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Via Electronic Mail Only

April 4, 2025

Fernando Nieto, Program Chief
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**SUBJECT: NOTICE OF PREPARATION OF A DRAFT PROGRAM ENVIRONMENTAL
IMPACT REPORT FOR THE LOS ANGELES COUNTY COMMERCIAL
CANNABIS BUSINESS LICENSING PROGRAM, SCH #2025030223**

Dear Fernando Nieto:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a Draft Program Environmental Impact Report (DPEIR) for the Los Angeles County Commercial Cannabis Business Licensing Program (Project) with the County of Los Angeles (County) as lead agency pursuant to the California Environmental Quality Act (CEQA) (CEQA Guidelines, §§15367, 15051). CDFW supports the regulated cannabis market and actively seeks ways to partner with the regulated community and agency partners to avoid impacts to environmental resources and to achieve conservation benefits. CDFW also commends the County's efforts to regulate cannabis business activities and to address some of the many substantial environmental impacts that can accompany this use. We appreciate the opportunity to partner with the County to create a mutually beneficial relationship that protects and conserves California's natural resources and supports legal cannabis businesses. We also recognize the value in being able to provide comments early in the CEQA process regarding aspects of the Project that could affect fish and wildlife resources and be subject to CDFW's regulatory authority under Fish and Game Code (FGC).

CEQA 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 (Fish & G. Code, § 1802). For purposes of CEQA, CDFW is directed to provide available biological expertise during public agency

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environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect State of California (State) fish, plant, and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, §15381, 15096). CDFW expects that it may need to exercise regulatory authority as provided by the FGC, including lake and streambed alteration (LSA) regulatory authority (Fish & G. Code, § 1600 et seq.). 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.), obtain appropriate authorization under FGC (Fish & G. Code, §§ 2080.1, 2081, 2835).

CANNABIS PERMITTING ROLE

The California Department of Cannabis Control (DCC) establishes regulations for cannabis businesses and issues licenses for commercial cannabis cultivation projects in the State. To obtain a cannabis cultivation license from DCC, an entity must provide evidence of enrollment in an order or waiver of waste discharge requirements with the State Water Resources Control Board (SWRCB) or the appropriate Regional Water Quality Control Board. SWRCB’s Cannabis Cultivation Policy establishes principles and guidelines for cannabis cultivation activities to protect water quality and instream flows, many of which are complementary to FGC (Fish & G. Code, §§ 1602, 5650, 5652, Water C. §§ 13260, 13264(a) & 13265). SWRCB’s Cannabis Cultivation Policy includes a Cannabis Cultivation General Order (General Order) that describes waste discharge requirements for different categories of cannabis cultivation. SWRCB’s Cultivation Policy also includes standards for setbacks from classes of streams and measures to manage water use to protect resources including forbearance provisions. Another requirement to obtain a cannabis cultivation license from DCC is for an entity to provide a final LSA Agreement (Agreement) issued by CDFW, or written verification from CDFW that an Agreement is not required (Business and Professions Code 260.60.1 (b) (3)).

CDFW has regulatory authority over activities in the State that will substantially divert or obstruct the natural flow, or change the bed, channel, or bank of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, an entity must provide a LSA Notification (Notification) to CDFW of the proposed activities (Fish & G. Code, § 1602 et seq.). Based on the information contained in the Notification, CDFW then determines whether an Agreement is required prior to conducting the proposed activities. CDFW’s issuance of an Agreement is an action subject to CEQA that will require CDFW to function as a Responsible Agency (CEQA Guidelines, §15381). CDFW anticipates using the DPEIR to facilitate implementation of LSA and CESA review for the State’s cannabis permitting program in the County. To minimize the need for additional CEQA review when contemplating issuance of Agreements or CESA authorization for cannabis uses, CDFW recommends the DPEIR fully identify the potential impacts to listed species, streams and riparian resources, and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of Agreements or CESA authorizations (CEQA Guidelines, § 15096).

