



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE

Inland Deserts Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



October 28, 2022
Sent via email

Michael Draper, Planning Analyst
Mono County
P.O. Box 347
1290 Tavern Rd.
Mammoth Lakes, CA 93546

Subject: Initial Study and Mitigated Negative Declaration for Sierra High Farms;
State Clearing House No. 2022100039

Dear Mr. Draper:

The California Department of Fish and Wildlife (CDFW) received an Initial Study/Mitigated Negative Declaration (IS/MND) from Mono County (County) for the Sierra High Farms Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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.

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.

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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 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

The Project is located on approximately fifteen acres of a 124-acre parcel in Topaz, California in Mono County; Latitude 38.62726 N and Longitude -119.46284 W; Assessor's Parcel Number 001-150-004-000; within the Long Dry Canyon-West Walker River subwatershed. The Project is bounded on the northeast side by the California/Nevada border and Fenceline Road, on the south and east sides by open land, and on the west side by the Highline Ditch and agricultural land. The Highline Ditch is fed by unnamed ephemeral streams that cross the Project site.

Most of the Project site is covered by sage scrub. A section of the Project site was graded prior to receiving a grading permit or going through the CEQA review process. Removal of approximately fifteen acres of sagebrush shrub habitat is anticipated to occur during grading and construction of four indoor cultivation buildings, associated support buildings (e.g., water tank, shop, and lab), and widening of an existing access road. Additionally, approximately ten acres of shrub habitat will be impacted during phase three of the Project through removal of vegetation for outdoor cultivation.

The Project will construct four 12,312 square-foot greenhouses for indoor cultivation, one cultivation lab, one maintenance shop, a stormwater retention basin, one nursery and processing building, one well pump building, and one water tank building containing three 5,000-gallon tanks. Other development on the property includes ten acres of outdoor cannabis cultivation, a septic system, access roads, parking areas, and an above-ground 1.6-mile electrical service connection which includes the installation of thirty electrical poles along East Side Lane and on the Project property.

Timeframe: The Project will be constructed in three phases and is expected take approximately three years total to complete.

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COMMENTS AND RECOMMENDATIONS

The IS/MND proposes a total of three biological (BIO) mitigation measures (MM). While CDFW appreciates that the IS/MND includes measures to mitigate potential impacts to nesting birds and to avoid the introduction and proliferation of non-native plant species, CDFW believes the IS/MND's mitigation measures are insufficient to mitigate impacts to biological resources with the potential to occur on-site because the IS/MND's analysis for evaluating impacts to biological resources on the Project site is inadequate. Only two site visits were conducted by Resource Concepts, Inc. (RCI) biologists that were reconnaissance in nature and did not involve focused surveys. CDFW generally considers surveys valid for one year and the first site visit was conducted nearly two years ago. The second site visit, which took place in September of 2022, was focused exclusively on identifying plant species and was based on a walk-through instead of protocol level surveys for identifying sensitive plant species. Given the lack of survey information in this area of California, relying on sources such as the California Natural Diversity Database (CNDDDB) and United State of Fish and Wildlife Service's Critical Habitat Survey is insufficient to develop an appropriate inventory of the biological resources likely to occur on the Project site.

Additionally, given the Project site's adjacency to the Nevada state border, CDFW, as one of the state agencies tasked with permitting and enforcement of cannabis laws, is concerned with the potential for interstate transportation of cannabis products. Please note that interstate transportation of cannabis products is precluded by Federal Laws and Regulations and would likely result in the revocation of licensing issued by the state of California. Please ensure the Project demonstrates and documents avoidance of interstate transportation in accordance with Federal Laws and Regulations.

