



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Inland Deserts Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 19, 2024
Sent via email

Cynthia M Draper, Associate Planner
 Inyo County Planning Department
 168 N. Edwards Street
 Independence, CA 93526
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Dear Cynthia M Draper:

Conditional Use Permit 2023-02/ Leon 7 Farms
 MITIGATED NEGATIVE DECLARATION (MND)
 SCH# 2024101391

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from Inyo County (County) for the Conditional Use Permit 2023-02/ Leon 7 Farms (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

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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PROJECT DESCRIPTION SUMMARY

Proponent: Leon 7 Farms LLC, Jaime Varela

Objective: A complete project description is not provided in the MND. The Project proponent is requesting a conditional use permit to establish a cannabis cultivation operation, which involves the construction of two greenhouses and five shipping containers, totaling 6,800 square feet. According to the Biological Resources Report (accessed through the Inyo County website, [Current Projects | Inyo County California](#)), the infrastructure will also include two water tanks for potable and non-potable water, a driveway, a parking area, solar lighting and a gated fence surrounding the perimeter of the Project site.

Location: The Project site is located at 631 Ruby Ln, in the unincorporated community of Charleston View, Inyo County, California at Latitude 35.975047 N and Longitude - 115.924610 W. It is situated on Assessor's Parcel Number (APN) 048-364-07-00, on a 2.5-acre parcel of undeveloped land. The Project site is located within the Stump Springs-Calvada Springs watershed, in an alluvial basin which drains towards a dry lakebed in the lower Pahrump Valley. The Project location is approximately 20 miles East of Tecopa and 45 miles West of Las Vegas, NV. The Project site is bordered by undeveloped land to the north, south and west, with a developed parcel to the east.

Timeframe: The MND does not provide timeframe for construction.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Inyo County 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 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. Project Description and Related Impact Shortcoming

Comment #1: Incomplete Description of Project Activities

IS/MND page 1, 4

Issue: CDFW is concerned with the lack of detail in the Project descriptions provided in the Draft MND. The MND does not adequately describe the cultivation operation, facilities or Project components, making it unclear whether the impacts on biological resources are less than significant.

Specific impact: The cultivation buildings are not described in detail in the MND. To be considered indoor cultivation, a structure should have a permanent roof and walls, as well as an impermeable floor. Cultivation structures that allow light to pass through them will have different impacts on biological resources than completely enclosed structures (e.g., artificial light will have greater impacts if structures are not completely enclosed; see the "Artificial Lighting" comment below). Building specifications and maps have not been provided. In addition, the MND does not provide a detailed description of the solar lighting component of the Project, fencing or a timeline for construction and implementation of the Project.

Evidence impact would be significant: Compliance with CEQA is predicated on a complete and accurate description of the Project. Without a complete and accurate Project description, the MND likely provides an incomplete assessment of Project-related environmental impacts and CDFW is unable to provide a meaningful analysis of potential Project impacts to biological resources.

CDFW Recommendations: CDFW recommends that a revised MND provide a detailed and accurate description of the cultivation facilities. The revised MND should also provide additional details on all Project components, maps and timeframes for construction. If the

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start date for Project activities is delayed, the biological assessment and surveys could be outdated, and site conditions may have changed when the Project begins. CDFW generally considers field assessments for wildlife valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. To evaluate the project impacts on biological resources, CDFW requests that the Draft IS/MND is revised to include a detailed project description addressing the above comments including a detailed site map and a project timeline.

II. Environmental Setting and Related Impact Shortcoming

Comment #2: Burrowing Owl (*Athene cunicularia hypugaea*) and Mitigation Measure BIO-2

Biological Resources Report page 50.

Issue: The Project may impact western burrowing owl, a candidate species under California Endangered Species Act (CESA). The Biological Resource Report acknowledges the potential for burrowing owl to occur given the suitable foraging and nesting habitat onsite.

Specific impact: The MND does not provide any avoidance/minimization or mitigation measures specific to burrowing owl, instead it outlines the implementation of pre-construction surveys for special status species including burrowing owl, as proposed in Mitigation Measure BIO-2. The Biological Report states that rodent burrows were observed onsite but entrances were too small for use of burrowing owls, additionally burrowing owls or its sign were not observed on site. CDFW would like to note that a meandering transect survey was performed on May 1 from 5:30-6:30pm, followed by plant surveys on May 2, 2024. The Biological Report does not indicate if surveys were conducted on the adjacent properties as no buffer distances were documented. Focused surveys for the species following a CDFW approved guideline, or similar approach, was not conducted. According to the Biological Report, "Charleston View contains important burrowing owl habitat. Nevada joint-fir-Anderson's boxthorn scrubland provides foraging and nesting habitat onsite" and rodent burrows were observed onsite (a requisite habitat feature for burrowing owl). Additionally, white-tailed antelope ground squirrels (*Ammospermophilus leucurus*) were observed on site. Burrowing owls may use white-tailed antelope ground squirrel burrows throughout the Project site as overwintering, breeding, and nesting habitat. Burrowing owl survey guidelines recommend multiple surveys to be conducted during the breeding and nonbreeding seasons to determine if, when, and how the site is used by burrowing owls as recommended on the *Staff Report on Burrowing owl Mitigation* (CDFG, 2012). CDFW advises that surveys include a minimum 500-foot buffer around the Project area. Project implementation, including grading, vegetation clearing and construction, may result in direct mortality, population declines, or local extirpation of burrowing owl not previously identified. The California Natural Diversity Database (CNDDDB) dataset, [Burrowing Owl Predicted Habitat](#) (CDFW 2024) display a high potential for burrowing owl presence within the Project area and adjacent to the Project site.