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BACKGROUND

On February 15, 2022, the Los Angeles County Board of Supervisors (Board) directed relevant County departments to move forward with the development and implementation of Commercial Cannabis Business Licensing Program for unincorporated areas of the County. In accordance with this directive, the County is proposing amendments to Title 22 (Zoning Ordinance Amendments) and Title 8 (Commercial Cannabis Administration Amendments) to allow for the permitting of legal commercial cannabis uses in eligible zone districts in unincorporated areas of Los Angeles County. The County noticed the NOP for the Commercial Cannabis Business Licensing Program on March 5, 2025, and has requested comments by April 4, 2025. The NOP included an Initial Study for the Commercial Cannabis Business Licensing Program (CEQA Guidelines, §15063).

PROJECT DESCRIPTION

The County is proposing to adopt a Commercial Cannabis Business Licensing Program that would permit, regulate, and monitor all cannabis businesses in unincorporated areas of Los Angeles County. All outdoor and mixed-light cultivation activities/businesses would be prohibited. The Project would permit: 1) ten indoor cannabis cultivation licenses in industrial zones that would be limited to the use of artificial lighting and a maximum canopy size of 22,000 square feet; 2) ten manufacturing licenses in select industrial zones (volatile manufacturing) and in select commercial and industrial zones (non-volatile manufacturing); 3) ten distribution licenses in select commercial and industrial zones; 4) ten cannabis testing licenses in select commercial/mixed-use, industrial, and institutional zones; and 5) twenty-five storefront and twenty-five non-storefront cannabis retail businesses in commercial/mixed-use and industrial zones.

All cannabis business activities would be required to be located entirely within constructed and permitted structures that are legal and conform to Los Angeles County Code (LACC). The Project would not permit the development of new buildings or the redevelopment of existing buildings to accommodate a proposed cannabis business. However, exterior site development, such as access and drainage improvements, lighting, signage, landscaping, and fencing, may occur and would be subject to applicable standards of the LACC.

The Project will prohibit cannabis businesses: 1) on public lands and within the designated Significant Ecological Area (SEA); 2) within 600 feet of a youth-oriented use; 3) within 600 feet of a drug abuse and recovery treatment center; and 4) storefront retail cannabis businesses within 500 feet of another retail cannabis business.

COMMENTS AND RECOMMENDATIONS

CDFW supports the County's efforts to regulate cannabis cultivation and to address its many potentially substantial environmental impacts in the upcoming DPEIR. CDFW believes having the appropriate analysis and mitigation in the DPEIR is essential for program implementation to distinguish between individual cannabis business projects

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that would not require additional/subsequent review and those that would require additional assessments, and potentially additional CEQA review, to address sensitive resources and to minimize the environmental impacts of cannabis cultivation. We believe that, in concept, providing a streamlined and possible ministerial pathway for subsequent projects under the DPEIR that are unlikely to adversely impact public trust resources will be beneficial to: a) avoid and discourage development in sensitive habitats, and b) support the legal market. CDFW is therefore providing comments at a programmatic level to identify projects that should be excluded from any ministerial process unless sufficient information is provided to assure that all impacts to sensitive resources can be avoided, and where unavoidable, can be adequately mitigated to less than significant.

CDFW offers the comments and recommendations below to assist the County in further developing the Los Angeles County Zoning Ordinance and Commercial Cannabis Administration text amendments and environmental analysis for the Project to adequately identify, avoid, and/or mitigate the Project's significant, or potentially significant, direct, indirect, and cumulative impacts on fish and wildlife (biological) resources. Our comments include: 1) a review of types of environmental impacts from cannabis cultivation; 2) focused recommendations for the DPEIR analyses; 3) general comments; and 4) proposed future collaboration with the County.

