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Governor's Office of Planning & Research

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STATE CLEARING HOUSE

November 19, 2021
Sent via e-mail

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Morris Mu & Partners – CUP 21-04, LDP 21-03, TPM 20437 (PROJECT)
INITIAL STUDY/MITIGATED NEGATIVE DECLARATION (IS/MND) SCH# 2021100503

Dear Ms. Blais:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of Adelanto (City) for Morris Mu & Partners – CUP 21-04, LDP 21-03, TPM 20437 (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.

Mary Blais, Planning Consultant
City of Adelanto
November 19, 2021
Page 2 of 22

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 Adelanto

Objective: The Project proposes to build 12 buildings for commercial cannabis production. The proposed cannabis cultivation development would include the following:

- Grading and construction of 12 greenhouses (each building 30,625 sq. ft.)
- Parking spaces (22 spaces for each building, 264 total)
- 5 new driveways ranging from 30 to 35 feet wide
- Landscaping around the site and along the street

Water and wastewater service will be supplied by the Adelanto Water Department but will require extension of existing water lines. Water supply for the City of Adelanto is from local groundwater.

Location: The Project is located at Assessor's Parcel Numbers (APNs) 0459-053-70-0000, 0459-053-71-0000, 0459-053-72-0000, and 0459-053-74-0000. APNs are undeveloped and total 15.40 acres within the high desert. An unnamed ephemeral stream tributary to Fremont Wash runs through the southwestern section of the Project site between APN 0459-053-70-0000 and 0459-053-74-0000. The Project site is west of Jonathan St., east of Montezuma St., south of Auburn Ave, and north of Vintage Rd. in the City of Adelanto, San Bernardino County. US Highway 395 lies to the west. The Project lies within the Manzanita Wash subwatershed (HUC 12).

Timeframe: Project construction is planned in four phases, with each phase taking approximately 12 months to complete. The entire Project is expected to take four years to complete.

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/MND 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 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:

Mary Blais, Planning Consultant
City of Adelanto
November 19, 2021
Page 3 of 22

- Incomplete description of Project activities: The IS/MND does not adequately describe the cultivation facilities, so it is unclear if impacts to biological resources are less than significant. To be considered indoor cultivation, a structure should have a permanent roof and walls, as well as an impermeable floor. The cultivation buildings are not described in any detail anywhere in the IS/MND and there are no construction drawings or elevations that provide any detail on the buildings. Additionally, the IS/MND reports four APNs in the Project location, but the maps provided only highlight three of the APNs. CDFW recommends the IS/MND include a detailed and accurate description of the cultivation facilities and the area to be developed and analyze the impacts to biological resources.
- Landscaping: The IS/MND indicates that landscaping is proposed around the perimeter of the property. 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: <https://saveourwater.com/en/How-to-Save-Water/Around-the-Yard>
- Cumulative impacts to biological resources: The IS/MND (p. 18) acknowledges the potential for cumulative impacts and provides a list of related Projects in the surrounding area. However, the IS/MND provides no analysis of what potential cumulative impacts cannabis cultivation Projects will have on the biological or hydrological resources of the area. CDFW recommends that the IS/MND include an analysis of impacts of the Project on local biological resources as well as on groundwater supplies and groundwater-dependent species and ecosystems. The IS/MND should also include an analysis of cumulative impacts (e.g., groundwater overdraft and loss of habitat) from the increasing concentration of cannabis-related projects in the City of Adelanto and the surrounding area.

Assessment of Impacts to Biological Resources

Biological Report and Adequacy of Surveys

The IS/MND bases its analysis of impacts to biological resources on a biological assessment conducted on August 17, 2020, by RCA Associates Inc. No details of the scope and methods of the biological assessment are given in the IS/MND, and the biological assessment report has not been made available with the IS/MND. The IS/MND also indicates the Project site was evaluated for presence of burrowing owl (*Athene cunicularia*) and desert tortoise (*Gopherus agassizii*), and that a habitat assessment for Mohave ground squirrel (*Xerospermophilus mohavensis*) was conducted, but no additional explanation of scope or method was included with the IS/MND. An additional desert tortoise survey appears to have been conducted on May 12, 2021 (p.40 of the IS/MND). However, the IS/MND does not provide information on the timing and scope of the evaluations and assessments, or protocol(s) used. CDFW is unable to determine whether impacts to biological resources have been disclosed and analyzed due to incomplete and/or inaccurate information about the timing, scope, and methods of the biological

