above.

The California Natural Diversity Database (CNDDDB) is a positive-detection database only, meaning the absence of species data reported by CNDDDB does not indicate absence of species from a project site. A query of CNDDDB and BIOS (Biogeographic Information and Observation System), including unprocessed data, for the USGS Desert Hot Springs quadrangle, which contains the Project site, returned 59 records, including occurrences of burrowing owl (*Athene cunicularia*; CDFW Species of Special Concern [SSC]) on the Project site. In addition, BIOS data layers showing connectivity modeling for the California Desert Linkage Network indicate that the Project site falls within core breeding habitat (i.e.,

continuous area of suitable habitat large enough to sustain at least 50 individuals) for desert tortoise (*Gopherus agassizii*; federal threatened species, state threatened species, and state candidate for uplisting to endangered), burrowing owl, Le Conte's thrasher (*Toxostoma lecontei*; CDFW SSC), and kit fox (*Vulpes macrotis*). CDFW's California Wildlife Habitat Relationship model indicates that the Project site is located within high-quality habitat for desert tortoise, burrowing owl, kit fox, Le Conte's thrasher, and flat-tailed horned lizard (*Phrynosoma mcallii*; CDFW SSC), as well as medium-quality habitat for Coachella fringe-toed lizard (*Uma inornata*; federal threatened species and state endangered species). CDFW recommends that the Draft EIR disclose and analyze potential impacts of the Project on biological resources.

CDFW is concerned about the potential for special status species to occur on the Project site. Even species covered by the Coachella Valley Multiple Species Habitat Conservation Plan may require avoidance, minimization, and mitigation measures according to provisions of the plan (see "Burrowing Owl" and "Desert Tortoise" sections below).

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. To be considered a covered activity, Permittees should demonstrate that proposed actions are consistent with the CVMSHCP and its associated Implementing Agreement. The IS includes a mitigation measure (BR-1) to address the Project occurring within the CVMSHCP. However, CDFW recommends revising BR-1 as follows:

MM BIO-1: Prior to construction and issuance of any grading permit, the City of Desert Hot Springs shall ensure compliance with the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) and its associated Implementing Agreement and shall ensure that payment of the CVMSHCP Local Development Mitigation Fee for the proposed Project is remitted to the Coachella Valley Conservation Commission.

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) for proposed MM BIO-1–9 (mitigation measures have been renumbered; see Attachment 1).

Burrowing Owl (*Athene cunicularia*)

CNDDDB/BIOS reports occurrences of burrowing owl on the site and in the surrounding area. Although burrowing owl is covered under the CVMSHCP, it is also protected under the Migratory Bird Treaty Act. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

Due to potential for burrowing owls to reenter the site, CDFW recommends pre-construction surveys. The IS includes a mitigation measure (BR-2) to address burrowing owls; however, CDFW recommends revising BR-2 as follows:

MM BIO-2: Pre-construction 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). Pre-construction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation*. If the pre-construction 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 CDFW and USFWS to conduct an impact assessment to develop avoidance and minimization measures to be approved by CDFW prior to commencing Project activities.

Desert Tortoise (*Gopherus agassizii*)

Although desert tortoise is covered under the CVMSHCP, Section 9.6.1.4 of the plan indicates: "Both inside and outside Conservation Areas, avoidance, minimization, and mitigation measures require relocation of individual tortoises if required surveys locate individuals on the site of Covered Activities." Due to potential for desert tortoise to occur the area, CDFW recommends pre-construction surveys. CDFW recommends the following mitigation measure:

MM BIO-3: 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 2009 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, minimization, and mitigation 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. 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 onsite during breeding season, it could delay Project activities until appropriate vegetation and construction buffers can be established on the Project site. Therefore, CDFW recommends pre-construction surveys for desert kit fox as follows:

MM BIO-4: 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. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

