



Governor's Office of Planning & Research

February 21, 2023

FEB 24 2023

STATE CLEARING HOUSE

Miguel Galvez
City of Livingston
1416 C Street
Livingston, California 95334
mgalvez@livingstoncity.com

**Subject: Greenzone Business Park (Project)
Mitigated Negative Declaration (MND)
SCH Number: 2023010565**

Dear Mr. Galvez,

The California Department of Fish and Wildlife (CDFW) received a Notice of Completion for a Mitigated Negative Declaration (MND) for a Master Conditional Use Permit from the City of Livingston for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding the activities proposed at the Project site that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects on the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under 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 and Game 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 & Game Code, § 2050 et seq.), related authorized as provided by the Fish and Game Code will be required.

Bird Protection: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

Lake and Streambed Alteration: CDFW has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource, pursuant to Fish and Game Code sections 1600 *et seq.* Section 1602 subdivision (a) of the Fish and Game Code requires an entity to notify CDFW before engaging in activities that would substantially change the bed, channel, or bank of a stream or substantially divert or obstruct the natural flow of a stream.

Water Pollution: Pursuant to Fish and Game Code section 5650, it is unlawful to deposit in, permit to pass into, or place where it can pass into "Waters of the State" any substance or material deleterious to fish, plant life, or bird life, including non-native species. It is possible that without mitigation measures, this Project could result in pollution of Waters of the State from storm water runoff or construction-related erosion. Potential impacts to the wildlife resources that utilize watercourses in the Project area include the following: increased sediment input from road or structure runoff; toxic runoff associated with Project-related activities and implementation; and/or impairment of wildlife movement. The Regional Water Quality Control Board and United States Army Corps of Engineers also have jurisdiction regarding discharge and pollution to Waters of the State.

PROJECT DESCRIPTION SUMMARY

Proponent: Greenzone Enterprises, LLC

Objective: The Project Proponent, Greenzone Enterprises LLC, proposes to subdivide the 18.8-acre parcel into 22 lots ranging approximately 0.66 acres to 1.46 acres in size, including the construction of a stormwater retention basin, for the following cannabis-related uses: commercial indoor cannabis cultivation, distribution, manufacturing, greenhouse cultivation, and testing. The Project area will be gated with a 25-foot-wide

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internal road and the Merced Irrigation District Stoddard Lateral that runs diagonally through the site, will be undergrounded.

Location: The Project will take place approximately 0.4 miles west of Main Street, just north of Bird Street, one mile east of Highway 99, Livingston, Merced County, California, 95334; Assessor's Parcel Number (APN) 047-090-004; Agriculture zoned.

Timeframe: Unspecified.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following recommendations to assist the City of Livingston in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on a review of the Project description, a review of the California Natural Diversity Database (CNDDDB) records, and a review of aerial photographs of the Project area and surround habitat, several special-status species could be potentially impacted by Project activities.

In particular, CDFW is concerned regarding potential impacts to resources including special status species resulting from the ground-disturbing development activities and ongoing facilities operation, including but not limited to State Threatened Tricolored Blackbird (*Agelaius tricolor*) and Swainson's Hawk (*Buteo swainsoni*); and State Species of Special Concern northern burrowing owl (*Athene cunicularia*), California legless lizard (*Anniella pulchra*), and western pond turtle (*Emys marmorata*) (CNDDDB 2023).

The Project has the potential to impact biological resources. CDFW recommends that the following modifications, or edits be incorporated into the MND, including proposed avoidance, minimization, and compensatory measures prior to its adoption by the City.

Tricolored Blackbird

Tricolored Blackbird (TRBL) are known to occur in the Project area (CDFW 2023). Review of aerial imagery indicates that the Project area includes suitable habitat types including wetlands, ponds, and flood-irrigated agricultural land, which is an increasingly important nesting habitat type for TRBL (Meese et al. 2017).

