



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Northern Region  
601 Locust Street  
Redding, CA 96001  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

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



May 6, 2022

Skylar Fisher  
Assistant Planner  
Trinity County Planning Department  
PO Box 2819  
Weaverville, CA 96093

**SUBJECT: Review of the Draft Initial Study/Proposed Mitigated Negative Declaration for the Vital Green Future, LLC Conditional Use Permit and Variance for Type 3 Cannabis License (CCUPT3-19-21), State Clearinghouse Number 2022030761**

Dear Skylar Fisher:

The California Department of Fish and Wildlife (Department) has reviewed the draft Initial Study/proposed Mitigated Negative Declaration (Draft IS/MND) dated March 30, 2022, for the above-referenced project (Project). As a trustee for the State's fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and their habitat. As a responsible agency, the Department administers the California Endangered Species Act (CESA) and other provisions of the Fish and Game Code (FGC) that conserve the State's fish and wildlife public trust resources. The Department offers the following comments and recommendations on this Project in our role as a trustee and responsible agency pursuant to the California Environmental Quality Act (CEQA), California Public Resources Code section 21000 et seq.

### **Project Description**

The Project includes the expansion of commercial cannabis cultivation to up to one-acre of outdoor and/or mixed-light canopy under a Type 3 (Outdoor-Medium) or multiple Type 2 (Mixed Light-Small) licenses. The IS/MND states mixed-light cultivation activity would not require artificial lighting or additional electricity use beyond what is required for the current 10,000 square foot license. Blackout tarps will be used for light deprivation to allow the applicant to have multiple harvests during the growing season. The applicant has also applied for a variance from the limitations of location, to site the cultivation area less than five hundred (500) feet from the adjacent property lines, as required under the Trinity County Code Section 17.43.050.A.8 for a medium (up to one acre of canopy) cannabis cultivation site.

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## Comments and Recommendations

The Department has the following comments and recommendations as they pertain to biological resources:

### Future Operations

The IS/MND states that the expansion of up to one-acre (43,560 square feet) of outdoor and /or mixed light canopy would not require artificial lighting or the use of additional electricity. While the current applicant may not intend to use artificial lights, nothing prevents future owners from using electricity to increase production in greenhouses under Type 2 (Mixed Light) licenses. In order to ensure that new significant impacts will not occur from implementation of the proposed Project when future licenses are granted under this Conditional Use Permit, the Department recommends that prior to the use of additional lights as applicable to the Project, a Light Attenuation Plan be submitted for review and approval. The details of a Light Attenuation Plan would indicate the timing of light use for cultivation including start and end time within a 24-hour period throughout the calendar year and describes how light shields will be engaged/disengaged. The Department further requests, that security lighting be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program; see: <https://www.darksky.org/our-work/lighting/lighting-for-citizens/lighting-basics/>. Standards include but are not limited to the following: 1) light shall be shielded and downward facing, 2) shall consist of Low Pressure Sodium (LPS) light or low spectrum Light Emitting Diodes (LED) with a color temperature of 3000 kelvins or less and 3) only placed where needed.

In the Impact Analysis related to Biological Resources, noise performance standards are provided specific to the use of generators. Greenhouse fans also increase ambient noises and are commonly used in mixed light cultivation practices. It is unclear how “performance standards” that are not already listed as mitigation requirements in the Trinity County Cannabis Ordinance will be enforced. The Department recommends that these measures are added as either mitigation measures and be applicable to all noise sources and not limited to the use of generators.

### Northern Spotted Owl (*Strix occidentalis caurina*) (NSO)

The Biological Resources Assessment (BRA) prepared by Pacific Watershed Associates in October 2021 and NSO Habitat and Impact Assessment prepared by O’Brien Biological Consultants relies on the assumption that electrical power (if needed) will only be supplied by solar arrays on the central (site #2) cultivation location. But the IS/MND also discusses the presence of generators “for emergency use.” The Department recommends that generators are precluded from long-term or permanent use as a power source by defining how long they could be used under an emergency. The NSO report concludes that because no forest habitat is planned for removal for

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current or expanded operations, the only potentially significant impact to NSO would be from noise, lights, or direct line-of-sight visual disturbance. Therefore, the increased use of lights or noise, from fans or generators may have a significant impact. Critical habitat is mapped 0.45 miles to the west and 0.26 miles to the east of sites #1 and #2, respectively and there are two known activity centers less than a mile away. Although these two activity centers were not occupied by NSO as recently as 2020, survey results have not been provided for the last two years. The Department recommends a mitigation measure demonstrating there have been adequate surveys over the course of the two most-recent years prior to licensure to determine the presence or absence of NSO. This information may be obtained through the Colorado State University study if they are willing to share data with the current applicant.

### Biological Resources Assessment

Assumptions were made in the BRA as to whether there was potential for a given species to occur based on suitable habitat, but surveys were not necessarily performed. The BRA claimed to have completed protocol level surveys for species that had habitat present on the parcel, but details only discuss protocol level surveys for special status plants within the cultivation expansion area. Other species were only surveyed using passive “seek and find” observations to determine presence/absence. This kind of point in time survey may not be adequate to identify certain species that may require capture in order to identify, such western bumble bee (*Bombus occidentalis*) and Trinity bristle snail (*Monadenia infumata setosa*), or special equipment to identify bat species. Other species were not surveyed for based on low probability of predicted habitat as determined by models from the California Wildlife Habitat Relationship System. While this database relates these species to each of the habitats which support them, it is not a substitute for on the ground surveys to determine if a species occupies that habitat. The Department recommends the inclusion of all applicable mitigation measures requiring protocol level surveys prior to expansion, which are listed in the Trinity County Cannabis Program Final Environmental Impact Report.

### Lake or Streambed Alteration Agreement

This parcel was issued a Lake and Streambed Alteration (LSA) Agreement, pursuant to section 1600 et seq. of the Fish and Game Code (FGC), in 2016. The project described in that Agreement authorized the decommissioning of three Class III stream crossings, upgrading a fourth stream crossing from native fill to an armored fill crossing, and installing spring boxes into the substrate of the channel at two discrete locations for the purpose of diverting water. That Agreement expired April 7, 2021. On August 26, 2021, the applicant submitted a new Notification for the ongoing diversion of water at the two points of diversion, both for domestic and cannabis cultivation purposes. The draft Agreement seasonally restricts water diversion for commercial cannabis cultivation in accordance with requirements in the State Water Resources Control Board Cannabis Policy, which was not in affect in 2016. Issuance of this LSA Agreement is subject to CEQA. The Department, as a responsible agency under CEQA, will consider the CEQA

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document for the Project when issuing an LSA Agreement. The CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for completion of the agreement. Timing and volume of diversion should be in accordance with the requirements of the Small Irrigation Use Registration, as outlined in the Cannabis Policy, not on dates listed in the 2016 Agreement.

If you have any questions, please contact Kate Blanchard, Senior Environmental Scientist, Specialist, by e-mail at [R1CEQARedding@wildlife.ca.gov](mailto:R1CEQARedding@wildlife.ca.gov).

Sincerely,

DocuSigned by:  


1D82ADE7303A474...  
Tina Bartlett, Regional Manager  
Northern Region

ec: State Clearinghouse  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

Habitat Conservation Planning Branch