



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 21, 2022
Sent via email

Governor's Office of Planning & Research

NOV 21 2022

STATE CLEARING HOUSE

Glenn Mlaker, Associate Planner
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

Subject: Initial Study and Negative Declaration
Sun Ray Naturals Cannabis Cultivation Facility
State Clearinghouse No. 2022110027

Dear Mr. Mlaker:

The California Department of Fish and Wildlife (CDFW) received an Initial Study Negative Declaration (IS/ND) from the City of Palm Springs (City) for the Sun Ray Naturals Cannabis Cultivation Facility (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 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

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.

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 site is in the City of Palm Springs, Riverside County, California; Latitude, 33.90433 N and Longitude -116.55338 W, address 690 Garnet Avenue, Palm Springs, 92262. The Project site is a fully developed 14,293 square feet building complete with office, storage room, gated perimeter, and parking spaces. The project involves converting 6,080 square feet of unused building space for cannabis cultivation, transportation, and distribution on Assessor’s Parcel Number (APN) 0666-430-010-0000. A total of five rooms within the fully developed building will be converted to accommodate cannabis production.

The internal improvements include:

- replacement of windows and doors
- installation of insulation
- addition of lighting and air filtration systems

The exterior of the existing building will not be changed. The remaining space within the building is being leased by Caps Apothecary LLC, a licensed dispensary.

Timeframe: Unavailable

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations presented below and in Attachment 1 (Mitigation Monitoring and Reporting Program) to assist the City in adequately mitigating the Project’s potential impacts on biological resources.

The California Department of Cannabis Control (DCC) requires cannabis cultivators to demonstrate compliance with Fish and Game Code section 1602 prior to issuing a cultivation license (Business and Professions Code, § 26060.1). To qualify for an Annual License from DCC, cultivators must have an LSA Agreement or written verification from CDFW that one is not needed. Cannabis cultivators may apply online for an LSA Agreement through the Environmental Permit Information Management System (EPIMS; <https://epims.wildlife.ca.gov/index.do>). Cannabis cultivators may learn more about cannabis cultivation permitting at: <https://wildlife.ca.gov/Conservation/Cannabis/Permitting>. As described the Project would qualify for CDFW’s “self-cert” for indoor grows.

CDFW recommends MM-BIO 1 below, considering CDFW's role in cannabis permitting:

MM BIO-1:

Prior to cultivation, the Project proponent 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 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.

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 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 the 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/cacltrs/penfltrs/penf2015/2015atch/attach1502.pdf>.

CDFW recommends that the City of Palm Springs 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-2:

The project proponent shall develop a plan in consultation with the City of Palm Springs. The plan shall be reviewed and approved by the City of Palm Springs as a condition of project approval. The plan shall identify 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, 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/ND indicates that Project activities will involve the replacement of windows and doors but does not specify the materials that will be used. 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-3:

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 DarkSky Association standards at [International Dark Sky Association - International Dark-Sky Association](#) 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.

ENVIRONMENTAL DATA

CEQA requires that information developed in Environmental Impact Reports and Negative Declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: [Submitting Data to the CNDDDB \(ca.gov\)](#). The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: [CNDDDB - Plants and Animals \(ca.gov\)](#).

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 City include the suggested mitigation measures (Attachment 1) offered by CDFW to avoid, minimize, and mitigate Project impacts on California fish and wildlife resources.

CDFW appreciates the opportunity to comment on the IS/ND for the City of Palm Springs Sun Ray Naturals (SCH No.2022110027) and hopes our comments will assist the City in identifying, avoiding, minimizing, and mitigating Project impacts on fish and

wildlife resources.

If you should have any questions pertaining to the comments provided in this letter, please contact Lydia Rodriguez, Senior Environmental Scientist (Specialist) at Lydia.Rodriguez@wildlife.ca.gov.

ATTACHMENTS

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

Sincerely,

DocuSigned by:
Magdalena Rodriguez
938A012E7285407...

For Alisa Ellsworth
Environmental Program Manager

cc: Office of Planning and Research, State Clearinghouse, Sacramento
state.clearinghouse@opr.ca.gov.

REFERENCES

Baldwin, D. H., J. A. Spromberg, T. K. Collier, and N. L. Scholz. 2009. A fish of many scales: Extrapolating sublethal pesticide exposures to the productivity of wild salmon populations. *Ecological Applications* 19:2004–2015.

Beiswenger, R. E. 1977. Diet patterns of aggregative behavior in tadpoles of *Bufo americanus*, in relation to light and temperature. *Ecology* 58:98–108. Berny, P. 2007. Pesticides and the intoxication of wild animals. *Journal of Veterinary Pharmacology and Therapeutics* 30:93–100.

Berny, P. 2007. Pesticides and the intoxication of wild animals. *Journal of Veterinary Pharmacology and Therapeutics* 30:93–100.

Longcore, T., and C. Rich. 2004. Ecological light pollution. *Frontiers in Ecology and the Environment* 2:191–198.

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.

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	Implementation Schedule	Responsible Party
<p>MM BIO-1.</p> <p>Prior to cultivation, the Project proponent 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 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 cultivation</p>	<p>Project Proponent/Cultivator</p>
<p>MM BIO-2</p> <p>The project proponent shall develop a plan in consultation with the City of Palm Springs. The plan shall be reviewed and approved by the City of Palm Springs as a condition of project approval. The plan shall identify 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</p>	<p>Prior to project approval</p>	<p>Project Proponent/City of Palm Springs</p>

<p>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>MM BIO-3</p> <p>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 DarkSky Association standards at International Dark Sky Association - International Dark-Sky Association 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 project approval</p>	<p>Project Proponent/City of Palm Springs</p>