Mary Blais, Planning Consultant
 City of Adelanto
 November 19, 2021
 Page 4 of 22

assessment and focused surveys. CDFW recommends that the IS/MND be revised to provide accurate and complete information about the biological assessment, focused surveys, and other field assessments. CDFW generally considers field assessments for wildlife valid for a 1-year period. Focused surveys must be conducted at the appropriate time of year to detect the presence of special status species on-site, such as desert tortoise and special status plant species.

The IS/MND states that there are five special status species documented within five miles of the Project site and provides additional data on the following three: Swainson's hawk (*Buteo swainsoni*), desert tortoise, and Le Conte's thrasher (*Toxostoma lecontei*). The IS/MND (p. 41) states that the results of the focused survey for desert tortoise indicated that they are not expected to occur onsite. The IS/MND concludes that Swainson's hawk may infrequently occur onsite while hunting but is unlikely to nest on the site, though there appear to have been no focused surveys or habitat assessments this species. The habitat assessment results for Mohave ground squirrel were not included in the IS/MND. The IS/MND (p. 40) first states that there were approximately 30 Joshua trees (*Yucca brevifolia*) on the Projects site, but then states that there was only a single dead Joshua tree (p. 41). The only mitigation measure for biological resources provided in the IS/MND is BIO-3 which requires an Incidental Take Permit (ITP) in the case that the applicant cannot maintain a 12-foot buffer around a Joshua tree.

Biological Resources

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 recent query of the California Natural Diversity Database (CNDDDB) and Biogeographic Information and Observation System (BIOS), including unprocessed data, for the USGS Adelanto quadrangle, which contains the Project site, returned 18 records, including the following species:

- **Birds**—Swainson's hawk (*Buteo swainsoni*; state threatened species), burrowing owl (*Athene cunicularia*; CDFW Species of Special Concern [SSC]), Le Conte's thrasher (*Toxostoma lecontei*; CDFW SSC), loggerhead shrike (*Lanius ludovicianus*; CDFW SSC), northern harrier (*Circus hudsonius*; CDFW SSC), prairie falcon (*Falco mexicanus*; CDFW Watch List), Brewer's sparrow (*Spizella breweri*).
- **Mammals**—Mohave ground squirrel (*Xerospermophilus mohavensis*; state threatened species), southern grasshopper mouse (*Onychomys torridus ramona*; CDFW SSC), American badger (*Taxidea taxus*; CDFW SSC).
- **Reptiles**—desert tortoise (*Gopherus agassizii*; federal and state threatened species, state candidate for uplisting to endangered), coast horned lizard (*Phrynosoma blainvillii*; CDFW SSC).
- **Plants**—western Joshua tree (*Yucca brevifolia*; state candidate threatened species), Beaver Dam breadroot (*Pediomelum castoreum*; California Rare Plant Rank 1B.2), sagebrush loeflingia (*Loeflingia squarrosa* var. *artemisiarum*; California Rare Plant Rank 2B.2), white pygmy-poppy (*Canbya candida*; California Rare Plant Rank 4.2), Mojave spineflower (*Chorizanthe spinosa*; California Rare Plant Rank 4.2), crowned muilla (*Muilla coronata*; California Rare Plant Rank 4.2).

Mary Blais, Planning Consultant
City of Adelanto
November 19, 2021
Page 5 of 22

CNDDDB/BIOS reports occurrences of Swainson's hawk overlapping the Project and burrowing owl approximately 1 mile southeast of the Project. In addition, BIOS data layers showing connectivity modeling for the California Desert Linkage Network indicate that the Project site falls within or adjacent to core breeding habitat (i.e., continuous area of suitable habitat large enough to sustain at least 50 individuals) for desert tortoise, Mohave ground squirrel, burrowing owl, loggerhead shrike, Le Conte's thrasher, 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, Le Conte's thrasher, and kit fox, as well as medium-quality habitat for Mohave ground squirrel and loggerhead shrike. US Fish and Wildlife Service (USFWS) critical habitat for desert tortoise (Fremont-Kramer critical habitat unit, which occurs within the Western Mojave Recovery Unit) is approximately 6.5 miles north of the Project site.

