



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**



February 14, 2025  
*Sent via email*

Christian Espinoza  
Planning Technician  
City of Adelanto  
11600 Air Expressway  
Adelanto, CA 92301

Beaver and Cactus Cannabis Facility (CUP 24-04 & LDP 24-05) (PROJECT)  
MITIGATED NEGATIVE DECLARATION (MND), SCH# 2025011040

Dear Christian Espinoza:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of Adelanto for the 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

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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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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.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** Alan Brown, Danivan LLC.

**Objective:** The objective of the Project is to construct four, 20,000 square foot buildings that will be connected by a 10-foot-wide walkway for a total of 84,800 square feet within the 4.71-acre project site. Each building will contain 5,000 square feet for manufacturing, 2,000 square feet for distribution, and 13,000 square feet for cultivation of cannabis. The Project will also provide 100 parking spaces, a retention basin, and 48,485 square feet of landscaping.

**Location:** The proposed project site is located to the north of Cactus Road and to the east of Beaver Road, in the southern portion of the City of Adelanto. There is no current address that has been assigned to the project site. The corresponding Assessor Parcel Number (APN) is 3129-551-09 at latitude 34.536611 N and longitude -117.45715. The Project site is surrounded by vacant and undeveloped land to the east, south, and west.

**Timeframe:** The MND does not provide a timeframe for construction.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist the City of Adelanto 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 Inadequacy of surveys and recommended Mitigation Measure BIO-9**

##### **Biological Resources Assessment page 7**

**Issue:** IS/MND analysis and conclusions rely on a general survey of the Project site to identify special status species, vegetation communities, and habitats that could support special status species. The survey was conducted outside of the recommended survey times for multiple species. CDFW is also concerned that the duration of the survey

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conducted on June 11, 2024, was not sufficient because the survey times were not included in the IS/MND or Biological Resources Assessment.

**Specific Impact:** The IS/MND bases its analysis of impacts on biological resources on a general survey that was conducted by RCA Associates Inc. biologists on June 11, 2024. Focused surveys were not conducted. Therefore, Project implementation, including grading, vegetation removal and construction, may result in direct mortality, population declines, or local extirpation of sensitive plant and wildlife species that were not previously known or identified.

**Why impact would occur:** The timing and scope of the general surveys are incompatible with properly surveying for species of special concern, state listed and threatened and endangered species that, according to California Natural Diversity Database (CNDDDB), may occur within this area such as burrowing owl (*Athene cunicularia hypugaea*), Mohave ground squirrel (*Xerospermophilus mohavensis*) and desert tortoise (*Gopherus agassizii*). General surveys can be used to gather information about habitat but should not be used to determine the presence or absence of candidates, sensitive, or special status species. Without establishing an appropriate biological baseline utilizing professionally accepted survey standard, the IS/MND cannot disclose the potential Project impacts, nor can it develop specific and enforceable avoidance, minimization, or mitigation measures. Given that a number of sensitive species including burrowing owl, Mohave ground squirrel and desert tortoise are known to occur within the vicinity of the Project and within similar habitat, baseline biological surveys are necessary to conclude the absence of a species. If the absence of the species is not established, it may be reasonably assumed that the species are present, and specific and enforceable avoidance, minimization, and mitigation measures should be developed.

**Evidence impact would be significant:** Impacts to special status species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Without an accurate environmental baseline of present candidate, sensitive, or special status species and the delay in development of species avoidance, minimization, and mitigation measures, it is unclear if the mitigation measures proposed to be implemented by the Project Proponent will avoid, minimize, or mitigate the impacts to a level below significant adverse effect.

**Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant:** The IS/MND should include a Project impact analysis on sensitive species based on professionally accepted survey methodologies, including but not limited

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to, desert tortoise<sup>2</sup>, Mohave ground squirrel<sup>3</sup>, rare plants<sup>4</sup>, and burrowing owl<sup>5</sup>. With such information, the City of Adelanto can identify and analyze the potential impacts to candidate, sensitive, or special status species in or adjacent to the Project area and develop mitigation measures that can avoid, minimize, or mitigate impacts to the species to lessen the adverse significant effects. CDFW recommends the inclusion of an additional mitigation measure BIO-9 to the IS/MND (edits are in strikethrough and additions are in **bold**).