To assist the County in adequately mitigating the Project's potentially significant impacts to biological resources, CDFW offers the comments and recommendations presented below, and in Attachment 1 "Mitigation Monitoring and Reporting Program (MMRP)", pursuant to the CEQA Guidelines, section 15097(f). CDFW requests that the County revise and/or adopt the following mitigation measures prior to finalizing the IS/MND:

Nesting Birds

The sage scrub habitat on and adjacent to the Project site may serve as nesting, breeding, and foraging habitat for many species of birds including year-round residents and migratory species. Of special concern is the greater sage-grouse (*Controercus urophasianus*; CDFW Species of Special Concern [SSC]) which is dependent on sage scrub habitat, such as that on-site, and special consideration should be made to assure

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that no greater sage-grouse nests are disturbed during Project activities. CDFW appreciates the inclusion of MM BIO-1, which requires nesting bird surveys, but offers the following alternative to MM BIO-1 to clarify nesting bird survey timing, buffers, and monitoring:

MM BIO-1: Regardless of the time of year, a pre- construction sweep shall be performed to verify absence of nesting birds. A qualified biologist shall conduct the pre-activity sweep within the Project areas (including access routes) and a 500-foot buffer surrounding the Project areas, within 2 hours prior to initiating Project activities. Additionally, a nesting bird survey shall be conducted by a qualified biologist no more than three (3) days prior to the initiation of project activities, including, but not limited to clearing, grubbing, and/or rough grading to prevent impacts to birds and their nests. The survey will be conducted by a qualified biologist. Surveys shall include any potential habitat (including trees, shrubs, the ground, or nearby structures) that may be impacted by activities resulting in nest destruction or abandonment. If nesting bird activity is present, a no disturbance buffer zone shall be established by the qualified biologist around each nest to prevent nest destruction and disruption of breeding or rearing behavior. The buffer shall be a minimum of 500 feet for raptors and 300 feet for songbirds, unless a smaller buffer is specifically determined by a qualified biologist familiar with the nesting phenology of the nesting species. The buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests, as confirmed by a qualified biologist. A qualified biologist shall inspect the active nest to determine whether construction activities are disturbing the nesting birds or nestlings. If the qualified biologist determines that construction activities pose a disturbance to nesting, construction work shall be stopped in the area of the nest and the 'no disturbance buffer' shall be expanded. If there is no nesting activity, then no further action is need for this measure.

Special Status Fish

The Highline Ditch, which runs along the western boundary of the Project parcel, contains occurrences of Lahontan mountain sucker (*Catostomus lahontan*; SSC) and mountain whitefish (*Prosopium williamsoni*; SSC) and may also host Lahontan cutthroat trout (*Oncorhynchus clarkia henshawi*; federally threatened). Given the possibility for these and other special status species to occur in this waterway, CDFW recommends the County adopt the following mitigation measure in the IS/MND as MM BIO-4:

MM-BIO 4: For all Project activities taking place adjacent to the Highline Ditch, Best Management Practices (BMPs) shall be employed to avoid

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impacts to water quality and aquatic habitat of the Highland Ditch. Impacts may include, but are not limited to, delivery of excess sediment through grading, disking, or grubbing activities; delivery of excess nutrients through runoff from cultivation areas; delivery of toxins from pesticide application; or any other Project activities that have the potential to substantially alter or degrade the water quality or aquatic habitat of the Highline Ditch. BMPs may include avoiding pesticide application during periods of increased wind, limiting water usage to avoid runoff, and/or keeping exposed soil damp to limit movement during ground disturbing activities.

Additionally, CDFW would like to offer the following edits to WQ 1 (edits are shown in **bold** and ~~strikethrough~~):

MM-WQ 1: Reseeding of Disturbed Areas: Directly following construction, disturbed areas shall be reseeded with a certified weed-free seed mix **consisting of local native plant species appropriate for sagebrush scrub habitats**. Seeded areas shall be watered as needed until fully established.

American Badger (*Taxidea taxus*)

The Project site is within medium-quality American badger habitat which may be impacted by Project activities. CDFW recommends the following measure as MM BIO-5 to avoid impacts to American badger:

MM BIO-5: A qualified biologist shall visually survey the Project area prior to construction to identify any feature/habitats suitable to support American badger (i.e., burrows, dens). Where an identifiable feature is present, the qualified biologist shall mark the potentially occupied feature for avoidance. If avoidance is infeasible, the qualified biologist shall determine whether the burrow or den is inactive or active. If the burrow or den is inactive, the qualified biologist shall excavate the burrow or den by hand and backfill to prevent reuse by American badger.