CDFW is concerned about impacts to nesting birds from construction of the Project (e.g., noise/disturbance). Although the IS includes a mitigation measure (BR-3) to address nesting birds, the timing and scope of the mitigation measure are insufficient. CDFW recommends the Draft EIR include specific avoidance and minimization measures to ensure that impacts to nesting birds do not occur. Project-specific avoidance and minimization measures may include, but are not limited to, Project phasing and timing (avoiding peak breeding season), monitoring of Project-related noise (where applicable), sound walls, and buffers, where appropriate. CDFW recommends that pre-construction surveys be conducted as a mitigation measure and that they be completed no more than 3 days prior to vegetation clearing or ground disturbance activities, as instances of nesting could be missed if surveys are conducted sooner. 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-3 be revised as follows:

MM BIO-5: 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. Pre-construction 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 pre-construction 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 should occur outside peak breeding season (typically February 1 through September 1).

Minimizing Impacts to Other Species

CDFW is concerned about the potential for special status and other wildlife species to occur on the Project site. CDFW recommends inclusion of the following mitigation measure:

MM BIO-6: A qualified biologist shall be onsite 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 be 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.

Employee Awareness of Wildlife Resources

CDFW is concerned that because the Project area is surrounded by open desert to the east and west of the Project site, 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 onsite, whether they are employees 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 EIR as a mitigation measure:

MM BIO-7: A qualified biologist shall conduct an education program for all persons employed or otherwise working on the Project site prior to performing any work onsite. 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, desert kit fox, Le Conte's thrasher, Coachella Valley fringe-toed lizard, flat-tailed horned lizard, Palm Springs pocket mouse (*Perognathus longimembris bangsi*), and nesting birds; (3) the importance of ensuring that no refuse or pollution enters the onsite drainage area and riparian habitat established as mitigation for permanent loss of an ephemeral stream and that encroachment into the mitigation area is not permitted during construction or other Project activities. 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 onsite.

Artificial Light

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 IS (p. 6) indicates that Project activities will involve construction of a 5,000-seat amphitheater that will involve up to 4 events per month. In addition, there will be 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 should not be visible outside of any structure. 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 Project 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.

Noise

Construction and operation of the Project may result in a substantial amount of noise through road use, equipment, and other project-related activities. This may adversely affect wildlife species in several ways as wildlife responses to noise can occur at exposure levels of only 55 to 60 decibels (Barber et al. 2009). (For reference, normal conversation is approximately 60 decibels, and natural ambient noise levels [e.g., forest habitat] are generally measured at less than 50 decibels.) Anthropogenic noise can disrupt the communication of many wildlife species including frogs, birds, and bats (Sun and Narins 2005, Patricelli and Blickley 2006, Gillam and McCracken 2007, Slabbekoorn and Ripmeester 2008). Noise can also affect predator-prey relationships as many nocturnal animals such as bats and owls primarily use auditory cues (i.e., hearing) to hunt. Additionally, many prey species increase their vigilance behavior when exposed to noise because they need to rely more on visual detection of predators when auditory cues may be masked by noise (Rabin et al. 2006, Quinn et al. 2017). Noise has also been shown to reduce the density of nesting birds (Francis et al. 2009) and cause increased stress that results in decreased immune responses (Kight and Swaddle 2011).

The IS includes mitigation measures to address noise generated by Project activities (NM-1 through MN-4). CDFW also recommends restricting the use of equipment to hours least likely to disrupt wildlife (e.g., not at night or in the early morning). Consider use of noise suppression devices such as mufflers and enclosures for generators.

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. Department of Cannabis Control (DCC) 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 DCC, 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 EPIMS (Environmental Permit Information Management System; <https://epims.wildlife.ca.gov>) and learn more about permitting at <https://wildlife.ca.gov/Conservation/Cannabis/Permitting>.

As each cultivation project within the Coachillin' Industrial Cultivation and Ancillary Cannabis Business Park is developed, CDFW's LSA Program should be notified. 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 the California Department of Fish and Wildlife (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.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database that 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 CNNDDB field survey form can be filled out and submitted online at: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/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., title 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the IS to assist the City of Desert Hot Springs in identifying and mitigating Project impacts on biological resources in preparation for the Draft EIR. CDFW concludes that the IS does not adequately identify or mitigate for the Project's significant, or potentially significant, impacts on biological resources. CDFW recommends that the Draft EIR include a more complete assessment of the Project's potential impacts on biological resources, as well as appropriate avoidance, minimization, and mitigation measures.