Why impact would occur: According to the Biological Report, focused burrowing owl surveys were not conducted on the Project site. Burrowing owls are well-adapted to open, relatively flat expanses and undeveloped land and prefer habitats with generally short sparse vegetation such as those occurring on the Project site. If burrowing owl burrows are not properly detected, prior to ground disturbance, site preparation, and grading could destroy habitat and result in take of burrowing owl. CDFW concurs that a preconstruction burrowing owl survey should be conducted as proposed in BIO-2; however, CDFW is concerned with the adequacy of BIO-2 as currently written. Inadequate avoidance and mitigation measures will result in the Project continuing to have an adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species.

Evidence impacts would be significant: Habitat loss is a threat to burrowing owls (CDFG, 2012). 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

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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). 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: The general transect survey that was conducted for the Project is not sufficient to provide a complete analysis of potential impacts to burrowing owl. CDFW recommends that prior to commencing Project activities, focused and pre-construction surveys for burrowing owl be conducted by a qualified biologist in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012 or most recent version). CDFW recommends the revised MND include specific avoidance and minimization measures to ensure that impacts to burrowing owls are reduced to less than significant. To support the County in reducing impacts to burrowing owl to a level less than significant, CDFW recommends the following species-specific mitigation measures (edits are in strikethrough and **bold**) to a revised MND:

Biological Resources Mitigation Measure 2 (MM BIO-2)

Prior to any ground disturbance, a survey for potential burrows followed by four breeding season surveys of areas found to have potential for burrowing owl occupation must be conducted in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version). Specifically, these reports suggest at least one site visit between February 15 and April 15 and a minimum of three surveys, at least three weeks apart, between the peak breeding season April 15 and July 15, with at least one visit after June 15. The surveys shall include 100 percent coverage of the Project site and include a minimum 500-foot buffer in adjacent habitat. A report summarizing the survey including all requirements for survey reports (page 30 of the 2012 Staff Report) shall be submitted to CDFW for review.

If no burrowing owl, active burrowing owl burrows, or sign (molted feathers, cast pellets, prey remains, eggshell fragments, decoration, or excrement) thereof are found, no further action is necessary.

If burrowing owl, active burrowing owl burrows, or sign 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. 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.

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Prior to Project-related activities, a qualified biologist(s) shall perform a take avoidance pre-construction survey for burrowing owl occupation in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG, 2012 or most recent version). The survey shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG, 2012 or most recent version). If the pre-construction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall notify CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval. If avoidance is not feasible, the Project Proponent shall consult with CDFW on next steps, including obtaining an Incidental Take Permit (ITP) for burrowing owl prior to the start of Project activities.

~~A qualified biologist shall survey the site for special status species, and any habitat, dens, burrows, nests, etc. capable of supporting special status species 24 hours prior to initiating ground-disturbing activities. The qualified biologist shall ensure that the methods used to locate, identify, map, avoid, and buffer individuals, or habitat, are appropriate and effective. These methods include attaining 100% visual coverage of the potential impact areas, all areas not previously surveyed, and an appropriate buffer surrounding those areas. If a special status species is identified during the pre-activity survey, appropriate avoidance and minimization measures shall be developed and employed if needed. If the species is federally or state listed and cannot be avoided, there will be coordination with the appropriate resource agency, either USFWS, CDFW, or both~~

Comment #3: Impacts to Special-Status Plants

Biological Resources Report 22-30

Issue: CDFW appreciates that a protocol-level botanical survey was conducted within the recommended flowering or fruiting times for multiple species in accordance with *CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (CDFW 2018). The Biological Resources Report prepared by GEODE Environmental states that the dominant shrub species on the Project site include Anderson's boxthorn (*Lycium andersonii*), Cooper's boxthorn (*Lycium cooperi*) and Nevada joint fir (*Ephedra nevadensis*). During the plant surveys a total of 36 vascular plants were identified in the Project site including Torrey's Ephedra (*Ephedra torreyana*; California Rare Plant Rank of 2B.1). The Biological Report indicates, that, based on the location of Torrey's Ephedra individuals identified onsite, at least four of these individuals would be removed and replanted onsite. Additionally, it states that the implementation of mitigation measure BIO-3 will minimize or mitigate impacts to this species. CDFW is concerned with the adequacy of mitigation BIO-3, as currently written, since it does not provide compensatory mitigation. Impacts to rare plants such as removal of habitat or loss of population would be considered significant under CEQA.