### ***Biological Resources Mitigation Measure No. 9 (MM BIO-9)***

**Prior to Project construction activities, a complete and recent inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint with the potential to be affected, including Species of Special Concern (SSC) and California Fully Protected Species (Fish and Game Code § 3511), will be completed. Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380) for which suitable habitat is present within or adjacent to the Project. The inventory should address seasonal variations in use of the Project area and should not be limited to resident species. Focused species-specific surveys, completed by a qualified biologist and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service, where necessary. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. 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.**

### **Comment #2 Incomplete Description of Project Activities**

#### **IS/MND page 14-17**

**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 of biological resources are less than significant.

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<sup>2</sup> US Fish and Wildlife Service. December 2009. Desert Tortoise (Mojave Population) Field Manual (*Gopherus agassizii*). [Desert-Tortoise-Field-Manual.pdf \(fws.gov\)](#)

<sup>3</sup> California Department of Fish and Wildlife. October 2023. California Department of Fish and Wildlife Mohave Ground Squirrel Survey Guidelines (January 2003, revised July 2010, October 2023). [CDFW Mojave Ground Squirrel Survey Guidelines \(ca.gov\)](#)

<sup>4</sup> California Department of Fish and Wildlife. March 20, 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities \(ca.gov\)](#)

<sup>5</sup> California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. [Microsoft Word - BUOW Staff Report\\_final\\_030712\\_REV 1.doc \(ca.gov\)](#)

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**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. Building specifications and maps were provided but do not sufficiently describe building characteristics, building materials, or a timeline for construction and implementation of the Project.

**Evidence impact would be significant:** Compliance with CEQA is predicated on 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-related biological resource impacts.

**CDFW Recommendations:** CDFW recommends that a revised MND provide a detailed and accurate description of the cultivation facilities. The revised MND should also provide details on all Project components, facility materials, and time frames for construction. If the start date for the 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 project timeline.

## II. Environmental Setting and Related Impact Shortcoming

### **COMMENT #3 Burrowing Owl (*Athene cunicularia hypugaea*) and Mitigation Measure BIO-4**

#### **IS/MND page 36, Biological Resources Assessment page 10, 13**

**Issue:** Western burrowing owl is a candidate listed species under the California Endangered Species Act (CESA), as such is granted the full protection of a threatened species under CESA. The mitigation measure describes that, if burrowing owls are detected during the focused surveys, a Burrowing Owl Plan would be proposed that could include exclusion of burrowing owls from their burrows.

**Specific impact:** Although no evidence of burrowing owl was detected within the Project site or in the adjoining areas, the Project site is within potential burrowing owl habitat (CNDDDB). There is the potential for burrowing owls to occur on site. CDFW is concerned that Mitigation Measure BIO-4, as currently written, is not sufficient to prevent impacts to burrowing owls. BIO-4 includes passive relocation (exclusion); however, this method poses a high risk of take from exposure, predation, and heat stress. CDFW strongly recommends any form of relocation or exclusion 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

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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).

**Evidence impact 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 an incidental take permit (ITP) 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 revision 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 No. 4 (MM BIO-4)***

Prior to the initiation of construction activities (i.e., grubbing, clearing, staging, digging), a ~~"take avoidance survey"~~ **focused burrowing owl surveys shall** be conducted by a ~~City Approved~~ **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~~ **Take avoidance** surveys ~~should~~ **shall** be conducted no less than 14 days prior to initiation of ~~ground disturbance~~ **Project-related** activities. **Burrowing owls may re-colonize a site after only a few days. Time lapses between Project activities trigger subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance, in accordance with the staff Report on Burrowing Owl Mitigation (CDFW 2012 or most recent version).** ~~Should no Burrowing Owls be detected during the initial "take avoidance survey" the survey should be repeated within 24 hours prior to ground disturbance. Should Burrowing Owls, active burrows or signs thereof, be confirmed, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities.~~ ~~be detected, avoidance and minimization measures should be developed through the monitoring of the owls by the City Approved Biologist. If Burrowing Owls are detected, no ground disturbing activities should occur except in accordance with the CDFW 2012 Staff Report or with written authorization by CDFW staff. Burrowing Owls shall not be excluded from burrows unless or until a Burrowing Owl Exclusion Plan is developed by the City Approved Biologist and approved by the applicable local CDFW~~

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~~office and submitted to the City. The plan should follow the requirements of the CDFW 2012 Staff Report.~~ **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 measure if avoidance is proposed. Project activities shall not occur within 1000 feet of an active burrow until CDFW approves the Burrowing Owl Plan, if impacts to occupied burrowing owl habitat or burrow cannot be 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 to 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 (exclusion), performed according to the Staff Report on Burrowing Owl Mitigation (CDFG, 2012) may be authorized through the incidental take permit as a minimization measure.**

**COMMENT #4 Mohave ground squirrel (*Xerospermophilus mohavensis*) and Mitigation Measure BIO-5**

**IS/MND page 36, Biological Resources Assessment page 5, 7, 10**

**Issue:** The Project has the potential to result in the take of Mohave ground squirrel (MGS), a CESA-threatened species, and permanent loss, degradation, and impacts to Mohave ground squirrel habitat during the construction of the Project and life of the Project.