Environmental Impacts of Cannabis Cultivation

CDFW devotes a considerable amount of staff time and resources documenting, assessing, permitting, and addressing the environmental impacts and watershed restoration needs resulting from cannabis cultivation (Bauer et al. 2015). CDFW has documented effects to wildlife resources in its *Review of the Potential Impacts of Cannabis Cultivation on Fish and Wildlife Resources* (CDFW 2018), including impacts from water diversions and stream dewatering, habitat clearing and conversion, pollution, and sediment discharges. Through site visits conducted for permitting, compliance, and enforcement throughout southern California, including the County, CDFW has knowledge and experience on the types and extent of potential impacts cannabis uses can have on the environment at a project and programmatic level, which can be unique compared to other agricultural uses. Impacts from cannabis cultivation of specific concern to CDFW include, but are not limited to (CDFW 2018): (1) habitat fragmentation, conversion, degradation, and loss through land clearing, including direct impacts to riparian areas, wetlands, grasslands, sage scrub, and other sensitive natural communities; (2) alteration to streams from grading and excavation/filling; (3) diversion of water for irrigation and effects to in-stream flows; (4) impacts to stream resources from dewatering activities; (5) degradation of water quality from delivery of sediment, nutrients, petroleum products, and pesticides into streams; (6) road building, grading, pond construction, stream crossing construction, increased use of poorly maintained road systems, barriers to fish passage (Fish & G. Code, § 5901), and hydrologic modification including rerouting of streams; (7) effects to wildlife movement from security fencing, including potential wildlife entanglement, entrapment, and mortality; (8) reduced habitat function due to inappropriate location of grow sites; (9) loss of avian foraging habitat due to hoop house construction; (10) development and uses within

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riparian buffers; (11) impacts from night lighting and noise on wildlife; (12) impacts to wildlife from use of plastic monofilament netting and similar products; and pollution to the environment from trash and other cultivation related waste (Carah et al. 2015); and (13) introduction of non-native species (fish and plants) resulting in predation of native species and degraded habitat quality.

Comments and Recommended Measures

CDFW recommends the DPEIR provide adequate and complete disclosure of the Project's potential impacts to fish and wildlife resources (biological resources) including the effects documented by CDFW [Pub. Resources Code, § 21061; CEQA Guidelines, §§ 15003, subd. (i), & 15151, 15063]. CDFW also recommends that the DPEIR include both programmatic (cumulative) level and project-specific analysis to the extent feasible, and clearly identify criteria and mechanisms where Cannabis business projects would require subsequent review and analysis so that appropriate standards and mitigation can be implemented at the project level. CDFW anticipates using the DPEIR to help implement the permitting needed under the State's cannabis program, which may include discretionary permitting under CESA and LSA (CEQA Guidelines, §15381, 15096).

Specific Comments

1. Cannabis Business Eligibility Areas. The Initial Study beginning on page 11 states that the Project would allow cannabis businesses only in constructed and existing permitted structures that are legal and conform to Los Angeles County Code (LACC). The Project would not permit the development of new buildings or the redevelopment of existing buildings to accommodate a proposed cannabis business. Further, the Project would prohibit cannabis businesses within the designated Significant Ecological Area (SEA). CDFW interprets at this stage that "constructed and permitted structures" means existing constructed and permitted structures when the NOP was published (CEQA Guidelines, § 15125). The Initial Study on page 15 provides a link to mapping¹ that shows proposed cannabis business permit eligibility areas in unincorporated Los Angeles County; however, it is unclear how the areas in the map were determined. Based on our review of aerial imagery and the best information available, many of the eligible areas in Antelope Valley appear to be undeveloped; therefore, these areas would require the construction of new structures compared to existing conditions for cannabis activities (see Attachment A, Figure 1). Moreover, some eligible areas are mapped within the SEA (see Attachment A, Figure 2). Many of these undeveloped areas currently shown as eligible for cannabis uses include sensitive habitats, including stream resources, and are within areas identified by CDFW as regionally important to conserving natural resources and to enhance resiliency to climate change,

¹County mapping of cannabis permitting eligibility areas is available at:

<https://amecei.maps.arcgis.com/apps/instant/basic/index.html?appid=2c7641e8c0e347049d2271789eb0525c>

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ecological processes, wildlife connectivity, and species conservation (Fish and Game Code §1850 (b) and (d)) (see Attachment A, Figure 2).

Recommendation: The DPEIR should include a description of how the eligibility areas were determined and provide an updated eligibility area map that only includes parcels that meet the criteria outlined in the Project for acceptable cannabis business locations, including parcels that have existing structures and parcels outside the SEA. CDFW also recommends the DPEIR include an analysis of the Project's consistency with the Antelope Valley Regional Conservation Investment Strategy (AVRCIS; see ICF 2021).