CDFW is concerned about the potential for special status and other species to occur on the Project site. In the absence of complete and accurate information on the timing and scope of the biological assessment and focused surveys conducted for the IS/MND, CDFW cannot determine whether the mitigation measures as proposed would reduce impacts to special status species to less than significant. The single mitigation measure regarding biological resources in the IS/MND only addresses possible take of western Joshua tree. CDFW is concerned with the lack of mitigation, including pre-construction surveys, for special status species, particularly for species such as special status plants, desert tortoise, Mohave ground squirrel, burrowing owl, and desert kit fox (see below).

California Endangered Species Act (CESA)

CESA prohibits the take (under Fish & G. Code, § 86, "take" means to hunt, pursue, catch, capture, or kill, or to attempt to hunt, pursue, catch, capture, or kill) of any endangered, threatened, or candidate species that results from a proposed project, except as authorized by state law (Fish & G. Code, §§ 2080, 2085). Consequently, if Project construction or any Project-related activity during the life of the proposed Project would result in take of a CESA-listed species, CDFW recommends that the Project applicant seek appropriate take authorization under CESA prior to implementing the proposed Project. Appropriate authorization from CDFW may include an Incidental Take Permit (ITP), a consistency determination, or other permitting options (Fish and G. Code, §§ 2080.1, 2081, subds. (b), (c)). CDFW encourages early consultation, as significant modification to the proposed Project and avoidance, minimization, and mitigation measures may be necessary to obtain a CESA ITP. Proposed avoidance, minimization, and mitigation measures must be sufficient for CDFW to conclude that the Project's impacts are fully mitigated.

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to CESA. A CESA ITP is issued to conserve, protect, enhance, and restore state-listed CESA species and their habitats. Western Joshua tree, desert tortoise, and Mohave ground squirrel are species protected under CESA that have potential to occur within the Project site.

Mary Blais, Planning Consultant
City of Adelanto
November 19, 2021
Page 6 of 22

Western Joshua Tree (*Yucca brevifolia*)

Western Joshua tree is a candidate threatened species under CESA. During the candidacy period, no person shall import into California, export out of California, or take, possess, purchase, or sell within California, Joshua trees or any part or product thereof, or attempt any of those acts, except as authorized pursuant to CESA. Pursuant to section 2081, subdivision (b) of the Fish and Game Code, CDFW may issue an ITP authorizing the take of candidate species when it is incidental to an otherwise lawful activity. The ITP ensures the impacts of the take are minimized and fully mitigated and that the applicant ensures there is adequate funding to implement any required measures. With an ITP, take is not likely to jeopardize the continued existence of the species.

The IS/MND does not make clear how many western Joshua trees were observed on the Project site during the biological assessment, nor does it specify whether any western Joshua trees on the property would have to be removed for the Project. On page 40, the IS/MNS states that there were approximately 30 Joshua trees (*Yucca brevifolia*) on the Project site, but then states that there was only a single dead Joshua tree on the following page (p. 41). CDFW is unable to properly assess effects to western Joshua tree on the Project site without accurate reporting. The City should be aware that any activity that results in the removal, translocation, possession, or destruction of a western Joshua tree, or any part thereof, or impacts to the seedbank surrounding one or more western Joshua trees may result in take of the species, which is prohibited by State law unless otherwise authorized.

The Project could also result in indirect impacts to western Joshua tree from destruction or modification of habitat at the Project location. Indirect impacts include destruction of western Joshua tree's obligate pollinating moth (yucca moth, *Tegeticula synthetica*), while it is dormant in the soil or while it is in its flight phase, which would impact the ability of western Joshua tree to sexually recruit new individuals (Sweet et al. 2019). Destruction or modification of habitat at the Project location could also disrupt the seed dispersal behavior of rodents, which is the primary way that western Joshua tree seeds are buried at a soil depth suitable for successful germination (Waitman et al. 2012). Destruction or modification of habitat at the Project location could also eliminate nurse plants that are critical for western Joshua tree seedling survival (Brittingham and Walker 2000). CDFW requests the IS/MND adequately identify and disclose the Project's impacts (i.e., direct, indirect, and cumulative) to the biological resources noted above and propose mitigation to offset those impacts and demonstrate that impacts are less than significant and, for the purposes of CESA permitting, fully mitigated.