**Specific impact:** Focused surveys were not conducted; the Project site is within the Mohave ground squirrel predicted habitat according to the California Natural Diversity Database (CNDDB). The site also supports desert shrub vegetation such as creosote bush scrub (*Larrea tridentata*, present as the Project site) which is known to provide habitat for Mohave ground squirrel. Therefore, the Project and Project related activities have the potential to take MGS.

**Why impact would occur:** 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 Mohave ground squirrel. Grading, ground disturbance, and vegetation clearing may result in the permanent loss of up to 4.71 acres of Mohave ground squirrel habitat.

**Evidence impact would be significant:** The IS/MND states that the Project site supports minimal habitat for MGS and that the species is believed to be absent from the project site. However, the biological assessment does list creosote bush scrub (*Larrea tridentata*) present on site, which is known to provide habitat for MGS, the Project site lies within the predicted habitat range of MGS, and the general survey was not sufficient to properly observe an occurrence of MGS on the Project site. Mohave ground squirrels are challenging to detect, and a general survey may not provide an accurate assessment of

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presence/absence. Without focused protocol surveys during the appropriate survey period, Project activities may adversely impact Mohave ground squirrel.

**Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant:** CDFW recommends the following revision to MM BIO-5 (edits are in strikethrough and **bold**):

***Biological Resources Mitigation Measure No. 5 (MM BIO-5)***

**Prior to Project approvals, a qualified biologist familiar with the species' behavior and life history shall conduct focused surveys for Mohave ground squirrel throughout the Project site. Focused Mohave ground squirrel surveys shall follow the California Department of Fish and Game Mohave Ground Squirrel Survey Guidelines (CDFW 2023). If Mohave ground squirrel is observed on site or captured during any of the trapping sessions, the Project proponent shall secure an Incidental Take Permit (ITP) for Mohave ground squirrel before ground-disturbing activities commence. The ITP will specify avoidance, minimization, and mitigation conditions for temporary and/or permanent impacts to Mohave ground squirrel including habitat acquisition at a CDFW-approved location and mitigation ratio.**

~~The City Approved Biologist shall be present onsite during the initiation of construction activities (i.e., grubbing, clearing, staging, digging) and daily during all construction to monitor for the presence of Mohave ground squirrel. If Mohave ground squirrel is found on the project site during construction, construction will be halted until the ground squirrel has left the area on its own and is no longer in danger. If the ground squirrel does not leave on its own, translocation of ground squirrels should only be conducted by an approved biologist with necessary permitting and with the approval of CDFW.~~

**COMMENT #5 Nesting Birds Survey and Mitigation Measure BIO-6**

**IS/MND page 36-37 and Biological Resources Assessment page 2 and 6**

**Issue:** CDFW is concerned that Mitigation Measure BIO-6, as currently written, is not sufficient in timing or scope to prevent impacts to nesting birds and raptors.

**Specific impact:** Various bird species were observed during the general survey including ravens (*Corvus corax*), rock pigeon (*Columba livia*), dark eyed junco (*Junco hyemalis*), turkey vulture (*Cathartes aura*) and house finch (*Haemorhous mexicanus*). Mitigation Measure BIO-6 states that, "Any necessary clearing and removal of vegetation for project development should be conducted outside of the typical nesting season for birds. If vegetation removal must be conducted during the nesting bird season (February 1 through September 1), a biologist should first conduct a survey to determine whether any birds are nesting in the area." Project activities could result in the loss of nesting habitat for passerine and raptor species and disrupt breeding behavior.

**Why impact would occur:** While MM BIO-6 establishes dates for passerine and raptor general nesting season, it is important to remember that the timing of the nesting season



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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 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 buffer 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 6 (MM BIO-6)***

**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**

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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.