2. Biological Resources. The Initial Study on page 29 indicates that there will be no impacts to biological resources as “[c]ommercial cannabis activities would be limited to the constructed and permitted structures located in eligible commercial/mixed-use, industrial, and institutional zones of the county that are developed and do not exhibit the presence of candidate, sensitive, and/or special status species or habitat on which they rely.” However, as described above, there is a discrepancy between the text of the Initial Study beginning on page 11 that indicates cannabis businesses would only be allowed in constructed and permitted structures, and the mapped eligibility areas cited in the Initial Study on page 15 that shows undeveloped lands as eligible cannabis areas. As described above, these undeveloped lands support biological resources.

Recommendation: If these undeveloped areas will be retained as eligible areas for cannabis businesses, there would a potentially significant impact to biological resources on an individual and cumulative basis from habitat loss from pad development and construction, access and drainage improvements, fencing, lighting, utility installation, and other site improvements needed to support cannabis uses. These undeveloped lands may also support plants and animals considered sensitive under CEQA including but not limited to alkali mariposa-lily (*Calochortus striatus*; California Rare Plant Rank (CRPR) 1B.2), Rosamond eriastrum (*Eriastrum rosamondense*; CRPR 1B.1), Parry's spineflower (*Chorizanthe parryi* var. *parryi*; CRPR 1B.1), Lancaster milk-vetch (*Astragalus preussii* var. *laxiflorus*; CRPR 1B.1), northern California legless lizard (*Anniella pulchra*; California Species of Special Concern (SSC)), mountain plover (*Charadrius montanus*; SSC), northwestern pond turtle (*Actinemys marmorata*; SSC), coast horned lizard (*Phrynosoma blainvillii*; SSC), Le Conte's thrasher (*Toxostoma lecontei*; SSC), two-striped gartersnake (*Thamnophis hammondi*; SSC), short-eared owl (*Asio flammeus*; SSC), California red-legged frog (*Rana draytonii*; SSC), arroyo toad (*Anaxyrus californicus*; SSC), American badger (*Taxidea taxus*; SSC), western spadefoot toad (*Spea hammondi*; SSC), southern grasshopper mouse (*Onychomys torridus ramona*; SSC), Tehachapi pocket mouse (*Perognathus alticola inexpectatus*; SSC), western mastiff bat (*Eumops perotis californicus*; SSC), southwestern pond turtle (*Actinemys pallida*; SSC), loggerhead shrike (*Lanius ludovicianus*; SSC), Townsend's big-eared bat (*Corynorhinus townsendii*; SSC), California glossy snake (*Arizona elegans occidentalis*; SSC) western Joshua tree (*Yucca brevifolia*; CESA-candidate), western burrowing owl (*Athene cunicularia hypugaea*; CESA-candidate), Crotch's

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bumble bee (*Bombus crotchii*; CESA-candidate), Swainson's hawk (*Buteo swainsoni*; CESA-Listed), Mojave ground squirrel (*Xerospermophilus mohavensis*; CESA-Listed), Nelson's antelope squirrel (*Ammospermophilus nelsoni*; CESA-Listed), southern California steelhead (*Oncorhynchus mykiss irideus*; CESA-listed), unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*; fully protected), golden eagle (*Aquila chrysaetos*; fully protected), white-tailed kite (*Elanus leucurus*; fully protected), and tricolored blackbird (*Agelaius tricolor*; CESA-Listed) (CEQA Guidelines, §15380). Therefore, CDFW disagrees that there would be no impacts to biological resources from the Project as currently presented in the NOP. While these undeveloped areas would be developed under existing County regulations, these areas may not have been developed without the intent of being utilized for cannabis business activities; therefore, the DPEIR should analyze the impacts to biological resources associated with habitat loss, fencing, water use, runoff, lighting, noise, and landscaping from non-cannabis development later being converted to cannabis uses.

