



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Inland Deserts Region  
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[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

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



December 10, 2024  
*Sent via email*

James Hirsch, Senior Contract Planner  
City of Adelanto  
11600 Air Expressway  
Adelanto, CA 92301  
[JHirsch@ci.adelanto.ca.us](mailto:JHirsch@ci.adelanto.ca.us)

Dear James Hirsch:

Rancho 30 Cultivation Facility  
MITIGATED NEGATIVE DECLARATION (MND)  
SCH# 2024010988

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from City of Adelanto for the Rancho 30 Cultivation Facility (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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 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

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<sup>1</sup> 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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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**

**Proponent:** Jim Tracy, Rancho 30, LLC

**Objective:** The proposed Project involves the construction of a total of 16 buildings that would be used for indoor cannabis cultivation, distribution, and manufacturing. The Project would involve the following 4 phases of construction:

- Phase 1- Construction of three new buildings totaling 86,597 square feet within the 9.48-acre parcel. Two of the buildings would be a single level consisting of 34,425 square feet. The third building would be a two-level building consisting of 17,747 square feet. Access to the proposed development would be provided by three new driveway connections. A total of 112 parking spaces would be provided. Landscaping would cover 48,381 square feet, including a bioswale to be located on the northeast corner of the Project site.
- Phase 2- Construction of five new buildings totaling 138,110 square feet within the 10.28-acre parcel. Three buildings would be single level structures, each consisting of 34,425 square feet of floor area. The other two buildings would consist of 10,160 and 24,675 square feet of floor space. Additionally, a 33,207 square foot retention basin would be constructed in the northeast corner. Construction of Phase 2 is scheduled to commence in the 2nd quarter of 2027.
- Phase 3- Construction of four new buildings totaling 123,675 square feet within the 11.09-acre parcel. Three buildings would be single level structures, each consisting of 34,425 square feet of floor area. The fourth building would also be a single-level structure, consisting of 20,400 square feet of floor space. Construction of Phase 3 is scheduled to commence in the 1st quarter of 2029.
- Phase 4- Construction of four new buildings totaling 131,325 square feet of floor area within the 11.09-acre parcel. Three buildings would be single level structures, each consisting of 34,425 square feet of floor area, designated for cultivation. The fourth building would be a single-level processing building consisting of 28,050 square feet of floor space. Construction of Phase 4 is scheduled to commence in the 1st quarter of 2031.

**Location:** The Project site is in the City of Adelanto, San Bernardino County, California at Latitude, 34.55665 N and Longitude -117.44648 W. The Project encompasses three vacant parcels situated to the south of Rancho Road and to the west of Raccoon Avenue, with Assessor Parcel Numbers (APNs) 3128-011-02, 3128-011-03 and 3128-011-04, totaling approximately 30.85 acres. The Project site is surrounded by vacant and undeveloped land to the south.

**Timeframe:** The Project is scheduled to start construction in the fourth quarter of 2025 and continue through 2031.

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## COMMENTS AND RECOMMENDATIONS

CDFW previously reviewed the MND and provide comments on February 26, 2024. CDFW wants to thank the City of Adelanto for adopting the Biological Resources Mitigation Measures that were recommended for the Project and for including them in the latest MND draft. CDFW offers an updated measure for burrowing owl to assist the City of Adelanto in 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. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends in Attachment A, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

### I. Mitigation Measure or Alternative and Related Impact Shortcoming

#### **Comment #1: Burrowing Owl (*Athene cunicularia hypugaea*) and Mitigation Measure BIO-4**

##### **MND page 53.**

**Issue:** On October 25th, 2024, western burrowing owl became a candidate for CESA-listed species. At the time the MND was circulated for public review, the Fish and Game Commission's vote on the petition had not yet occurred. In previous comments for this Project, CDFW recommended revisions to MM BIO-4; however, this measure is no longer adequate to avoid or minimize impacts on burrowing owls.

**Specific impact:** Although no sign of burrowing owl was detected within the Project site or within the 500-foot buffer, the Project contains suitable habitat. The MND acknowledges the potential for burrowing owl, to occur given their historical occurrence within the general area.

**Specific impact:** CDFW is concerned that Mitigation Measure BIO-4, as currently written, is not sufficient to prevent impacts to burrowing owl. BIO-4 includes passive relocation, but this method poses a high risk of take from exposure, predation, and heat stress. CDFW strongly recommends passive relocation only be performed under the take authorization of a CESA incidental take permit (ITP) because of these risks.