~~In order to avoid impacts to nesting birds it is recommended that the following mitigation measures be employed: Any necessary clearing and removal of vegetation for project development should be conducted outside of the typical nesting season for birds. If vegetation removal must be conducted during the nesting bird season (February 1 through September 1), a biologist should first conduct a survey to determine whether any birds are nesting in the area. The survey should occur within 7 days prior to beginning work and include a search for nesting raptors within 500 feet line of sight of the project and all other bird nests within or adjacent to the project site. If any active nests are found, a "no disturbance" buffer should be implemented by the biologist and no activity should occur within the buffer until after all young have fledged from the nest. Exceptions may be made to the buffer distance if a biological monitor is present onsite when work is occurring.~~

**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 cultivations 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 and result in prolonged/inhumane death. California Department

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of Pesticide Regulation stipulates that pesticides must meet certain criteria to be legal for use on cannabis. For details, visit: [California Department of Pesticide Regulation](#)

**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 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 (Mendelsohn 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 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 the City of Adelanto 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 measures to reduce impacts to less than significant:

#### ***Biological Resources Mitigation Measure 10 (MM BIO-10)***

**Prior to construction and issuance of any grading permit, the City of Adelanto 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.**

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## **COMMENT #7 Crotch's Bumble Bee (*Bombus crotchii*)**

### **IS/MND page 32**

**Issue:** The IS/MND briefly discusses the Crotch's bumble bee candidate status for listing under CESA. However, the document does not provide any avoidance, minimization or mitigation measures to ensure that the project impacts are less than significant. The Biological Report does not consider Crotch's bumble bee, in its evaluation. The Project has the potential to result in permanent and temporary loss, degradation, and impacts to Crotch's bumble bee habitat.

**Specific impact:** The Project has the potential for take of Crotch's bumble bee from collapsing burrows, entombment, displacement, dust from Project operations, and vegetation removal that reduces foraging and nesting habitat and habitat quality.

**Why impact would occur:** Crotch's bumble bee occurs primarily in California, including the Mediterranean region, Pacific Coast, Western Desert, Great Valley and adjacent to foothills through most of southwestern California (Williams et. al 2014). Crotch's bumble bee are generalist foragers and have been reported visiting a wide variety of flower plants. The plant families most commonly associated with Crotch's bumble bee observations or collections from California include Fabaceae, Apocynaceae, Asteraceae, Lamiaceae, Boraginaceae and Asclepiadaceae.

**Evidence impact would be significant:** Crotch's bumble bee is a candidate species for listing under CESA; therefore, it receives the same legal protection afforded to endangered or threatened species under CESA pursuant to Fish & Game Code §§ 2074.2 & 2085. If found on-site, the Project could result in crushing or killing Crotch's bumble bees, reduction in sufficient food resources such as nectar and pollen, and/or removal of nesting and overwintering sites. Many bumble bees are threatened with extinction due primarily to reductions in habitat from urbanization, intensive agriculture, and invasive species introductions. If Crotch's bumble bee occurs at the Project site and Project impacts to Crotch's bumble bee occur, this could result in a substantial reduction in the species' population, which would be a mandatory finding of significance (CEQA Guidelines, § 15065).

**Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant:** CDFW offers the following Mitigation Measure:

### ***Biological Resources Mitigation Measure 11 (MM BIO-11)***

**Prior to vegetation removal and/or grading, a Designated Biologist shall conduct a habitat assessment to determine whether Crotch's bumble bee habitat is present or absent in the Project site and adjoining area. The habitat assessment shall be performed according to the 2023 CDFW [Survey Considerations for CESA Candidate Bumble Bees.pdf](#)**

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**If habitat for Crotch's bumble bee is present, a Designated Biologist shall conduct focused surveys prior to vegetation removal and/or grading for the presence/absence of Crotch's bumble bee. Survey methodology shall follow the 2023 CDFW Survey Considerations for Candidate Bumble Bee. Surveys shall be conducted during the flying season when the species is most likely to be detected above ground, between March 1 to September 1, by an approved Designated Biologist familiar with Crotch's bumble bee behavior and life history. Surveys shall be conducted within the Project site and areas adjacent to the Project site where suitable habitat exists. Survey results including negative findings shall be submitted to CDFW at least 30 days prior to Project-related vegetation removal and/or ground-disturbing activities. If the species is identified on site, Project Proponent shall fully avoid the species absent take authorization. If the Project may result in take of Crotch's bumble bee through either nest destruction or destruction of potential nests hidden in bunch grasses or other nesting habitat, or if complete avoidance of Crotch's bumble bee cannot be achieved, Project activities shall be postponed until appropriate authorization (i.e., a finalized CESA ITP under Fish and Game Code section 2081) is obtained.**

#### **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.

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**Western Joshua tree (*Yucca brevifolia*):**

CDFW appreciates MM BIO-1 which states that the Project proponent is required to obtain an Incidental Take Permit (ITP) through CDFW for the take of 10 western Joshua trees. Since census information was not included in the IS/MND or Biological Resource Assessment, please note that under the Western Joshua Tree Conservation Act ITP, each WJT stem or trunk arising from the ground must be considered an individual tree requiring mitigation. In addition, for the purposes of the census, the Project site is defined as the area(s) where Project activities are expected to occur (e.g., access, staging, construction, etc.) and the census area is defined as the Project site plus an additional 15- meter (~50 ft) census buffer around the Project site. WJTCA ITP mitigation fees are updated annually beginning January 1<sup>st</sup> of each calendar year. For current WJTCA ITP fees, please visit: [Western Joshua Tree Conservation Act Incidental Take Permit](#).