Potential nesting habitat for TRBL is present within the Project vicinity. TRBL aggregate and nest colonially, forming colonies of up to 100,000 nests (Meese et al. 2014), and approximately 86% of the global population is found in the San Joaquin Valley (Kelsey 2008, Weintraub et al. 2016). In addition, TRBL have been forming larger colonies that contain progressively larger proportions of the species' total population (Kelsey 2008). In 2008, 55% of the species' global population nested in only two colonies in silage

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fields (Kelsey 2008). In 2017, approximately 30,000 TRBL were distributed among only 16 colonies in Merced County (Meese 2017). Nesting can occur synchronously, with all eggs laid within one week (Orians 1961). For these reasons, disturbance to nesting colonies can cause entire nest colony site abandonment and loss of all unfledged nests, significantly impacting TRBL populations (Meese et al. 2014). Without appropriate avoidance and minimization measures for TRBL, potential significant impacts associated with subsequent development include nesting habitat loss, nest and/or colony abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

- CDFW recommends that Project activities be timed to avoid the typical bird-breeding season of February 1 through September 15. If Project activity that could disrupt nesting must take place during that time, CDFW recommends that a qualified biologist conduct surveys for nesting TRBL no more than 10 days prior to the start of implementation to evaluate presence or absence of TRBL nesting colonies in proximity to Project activities and to evaluate potential Project-related impacts.
- If an active TRBL nesting colony is found during surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer, in accordance with CDFW's (2015) *Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015*, until the breeding season has ended or until a qualified biologist has determined that nesting has ceased and the young have fledged and are no longer reliant upon the colony or its nest site for survival.

In the event that a TRBL nesting colony is detected during surveys, consultation with CDFW is warranted to discuss whether the Project can avoid take and, if take avoidance is not feasible, take authorization through the acquisition of an Incidental Take Permit (ITP) for SWHA, pursuant to Fish and Game Code section 2081, subdivision (b) is necessary to comply with CESA.

Swainson's Hawk

Swainson's Hawk (SWHA) have been documented in areas of suitable habitat within the Project vicinity (CDFW 2023). Undeveloped and agricultural land in the surrounding area provide suitable foraging habitat for SWHA. Any mature trees within or near the Project area may provide suitable nesting habitat.

SWHA exhibit high nest-site fidelity year after year and lack of suitable nesting habitat limits their local distribution and abundance (CDFW 2016). Approval of the Project may lead to subsequent ground-disturbing activities that involve noise, groundwork, construction of structures, and movement of workers that could affect nests and has the potential to result in nest abandonment and loss of foraging habitat, significantly

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impacting local nesting SWHA. In addition, conversion of undeveloped and agricultural land can directly influence distribution and abundance of SWHA, due to the reduction in foraging habitat. Without appropriate avoidance and minimization measures for SWHA, potential significant impacts that may result from Project activities include nest abandonment, loss of nest trees, loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality. All trees, including non-native or ornamental varieties, near the Project site may provide nesting sites.

- CDFW recommends that if Project-specific activities will take place during the SWHA nesting season (i.e., March 1 through September 15), and active SWHA nests are present, a minimum ½-mile no-disturbance buffer be delineated and maintained around each nest, regardless of when or how it was detected, until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest.
- If Project activities will occur during the SWHA nesting season, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting SWHA following the entire survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) prior to Project implementation. CDFW recommends that in the event an active SWHA nest is detected, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP for SWHA, pursuant to Fish and Game Code section 2081, subdivision (b) is necessary to comply with CESA.

Burrowing Owl

Burrowing owls (BUOW) have the potential to occur within or adjacent to the Project site (CDFW 2023). BUOW inhabit open grasslands, agricultural areas with adjacent canal banks, ROWs, vacant lots, etc. containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. Potentially significant direct impacts associated with Project activities include burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals. BUOW rely on burrow habitat year-round for their survival and reproduction.

Habitat loss and degradation are considered the greatest threats to BUOW in California (Gervais et al. 2008). Therefore, Project-related ground-disturbing activities have the potential to significantly impact local BUOW populations. In addition, and as described in CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), excluding and/or evicting BUOW from their burrows is considered a potentially significant impact under CEQA.

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To evaluate potential impacts to BUOW, CDFW recommends conducting the following evaluation of the Project area and its vicinity and implementing the following mitigation measures:

- CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC 1993) and CDFW's Staff Report on Burrowing Owl Mitigation" (CDFG 2012). Specifically, CBOC and CDFW's Staff Report suggest three or more surveillance surveys conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (April 15 to July 15), when BUOW are most detectable.
- CDFW recommends no-disturbance buffers, as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.
- If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting BUOW. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance, at a rate that is sufficient to detect BUOW if they return.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting	April 1-Aug 15	200 m*	500 m	500 m
Nesting	Aug 16-Oct 15	200 m	200 m	500 m
Nesting	Oct 16-Mar 31	50 m	100 m	500 m

* meters (m)

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Northern California Legless Lizard

Northern California legless lizard (NCLL) have the potential to occur in the vicinity of the Project (CDFW 2023). NCLL are typically found primarily in areas with sandy or loose organic soils or where there is plenty of leaf litter (Zeiner et al. 1990c). The Project site and surrounding habitat likely support the habitat elements mentioned above; therefore, the Project site is suitable for occupation or colonization by the species.