The IS/MND lacks a mitigation measure to describe how the western Joshua trees, including the seedbank, will be protected in place should the species be listed under CESA and an ITP not be obtained, or if the species remains a candidate at the time of proposed Project implementation. If the Project, including the Project construction or any Project-related activity during the life of the Project, may impact or result in take of a candidate or CESA-listed species, CDFW recommends that the Project proponent seek appropriate CESA authorization prior to Project implementation. CDFW therefore recommends replacing Mitigation Measure No. 3 with the following mitigation measure in the IS/MND:

Mary Blais, Planning Consultant
City of Adelanto
November 19, 2021
Page 7 of 22

MM BIO-1: During candidacy of the western Joshua tree, all western Joshua trees and parts thereof shall be buffered for avoidance. A qualified biologist shall establish a 290-foot buffer around each western Joshua tree parent, seedling, and sprout. No project activities may occur within the buffer. Should avoidance be infeasible, CDFW recommends the Project Proponent apply for an Incidental Take Permit from CDFW prior to initiating Project activities.

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP). The draft MMRP with CDFW recommended MM BIO-1 through MM BIO-12 is enclosed as Attachment 1 at the end of this letter.

Special Status Plants

Based on review of CNDDDB and BIOS, plant species with California Rare Plant Ranks of 1B and 2B have the potential to occur in the Project area. The California Rare Plant Rank 1B indicates plants that are rare, threatened, or endangered in California and elsewhere, and California Rare Plant Rank 2B indicates plants that are rare, threatened, or endangered in California but more common elsewhere. Impacts to these species must be analyzed during preparation of environmental documents relating to CEQA because they meet the definition of rare or endangered under CEQA Guidelines §15125 (c) and/or §15380.

CDFW is concerned that the biological resources assessment was not conducted at the appropriate time of year to detect the presence of special plant status species on the Project site. CDFW therefore recommends a thorough, floristic-based assessment of special status plants at the appropriate time(s) of year, using the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (CDFW 2018 or most recent version), before the City of Adelanto adopts the MND. CDFW recommends including the following mitigation measure:

MM BIO-2: A thorough floristic-based assessment of special status plants and natural communities, following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW 2018 or most recent version) shall be performed by a qualified biologist prior to commencing Project activities during the period that during the period that plants are most evident and identifiable. Should any state-listed plant species be present in the Project area, the Project proponent should obtain an Incidental Take Permit for those species prior to the start of Project activities. Should other special status plants or natural communities 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

Mary Blais, Planning Consultant
City of Adelanto
November 19, 2021
Page 8 of 22

assess the mitigation's effectiveness. The performance standard for mitigation shall be no net reduction in the size or viability of the local population.

Desert Tortoise (*Gopherus agassizii*)

The IS/MND indicates that a general biological assessment was conducted on August 17, 2020, and a focused desert tortoise survey was conducted on May 12, 2021. CDFW is concerned that the focused survey for desert tortoise may have been combined with surveys for other species. In addition, no mitigation measure has been included for desert tortoise in the IS/MND.

Because of the potential for desert tortoise to occur in the Project area, and in the absence of complete and accurate information on the scope of the biological assessment and focused survey, CDFW recommends that prior to commencing Project activities, focused surveys for desert tortoise following the *Desert Tortoise (Mojave Population) Field Manual* should be conducted by a qualified biologist at the appropriate time of year and day. CDFW recommends the following mitigation measure, which includes both focused and pre-construction surveys:

MM BIO-3: Prior to commencing Project activities, focused surveys 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 2009 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 for review and approval.

No more than 48 hours 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, Project activities shall be halted, and the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance. If complete avoidance cannot be achieved, applicant should not undertake Project activities and should postpone initiation of Project activities until appropriate authorization (i.e., CESA ITP under Fish and Game Code section 2081) is obtained.