**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 City of Adelanto in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Kelly Connor, Environmental Scientist via email [Kelly.Connor@wildlife.ca.gov](mailto:Kelly.Connor@wildlife.ca.gov).

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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

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**Attachment A**

**Draft Mitigation 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.

<b>Biological Resources (BIO)</b>		
<b>Mitigation Measure (MM) Description</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>
<p><b>MM BIO-4:</b>                      Prior to the initiation of construction activities (i.e., grubbing, clearing, staging, digging), focused burrowing owl surveys shall 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. Take avoidance surveys shall be conducted no less than 14 days prior to initiation of Project-related activities. Burrowing owls may re-colonize a site after only a few days. Time lapses between Project activities trigger subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance, in accordance with the staff Report on Burrowing Owl Mitigation (CDFW 2012 or most recent version). Should Burrowing Owls, active burrows or signs thereof, be confirmed, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project 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 measure if avoidance is proposed. Project activities shall not occur within 1000 feet of an active burrow until CDFW approves the Burrowing Owl Plan, if impacts to occupied burrowing owl habitat or burrow cannot be 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 to 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 (exclusion), performed according to the Staff Report on Burrowing Owl Mitigation (CDFG, 2012) may be authorized through the incidental take permit as a minimization measure.</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>
<p><b>MM BIO-5:</b>                      Prior to Project approvals, a qualified biologist familiar with the species' behavior and life history shall conduct focused surveys for Mohave ground squirrel throughout the Project site. Focused Mohave ground squirrel surveys shall follow the California Department of Fish and Game Mohave Ground Squirrel Survey Guidelines (CDFW 2023). If Mohave ground squirrel is observed on site or captured during any of the trapping sessions, the Project proponent shall secure an</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>

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<p>Incidental Take Permit (ITP) for Mohave ground squirrel before ground-disturbing activities commence. The ITP will specify avoidance, minimization, and mitigation conditions for temporary and/or permanent impacts to Mohave ground squirrel including habitat acquisition at a CDFW-approved location and mitigation ratio.</p>		
<p><b>MM BIO-6:</b>                  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.</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>
<p><b>MM BIO-9:</b>                  Prior to Project construction activities, a complete and recent inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint with the potential to be affected, including Species of Special Concern (SSC) and California Fully Protected Species (Fish and Game Code § 3511), will be completed. Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380) for which suitable habitat is present within or adjacent to the Project. The inventory should address seasonal variations in use of the Project area and should not be limited to resident species. Focused species-specific surveys, completed by a qualified biologist and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service, where necessary. Note that CDFW generally</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>

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<p>considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. 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.</p>		
<p><b>MM BIO-10:</b>                  Prior to construction and issuance of any grading permit, the City of Adelanto 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><b>MM BIO-11:</b>                  Prior to vegetation removal and/or grading, a Designated Biologist shall conduct a habitat assessment to determine whether Crotch's bumble bee habitat is present or absent in the Project site and adjoining area. The habitat assessment shall be performed according to the 2023 CDFW <a href="#">Survey Considerations for CESA Candidate Bumble Bees.pdf</a></p> <p>If habitat for Crotch's bumble bee is present, a Designated Biologist shall conduct focused surveys prior to vegetation removal and/or grading for the presence/absence of Crotch's bumble bee. Survey methodology shall follow the 2023 CDFW Survey Considerations for Candidate Bumble Bee. Surveys shall be conducted during the flying season when the species is most likely to be detected above ground, between March 1 to September 1, by an approved Designated Biologist familiar with Crotch's bumble bee behavior and life history. Surveys shall be conducted within the Project site and areas adjacent to the Project site where suitable habitat exists. Survey results including negative findings shall be submitted to CDFW at least 30 days prior to Project-related vegetation removal and/or ground-disturbing activities. If the species is identified on site, Project Proponent shall fully avoid the species absent take authorization. If the Project may result in take of Crotch's bumble bee through either nest destruction or destruction of potential nests hidden in bunch grasses or other nesting habitat, or if complete avoidance of Crotch's bumble bee cannot be achieved, Project activities shall be postponed until appropriate authorization (i.e., a finalized CESA ITP under Fish and Game Code section 2081) is obtained.</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>