To evaluate potential impacts to NCLL, CDFW recommends conducting the following evaluation of the subject parcel and implementing the following mitigation measures:

- CDFW recommends that a qualified biologist conduct a habitat assessment to determine if the Project area or its immediate vicinity contain suitable habitat for Northern California legless lizard.
- If suitable habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for NCLL and their requisite habitat features to evaluate potential impacts resulting from ground- and vegetation-disturbance.
- Avoidance whenever possible is encouraged via delineating and observing a 50-foot no-disturbance buffer of individuals; however, a qualified biologist with the appropriate handling permit may relocate NCLL out of the project area into a nearby area with suitable habitat.

Western Pond Turtle

Western Pond Turtle (WPT) are documented in the vicinity of the Project area (CDFW 2023), and a review of aerial imagery shows requisite habitat features that WPT utilize for nesting, overwintering, dispersal, and basking occur in the Project area. These features include aquatic and terrestrial habitats such as rivers, lakes, reservoirs, ponded areas, irrigation canals, riparian, and upland habitat. WPT are known to nest in the spring or early summer within 100 meters of a water body, although nest sites as far away as 500 meters have also been reported (Thomson et al. 2016). Noise, vegetation removal, movement of workers, construction and ground disturbance as a result of Project activities have the potential to significantly impact WPT populations. Without appropriate avoidance and minimization measures for WPT, potentially significant impacts associated with Project activities could include nest reduction, inadvertent entrapment, reduced reproductive success, reduction in health or vigor of eggs and/or young, and direct mortality.

- CDFW recommends that a qualified biologist conduct focused surveys for WPT no more than 10 days prior to Project implementation. In addition, CDFW recommends that focused surveys for nests occur during the egg-laying season of March through August.

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- CDFW recommends that any WPT nests that are discovered during biological surveys or during Project activities, remain undisturbed with a no-disturbance buffer maintained around the nest until the eggs have hatched and neonates are no longer in the nest or Project areas. If WPT individuals are discovered at the site during surveys or Project activities, CDFW recommends that they be allowed to move out of the area of their own volition without disturbance.

Cannabis-Specific Impacts on Biological Resources

There are many impacts to biological resources associated with cannabis cultivation, whether indoor or outdoor cultivation (i.e., pesticides, fertilizers/imported soils, water pollution, groundwater depletion, vegetation clearing, construction and other development in floodplains, fencing, roads, noise, artificial light, dams and stream crossings, water diversions, and pond construction). CDFW recommends that the City of Livingston consider cannabis-specific impacts to biological resources that may result from the Project activities.

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

Business and Professions Code 26060.1 subsection (b)(3) includes a requirement that California Department of Cannabis Control cannabis cultivation licensees demonstrate compliance with Fish and Game Code section 1602 through written verification from CDFW. CDFW recommends submission of a Lake and Streambed Alteration Notification to CDFW for the proposed Project prior to initiation of any cultivation activities. Cannabis cultivators may apply (notify) 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>.

Please note that CDFW has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource. A review of aerial imagery indicates that the subject parcel may contain hydrological features. Pursuant to Fish and Game Code sections 1600 et seq., section 1602(a) of the Fish and Game Code requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes features that are ephemeral or intermittent as well as those that are perennial. In addition, CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement.

CDFW recommends that staff within the Central Region Cannabis Permitting Program be contacted well in advance of construction so that impacts to streams and associated

resources may be analyzed and, if appropriate, avoidance and minimization measures may be proposed.

Cannabis Water Use: Water use estimates for cannabis plants are not well established in literature and estimates from published and unpublished sources range between 3.8-liters and 56.8-liters per plant per day. Based on research and observations made by CDFW in northern California, cannabis grow sites have significantly impacted streams through water diversions resulting in reduced flows and dewatered streams (Bauer, S. et al. 2015). Groundwater use for clandestine cannabis cultivation activities have resulted in lowering the groundwater water table and have impacted water supplies to streams in northern California. CDFW recommends that the CEQA document address the impacts to groundwater and surface water that may occur from Project activities.