Mohave Ground Squirrel (*Xerospermophilus mohavensis*)

CDFW is concerned that the habitat assessment for Mohave ground squirrel was combined with focused surveys for other species. In addition, no mitigation measure has been included for Mohave ground squirrel in the IS/MND.

Because of the potential for Mohave ground squirrel to occur in the Project area, and in the absence of complete and accurate information on the timing and scope of the biological

Mary Blais, Planning Consultant
City of Adelanto
November 19, 2021
Page 9 of 22

assessment and focused survey, CDFW recommends that prior to commencing Project activities, focused surveys for Mohave ground squirrel, conducted by a qualified biologist at the appropriate time of year and day, following the *Mohave Ground Squirrel Survey Guidelines* (CDFG, 2010), should be conducted. CDFW recommends the following mitigation measure, which includes both focused and pre-construction surveys:

MM BIO-4: Prior to commencement of Project activities, focused surveys for Mohave ground squirrel should be conducted by a qualified biologist authorized by a Memorandum of Understanding issued by CDFW, at the appropriate time of year and time of day when Mohave ground squirrel is active or otherwise identifiable, according to the protocols in the *Mohave Ground Squirrel Survey Guidelines* (CDFG 2010 or most recent version). Should Mohave ground squirrel presence be confirmed during the surveys, Project activities shall be immediately halted, and the qualified biologist shall submit to CDFW for review and approval a Mohave ground squirrel-specific avoidance plan detailing the protective avoidance measures to be implemented to ensure complete avoidance of take to Mohave ground squirrel. If complete avoidance cannot be achieved, applicant should not undertake Project activities and should postpone initiation of project activities until appropriate authorization (i.e., CESA ITP under Fish and Game Code section 2081) is obtained.

Preconstruction surveys shall be performed by a qualified biologist authorized by a Memorandum of Understanding issued by CDFW. The preconstruction surveys shall cover the Project area and a 50-foot buffer zone. Should Mohave ground squirrel presence be confirmed during the survey, the qualified biologist shall notify CDFW, and the Project proponent should obtain an ITP for Mohave ground squirrel prior to the start of Project activities.

Burrowing Owl (*Athene cunicularia*)

The IS/MND indicates that the focused survey for burrowing owl found no “burrowing owls or owl signs”. Due to the potential for burrowing owl to occur in the area, and in the absence of complete and accurate information on the timing and scope of the biological assessment and focused survey, CDFW recommends that prior to commencing Project activities, pre-construction surveys be conducted by a qualified biologist. CDFW recommends including the following mitigation measure in the IS/MND:

MM BIO-5: 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, including mitigation at no less than a 2:1 ratio for permanent loss of occupied burrow(s) and habitat consistent with the 2012 Staff Report on Burrowing Owl Mitigation.

Desert Kit Fox (*Vulpes macrotis arsipus*)

Mary Blais, Planning Consultant
City of Adelanto
November 19, 2021
Page 10 of 22

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-6: 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 or sign thereof, 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 Project activities (e.g., vegetation removal and construction noise/disturbance). CDFW recommends that the IS/MND 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. In addition, species that nest outside the peak breeding season should also be considered (e.g., hummingbirds may nest year-round, and raptors may nest outside the peak breeding season). CDFW recommends that to avoid impacts to nesting birds, pre-construction surveys be conducted by a qualified biologist **no more than three (3) days prior to the initiation of project activities**, at the appropriate time of day/night, during appropriate weather conditions. CDFW recommends the following mitigation measure be included in the IS/MND:

Mary Blais, Planning Consultant
City of Adelanto
November 19, 2021
Page 11 of 22

MM BIO-7: Regardless of the time of year, a pre-construction sweep shall be performed to verify absence of nesting birds.