Specific impact: Project implementation, including grading, vegetation clearing and construction, will result in direct mortality, population declines, or local extirpation of sensitive plant communities. The project will remove at least four individuals of Torrey's Ephedra. Additionally, the Biological Report recognizes the potential for several plants species that are highly imperiled and rare, threatened, or endangered in California (1B to 2B) to occur on the Project site including: desert wing-fruit (*Acleisanthes nevadensis*; California Rare Plant Rank 2B.1), small flowered androstephium (*Androstephium breviflorum*; California Rare Plant Rank 2B.2), Nye milk vetch (*Astragalus nyensis*; California Rare Plant Rank 1B.1), Preuss' milk vetch (*Astragalus preussii* var. *preussii*; California Rare Plant Rank 2B.2), gravel milk-vetch (*Astragalus sabulonum* ;California Rare Plant Rank 2B.2), Tidestrom's milk-vetch (*Astragalus tidestromii*; California Rare Plant Rank 2B.2), Wheeler's dune broom (*Chaetadelpha wheeleri*; California Rare Plant Rank 2B.2), purple-nerve cymopterus (*Cymopterus multinervatus*; California Rare Plant Rank 2B.2), forked buckwheat (*Eriogonum bifurcatum*; California Rare Plant Rank 1B.2), Reveal's buckwheat (*Eriogonum contiguum*; California Rare Plant Rank 2B.3), Gooding's phacelia (*Phacelia pulchella*; California Rare Plant Rank 1B.2) given the suitable habitat onsite and multiple recent occurrences within the project vicinity.

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Why impact would occur: According to the Biological Report, California Natural Diversity Database (CNDDDB) and iNaturalist, there are several occurrences of Torrey's Ephedra near the Project site, and the species was observed on the Project site. As stated in Comment #1, the MND does not contain a detailed project description. However, the Biological Report states that the proposed project will result in the removal and relocation of four Torrey's Ephedra individuals and that the Project is focused on the southern half of the Project site. The Biological Report proposes Mitigation Measure BIO-3, which calls for avoidance of Torrey's Ephedra at the ingress and egress of the project site

Evidence impact would be significant: The Biological Resources Report indicates that impacts to Torrey's Ephedra will occur. Plants constituting California Rare Plant Ranks 1A, 1B, 2A, and 2B generally meet the criteria of a CESA-listed species and should be considered as an endangered, rare or threatened species for the purposes of CEQA analysis. Likewise, CDFW considers State listed communities to be imperiled habitats having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by querying the CNDDDB and are included in the Manual of California Vegetation and California Native Plant Society (cnps.org) (CNPS 2024).

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant: If avoidance is infeasible, CDFW recommends the County considers purchasing credits from a mitigation bank or acquiring and conserving in perpetuity lands with the target resources. CDFW offers the following revisions to MM BIO-3 (edits are in strikethrough and **bold**):

Biological Resources Mitigation Measure 3 (MM BIO-3):

Torrey's Mormon-Tea Avoidance or Landscaping. The applicant shall avoid Torrey's Mormon-Tea individuals at the ~~ingress and egress~~ of the project site. The applicant will coordinate with a qualified biologist to ensure these individuals are avoided.

The Project Applicant shall avoid any special-status plant(s) on site, with an appropriate buffer (i.e., fencing or flagging). If complete avoidance of a special status plant is not feasible, the Project Applicant shall mitigate the loss of the plant(s) through off-site compensation including: 1) permanent protection of an existing off-site native population; 2) permanent protection of an off-site introduced population; 3) a combination of 1) and 2); or 4) mitigation banking. The ratio of acquisition to loss in most cases exceed 1:1 for any species. The ratio should be higher for rarer species, particularly for those that occupy irreplaceable habitats.

COMMENT #4 Nesting Birds Surveys and Existing Mitigation Measure BIO-4 Biological Resources Report page 51.

Issue: CDFW is concerned that Mitigation Measure BIO-3, as currently written, is not sufficient in timing or scope to prevent impacts to nesting birds and raptors. The Project site provides nesting and foraging habitat as stated in the Biological Report.

