



State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
 Inland Deserts Region  
 3602 Inland Empire Blvd. Ste. C-220  
 Ontario, CA 91762  
 www.wildlife.ca.gov

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



November 5, 2021  
*Sent via email*

Governor’s Office of Planning & Research

**Nov 05 2021**

**STATE CLEARINGHOUSE**

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

Subject: Atlantic Maple Cannabis Cultivation Facility (Project)  
 Initial Study/Mitigated Negative Declaration (IS/MND)  
 SCH# 2021100337

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.<sup>1</sup>

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 to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for

---

<sup>1</sup> 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.

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:** Cesar Lira

**Project Description:** The Draft IS/MND proposes the development of a cannabis cultivation facility on a 2.47-acre parcel at APN 665-120-013 in the City of Desert Hot Springs. The proposed Project consists of two 32,000 ft<sup>2</sup> metal buildings, paved parking lot, landscaping, trash enclosures, and equipment pads. A portion of the parcel (0.39 acres) will be dedicated as Atlantic Avenue and Maple Road rights-of-way. Access to the facility will be via driveways on Maple Road and Atlantic Avenue and parking will be available on the south and west sides of the Project. The site is currently vacant and undisturbed, with vegetation consisting primarily of Sonoran creosote bush scrub. The Project is located within Light Industrial zoning in the City of Desert Hot Springs.

**Location:** The parcel lies on the northwest corner of the intersection of Maple Road and Atlantic Avenue in the city of Desert Hot Springs, CA; APN 665-120-013: GPS Coordinates: 33.92899, -116.51943; in the Morongo Wash (HUC 12) subwatershed. The Project site is within the Coachella Valley Multi-Species Habitat Conservation Plan (CVMSHCP) and is just west of the Upper Mission Creek/Big Morongo Canyon Conservation Area and just east of the Willow Hole Conservation Area.

**Timeframe:** The Draft IS/MND estimates the Project will take eight months to complete and no start date is specified by the IS/MND

## **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 the Draft IS/MND states that there will be approximately 14,575 ft<sup>2</sup> of landscaping on the Project but does not specify what type of plants will be used. 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: <https://saveourwater.com/en/How-to-Save-Water/Around-the-Yard>). 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](https://cvmshcp.org/Plan_Documents.htm)) provides a list of suitable plant species. 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 groundwater-dependent 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 is approximately 1,650 ft west of the Upper Mission Creek/Big Morongo Canyon Conservation Area and approximately 1,000 ft east of the Willow Hole 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 that the ISMND acknowledges the Project proponent's need to provide mitigation in the form of fees 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. To verify that all mitigation fees have been paid appropriately CDFW recommends the inclusion of the following mitigation measure:

**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. The draft MMRP with MM BIO-1 through MM BIO-10 is enclosed as Attachment 1 at the end of this letter.

Burrowing Owl (*Athene cunicularia*) – Species of Special Concern

The Draft IS/MND states that a live burrowing owl with an active burrow was present on the site during the field survey and includes Mitigation Measure IV-3 (Table 1, p. 11), requiring preconstruction burrowing owl surveys. In accordance with section 4.4. of the CVMSHCP plan, “A burrow is assumed occupied if records indicate that, based on surveys conducted following protocol, at least one burrowing owl has been observed occupying a burrow on site during the past three years.” Given the presence of burrowing owl, CDFW recommends that the IS/MND require a relocation plan be approved by the CDFW and the U.S. Fish and Wildlife Service (USFWS). Any active or passive relocation shall be based on site conditions and in coordination with the CDFW and USFWS. 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 active burrows:

**MM BIO-2: Burrowing owl and their 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 shall 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 or sign thereof, 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 in accordance with Staff Report on Burrowing Owl Mitigation prior to commencing project activities to determine appropriate mitigation.**

Desert Tortoise (*Gopherus agassizii*) – State Threatened, Proposed Engangered

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. 28). CDFW appreciates inclusion of mitigation measure IV-1 (Table 1, p. 11) and provides the following revision to specify actions to be taken if desert tortoise presence is confirmed prior to beginning Project activities:

**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 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.**

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 IV-3 (Table 1, p. 11) 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 BIO-4 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 recommends the inclusion of the following measure to provide guidance for 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 (prior to commencing Project activities) when most plant species likely to occur on site would be identifiable. The survey shall 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 shall 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 coordinate with USFWS and CDFW to develop avoidance and minimization plans 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: northern red-diamond rattlesnake (*Crotalus ruber ruber*), coast horned lizard (*Phrynosoma coronatum*), and San Diego pocket mouse (*Chaetodipus fallax pallidus*). 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 shall be limited to only those individuals that would otherwise be injured or killed, and individuals shall 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. 44) 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, the Project proponent 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

The California 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 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 shall 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 the Project proponent 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 shall 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 and purpose of the nearby CVMSHCP conservation areas, the importance of ensuring that no Project activities negatively impact those areas, and that no refuse or pollution from the Project site enters the conservation areas. 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 (CNDDDB). The CNDDDB 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 CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov).

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

Patricia Villagomez, Associate Planner  
City of Desert Hot Springs  
November 5, 2021  
Page 11

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 Atlantic Maple Cannabis 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 all the 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](mailto:kevin.francis@Wildlife.ca.gov).

Sincerely,

DocuSigned by:  
*Alisa Ellsworth*  
84FBB8273E4C480...

