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May 12, 2023

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Subject: EC Grow, LLC, Minor Use Permit- ED23-044 N-CNBS2021-0002 (Project)
Mitigated Negative Declaration (MND)
State Clearinghouse No. 2023040369

Dear Eric Hughes:

The California Department of Fish and Wildlife (CDFW) received a MND from the County of San Luis Obispo Department of Planning and Building for the above-referenced 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, CDFW appreciates 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 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.

[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.

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.), related authorization as provided by the Fish and Game Code will be required.

Acting as a Responsible Agency, CDFW relies on the Lead Agency's environmental document to prepare and issue its own findings regarding the Project (CEQA Guidelines, §§ 15096 and 15381). If the CEQA document does not adequately address potential impacts, preparation of a supplemental CEQA document may be necessary for the issuance of a Lake or Streambed Alteration Agreement or an Incidental Take Permit. The Lead Agency's approval of the Project does not eliminate the Project proponent's obligation to comply with Fish and Game Code sections 1600 et seq. and 2080 et seq.

In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

Nesting Birds: 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).

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State for Federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T as specified in the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15380), CDFW recommends it be fully considered in the environmental analysis for this Project.

Lake and Streambed Alteration: CDFW has regulatory authority with regard to activities occurring in streams and 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, activities associated with the 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 these watercourses include the following: increased sediment input from road or structure runoff; toxic runoff associated with development activities and implementation; and/or impairment of wildlife movement along riparian corridors. The Regional Water Quality Control Board and United States Army Corps of Engineers also has jurisdiction regarding discharge and pollution to Waters of the State.

PROJECT DESCRIPTION SUMMARY

Proponent: EC Grow, LLC.

Objective: The Project proponent is seeking a Minor Use Permit, for the cultivation of cannabis in south-eastern San Luis Obispo County. The proposed Project includes the development of 8.9 acres for use in the cultivation, manufacturing, and distribution of cannabis and will include approximately three acres of outdoor cultivation space, 22,000-square feet of indoor cannabis cultivation space, and approximately 40,704-square feet of indoor processing, storage, and office space. Project site development will also include construction and improvements to ancillary features including road improvements, waste disposal and water storage facilities, and fence installation.

Location: The Project will occur within a 123.67-acre parcel located approximately 11.5 miles east of the City of New Cuyama, south of and adjacent to California State Route 166, at 2675 Cuyama Highway, New Cuyama, California, 93461, San Luis Obispo County.

Timeframe: Unspecified.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the County of San Luis Obispo Department of Planning and Building in adequately identifying and 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.

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 the State and Federally endangered and State fully protected blunt-nosed leopard lizard (*Gambelia sila*); the State threatened San Joaquin antelope squirrel (*Ammospermophilus nelsoni*); the State Threatened and Federally Endangered San Joaquin kit fox (*Vulpes macrotis* mutica); the State Species of Special Concern the western spadefoot (*Spea hammondii*), and the State candidate for listing Crotch bumble bee (*Bombus crotchii*); as well as California Rare Plant Rank 1B.1 California jewelflower (*Caulanthus californicus*); and California Rare Plant Rank 1B.2: Lemmon's jewelflower (*Caulanthus lemmonii*), and Kern mallow (*Eremalche parryi*); California Rare Plant Rank 4.2 San Joaquin bluecurls (*Trichostema ovatum*); California Rare Plant Rank 4.3 Howell's onion (*Allium howellii car. Howellii*), and San Benito poppy (*Eschscholzia hypecoides*). (CNDDB 2023).

Blunt Nosed Leopard Lizard

Blunt Nosed leopard lizard (BNLL) have been documented to occur in the vicinity of Project site (CDFW 2023(c)). Suitable BNLL habitat includes areas of grassland and upland scrub that contain requisite habitat elements, such as small mammal burrows. BNLL also use open space patches between suitable habitats, including disturbed sites, unpaved access roadways, and canals. As noted in the draft Mitigated Negative Declaration/Initial Study for the Project, the Project Area contains annual grasslands including wild oats and brome grasslands, as well as scrubland habitats composed of California joint fir and allscale scrub. Based CDFW's familiarity with BNLL in the Project site vicinity, there is a high likelihood of BNLL presence within the Project site.

Without appropriate avoidance and minimization measures for BNLL, potentially significant impacts associated with ground-disturbing activities include habitat loss, burrow collapse, reduced reproductive success, reduced health and vigor of eggs and/or young, and direct mortality.

Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to BNLL (ESRP 2020a). The Project and surrounding area contain undeveloped land; therefore, subsequent ground disturbing activities and conversion of suitable habitat associated with the Project may have the potential to significantly impact local BNLL populations.

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

- CDFW recommends conducting surveys in accordance with the "Approved Survey Methodology for the Blunt-nosed Leopard Lizard" (CDFW 2019(b)). This

survey protocol, designed to optimize BNLL detectability, reasonably assures CDFW that ground disturbance will not result in take of this fully protected species. CDFW advises that BNLL surveys be completed no more than one year prior to initiation of ground and/or vegetation disturbance. Please note that protocol-level surveys must be conducted on multiple dates during late spring, summer, and fall of the same calendar year, and that within these time periods, there are specific protocol-level date, temperature, and time parameters that must be adhered to. As a result, protocol-level surveys for BNLL are not synonymous with 30-day "preconstruction surveys" often recommended for other wildlife species. In addition, the BNLL protocol specifies different survey effort requirements based on whether the disturbance results from maintenance activities or if the disturbance results in habitat removal (CDFW 2019).

- BNLL detection during protocol-level surveys warrants consultation with CDFW to discuss how to implement ground-disturbing activities and avoid take, which may not be possible for a project this size if BNLL are present; this scenario would affect the viability of the Project in its entirety. To avoid "take," construction and operations activities would have to avoid all observed lizards by a distance of no less than the distance that BNLL are known or expected to travel within their home range, based on telemetry, mark-recapture, or other data. Because BNLL is a State Fully Protected species, no take incidental or otherwise, can be authorized by CDFW.

- Avoidance of BNLL is difficult, if not infeasible, when the Project site is known to be occupied by the species, the Project site is comprised entirely of suitable habitat, and the actual distribution of the species across the Project site has not yet been determined. When specific avoidance measures are ultimately proposed in response to survey detections of BNLL, the following should be considered:

    - BNLL are not in the center of their home range when detected on the surface, and they may in fact be on the perimeter of their home range where detected.

    - BNLL surveys detect only some of the lizards at a given location.

    - The location where a BNLL is detected on the surface is not where it will be when construction commences, and the location of that lizard underground will be unknown when construction commences.

    - Surveys detect only some of the lizards; some BNLL will be underground during surveys and some or all will be underground during construction.

- We now know that many BNLL have much larger home ranges than previously thought.

San Joaquin Antelope Squirrel

San Joaquin antelope squirrel (SJAS) have been documented to occur near the Project Area (CDFW 2023). Suitable SJAS habitat includes areas of grassland, upland scrub, and alkali sink habitats that contain requisite habitat elements, such as small mammal burrows. As noted in the draft Mitigated Negative Declaration/Initial Study for the Project, the Project Area contains annual grasslands including wild oats and brome grasslands, as well as scrubland habitats composed of California joint fir and allscale scrub. The Project site and surrounding areas contain undeveloped land; therefore, subsequent ground disturbing activities and habitat conversion associated with the Project may have the potential to significantly impact local SJAS populations.

Without appropriate avoidance and minimization measures for SJAS, potentially significant impacts including loss of habitat, burrow collapse, inadvertent entrapment of individuals, reduced reproductive success such as reduced health or vigor of young, and direct mortality of individuals may occur as a result of Project activities.

Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to SJAS. Further, habitat fragmentation may accelerate the decline of the species. Very little suitable habitat for this species remains outside of the western Kern County and eastern San Luis Obispo County area (ESRP 2020e, USFWS 1998). The Project site and surrounding area contain undeveloped land; therefore, subsequent ground disturbing activities and habitat conversion associated with the Project may have the potential to significantly impact local SJAS. populations.

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

- Prior to initiating ground and/or vegetation disturbing activities, CDFW recommends that a qualified biologist conduct focused daytime visual surveys for SJAS using line transects with 10- to 30-meter spacing. CDFW further advises that these surveys be conducted between April 1 and September 20, during daytime temperatures between 68° and 86° F, to maximize detectability (CDFG 1990). All survey results should be sent to CDFW after completion.

- If potential habitat is present and surveys are not feasible, CDFW advises maintenance of a 50-foot minimum no disturbance buffer around all small mammal burrow entrances until the completion of Project activities. CDFW

recommends that in addition to the buffer distances, that no burrow is surrounded more than 180 degrees by development activities.