Specific impact: Various bird species were observed during the general survey including horned lark (*Eremophila alpestris*), Eurasian collared dove (*Streptopelia decaocto*) and Say's phoebe (*Sayornis saya*). Mitigation Measure BIO-4 states that if construction must occur between March 15 and September 30, a nesting bird survey shall be completed by a qualified biologist. Additionally, specific buffer distances from nests are not discussed. Project implementation could result in the loss of nesting and/or foraging habitat for passerine and raptor species and disrupt breeding behavior.

Why impact would occur: While MM BIO-4 establishes dates when songbirds and raptor generally tend to nest, it is important to remember that the timing of the nesting season varies greatly depending on several factors, such as the bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). CDFW staff have observed that changing climate conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. Species that nest outside the peak breeding season should also be considered (e.g., hummingbirds may nest year-round, and raptors may nest outside the peak breeding season). To

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adequately identify nesting bird presence in the Project area, nesting pre-construction surveys should be conducted by a qualified biologist no more than three (3) days prior to the initiation of project activities, at the appropriate time of day/night, during appropriate weather conditions regardless of the time of the year. If nesting birds are detected during surveys, CDFW recommends that buffers be established around nest sites with the following distances: a minimum of 300 feet for songbirds, and 500 feet for raptors. Reductions in buffers may be appropriate based on screening vegetation, ambient levels of human activities, or other factors.

Evidence impact would be significant: The biggest threat to birds includes habitat loss and the conversion of natural vegetation into commercial, residential, and industrial land uses. The Project will involve grading and removal of existing vegetation to make way for the cultivation facilities. In addition to direct removal of habitat, construction noise, vibration, dust, or human disturbance could result in temporary or long-term disturbance of nesting birds on the Project site. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the MBTA).

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant: To address the above issues and help the Project applicant avoid unlawfully taking of nests and eggs, CDFW recommends that disturbance of occupied nests within the Project site be avoided any time birds are nesting on-site. Preconstruction nesting bird surveys shall be performed no more than 3 days prior to Project activities to determine the presence and location of nesting birds. CDFW recommends that the measure be revised to the following (edits are in strikethrough and **bold**) for inclusion in the final MND:

Biological Resources Mitigation Measure 4 (MM BIO-4)

Regardless of the time of year, a pre-construction survey shall be performed to verify absence of nesting birds. A qualified biologist shall conduct the pre-activity survey within the Project areas (including access routes) and a 500-foot buffer surrounding the Project areas, no more than three (3) days prior to the initiation of Project activities, including, but not limited to clearing, grubbing, and/or rough grading to prevent impacts to birds and their nests. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified biologist shall make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If nesting bird activity is present within the work area or the Project's zone of influence (generally 100-300 feet), a no disturbance buffer zone shall be established by the qualified biologist to be marked on the ground around each nest. The buffer shall be a minimum of 500 feet for raptors and 300 feet for songbirds, unless a smaller buffer is specifically determined by a qualified biologist familiar with the nesting phenology of the nesting species. The buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. Active nest(s) and an established buffer distance(s) shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance. If there is no nesting activity, then no further action is needed for this measure. If an active nest is encountered during the Project construction, construction shall stop immediately until a qualified biologist can determine (1) the status of the nest, and (2) when work can proceed without risking violation to state or federal laws.

~~If it is necessary to commence project construction between March 15 and September 30 (nesting bird season), nesting bird surveys shall be conducted within 7 days of, and no more than 24 hours prior to, initiating ground-disturbing activities. A qualified biologist shall survey all potential nesting habitat within the project site for nesting birds prior to project activities, including site preparation and construction. Should nesting birds be identified, the project biologist shall mark these areas with Environmentally Sensitive Area fencing or~~

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~~flagging, and monitor throughout project activities, until the young have fledged. If the nesting birds continue to show signs of distress or of potentially abandoning the nest, the qualified biologist shall have the authority to stop all work near the nest until the young have fledged~~

COMMENT #5: Desert Tortoise (*Gopherus agassizii*)

Biological Resources Report Page 49.

Issue: The Project may impact desert tortoise, a CESA threatened species (candidate endangered species). The Project site is within the range of desert tortoise and the site contains suitable habitat for desert tortoise as stated in the Biological Report. Therefore, desert tortoise has the potential to be onsite and impacted by Project-related activities.

Specific impact: The MND does not provide any avoidance/minimization or mitigation measures specific to desert tortoise. The Project site is located within suitable desert tortoise habitat however focused surveys were not conducted. The Project and Project related activities have the potential to take desert tortoise. The Biological Report states there have been no recent desert tortoise observations within 10 miles of the project site and concludes that the species is not expected to be onsite, but habitat onsite may be used by dispersing individuals. CDFW would like to point out that the CNDDDB is not exhaustive in terms of the data it houses, nor is it an absence database. A lack of recorded observations near a Project site does not provide sufficient merit to make the definitive statement that no impacts would occur without conducting protocol-level focused surveys. Nevertheless, a search of iNaturalist did return recent observations of desert tortoise within 3.5 miles of the project site and additional data exists to support that the Project site contains suitable habitat for desert tortoise, in that the site lies within the current range based on the USFWS geographic range map for [Desert Tortoise \(*Gopherus agassizii*\)](#) | [U.S. Fish & Wildlife Service](#) (USFWS 2024). Although no desert tortoises were observed during the meandering transect survey, the desert scrub within the Project site may support burrow opportunities.