If American badger is present, applicant shall notify California Department of Fish and Wildlife (CDFW) and applicant should develop an American badger-specific avoidance and relocation plan detailing the protective avoidance and relocation measures to be implemented prior to the commencement of Project activities for CDFW review. The use of

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rodenticides and herbicides shall be restricted to avoid primary and secondary poisoning of badger.

Special Status Plants

The IS/MND should include measures to fully avoid and otherwise protect rare and sensitive 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. According to a CNDDDB query using Biogeographic Information and Observation System (BIOS) mapping software, beautiful cholla (*Grusonia pulchella*; CNPS Rare Plant Rank 2B.2), little cutleaf (*Hymenopappus filifolius* var. *nanus*; CNPS Rare Plant Rank 2B.3), American manna grass (*Glyceria grandis*; CNPS Rare Plant Rank 2B.3), masonic rockcress (*Boechea cobrensis*; CNPS Rare Plant Rank 2B.3), spiny milkwort (*Polygala subspinosa*; CNPS Rare Plant Rank 2B.2), and Lavin's milkvetch (*Astragalus oophorus* var. *lavinii*; CNPS Rare Plant Rank 1B.2) may occur within or in close proximity to the Project site.

After reviewing the Biological Technical Report (Appendix B), CDFW is concerned with the presumption of low likelihood of occurrence for many of the above-mentioned sensitive plant species. CDFW requests that a thorough assessment of special status plant species and communities according to CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (2018 or most recent version) be conducted prior to Project activities. CDFW recommends the following mitigation measure be included in the final IS/MND:

MM BIO-6: Prior to Project implementation, and during the appropriate season, a qualified biologist shall conduct botanical field surveys within the Project area following protocols set forth in the California Department of Fish and Wildlife's (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special-status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or

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fruiting) and, in a manner, which maximizes the likelihood of locating special-status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the taxonomic level necessary to determine rarity and listing status. If any special-status plants are identified, the County shall avoid the plant(s), with an appropriate buffer (i.e., fencing or flagging). If complete avoidance is not feasible, the County shall mitigate the loss of the plant(s) through the purchase of mitigation credits from a CDFW-approved bank or land acquisition and conservation at a mitigation ratio determined by CDFW after Project analysis. If the Project has the potential to impact a state listed species, the Project Applicant should apply for a California Endangered Species Act (CESA) Incidental Take Permit (ITP) with CDFW.

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, pesticides such as 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. Even 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(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. 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

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(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 altogether as these pose a hazard to nontarget wildlife and result in a prolonged/inhumane death. In addition, 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>. The Draft IS/MND states that pesticides will be used in large quantities at the cultivation site, therefore CDFW recommends the following mitigation measure:

MM BIO-7: Prior to construction and issuance of any grading permit, Sierra High Farms shall develop a plan, to be approved by Mono County, 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 manufacturer's directions and warnings, (2) Avoidance of pesticide use where toxic runoff may pass into Fish and Game section 1602 resources, 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, and (6) Inclusion of measures that serve as alternatives to the use of 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

Light pollution 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 states that the Project site will create new sources of light from emergency and security lighting but defers the development of a lighting plan until an unspecified

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date in the future. Thus, CDFW recommends the following mitigation measure be included in the lighting plan and be implemented in the meantime, absent a lighting plan to minimize light pollution:

MM BIO-8: Light shall not be visible outside of any structure used for cannabis cultivation. This shall be accomplished by: employing blackout curtains where artificial light is used to prevent light escapement, eliminating all nonessential lighting from cannabis sites and avoiding or limiting the use of artificial light during the hours of dawn and dusk when many wildlife species are most active, ensuring 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/>), and using LED lighting with a correlated color temperature of 3,000 Kelvins or less. All hazardous waste associated with lighting shall be disposed of properly and lighting that contains toxic compounds shall be recycled with a qualified recycler.