- SJAS detection warrants consultation with CDFW to discuss how to avoid take or, if avoidance is not feasible, to acquire a State ITP prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081 subdivision (b).

San Joaquin Kit Fox

San Joaquin Kit fox (SJKF) have been documented to occur within 0.75 mile of the Project Area (CDFW 2023). As noted in the draft Mitigated Negative Declaration/Initial Study for the Project, the Project Area contains annual grasslands including wild oats and brome grasslands, as well as scrubland habitats composed of California joint fir and allscale scrub which could serve as habitat to SJKF. SJKF den in right-of-ways, vacant lots, etc., and populations can fluctuate over time. Presence/absence in any one year is not necessarily a reliable indicator of SJKF potential to occur on a site. SJKF may be attracted to project areas due to the type and level of ground-disturbing activities and the loose, friable soils resulting from intensive ground disturbance. As a result, there is potential for SJKF to occupy or colonize the Project Area. Without appropriate avoidance and minimization measures for SJKF, potential significant impacts associated with the Project's construction could include den collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals.

Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to SJKF (Cypher et al. 2013). The Project site grassland and scrubland habitat that may be potentially suitable for SJKF; therefore, subsequent ground-disturbing activities have the potential to significantly impact local SJKF populations.

To evaluate potential impacts to SJKF, 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 in advance of Project implementation, to determine if the Project area or its immediate vicinity contains suitable habitat for SJKF.

- CDFW recommends that a qualified biologist assess presence/absence of SJKF and/or their dens by conducting surveys within 200 feet of the Project area, following the USFWS "*Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance"* (USFWS 2011). Pre-construction surveys are also recommended, and CDFW advises conducting these surveys in all areas of potentially suitable habitat no less than 14 days and no more than 30 days prior to beginning of ground-disturbing activities.

- SJKF detection warrants consultation with CDFW to discuss how to avoid take, or if avoidance is not feasible, to acquire an ITP prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081(b).

Western spadefoot

Western spadefoot inhabit grassland habitats, breed in seasonal wetlands, and seek refuge in upland habitat where they occupy burrows outside of the breeding season (Thomson et al. 2016). The Project Area is comprised of grassland habitat and hydrological features that likely support the habitat elements mentioned above; therefore, the subject parcel is suitable for occupation or colonization by the species.

Habitat loss and fragmentation resulting from agricultural and urban development is the primary threat to western spadefoot (Thomson et al. 2016). The Project area is within the range of western spadefoot and contains suitable wetland, grassland, and upland habitat. As a result, ground-disturbing activities associated with development of the Project site have the potential to significantly impact local populations of this species.

To evaluate potential impacts to western spadefoot, CDFW recommends conducting the following evaluation of the Project site and incorporating the following mitigation measures:

- CDFW recommends that a qualified biologist conduct focused surveys for western spadefoot and their requisite habitat features to evaluate potential impacts resulting from ground and vegetation disturbance.

- Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no disturbance buffer around burrows. If western spadefoot are observed on the Project site, CDFW recommends that Project activities in their immediate vicinity cease and individuals be allowed to leave the Project site on their own accord. Alternatively, a qualified biologist with appropriate take authorization can move them out of harm's way and to a suitable location.

Crotch's Bumble Bee

The Project Area is within the known geographic range of Crotch's bumble bee (CBB). Suitable CBB habitat includes areas of grasslands and upland scrub that contain requisite habitat elements, such as small mammal burrows. CBB primarily nest in late February through late October underground in abandoned small mammal burrows but may also nest under perennial bunch grasses or thatched annual grasses, underbrush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2015). Overwintering sites utilized by CBB mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014). The Project area is bordered by grassland habitat that has the potential to support CBB; therefore,

ground disturbance and vegetation removal association with Project activities has the potential to impact CBB populations. Without appropriate avoidance and minimization measures for CBB, potential significant impacts associated with the Project's construction could include burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduced health and vigor of eggs and young, and direct mortality of individuals.

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

- CDFW recommends that a qualified biologist conduct focused surveys for CBB, and their requisite habitat features prior to Project implementation to evaluate impacts resulting from potential ground- and vegetation-disturbing activities.

- CDFW recommends that all suitable burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid potentially significant impacts. If ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is recommended to discuss how to implement Project activities and avoid impacts to the CBB. Any detection of CBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid impacts to CBB.