CDFW has Cannabis Unit staff who are available to provide guidance on impacts to biological resources and CDFW permitting. If you have any questions or would like to set up a meeting with CDFW staff to discuss this letter, please contact Heather Brashear, Environmental Scientist, at (909) 948-9625 or Heather.Brashear@Wildlife.ca.gov.

Sincerely,

DocuSigned by:
Alisa Ellsworth
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Alisa Ellsworth,
Environmental Program Manager

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

Juan Carrillo, Principal Planner
City of Desert Hot Springs
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ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Mitigation Measures	Schedule	Responsible Party
<p>MM BIO-1: CVMSHCP compliance and fees. Prior to construction and issuance of any grading permit, the City of Desert Hot Springs shall ensure compliance with the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) and its associated Implementing Agreement and shall ensure that payment of the CVMSHCP Local Development Mitigation Fee for the proposed Project is remitted to the Coachella Valley Conservation Commission.</p>	<p>Prior to construction and issuance of any grading permit.</p>	<p>City of Desert Hot Springs.</p>
<p>MM BIO-2: Burrowing owl surveys. Pre-construction 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 <i>Staff Report on Burrowing Owl Mitigation</i> (CDFG 2012 or most recent version). Pre-construction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the <i>Staff Report on Burrowing Owl Mitigation</i>. If the pre-construction 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 CDFW and USFWS to</p>	<p>No less than 14 days prior to start of Project-related activities and within 24 hours prior to ground disturbance.</p>	<p>City of Desert Hot Springs.</p>

<p>conduct an impact assessment to develop avoidance and minimization measures to be approved by CDFW prior to commencing Project activities.</p>		
<p>MM BIO-3: Desert tortoise 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 <i>USFWS Desert Tortoise (Mojave Population) Field Manual</i> (USFWS 2009 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, minimization, and mitigation measures.</p>	<p>No more than 14 days prior to start of Project-related activities.</p>	<p>City of Desert Hot Springs.</p>
<p>MM BIO-4: Desert kit fox surveys. 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.</p>	<p>No more than 14 days prior to start of Project-related activities.</p>	<p>City of Desert Hot Springs.</p>
<p>MM BIO-5: Nesting bird surveys. 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. Pre-construction 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 pre-construction 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 should occur outside peak breeding season (typically February 1 through September 1).</p>	<p>No more than three (3) days prior to vegetation clearing or ground disturbance activities.</p>	<p>City of Desert Hot Springs.</p>
<p>MM BIO-6: Minimizing impacts to other species. A qualified biologist shall be onsite 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 be 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.</p>	<p>During Project activities.</p>	<p>City of Desert Hot Springs.</p>
<p>MM BIO-7: 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 onsite. 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</p>	<p>Prior to employees performing any work onsite.</p>	<p>City of Desert Hot Springs.</p>

<p>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, desert kit fox, Le Conte’s thrasher, Coachella Valley fringe-toed lizard, flat-tailed horned lizard, Palm Springs pocket mouse (<i>Perognathus longimembris bangsi</i>), and nesting birds; (3) the importance of ensuring that no refuse or pollution enters the onsite drainage area and riparian habitat established as mitigation for permanent loss of the ephemeral stream and that encroachment into the mitigation area is not permitted during construction or other Project activities. 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 onsite.</p>		
<p>MM BIO-8: Artificial light. Light should not be visible outside of any structure. 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 Project 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.</p>	<p>During Project activities.</p>	<p>City of Desert Hot Springs.</p>
<p>MM BIO-9: Compliance with CDFW Lake and Streambed Alteration (LSA) Program. Prior to construction and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from the California Department of Fish and Wildlife (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.</p>	<p>Prior to construction and issuance of any grading permit.</p>	<p>City of Desert Hot Springs.</p>