If construction (including site preparation, staging, or other ground-disturbing activities) or vegetation removal is proposed during the breeding/nesting season for birds (generally, raptor nesting season is January 1 through September 15; and passerine bird nesting season is February 1 through September 1), a qualified biologist shall conduct pre-construction surveys for birds on the Project site, including a 300-foot survey buffer, no more than 3 days prior to the start of ground-disturbing activities in all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures, at the appropriate time of day/night, during appropriate weather conditions. Pre-construction surveys should focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior (e.g., copulation, carrying of food or nest materials, nest building, removal of fecal sacks, flushing suddenly from atypically close range, agitation, aggressive interactions, feigning injury or distraction displays, or other behaviors). If construction is delayed or suspended for more than 3 days after the survey, the area shall be resurveyed to re-confirm the presence/absence of any active nests.

If an active nest is located during pre-construction surveys, USFWS and/or CDFW (as appropriate per agency regulations) shall be notified regarding the status of the nest. Furthermore, construction activities shall be restricted as necessary to avoid disturbance of the nest until nesting activities have concluded, or the qualified biologist deems disturbance potential to be minimal. Restrictions may include, but are not limited to, establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 300 feet around an active raptor nest and 100-foot radius around an active non-raptor passerine bird nest) or alteration of the construction schedule.

A qualified biologist shall delineate the buffer using nest buffer signs, environmentally sensitive area fencing, pin flags, and or flagging tape. The buffer zone shall be maintained around the active nest site(s) until the young have fledged and are foraging independently. 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-8: 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. If listed species are identified within or adjacent to the work areas, clearance or handling to move out of harm's way may only be completed under appropriate authorizations (i.e., ITP). Permittee shall contact CDFW within 24 hours if a listed species is identified within or adjacent to the work area.

Employee Awareness of Wildlife Resources

Mary Blais, Planning Consultant
City of Adelanto
November 19, 2021
Page 12 of 22

CDFW is concerned that because the Project site and surrounding areas include high desert open space, 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 IS/MND as a mitigation measure:

MM BIO-9: 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, desert tortoise, Mohave ground squirrel, western Joshua tree, burrowing owl, desert kit fox, Le Conte's thrasher, loggerhead shrike, and nesting birds. 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.

Cannabis-Specific Impacts on Biological Resources

CDFW recommends that the City consider cannabis-specific impacts to biological resources that may result from the Project activities.

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

Mary Blais, Planning Consultant
City of Adelanto
November 19, 2021
Page 13 of 22

poisoning through ingestion of sickened animals that leave the premises or ingestion of lethally poisoned animals 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. (Note that with the passage of AB 1788, signed by the governor on September 29, 2020, the general use of second-generation anticoagulants is now banned in California.) Alternatives to toxic rodenticides may be used to control pest populations at and around cultivation sites, including sanitation (removing food sources like pet food, cleaning up refuse, and securing garbage in sealed containers) and physical barriers (e.g., sealing holes in roofs/walls). Snap traps should not be used outdoors as they pose a hazard to nontarget wildlife. Sticky or glue traps should be avoided altogether; these pose a hazard to nontarget wildlife and result in prolonged/inhumane death. California Department of Pesticide Regulation stipulates pesticides must meet certain criteria to be legal for use on cannabis. For details, visit: <https://www.cdpr.ca.gov/docs/cannabis/questions.htm>; <https://www.cdpr.ca.gov/docs/county/cacitrs/penfltrs/penf2015/2015atch/attach1502.pdf>.

CDFW recommends that the City of Adelanto include a mitigation measure conditioning the Project to develop a plan to avoid, minimize, and mitigate the impacts of pesticides used in cannabis cultivation. CDFW recommends inclusion of the following mitigation measure focused on avoiding impacts to biological resources:

MM BIO-10: Prior to construction and issuance of any grading permit, the City of Adelanto shall develop a plan 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 legally 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 like 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 greenhouse structures and 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,

Mary Blais, Planning Consultant
City of Adelanto
November 19, 2021
Page 14 of 22

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/MND indicates that Project activities will involve new sources of artificial light for buildings and security (p. 15). 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-11: Light should not be visible outside of any structure used for cannabis cultivation. Applicant shall: 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.

Noise

Construction and operation of cannabis facilities 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).

CDFW recommends restricting the use of equipment to hours least likely to disrupt wildlife (e.g., not at night or in the early morning). Also consider use of noise suppression devices such as mufflers or enclosures for generators.