Why impact would occur: This species is impacted by ongoing threats, including loss, degradation, and fragmentation of habitat, due to development. Staging of construction equipment, vehicles, and foot traffic may result in the collapse of occupied burrows and result in direct mortality and/or injury to desert tortoise. Project construction and operation may result in collision with or crushing by vehicles or heavy equipment; entrapment within open trenches and pipes; entrapment or entanglement within materials and equipment staged and moved; crushing or burial of individuals or eggs in burrows; destruction of burrows and refugia; and increased predation.

Evidence impact would be significant: Desert tortoise has full protection of a threatened species under CESA. Take of any CESA listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Consequently, if a Project, including Project construction or any Project-related activity during the life of the Project results in take of CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization prior to Project implementation. This may include an incidental take permit or a consistency determination (Fish and Game Code, §§ 2080.1 & 2081). Desert tortoise populations have declined significantly in recent decades as a result of human activities in their native habitat including land development, off-road vehicle use, overgrazing, agricultural development, military activities, predation, and the spread of invasive plant species (USFWS 2011). The desert tortoise population in the western Mojave Desert has declined by 90% since the 1980s. Desert tortoises can take up to 20 years to reach sexual maturity, which limits their ability to recover from even small losses in population numbers (USFWS 2011).

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant: Since the proposed Project area is located within documented desert tortoise range, CDFW recommends that a qualified biologist conduct surveys, during the appropriate survey period following the protocol contained in the [Mojave desert tortoise survey protocol \(fws.gov\)](#). CDFW offers the following species-specific mitigation measure below to avoid impacts to desert tortoise:

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Biological Resources Mitigation Measure 9 (MM-BIO-9)

A CDFW-approved biologist shall conduct a protocol level presence or absence survey within the Project area and 500-foot buffer of suitable habitat, no more than 48 hours prior to Project activities and after any pause in Project activities lasting 30 days or more, in accordance with the U.S. Fish and Wildlife Service 2019 desert tortoise survey methodology. The survey shall utilize perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign. Pre-construction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until 2 negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the survey shall be submitted to CDFW prior to start of Project activities. If the survey confirms absence, the CDFW-approved biologist shall ensure desert tortoise do not enter the Project area. If the survey confirms presence, the Project proponent shall submit to CDFW for review and approval a desert tortoise-specific avoidance plan detailing the protective avoidance measures to be implemented to ensure complete avoidance of take to desert tortoise. If complete avoidance cannot be achieved, the Project proponent shall not undertake Project activities and Project activities shall be postponed until appropriate authorization [i.e., California Endangered Species Act (CESA) Incidental Take Permit under Fish and Game Code section 2081] is obtained.

COMMENT #6 Pesticides, Including Fungicides, Herbicides, Insecticides, and Rodenticides and recommended Mitigation Measure BIO-10

Issue: Cannabis cultivation sites often use substantial quantities of pesticides, including insecticides, and rodenticides.

Specific Impact: The MND lacks a discussion on whether the Project's cultivation activities will involve pesticides such as fungicides, herbicides, insecticides, and rodenticides.

Why impact would occur: Anticoagulant rodenticides and rodenticides that incorporate "flavorizers" that make the pesticides appetizing to a variety of species should not be used at cultivation sites. (Note that with the passage of AB 1788, signed by the governor on September 29, 2020, the general use of second-generation anticoagulants is now banned in California.) Alternatives to toxic rodenticides may be used to control pest populations at and around cultivation sites, including sanitation (removing food sources like pet food, cleaning up refuse, and securing garbage in sealed containers) and physical barriers (e.g., sealing holes in roofs/walls). Snap traps should not be used outdoors as they pose a hazard to nontarget wildlife. Sticky or glue traps should be avoided altogether; these pose a hazard to nontarget wildlife and result in prolonged/inhumane death. California Department of Pesticide Regulation stipulates that pesticides must meet certain criteria to be legal for use on cannabis. For details, visit: [Legal Pest Management Practices for Cannabis Growers in California](#).

Evidence impact would be significant: 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). Raptors (e.g., hawks and owls) and mammalian carnivores (e.g., coyotes, foxes, etc.) are some of the common victims of secondary poisonings by anticoagulant rodenticides (Mendelssohn and Paz 1977, Gabriel et al. 2018).