Special Status Plants

Several special status plants (SSP) meeting the definition of rare or endangered under CEQA section 15380 are known to occur in the vicinity of the subject parcel including the following California Rare Plant Rank 1B.1 California jewelflower (*Caulanthus californicus*); and California Rare Plant Rank 1B.2: Lemmon's jewelflower (*Caulanthus lemmonii*), and Kerm mallow (*Eremalche parryi*); California Rare Plant Rank 4.2 San Joaquin bluecurls (*Trichostema ovatum*); and California Rare Plant Rank 4.3 Howell's onion (*Allium howellii car. Howellii*), and San Benito poppy (*Eschscholzia hypecoides*). (CNDDB 2023).

Without appropriate avoidance and minimization measures for special status plants, potential significant impacts associated with the Project's construction could include inability to reproduce, direct mortality, and habitat modification.

The Project area contains annual grasslands, as well as scrubland habitats which may provide suitable habitat for special status plant species. As a result, ground-disturbing activities have the potential to significantly impact special status plant species.

To evaluate potential impacts to special status plant species, CDFW recommends conducting the following evaluation of the subject parcel and its vicinity and implementing the following mitigation measures.

- CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation to determine if special status plant species or their habitats are present on or in the vicinity of the Project and propose appropriate mitigation measures to avoid impacts to those resources.

- If suitable habitat is present, CDFW recommends that the Project site be surveyed for special status plants by a qualified botanist following the "*Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities*" (CDFW, 2018(d)). This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period.

- CDFW recommends special status plant species be avoided whenever possible by delineation and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special status plant species. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special status plant species.

- If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special status plant species.

Please note that if suitable habitat is present and species surveys are warranted, some protocols require specific seasons and/or an extended period of time (e.g., CBB, BUOW). Frequently recommended survey and monitoring protocols can be found at https://wildlife.ca.gov/Conservation/Survey-Protocols. CDFW is also available for consultation about survey methods and mitigation measures prior to completion of the EIR.

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 through mid-September), 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-activity surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability 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 recommends 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.

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 County of San Luis Obispo 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 subdivision (b)(3) includes a requirement that California Department of Food and Agriculture 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.

A Review of aerial imagery and United States Geological Survey 3D Elevation Program indicates that there are multiple hydrological features located in close proximity to the Project Area including two unnamed ephemeral streams located along the northeastern and western boundary of the Project Area, and two swales, which extend east toward the Project Area. 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. 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 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 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, a phenomenon that results in attraction and movement toward light or away from light; therefore, wildlife species exposed artificial light may have a negative phototaxis response causing disorientation, entrapment, and temporarily 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. ensuring 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 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 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 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.

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 CNDDB. The CNDDB field survey form can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data. The completed form can be mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/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 & G. Code, § 711.4; Pub. Resources Code, § 21089).

CDFW appreciates the opportunity to comment on the Project to assist the County of San Luis Obispo's Department of Planning and Building in identifying and mitigating the Project's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (https://www.wildlife.ca.gov/Conservation/Survey-Protocols). If you have any questions, please contact Bonna Newell, Senior Environmental Scientist (Specialist), at the address provided on this letterhead or by electronic mail at Bonna.Newell@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Julie Vance
FA83F09FE08945A...

Julie A. Vance
Regional Manager

Attachments

REFERENCES

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Attachment 1

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Project: EC Grow, LLC; Minor Use Permit: ED23-044 N-CNBS2021- 0002

SCH No.: 2023040369

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
Before Disturbing Soil or Vegetation	
Mitigation Measure: BNLL	
• BNLL Protocol Surveys	
• BNLL Avoidance	
Mitigation Measure: SJAS	
• SJAS Habitat Assessment	
• SJAS Protocol Surveys	
• SAJS Take Authorization	
Mitigation Measure: SJKF	
• SJKF Habitat Assessment	
• SJKF Surveys	
• SJKF Take Authorization	
Mitigation Measure: Western spadefoot	
• Western Spadefoot Surveys	
Mitigation Measure: CBB	
• CBB Surveys	
• CBB Take Authorization	
Mitigation Measure: SSP	
• SSP Habitat Assessment	
During Construction	
Mitigation Measure: BNLL	
• BNLL Avoidance Buffer	
Mitigation Measure: SJAS	
• SJAS Avoidance Buffer	
Mitigation Measure: Western spadefoot	
• Western spadefoot Avoidance Buffer	
Mitigation Measure: CBB	
• Avoidance Buffer	
Mitigation Measure: SSP	
• Avoidance Buffer	