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

Mary Blais, Planning Consultant
City of Adelanto
November 19, 2021
Page 15 of 22

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>. CDFW recommends the following mitigation measure:

MM BIO-12: 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 CNDDDB 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/MND to assist the City of Adelanto in identifying and mitigating Project impacts on biological resources. CDFW concludes that the IS/MND does not adequately identify or mitigate for the Project's significant, or potentially significant, impacts on biological resources. CDFW recommends that the IS/MND include a more complete assessment of the Project's potential impacts on biological resources, as well as appropriate avoidance, minimization, and mitigation measures.

Mary Blais, Planning Consultant
City of Adelanto
November 19, 2021
Page 16 of 22

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 Kevin Francis, Environmental Scientist, at kevin.francis@wildlife.ca.gov.

Sincerely,

DocuSigned by:

84FBB8273E4C480...

Alisa Ellsworth,
Environmental Program Manager

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

cc: Kevin Francis, Environmental Scientist, CDFW
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Jeff Brandt, Senior Environmental Scientist Supervisory, CDFW
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Jessie Flores, City Manager, City of Adelanto
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Mary Blais, Planning Consultant
City of Adelanto
November 19, 2021
Page 17 of 22

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Mary Blais, Planning Consultant
City of Adelanto
November 19, 2021
Page 18 of 22

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Mary Blais, Planning Consultant
 City of Adelanto
 November 19, 2021
 Page 19 of 22

ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Mitigation Measures	Schedule	Responsible Party
<p>MM BIO-1: Western Joshua tree. During candidacy of the western Joshua tree, all western Joshua trees and parts thereof shall be buffered for avoidance. A qualified biologist shall establish a 290-foot buffer around each western Joshua tree parent, seedling, and sprout. No project activities may occur within the buffer. Should avoidance be infeasible, CDFW recommends the Project Proponent apply for an Incidental Take Permit from CDFW prior to initiating Project activities.</p>	<p>Prior to construction and issuance of any grading permit.</p>	<p>City of Adelanto.</p>
<p>MM BIO-2: Special status plant surveys. A thorough floristic-based assessment of special status plants and natural communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (CDFW 2018 or most recent version) shall be performed by a qualified biologist prior to commencing Project activities during the period that during the period that plants are most evident and identifiable. Should any state-listed plant species be present in the Project area, the Project proponent should obtain an Incidental Take Permit for those species prior to the start of Project activities. Should other special status plants or natural communities 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.</p>	<p>City of Adelanto.</p>
<p>MM BIO-3: Desert tortoise surveys. Prior to commencing Project activities, focused surveys 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 2009 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 for review and approval.</p> <p>No more than 48 hours 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, Project activities shall be halted, and the qualified biologist shall immediately notify CDFW and</p>	<p>Focused surveys: Prior to construction and issuance of any grading permit; during the species' most active periods.</p> <p>Pre-construction surveys: No more than 48 hours prior to start of Project-related activities.</p>	<p>City of Adelanto.</p>

Mary Blais, Planning Consultant
 City of Adelanto
 November 19, 2021
 Page 20 of 22