Employee Awareness of Wildlife Resources

Part of the Project proponent's responsibility is to educate individuals that will be on-site on the wildlife species that may be present and how to limit impacts to wildlife species in the area. CDFW recommends the following mitigation measure (MM BIO-9) be incorporated into the IS/MND to limit impacts to wildlife species in the area through employee education:

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 on-site (Workers Environmental Awareness Program; WEAP). The WEAP 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 WEAP information on 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 WEAP 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 and (2) protected species that have the potential to occur on the Project site. Interpretation

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shall be provided for any non-English speaking workers, and the same instruction shall be provided for any individual prior to their performing any work on-site.

LSA Notification

The west side of the Project property borders Highline Ditch, a tributary to West Walker River. There is also an ephemeral stream channel that originates in the mountains to the east of the Project that flows west through the proposed outdoor cultivation area. The IS/MND is unclear whether impacts to these Fish and Game Code section 1602 resources are intended, but please note that the 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 a Lake and Streambed Alteration (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) at <https://epims.wildlife.ca.gov> and learn more about permitting at <https://wildlife.ca.gov/Conservation/Cannabis/Permitting>. Therefore, CDFW offers MM BIO-10 below:

MM BIO-10: Prior to construction and issuance of any grading permit, the Project proponent should 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 proponent 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 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 online field survey form, along with the types of information reported to CNDDDB, can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

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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 in order 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 requests that the County include in the final IS/MND the suggested mitigation measures (Attachment 1) offered by CDFW to reduce Project impacts.

CDFW appreciates the opportunity to comment on the IS/MND for the Sierra High Farms Project (SCH No. 2022100039) and hopes our comments assist Mono County in identifying and mitigating Project impacts on biological resources.

If you should have any questions pertaining to the comments provided in this letter, please contact Kevin Francis, Environmental Scientist at Kevin.Francis@wildlife.ca.gov.

ATTACHMENTS

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

Sincerely,

DocuSigned by:


84FBB8273E4C480...
Alisa Ellsworth

Environmental Program Manager

ec: Office of Planning and Research, State Clearing House, Sacramento
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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.

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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.

California Department of Fish and Wildlife (CDFW). 2018. Protocols for Surveying and Evaluating Impacts Special Status Native Plant Populations and Natural Communities. State of California, Natural Resources Agency. Available for download at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>

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.

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.

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ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure compliance with mitigation measures during project implementation. Mitigation measures must be implemented within the time periods indicated in the table below.

TABLE OF MITIGATION MEASURES

The following items are identified for each mitigation measure: Mitigation Measure, Implementation Schedule, and Responsible Party. The Mitigation Measure column summarizes the mitigation requirements. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure.

Biological (BIO) Mitigation Measure (MM)	Implementation Schedule	Responsible Party
<p>MM BIO-1: Nesting Birds Regardless of the time of year, a pre-construction sweep shall be performed to verify absence of nesting birds. A qualified biologist shall conduct the pre-activity sweep within the Project areas (including access routes) and a 500-foot buffer surrounding the Project areas, within 2 hours prior to initiating Project activities. Additionally, a nesting bird survey shall be conducted by a qualified biologist no more than three (3) days prior to the initiation of project activities, including, but not limited to clearing, grubbing, and/or rough grading to prevent impacts to birds and their nests. The survey will be conducted by a qualified biologist. Surveys shall include any potential habitat (including trees, shrubs, the ground, or nearby structures) that may be impacted by activities resulting in nest destruction or abandonment. If nesting bird activity is present, a no disturbance buffer zone shall be established by the qualified biologist around each nest to prevent nest destruction and</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