Alisa Ellsworth  
Environmental Program Manager

### Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

ec: Kevin Francis, Environmental Scientist, CDFW  
[kevin.francis@wildlife.ca.gov](mailto:kevin.francis@wildlife.ca.gov)

HCPB CEQA Program, Habitat Conservation Planning Branch  
[CEQAcommentletters@wildlife.ca.gov](mailto:CEQAcommentletters@wildlife.ca.gov)

Office of Planning and Research, State Clearinghouse, Sacramento  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

## References

- Baldwin, D. H., J. A. Spromberg, T. K. Collier, and N. L. Scholz. 2009. A fish of many scales: Extrapolating sublethal pesticide exposures to the productivity of wild salmon populations. *Ecological Applications* 19:2004–2015.
- Beiswenger, R. E. 1977. Diet patterns of aggregative behavior in tadpoles of *Bufo americanus*, in relation to light and temperature. *Ecology* 58:98–108.
- Berny, P. 2007. Pesticides and the intoxication of wild animals. *Journal of Veterinary Pharmacology and Therapeutics* 30:93–100.
- Fleischli, M. A., J. C. Franson, N. J. Thomas, D. L. Finley, and W. Riley, Jr. 2004. Avian mortality events in the United States caused by anticholinesterase pesticides: A retrospective summary of national wildlife health center records from 1980 to 2000. *Archives of Environmental Contamination and Toxicology* 46:542–550.
- Li, Q., and T. Kawada. 2006. The mechanism of organophosphorus pesticide-induced inhibition of cytolytic activity of killer cells. *Cellular & Molecular Immunology* 3:171–178.
- Longcore, T., and C. Rich. 2004. Ecological light pollution. *Frontiers in Ecology and the Environment* 2:191–198.
- Miller, M. W. 2006. Apparent effects of light pollution on singing behavior of American robins. *Condor* 108:130–139.
- O’Hare, M., D. L. Sanchez, and P. Alstone. 2013. Environmental risks and opportunities in cannabis cultivation. BOETC Analysis Corp. University of California, Berkeley, CA, USA.
- Pimentel, D. 2005. Environmental and economic costs of the application of pesticides primarily in the United States. *Environment, Development and Sustainability* 7:229–252.
- Relyea, R. A., and N. Diecks. 2008. An unforeseen chain of events: Lethal effects of pesticides on frogs at sublethal concentrations. *Ecological Applications* 18:1728–1742.
- Stone, E. L., G. Jones, and S. Harris. 2009. Street lighting disturbs commuting bats. *Current Biology* 19:1123–1127.
- U.S. Fish and Wildlife Service. 2018. Mojave Desert Tortoise Pre-project Survey Protocol.

**ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)**

<b>Mitigation Measure</b>	<b>Schedule</b>	<b>Responsible Party</b>
<p><b>MM BIO-1: CVMSHCP</b>            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><b>MM BIO-2: Burrowing Owls</b>            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.</p> <p>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 shall 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</p>	<p><b>Preconstruction surveys:</b>            No more than 14 days prior to any ground- or vegetation-disturbing Project activities</p>	<p>City of Desert Hot Springs</p>

<p>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.</p>		
<p><b>MM BIO-3: Desert Tortoise</b>          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. Shall desert tortoise presence be confirmed during the survey, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance and minimization measures.</p>	<p>No more than 14 days prior to beginning any Project activities. Ongoing throughout Project activities.</p>	<p>City of Desert Hot Springs</p>
<p><b>MM BIO-4: Nesting Birds</b>          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,</p>	<p>Within 3 days of beginning any vegetation clearing or ground disturbing activities.</p>	<p>City of Desert Hot Springs</p>

<p>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).</p>		
<p><b>MM BIO-5: Special Status Plants</b>        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 shall 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 shall 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.</p>	<p>Prior to construction and issuance of any grading permit. Ongoing throughout Project activities.</p>	<p>City of Desert Hot Springs</p>
<p><b>MM BIO-6: Minimizing Impacts to Other Species</b>        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 shall be</p>	<p>Ongoing during Project activities.</p>	<p>City of Desert Hot Springs</p>

<p>limited to only those individuals that would otherwise be injured or killed, and individuals shall 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><b>MM BIO-7: Pesticides</b>        Prior to construction and issuance of any grading permit, the Project proponent 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.</p>	<p>Prior to construction and issuance of any grading permit. Ongoing throughout Project activities.</p>	<p>City of Desert Hot Springs</p>
<p><b>MM BIO-8: Artificial Light</b>        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 <a href="http://darksky.org/">http://darksky.org/</a>). Use LED lighting with a correlated color temperature of 3,000 Kelvins or less, properly</p>	<p>Ongoing throughout Project activities.</p>	<p>City of Desert Hot Springs</p>

<p>dispose of hazardous waste, and recycle lighting that contains toxic compounds with a qualified recycler.</p>		
<p><b>MM BIO-9: LSA Program</b>          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 shall 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>
<p><b>MM BIO-10: Employee Awareness Program</b>          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 shall 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 and purpose of the nearby CVMSHCP conservation areas, the importance of ensuring that no Project activities negatively impact those areas, and that no refuse or pollution from the Project site enters the conservation areas. 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.</p>	<p>Prior to any person performing work on-site. Ongoing throughout Project activities.</p>	<p>City of Desert Hot Springs</p>