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant: CDFW recommends minimizing the use of synthetic pesticides, and, if they are used, to always use them as directed by the manufacturer, including proper

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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).

CDFW recommends that Inyo County include a mitigation measure conditioning the Project to develop a plan to avoid, minimize, and mitigate the impacts of pesticides used in cannabis cultivation. CDFW recommends inclusion of the following mitigation measure to reduce impacts to less than significant:

Biological Resources Mitigation Measure 10 (MM BIO-10)

Prior to construction and issuance of any grading permit, Inyo County should develop a plan with measures to avoid, minimize, or mitigate the impacts of pesticides used in cannabis cultivation, including fungicides, herbicides, insecticides, and rodenticides. The plan should include, but is not limited to, the following elements: (1) Proper use, storage, and disposal of pesticides, in accordance with manufacturers' directions and warnings. (2) Avoidance of pesticide use where toxic runoff may pass into waters of the State, including ephemeral streams. (3) Avoidance of pesticides that cannot legally be used on cannabis in the state of California, as set forth by the Department of Pesticide Regulation. (4) Avoidance of anticoagulant rodenticides and rodenticides with "flavorizers." (5) Avoidance of sticky/glue traps. (6) Inclusion of alternatives to toxic rodenticides, such as sanitation (removing food sources like pet food, cleaning up refuse, and securing garbage in sealed containers) and physical barriers.

COMMENT #6 Artificial Light and recommended Mitigation Measure BIO-11

Issue: Cannabis cultivation operations often use artificial lighting or "mixed-light" techniques in indoor operations to increase yields.

Specific Impact: The MND lacks a discussion on whether the Project's cultivation activities will involve artificial lighting.

Evidence impact would be significant: If not disposed of properly, these lighting materials pose significant environmental risks because they contain mercury and other toxins (O'Hare et al. 2013). In addition to containing toxic substances, artificial lighting often results in light pollution, which has the potential to significantly and adversely affect fish and wildlife. Night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication (e.g., birdsong; Miller 2006), determining when to begin foraging (Stone et al. 2009), behavioral thermoregulation (Beiswenger 1977), and migration (Longcore and Rich 2004). Phototaxis, a phenomenon that results in attraction and movement toward light, can disorient, entrap, and temporarily blind wildlife species that experience it (Longcore and Rich 2004).

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant: The MNDs do not address light usage on the Project, but typical cannabis projects include use of artificial light for nighttime function and security lighting. CDFW recommends inclusion of the following mitigation measure:

Biological Resources Mitigation Measure 11 (MM BIO-11)

Light shall not be visible outside of any structure used for cannabis cultivation. Employ blackout curtains where artificial light is used to prevent light escapement. Eliminate all nonessential 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 upward into the night sky (see [DarkSky International | Protecting the night skies for present and future generations](#) . Use LED lighting with a correlated color temperature of 3,000 Kelvins or less, properly dispose of hazardous waste, and recycle lighting that contains toxic compounds with a qualified recycler.

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ADDITIONAL COMMENTS AND RECOMMENDATIONS

Role of Lake and Streambed Alteration Agreement Program in Cannabis Licensing:

The California Department of Cannabis Control (DCC) requires cannabis cultivators to demonstrate compliance with Fish and Game Code section 1602 prior to issuing a cultivation license (Business and Professions Code, § 26060.1). To qualify for an Annual License from DCC, cultivators must have a Lake or Streambed Alteration Agreement (LSA) Agreement or written verification from CDFW that one is not needed. CDFW requires an LSA Agreement when a project activity may substantially adversely affect fish and wildlife resources. LSA Agreements provide actions to avoid and minimize adverse impacts and provide protections to California's fish and wildlife resources. Cannabis cultivators may apply online for an LSA Agreement through the [Environmental Permit Information Management System](#). Cannabis cultivators may learn more about cannabis cultivation permitting at: [Cannabis Cultivation Permitting](#).

- **Self-Certification**-Cannabis cultivation projects that will not substantially modify any river, stream, or lake, can complete the online self-certification. CDFW will review the information and determine whether a notification is required. If a notification is not required, CDFW will provide the applicant with a written verification that an LSA Agreement is not required. Please note that if any part of the cultivation is located outdoors, the Project will not qualify for self-certification. To qualify for self-certification, cultivation projects must be in a **permanent structure** with walls and a roof, and impervious floor.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <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 County 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 (909) 544-9932 or Lydia.Rodriguez@wildlife.ca.gov.

Sincerely,

DocuSigned by:

84FBB8273E4C480...