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<p>disruption of breeding or rearing behavior. The buffer shall be a minimum of 500 feet for raptors and 300 feet for songbirds, unless a smaller buffer is specifically determined by a qualified biologist familiar with the nesting phenology of the nesting species. The buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests, as confirmed by a qualified biologist. A qualified biologist shall inspect the active nest to determine whether construction activities are disturbing the nesting birds or nestlings. If the qualified biologist determines that construction activities pose a disturbance to nesting, construction work shall be stopped in the area of the nest and the 'no disturbance buffer' shall be expanded. If there is no nesting activity, then no further action is need for this measure.</p>		
<p>MM-BIO 4: Special Status Fish For all Project activities taking place adjacent to the Highline Ditch, Best Management Practices (BMPs) shall be employed to avoid impacts to water quality and aquatic habitat of the Highland Ditch. Impacts may include, but are not limited to, delivery of excess sediment through grading, disking, or grubbing activities; delivery of excess nutrients through runoff from cultivation areas; delivery of toxins through from pesticide application; or any other Project activities that have the potential to substantially alter or degrade the water quality or aquatic habitat of the Highline Ditch. BMPs may include avoiding pesticide application during periods of increased wind, limiting water usage to avoid runoff, and/or keeping exposed soil damp to limit movement during ground disturbing activities.</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>
<p>MM BIO-5: American Badger A qualified biologist shall visually survey the Project area prior to construction to identify any feature/habitats suitable to support American badger (i.e., burrows, dens). Where an</p>	<p>Prior to commencing ground- or vegetation</p>	<p>Project Proponent</p>

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<p>identifiable feature is present, the qualified biologist shall mark the potentially occupied feature for avoidance. If avoidance is infeasible, the qualified biologist shall determine whether the burrow or den is inactive or active. If the burrow or den is inactive, the qualified biologist shall excavate the burrow or den by hand and backfill to prevent reuse by American badger. If American badger is present, applicant shall notify California Department of Fish and Wildlife (CDFW) and applicant should develop an American badger-specific avoidance and relocation plan detailing the protective avoidance and relocation measures to be implemented prior to the commencement of Project activities for CDFW review. The use of rodenticides and herbicides shall be restricted to avoid primary and secondary poisoning of badger.</p>	<p>disturbing activities</p>	
<p>MM BIO-6: Special Status Plants Prior to Project implementation, and during the appropriate season, a qualified biologist shall conduct botanical field surveys within the Project area following protocols set forth in the California Department of Fish and Wildlife’s (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special-status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and, in a manner, which maximizes the likelihood of locating special- status plants and sensitive natural communities that may be present. Botanical field surveys shall be</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

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<p>conducted floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the taxonomic level necessary to determine rarity and listing status. If any special-status plants are identified, the County shall avoid the plant(s), with an appropriate buffer (i.e., fencing or flagging). If complete avoidance is not feasible, the County shall mitigate the loss of the plant(s) through the purchase of mitigation credits from a CDFW-approved bank or land acquisition and conservation at a mitigation ratio determined by CDFW after Project analysis. If the Project has the potential to impact a state listed species, the Project Applicant should apply for a California Endangered Species Act (CESA) Incidental Take Permit (ITP) with CDFW.</p>		
<p>MM BIO-7: Pesticides Prior to construction and issuance of any grading permit, Sierra High Farms shall develop a plan, to be approved by Mono County, 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 Fish and Game section 1602 resources, 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, and (6) Inclusion of measures that serve as alternatives to the use of 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 commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

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<p>MM BIO-8: Artificial Light Light shall not be visible outside of any structure used for cannabis cultivation. This shall be accomplished by: employing blackout curtains where artificial light is used to prevent light escapement, eliminating all nonessential lighting from cannabis sites and avoiding or limiting the use of artificial light during the hours of dawn and dusk when many wildlife species are most active, ensuring 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/), and using LED lighting with a correlated color temperature of 3,000 Kelvins or less. All hazardous waste associated with lighting shall be disposed of properly and lighting that contains toxic compounds shall be recycled with a qualified recycler.</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>
<p>MM BIO-9: Employee Awareness 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 (Workers Environmental Awareness Program; WEAP). The WEAP 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 WEAP information on 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 WEAP 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 and (2) protected species that have the potential to occur on the Project site. Interpretation shall be provided for any non-English speaking workers, and the same</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

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<p>instruction shall be provided for any individual prior to their performing any work on-site.</p>		
<p>MM BIO-10: LSA Program Prior to construction and issuance of any grading permit, the Project proponent should 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 proponent 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 commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>
<p>MM-WQ 1: Water Quality Reseeding of Disturbed Areas: Directly following construction, disturbed areas shall be reseeded with a certified weed-free seed mix consisting of local native plant species appropriate for sagebrush scrub habitat. Seeded areas shall be watered as needed until fully established.</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>