3. Habitat Loss. Development of a site can result in direct impacts to sensitive habitat from grading, clearing, type conversion, and grubbing of existing vegetation, which can have numerous impacts on the local ecosystem and to sensitive flora and fauna. For example, vegetation removal or conversion (from grassland to agriculture) for pad development, site access, utility installation, drainage improvements, and canopy placement associated with cannabis uses may result in the loss of sensitive habitat that supports special status plant and animal species.

Recommendation: If any undeveloped land is proposed to support cannabis uses (or non-cannabis development that would later be converted to cannabis use), the DPEIR should analyze the potential loss of sensitive habitat from direct removal and type conversion including grassland, coastal sage, riparian, and other habitat alliances, from type conversion, direct loss from pad development, site access, fuel management, and operational issues associated with cannabis activities.

4. Altered Hydrology and Water Quality. Development or conversion of a site for cannabis uses can result in changes in impervious surface coverage, stormwater drainage patterns, and landscape irrigation can alter the hydrology of stream resources and open space areas. This can affect the availability of water resources, soil moisture, and overall habitat integrity. Cannabis operations typically use pesticides and fertilizers, which can be incorporated into irrigation practices and may enter the watershed and groundwater basins through runoff and enter nearby tributaries and streams. Discharges of residual cultivation irrigation water to locations other than the public sewer can also degrade water quality and impact sensitive species.

Recommendation: The DPEIR should analyze hydrological changes that may result from the Project. This includes the addition of stormwater infrastructure and ongoing operation and maintenance activities on water quality of stream resources and its effects on sensitive species on a watershed level, such as the effects by Hydrological Unit Code (HUC) 12s. The DPEIR should also provide a mechanism

for analyzing and mitigating potential impacts to hydrology and water quality at the individual (site) level.

5. Stream Crossings. Development or conversion of a site for cannabis use often require access improvements including new crossings or maintenance of existing crossings over streams and through sensitive habitat that can support wildlife movement at the site and regional level. Crossings can be at-grade, culverts, and bridges to allow access to growing locations, water sources, and other cultivation activities. If not designed properly, structures designed to accommodate site access can create or exacerbate fish passage issues (Fish & G. Code § 5901), alter the flow of streams, erode stream banks, impede wildlife movement, become hydraulic constrictions, and create scour and increase sedimentation to streams.

Recommendation: The DPEIR should analyze the need for stream crossings, or the installation of any in-stream structures for cannabis activities and identify the types of studies, design standards, and mitigation measures that would be needed for individual projects to address fish passage, sedimentation, wildlife movement, and prevent stream erosion. The DPEIR should also analyze the Project's potential effect to stream habitat/resources from the construction and maintenance of stream crossings and any other proposed instream structures for site access and other project needs. Potential impacts include fish passage, wildlife use and movement, wetland vegetation, bank erosion, and stream hydrology. The DPEIR should also provide a mechanism for analyzing and mitigating potential impacts to sensitive habitat and species from installation and operation of stream crossings at the individual (site) level.

6. Limited Site Alterations. The Initial Study on pages 19 and 30 indicates that exterior site improvements on developed sites may occur and would be limited to features such as fencing, lighting, and landscaping. Any exterior site developments would be subject to existing and proposed County regulations. As described in Comment 1 above, some of the Project's eligible areas, as currently presented in the NOP, contain stream resources and other watercourses (see Attachment A, Figure 2), abut or are within the designated SEA, or are adjacent to undeveloped lands. Site improvements including lighting, fencing, and landscaping could affect adjacent or on-site biological resources.
 - a. Lighting. Lighting is often required for cannabis businesses for security purposes. If not designed appropriately, lighting can significantly interrupt species circadian rhythm and alter species behavior, including migration, breeding, and foraging behaviors (Rich et al. 2020).

Recommendation: The DPEIR should analyze impacts from lighting required for cannabis projects to wildlife. The DPEIR should quantify the amount of new lighting that would be introduced and analyze the effects on sensitive species and habitats. Project lighting should be lighting of the lowest illumination necessary, shielded downwards, and directed away from sensitive habitats.

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The DPEIR should also provide a mechanism for analyzing and mitigating for potential impacts from lighting at the individual (site) level.