Alisa Ellsworth
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento
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ATTACHMENTS

Attachment A: MMRP for CDFW-Proposed Mitigation Measures

REFERENCES

- Baldwin, D. H., J. A. Spromberg, T. K. Collier, and N. L. Scholz. 2009. A fish of many scales: Extrapolating sublethal pesticide exposures to the productivity of wild salmon populations. *Ecological Applications* 19:2004–2015.
- Beiswenger, R. E. 1977. Diet patterns of aggregative behavior in tadpoles of *Bufo americanus*, in relation to light and temperature. *Ecology* 58:98–108.
- Berny, P. 2007. Pesticides and the intoxication of wild animals. *Journal of Veterinary Pharmacology and Therapeutics* 30:93–100.
- 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](#)
- California Natural Diversity Database (CNDDDB) Government [ds45]. 2024. Calif. Dept. of Fish and Wildlife. Biogeographic Information and Observation System.
- Gabriel, M. W., L. V. Diller, J. P. Dumbacher, G. M. Wengert, J. M. Higley, R. H. Poppenga, and S. Mendia. 2018. Exposure to rodenticides in Northern Spotted and Barred Owls on remote forest lands in northwestern California: evidence of food web contamination. *Avian Conservation and Ecology* 13(1).
- Fleischli, M. A., J. C. Franson, N. J. Thomas, D. L. Finley, and W. Riley, Jr. 2004. Avian mortality events in the United States caused by anticholinesterase pesticides: A retrospective summary of national wildlife health center records from 1980 to 2000. *Archives of Environmental Contamination and Toxicology* 46:542–550.
- Li, Q., and T. Kawada. 2006. The mechanism of organophosphorus pesticide-induced inhibition of cytolytic activity of killer cells. *Cellular & Molecular Immunology* 3:171–178.
- Longcore, T., and C. Rich. 2004. Ecological light pollution. *Frontiers in Ecology and the Environment* 2:191–198.
- Miller, M. W. 2006. Apparent effects of light pollution on singing behavior of American robins. *Condor* 108:130–139.
- O'Hare, M., D. L. Sanchez, and P. Alstone. 2013. Environmental risks and opportunities in cannabis cultivation. BOETC Analysis Corp. University of California, Berkeley, CA, USA.
- Pimentel, D. 2005. Environmental and economic costs of the application of pesticides primarily in the United States. *Environment, Development and Sustainability* 7:229–252.
- Mendelssohn, Heinrich and Uzi Paz. "Mass mortality of birds of prey caused by Azodrin, an organophosphorus insecticide." *Biological Conservation* 11 (1977): 163-170.
- Relyea, R. A., and N. Diecks. 2008. An unforeseen chain of events: Lethal effects of pesticides on frogs at sublethal concentrations. *Ecological Applications* 18:1728–1742.
- Revised Recovery Plan for the Mojave Population of the Desert Tortoise (*Gopherus Agassizii*). Sacramento, California: Region 8, Pacific Southwest Region, U.S. Fish and Wildlife Service, 2011. Print.

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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.

Stone, E. L., G. Jones, and S. Harris. 2009. Street lighting disturbs commuting bats. *Current Biology* 19:1123–1127.

US Fish and Wildlife Service. December 2009. Desert Tortoise (Mojave Population) Field Manual (*Gopherus agassizii*). [Desert-Tortoise-Field-Manual.pdf \(fws.gov\)](#)