**Why impact would occur:** Burrowing owls are well-adapted to open, relatively flat expanses and vacant lots and prefer habitats with generally short sparse vegetation with few shrubs such as those occurring on the Project site. Burrowing owls are dependent on burrows at all times of the year for survival and/or reproduction, evicting them from nesting, roosting, and satellite burrows may lead to indirect impacts or take. Loss of access to burrows will likely result in varying levels of increased stress on burrowing owls and could depress reproduction, increase predation, increase energetic costs, and introduce risks posed by having to find and compete for available burrows (CDFG, 2012). Burrowing owls are also dependent on adjacent habitat, and forage within 600 meters of nest burrows (Rosenberg and Haley, 2004).

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**Evidence impacts would be significant:** Habitat loss is a threat to burrowing owls (CDFG, 2012). As a candidate species, western burrowing owl is granted full protection of a threatened species under CESA. Take is defined in Fish and Game Code section 86 as "hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill." CESA allows CDFW to authorize project proponents to take state-listed threatened, endangered, or candidate species if certain conditions are met. Take must be incidental to an otherwise lawful activity. The issuance of a permit cannot jeopardize the continued existence of the species, and the impacts must be minimized and fully mitigated.

**Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant:** CDFW recommends the following revisions to MM BIO-4 (edits are in strikethrough and **bold**) and recommends the MND reflect the current protection status of western burrowing owl :

#### ***Biological Resources Mitigation Measure 4 (MM BIO-4)***

Prior to the initiation of construction activities ((i.e., grubbing, clearing, staging, digging), a "take avoidance survey" should be conducted by a qualified Biologist for the project site and surrounding 500 ft radius utilizing the methodology provided in CDFW's 2012 Staff Report on Burrowing Owl Mitigation. This survey should be conducted no more than 14 days prior to initiation of ground disturbance activities. If construction is delayed or suspended for more than 30 days after the survey, the area shall be resurveyed. Should no Burrowing Owls be detected during the initial "take avoidance survey", the survey should be repeated within 24 hours prior to ground disturbance to determine if the Project site contains burrowing owl or sign thereof to avoid any potential impacts to the species. The surveys shall include 100 percent coverage of the Project site. If both surveys reveal no burrowing owls, **active burrowing owl burrows or perch sites** ~~are present or~~ **with active sign (molted feathers, cast pellets, prey remains, eggshell fragments, decoration, or excrement)** thereof, no additional actions related to this measure are required and a ~~letter~~ **report** shall be prepared by the qualified biologist documenting the results of the survey **including all requirements for survey reports (page 30 of the 2012 Staff Report)**. The ~~letter~~ **report** shall be submitted to CDFW **for review** prior to construction.

If **burrowing owl**, active burrows or signs thereof are found **the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be review and approved by CDFW for review and approval at least 30 days prior to initiation of ground disturbing activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. Project activities shall not occur within 1000 feet of an active burrow until CDFW approves the Burrowing Owl Plan.** ~~within the development footprint during the preconstruction clearance surveys, site-specific non-disturbance buffer zones shall be established by the qualified biologist that shall be no less than 300 feet. If determined appropriate, a smaller~~

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~~buffer may be established by the qualified biologist following monitoring and assessments of the Project's effects on the burrowing owls. All occupied burrows shall be mapped in an aerial photo. At least 7 days prior to the expected start of any Project-related ground disturbance activities, or restart of activities, the City of Adelanto shall provide a burrowing owl survey report and mapping to CDFW. If it is not possible to avoid active burrows, passive relocation shall be implemented if a qualified biologist has determined there are no nesting owls and/or juvenile owls are no longer dependent on the burrows. A qualified biologist, in coordination with the applicant and the City, shall prepare and submit a passive relocation program in accordance with Appendix E (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012) for CDFW review/approval prior to the commencement of disturbance activities onsite and proposed mitigation for permanent loss of occupied burrow(s) and habitat consistent with the 2012 Staff Report on Burrowing Owl Mitigation. When a qualified biologist determines that burrowing owls are no longer occupying the Project Site and passive relocation is complete, construction activities may begin. A final letter report shall be prepared by the qualified biologist documenting the results of the passive relocation. The letter shall be submitted to CDFW. If the Project cannot ensure burrowing owls and their burrows are fully avoided, consultation with CDFW is warranted to discuss how to implement the Project and avoid take; or if avoidance is not feasible, to potentially acquire an ITP prior to any ground disturbing activities, pursuant Fish and Game Code section 2081 subdivision (b). Full mitigation often involves the permanent conservation of quality habitat benefiting the species through a conservation easement, along with habitat enhancement and ongoing management funded appropriately. Passive relocation, performed according to the Staff Report on Burrowing Owl Mitigation (CDGW, 2012) may be authorized through the incidental take permit as a minimization measure.~~