- b. Fencing. Cannabis businesses often require specific types of fencing for security purposes. If not located and designed properly, this type of fencing can result in wildlife entrapment or mortality, create barriers and impede wildlife movement, and significantly alter wildlife connectivity at the local and regional level.

Fencing can be a hazard to wildlife causing entanglement and mortality (Van der Ree 1999, Stuart et al. 2001, Harrington and Conover 2006). Running animals and low-flying birds may not see a wire fence clearly against the landscape. Birds can collide with fences, breaking wings, impaling themselves on barbs, and tangling in wires. Large, low-flying birds such as ducks, geese, cranes, grouse, hawks, and owls are especially vulnerable. Waterfowl can fly into fences that run near or across waterways, and low-flying hawks and owls may careen into fences when swooping in on prey.

Security fencing is typically at least 6 feet high with a solid material covering to obstruct views of the site from the outside. New cannabis cultivation would need to comply with County standards for security fencing, which are typically greater than that of a typical business operation. The additional security required for cannabis operations may introduce new impediments in the landscape that do not currently exist that directly affect local wildlife in all areas of the County directly through entrapment and/or mortality and indirectly through altering available habitat for movement at the site and regional level. This type of fencing for security can cause inadvertent injury and loss of wildlife resulting in a significant impact on fish and wildlife resources.

Recommendation: The DPEIR should analyze impacts from required security measures and other fencing/barriers required for cannabis projects to animal species and wildlife movement/connectivity. The DPEIR should include information on the height, length, type of materials, maintenance requirements, and location of fencing that would be needed for cannabis uses. The DPEIR should also provide a mechanism for analyzing and mitigating potential impacts from fencing at the individual (site) level.

- c. Landscaping. Landscaping is often required to obscure or screen cannabis activities from the public's view. Landscaping has the potential to impact biological resources from the introduction of invasive and/or non-native species. Landscape maintenance can also impact biological resources from the use of pesticides, herbicides, and fertilizers.

Recommendation: The DPEIR should evaluate the potential of impacts of landscaping (e.g., introducing non-native and invasive species, pesticide and herbicide use) on biological resources such as natural communities adjacent to the cannabis business sites. CDFW supports the use of native plants for the

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Project especially in eligible areas located adjacent to open space and natural areas. CDFW strongly recommends avoiding non-native, invasive species for landscaping, particularly any species listed as 'Moderate' or 'High' by the California Invasive Plant Council. CDFW supports the use of native species found in naturally occurring plant communities within or adjacent to the proposed cannabis business site. In addition, CDFW supports planting species of trees, such as oaks (*Quercus* genus) where appropriate, and understory vegetation (e.g., ground cover, subshrubs, and shrubs) that create habitat and provide a food source for birds. CDFW recommends retaining any standing, dead, or dying tree (snags) where possible because snags provide perching and nesting habitat for birds and raptors. CDFW supports planting species of vegetation with high insect and pollinator value. Finally, the DPEIR should also provide a mechanism for analyzing and mitigating potential impacts from landscaping at the individual (site) level.

7. Water Use. The Project has potential to permit cannabis businesses that may utilize well water as the primary water source. Water use and diversions for cannabis cultivation can substantially affect water availability in streams and reduce habitat and movement for species including aquatic and avian wildlife. Sufficient stream flows are essential for fish passage and breeding habitat for aquatic species.

Recommendation: The DPEIR should analyze the potential for well water use associated with cannabis cultivation projects to impact instream flows and water availability for aquatic-dependent wildlife and habitat. CDFW also recommends the County assess the aquatic carrying capacity of watersheds where cannabis would be allowed. CDFW also recommends the County assess the aquatic carrying capacity of watersheds where cannabis would be allowed and not utilize municipal water sources. The focus of the assessment should be to determine the maximum water use availability from watersheds to maintain adequate water supply for fish and wildlife resources, considering the cumulative demand from existing and future permitted cannabis cultivation projects. The DPEIR should also provide a mechanism for analyzing and mitigating potential impacts from water use at the individual (site) level.