Cannabis Lighting Use: Cannabis cultivation operations often use artificial lighting or “mixed-light” techniques in indoor operations to increase yields. If not disposed of properly, these lighting materials pose significant environmental risks because they contain mercury and other toxins (O’Hare et al. 2013). In addition to containing toxic substances, artificial lighting often results in light pollution, which has the potential to significantly and adversely affect fish and wildlife. Night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication (e.g., birdsong; Miller 2006), determining when to begin foraging (Stone et al. 2009), behavioral thermoregulation (Beiswenger 1977), and migration (Longcore and Rich 2004). Phototaxis is a phenomenon that results in attraction and movement toward light or away from light. Therefore, wildlife species exposed to artificial light may have a negative phototaxis response causing disorientation, entrapment, and temporary blindness (Longcore and Rich 2004).

CDFW recommends that light should not be visible outside of any structure used for cannabis cultivation. Use blackout curtains where artificial light is used to prevent light escapement. Eliminate all non-essential lighting from cannabis sites and avoid or limit the use of artificial light during the hours of dawn and dusk, as these windows of time are 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 upwards into the night sky (see the International Dark-Sky Association standards at <https://www.darksky.org>). Use LED lighting with a correlated color temperature of 3,000 Kelvins or less, properly dispose of hazardous waste, and recycle all lighting that contains toxic compounds with a qualified recycler.

Pesticides, Including Fungicides, Herbicides, 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

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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 many wildlife species by compromising their immune systems, causing hormone imbalances, affecting reproduction, and altering their growth rates (Pimentel 2005, Li and Kawada 2006, Relyea and Diecks 2008).

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). For details, visit: <https://www.cdpr.ca.gov/docs/cannabis/questions.htm>.

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 non-target wildlife. Sticky or glue traps should be avoided altogether; these pose a hazard to non-target wildlife and result in a prolonged/inhumane death. California Department of Pesticide Regulation (DPR) stipulates that pesticides must meet certain criteria to be legal for use on cannabis. For pest management practices visit: <https://www.cdpr.ca.gov/docs/county/cacltrs/penfltrs/penf2015/2015atch/attach1502.pdf>.

Impacts of Cannabis Cultivation on Fish and Wildlife Resources: For more information on potential impacts to fish and wildlife resources as a result of cannabis cultivation visit: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=160552&inline>.

Editorial Comments and Suggestions

Nesting birds

CDFW encourages that Project implementation occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February 1st through September 15th), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified biologist conduct pre-construction surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability

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that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommend halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

Biological Surveys: Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service, where necessary. For CDFW “Survey and Monitoring Protocols and Guidelines” visit <https://wildlife.ca.gov/Conservation/Survey-Protocols>. Note that CDFW generally considers biological field assessments for wildlife and plants to be valid for a **one-year** period, except when significant environmental changes occur, such as disturbance resulting from urbanization or wildfire. Surveys should be conducted during wildlife’s active season when the wildlife species is most likely to be detected and plant surveys conducted during the species blooming/flowering period. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.

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 CNNDDB. The CNNDDB field survey form

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can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. 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: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

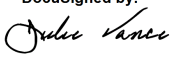
If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & Game Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the Project to assist the City of Livingston in identifying and mitigating the Project's impacts on biological resources.

Questions regarding this letter, or further coordination should be directed to Loreen Whitfield, Environmental Scientist, at the address provided on this letterhead or by email at Loreen.Whitfield@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance
Regional Manager

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Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
 RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
 (MMRP)**

**PROJECT: Greenzone Enterprises, LLC Mitigated Negative
 Declaration (MND) Greenzone Business Park
 (Project)**

SCH No.: 2023010565

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure: TRBL	
• TRBL Habitat Assessment	
• TRBL Surveys	
• TRBL Take Authorization	
Mitigation Measure: SWHA	
• SWHA Habitat Assessment	
• SWHA Surveys	
• SWHA Take Authorization	
Mitigation Measure: NCLL	
• NCLL Habitat Assessment	
• NCLL Surveys	
Mitigation Measure: WPT	
• WPT Habitat Assessment	
• WPT Surveys	
<i>During Construction</i>	
• Mitigation Measure: TRBL	
• TRBL Avoidance Buffer	
• Mitigation Measure: SWHA	
• SWHA Avoidance Buffer	
• Mitigation Measure: NCLL	
• NCLL Avoidance Buffer	
• Mitigation Measure: WPT	
• WPT Avoidance Buffer	