<p>USFWS to determine appropriate avoidance. If complete avoidance cannot be achieved, applicant should not undertake Project activities and should postpone initiation of Project activities until appropriate authorization (i.e., CESA ITP under Fish and Game Code section 2081) is obtained.</p>		
<p>MM BIO-4: Mohave ground squirrel surveys. Prior to commencement of Project activities, focused surveys for Mohave ground squirrel should be conducted by a qualified biologist authorized by a Memorandum of Understanding issued by CDFW, at the appropriate time of year and time of day when Mohave ground squirrel is active or otherwise identifiable, according to the protocols in the Mohave Ground Squirrel Survey Guidelines (CDFG 2010 or most recent version). Should Mohave ground squirrel presence be confirmed during the surveys, Project activities shall be immediately halted, and the qualified biologist shall submit to CDFW for review and approval a Mohave ground squirrel-specific avoidance plan detailing the protective avoidance measures to be implemented to ensure complete avoidance of take to Mohave ground squirrel. If complete avoidance cannot be achieved, applicant should not undertake Project activities and should postpone initiation of project activities until appropriate authorization (i.e., CESA ITP under Fish and Game Code section 2081) is obtained.</p> <p>Preconstruction surveys shall be performed by a qualified biologist authorized by a Memorandum of Understanding issued by CDFW. The preconstruction surveys shall cover the Project area and a 50-foot buffer zone. Should Mohave ground squirrel presence be confirmed during the survey, the qualified biologist shall notify CDFW, and the Project proponent should obtain an ITP for Mohave ground squirrel prior to the start of Project activities.</p>	<p>Focused surveys: Prior to construction and issuance of any grading permit; at the appropriate time of year for species detection.</p> <p>Pre-construction surveys: No more than 14 days prior to start of Project-related activities,</p>	<p>City of Adelanto.</p>
<p>MM BIO-5: 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 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, including mitigation at no less than a 2:1 ratio for permanent loss of occupied burrow(s) and habitat consistent with the 2012 Staff Report on Burrowing Owl Mitigation.</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 Adelanto.</p>
<p>MM BIO-6: 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 or sign thereof, 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 Adelanto.</p>
<p>MM BIO-7: Nesting bird surveys (and sweeps). Regardless of the time of year, a pre-construction sweep shall be performed to verify absence of nesting birds.</p>	<p>No more than three (3) days prior to</p>	<p>City of Adelanto.</p>

Mary Blais, Planning Consultant
 City of Adelanto
 November 19, 2021
 Page 21 of 22

<p>If construction (including site preparation, staging, or other ground-disturbing activities) or vegetation removal is proposed during the breeding/nesting season for birds (generally, raptor nesting season is January 1 through September 15; and passerine bird nesting season is February 1 through September 1), a qualified biologist shall conduct pre-construction surveys for birds on the Project site, including a 300-foot survey buffer, no more than 3 days prior to the start of ground-disturbing activities in all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures, at the appropriate time of day/night, during appropriate weather conditions. Pre-construction surveys should focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior (e.g., copulation, carrying of food or nest materials, nest building, removal of fecal sacks, flushing suddenly from atypically close range, agitation, aggressive interactions, feigning injury or distraction displays, or other behaviors). If construction is delayed or suspended for more than 3 days after the survey, the area shall be resurveyed to re-confirm the presence/absence of any active nests.</p> <p>If an active nest is located during pre-construction surveys, USFWS and/or CDFW (as appropriate per agency regulations) shall be notified regarding the status of the nest. Furthermore, construction activities shall be restricted as necessary to avoid disturbance of the nest until nesting activities have concluded, or the qualified biologist deems disturbance potential to be minimal. Restrictions may include, but are not limited to, establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 300 feet around an active raptor nest and 100-foot radius around an active non-raptor passerine bird nest) or alteration of the construction schedule.</p> <p>A qualified biologist shall delineate the buffer using nest buffer signs, environmentally sensitive area fencing, pin flags, and or flagging tape. The buffer zone shall be maintained around the active nest site(s) until the young have fledged and are foraging independently. 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>vegetation clearing or ground disturbance activities.</p>	
<p>MM BIO-8: 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. If listed species are identified within or adjacent to the work areas, clearance or handling to move out of harm's way may only be completed under appropriate authorizations (i.e., ITP). Permittee shall contact CDFW within 24 hours if a listed species is identified within or adjacent to the work area.</p>	<p>During Project activities.</p>	<p>City of Adelanto.</p>
<p>MM BIO-9: 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 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</p>	<p>Prior to employees performing any work onsite.</p>	<p>City of Adelanto.</p>

Mary Blais, Planning Consultant
 City of Adelanto
 November 19, 2021
 Page 22 of 22

<p>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, desert tortoise, Mohave ground squirrel, western Joshua tree, burrowing owl, desert kit fox, Le Conte's thrasher, loggerhead shrike, and nesting birds. 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-10: Pesticide plan. Prior to construction and issuance of any grading permit, the City of Adelanto shall develop a plan 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 legally 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 like 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.</p>	<p>City of Adelanto.</p>
<p>MM BIO-11: Artificial light. Light should not be visible outside of any structure used for cannabis cultivation. Applicant shall: 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.</p>	<p>During Project activities.</p>	<p>City of Adelanto.</p>
<p>MM BIO-12: 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 Adelanto.</p>