8. CESA. Undeveloped areas eligible for cannabis businesses may contain CESA candidate or listed species, including but not limited to western Joshua tree, Crotch's bumble bee, western burrowing owl, Mojave ground squirrel, Swainson's hawk, Nelson's antelope squirrel, tricolored blackbird, San Fernando Valley spineflower, least Bell's vireo, desert tortoise, southern California steelhead, unarmored threespine stickleback, golden eagle, and white-tailed kite. CDFW considers adverse impacts to a species protected by CESA to be significant. Take of any endangered, threatened, candidate species, or NPPA-listed plant species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). Consequently, if the Project or any Project-related activity will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends that the Project proponent seek appropriate take authorization under

CESA prior to implementing the Project. Appropriate authorization from CDFW may include an Incidental Take Permit (ITP) or a consistency determination in certain circumstances, among other options (Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)). Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required to obtain a CESA permit.

Recommendation: To ensure CDFW will be able to use the County's CEQA document for the issuance of an ITP, the DPEIR should address all Project impacts to CESA-listed species and specify a mitigation, monitoring, and reporting program that will meet the requirements of an ITP.

9. Baseline Conditions. Under CEQA, the environmental setting represents the conditions that exist at a certain point in time referred to as the "baseline" from which project impacts, individual and cumulative, must be evaluated (CEQA Guidelines, § 15125). Setting baseline conditions will direct the analyses in the DPEIR and corresponding avoidance, minimization, and mitigation measures.

Recommendation: The DPEIR should include the following information:

- a. Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region (CEQA Guidelines, § 15125[c]).
- b. A thorough, recent, floristic-based assessment of special status plants and natural communities following CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#).²
- c. Floristic alliance- and/or association-based mapping and vegetation impact assessments conducted in the project area and within adjacent areas.
- d. A complete and recent assessment of the biological resources associated with each habitat type in the project area and within adjacent areas. Field verification for the presence or absence of sensitive species is necessary to provide a complete biological assessment for adequate CEQA review (CEQA Guidelines, § 15003[i]).
- e. A complete, recent assessment of endangered, rare, or threatened species and other sensitive species within the project area and adjacent areas, including California Species of Special Concern (SSC) and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380).
- f. A recent wildlife and rare plant survey. CDFW generally considers biological field assessments for wildlife to be valid for a period of one year and

² <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>

assessments for rare plants may be considered valid for a period of up to three years.

The DPEIR should include a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project area and where the Project may result in ground disturbance. The assessment and analysis should place emphasis on identifying endangered, threatened, rare, and sensitive species; regionally and locally unique species; and sensitive habitats. A complete and accurate baseline analysis will aid in determining the Project's potential direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW also considers impacts to SSC a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures.

As part of setting baselines conditions for the DPEIR, CDFW recommends that existing unpermitted cultivation sites in the County be accounted for and the DPEIR identify measures to address associated impacts to environmental resources affected by unpermitted cultivation sites (CEQA Guidelines, § 15125, Pub. Resources Code §§ 21060, 21068). All environmental resource areas for unpermitted facilities should be evaluated. CDFW and partner law enforcement agencies have investigated over 160 unpermitted outdoor cannabis cultivation sites in the Antelope Valley area of the County. CDFW often finds significant environmental damage at unpermitted outdoor cultivation sites, including stream alterations without LSA notification (Fish & G. Code, § 1602), pollution (Fish & G. Code, §§ 5650 and 5652), and take of western Joshua tree (Fish & G. Code, § 2080). Unpermitted cultivation sites in Antelope Valley may also impact other CESA-listed or candidate species, including but not limited to western burrowing owl, Crotch's bumble bee, Mojave ground squirrel, Nelson's antelope squirrel, Swainson's hawk, and desert tortoise. Unpermitted cannabis activities along the Santa Clara River may impact other species, including but not limited to southern California steelhead and unarmored threespine stickleback. CDFW considers existing cannabis violations that have not been remediated when the NOP was issued as part of the CEQA baseline. The DPEIR should also analyze potential impacts from compliance and enforcement activities that can be foreseeably associated with the Project. CDFW believes that partnering with the County through a legal permitting program as currently proposed will assist in reducing the extent of unpermitted cannabis activities in Los Angeles County.