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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-2: Prior to any ground disturbance, a survey for potential burrows followed by four breeding season surveys of areas found to have potential for burrowing owl occupation must be conducted in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version). Specifically, these reports suggest at least one site visit between February 15 and April 15 and a minimum of three surveys, at least three weeks apart, between the peak breeding season April 15 and July 15, with at least one visit after June 15. The surveys shall include 100 percent coverage of the Project site and include a minimum 500-foot buffer in adjacent habitat. A report summarizing the survey including all requirements for survey reports (page 30 of the 2012 Staff Report) shall be submitted to CDFW for review.</p> <p>If no burrowing owl, active burrowing owl burrows, or sign (molted feathers, cast pellets, prey remains, eggshell fragments, decoration, or excrement) thereof are found, no further action is necessary.</p> <p>If burrowing owl, active burrowing owl burrows, or sign 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. . 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> <p>Prior to Project-related activities, a qualified biologist(s) shall perform a take avoidance pre-construction survey for burrowing owl occupation in accordance with the <i>Staff Report</i></p>	<p>Prior to commencing ground or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p><i>on Burrowing Owl Mitigation</i> (CDFG, 2012 or most recent version). The survey shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the <i>Staff Report on Burrowing Owl Mitigation</i> (CDFG, 2012 or most recent version). If the pre-construction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall notify CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval. If avoidance is not feasible, the Project Proponent shall consult with CDFW on next steps, including obtaining an Incidental Take Permit (ITP) for burrowing owl prior to the start of Project activities.</p>		
<p>MM BIO-3: Torrey's Mormon-Tea Avoidance. The applicant shall avoid Torrey's Mormon-Tea individuals at the project site. The applicant will coordinate with a qualified biologist to ensure these individuals are avoided. The Project Applicant shall avoid any special-status plant(s) on site, with an appropriate buffer (i.e., fencing or flagging). If complete avoidance of a special status plant is not feasible, the Project Applicant shall mitigate the loss of the plant(s) through off-site compensation including: 1) permanent protection of an existing off-site native population; 2) permanent protection of an off-site introduced population; 3) a combination of 1) and 2); or 4) mitigation banking. The ratio of acquisition to loss in most cases exceed 1:1 for any species. The ratio should be higher for rarer species, particularly for those that occupy irreplaceable habitats.</p>	<p>Prior to commencing ground or vegetation-disturbing activities</p>	<p>Project Proponent</p>
<p>MM BIO-4: Regardless of the time of year, a pre-construction survey shall be performed to verify absence of nesting birds. A qualified biologist shall conduct the pre-activity survey within the Project areas (including access routes) and a 500-foot buffer surrounding the Project areas, no more than three (3) days prior to the initiation of Project activities, including, but not limited to clearing, grubbing, and/or rough grading to prevent impacts to birds and their nests. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified biologist shall make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If nesting bird activity is present within the work area or the Project's zone of influence (generally 100-300 feet), a no disturbance buffer zone shall be established by the qualified biologist to be marked on the ground around each nest. The buffer shall be a minimum of 500 feet for raptors and 300 feet for songbirds, unless a smaller buffer is specifically determined by a qualified biologist familiar with the nesting phenology of the nesting species. The buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. Active nest(s) and an established buffer distance(s) shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance. If there is no nesting activity, then no further action is needed for this measure. If an active nest is</p>	<p>Prior to commencing ground or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p>encountered during the Project construction, construction shall stop immediately until a qualified biologist can determine (1) the status of the nest, and (2) when work can proceed without risking violation to state or federal laws.</p>		
<p>MM BIO-9: A CDFW-approved biologist shall conduct a protocol level presence or absence survey within the Project area and 500-foot buffer of suitable habitat, no more than 48 hours prior to Project activities and after any pause in Project activities lasting 30 days or more, in accordance with the U.S. Fish and Wildlife Service 2019 desert tortoise survey methodology. The survey shall utilize perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign. Pre-construction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until 2 negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the survey shall be submitted to CDFW prior to start of Project activities. If the survey confirms absence, the CDFW-approved biologist shall ensure desert tortoise do not enter the Project area. If the survey confirms presence, the Project proponent shall submit to CDFW for review and approval a desert tortoise-specific avoidance plan detailing the protective avoidance measures to be implemented to ensure complete avoidance of take to desert tortoise. If complete avoidance cannot be achieved, the Project proponent shall not undertake Project activities and Project activities shall be postponed until appropriate authorization [i.e., California Endangered Species Act (CESA) Incidental Take Permit under Fish and Game Code section 2081] is obtained.</p>	<p>Prior to commencing ground or vegetation-disturbing activities</p>	<p>Project Proponent</p>
<p>MM BIO-10: Prior to construction and issuance of any grading permit, Inyo County should develop a plan with measures to avoid, minimize, or mitigate the impacts of pesticides used in cannabis cultivation, including fungicides, herbicides, insecticides, and rodenticides. The plan should include, but is not limited to, the following elements: (1) Proper use, storage, and disposal of pesticides, in accordance with manufacturers' directions and warnings. (2) Avoidance of pesticide use where toxic runoff may pass into waters of the State, including ephemeral streams. (3) Avoidance of pesticides that cannot legally be used on cannabis in the state of California, as set forth by the Department of Pesticide Regulation. (4) Avoidance of anticoagulant rodenticides and rodenticides with "flavorizers." (5) Avoidance of sticky/glue traps. (6) Inclusion of alternatives to toxic rodenticides, such as sanitation (removing food sources like pet food, cleaning up refuse, and securing garbage in sealed containers) and physical barriers.</p>	<p>Prior to commencing ground or vegetation-disturbing activities</p>	<p>Project Proponent</p>
<p>MM BIO-11: Light shall not be visible outside of any structure used for cannabis cultivation. Employ blackout curtains where artificial light is used to prevent light escapement. Eliminate all nonessential lighting from cannabis sites and avoid or limit the use of artificial light during the hours of dawn and dusk, as</p>	<p>Prior to commencing ground or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p>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 upward into the night sky (see DarkSky International Protecting the night skies for present and future generations . Use LED lighting with a correlated color temperature of 3,000 Kelvins or less, properly dispose of hazardous waste, and recycle lighting that contains toxic compounds with a qualified recycler.</p>		
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