## II. Editorial Comments and/or Suggestions

Biological Resources Mitigation Measure No. 1 on page 52 of the MND includes the reduced mitigation fees. CDFW would like to point out that these fees reflect the 2024 schedule. Mitigation fees are updated annually with an expected increase of 5% for 2025. For the current fees, please visit [Western Joshua Tree Conservation Act Incidental Take Permit](#). Additionally, [WJTCA ITP Relocation Guidelines and Protocol](#) (Guidelines) were released in July 2024 after CDFW provided previous comments regarding impacts to western Joshua tree(WJT). Please note that CDFW may require relocation of WJT based on your final census.

## ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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 filled out and submitted online at the following link:

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

## ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing 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 appreciates the opportunity to comment on the MND to assist the City of Adelanto in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Lydia Rodriguez, Senior Environmental Scientist Specialist at [lydia.rodriguez@wildlife.ca.gov](mailto:lydia.rodriguez@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
84FBB8273E4C480...

Alisa Ellsworth  
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento  
[State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)

## ATTACHMENTS

Attachment A: MMRP for CDFW-Proposed Mitigation Measures

## REFERENCES

California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: [Microsoft Word - BUOW Staff Report final\\_030712 REV 1.doc](#)

Rosenberg, D. K., and K. L. Haley. 2004. The ecology of burrowing owls in the agroecosystem of the Imperial Valley, California. *Studies in Avian Biology* 27:120-135.

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## Attachment A Draft Mitigation Monitoring and Reporting Program and Draft Recommendations

### Draft Mitigation Monitoring and Reporting Program (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Biological Resources (BIO)		
Mitigation Measure (MM) Description	Implementation Schedule	Responsible Party
<p>MM BIO-4:</p> <p>Prior to the initiation of construction activities ((i.e., grubbing, clearing, staging, digging), a "take avoidance survey" should be conducted by a qualified Biologist for the project site and surrounding 500 ft radius utilizing the methodology provided in CDFW's 2012 Staff Report on Burrowing Owl Mitigation. This survey should be conducted no more than 14 days prior to initiation of ground disturbance activities. If construction is delayed or suspended for more than 30 days after the survey, the area shall be resurveyed. Should no Burrowing Owls be detected during the initial "take avoidance survey", the survey should be repeated within 24 hours prior to ground disturbance to determine if the Project site contains burrowing owl or sign thereof to avoid any potential impacts to the species. The surveys shall include 100 percent coverage of the Project site. If both surveys reveal no burrowing owls, active burrowing owl burrows or perch sites with active sign (molted feathers, cast pellets, prey remains, eggshell fragments, decoration, or excrement) thereof, no additional actions related to this measure are required and a report shall be prepared by the qualified biologist documenting the results of the survey including all requirement for survey reports (page 30 of the 2012 Staff Report). The report shall be submitted to CDFW for review prior to construction.</p> <p>If burrowing owl, active burrows or signs thereof are found the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be review and approved by CDFW for</p>	<p>Prior to commencing ground or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p>review and approval at least 30 days prior to initiation of ground disturbing activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. Project activities shall not occur within 1000 feet of an active burrow until CDFW approves the Burrowing Owl Plan. If the Project cannot ensure burrowing owls and their burrows are fully avoided, consultation with CDFW is warranted to discuss how to implement the Project and avoid take; or if avoidance is not feasible, to potentially acquire an ITP prior to any ground disturbing activities, pursuant Fish and Game Code section 2081 subdivision (b). Full mitigation often involves the permanent conservation of quality habitat benefiting the species through a conservation easement, along with habitat enhancement and ongoing management funded appropriately. Passive relocation, performed according to the Staff Report on Burrowing Owl Mitigation (CDGW, 2012) may be authorized through the incidental take permit as a minimization measure.</p>		
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