10. Cumulative Impacts. Cumulative impacts on biological resources can result from collectively significant projects which are individually insignificant. The Project, when considered collectively with prior, concurrent, and probable future projects, may have a significant cumulative effect on biological resources. The DPEIR should include a cumulative effects analysis as described under CEQA Guidelines section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant and wildlife species, habitat, and natural communities. If the County determines that the Project would not have a cumulative impact, the DPEIR should indicate why the cumulative

impact is not significant. The County's determination should be supported by facts and analyses (CEQA Guidelines, § 15130[a][2]).

Recommendation: CDFW recommends that the cumulative section of the DPEIR include an analysis of: (1) the amount and location of acreage by community plan area, watershed, or other attributes that could be converted to cannabis uses with corresponding loss of habitat and impacts to species using the most recent vegetation and species occurrence data and mapping for the County; (2) the amount and location of water demand by major streams and watersheds in the County; (3) the Project's growth inducing impact by facilitating undeveloped lands to cannabis business uses with related increased demand for water; (4) all cannabis sites when determining cumulative impacts of commercial cannabis businesses through the County's licensing program, including a quantification of known impacts of unpermitted cultivation sites and an estimation of impacts due existing unpermitted cultivation sites (see Comment 9); (5) the potential for additional unpermitted cannabis cultivation; (6) cannabis cultivation sites that may have been abandoned without remediation; and (7) the location and extent of fencing anticipated for cannabis projects and its potential direct impact to animal species from entrapment/entanglement and impacts to wildlife movement and habitat connectivity (CEQA Guidelines, §§ 15130(a), 15065(a)(3) and 15355).

11. Consistency with Other Adopted Wildlife Plans and Policies. Several regional and State-wide natural resource conservation strategies may be applicable to the Project, including, but not limited to : [Antelope Valley Regional Conservation Investment Strategy](#) (ICF 2021);³ [Safeguarding California Plan: 2018 Update](#) (CNRA 2018);⁴ [California State Wildlife Action Plan: A Conservation Legacy for Californians](#) (CDFW 2015);⁵ and [California 2030 Natural and Working Lands Climate Change Implementation Plan: January 2019 Draft](#) (Cal EPA et al. 2019).⁶ In the [California State Wildlife Action Plan](#) (CDFW 2015),⁷ climate change is identified as a significant stressor on the Conservation Targets and Strategies for all habitat types in the South Coast Region.

Recommendation: The DPEIR should include analysis of the Project's consistency with State adopted plans and policies including the plans and policies described above. The DPEIR should include analysis of program impacts to climate change from increased greenhouse gas emissions and factor it into applicable flood and storm events in hydraulic analysis to support site development including access and stream crossings.

12. Conserved Lands. The Project area includes existing protected areas that are public or private lands where the primary intent of land management is to manage

³ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=197234&inline>

⁴ resources.ca.gov/CNRALegacyFiles/docs/climate/safeguarding/update2018/safeguarding-california-plan-2018-update.pdf

⁵ <https://wildlife.ca.gov/SWAP/Final>

⁶ <https://ww2.arb.ca.gov/resources/documents/nwl-implementation-draft>

⁷ <https://wildlife.ca.gov/SWAP>

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the land for open space, primarily for their ecological functions and values. In the Antelope Valley RCIS area, there are 55,928 acres of protected area, including 3,112 acres in conservation easement. The two largest private owners of protected lands within the RCIS area are Transition Habitat Conservancy (THC) and Petersen Ranch Mitigation Bank (Figure 2-19 and Table 2-8 of the AVRCS; see ICF 2021). Other prominent conserved land includes the Antelope Valley Poppy Preserve, Saddleback Butte State Park, Alpine Butte Wildlife Sanctuary, Mescal Wildlife Sanctuary, Mountains Recreation Conservation Authority (MRCA) property, Jackrabbit Flats Wildlife Sanctuary, Payne Wildlife Sanctuary, Phacelia Wildlife Sanctuary, Big Rock Creek Wildlife Sanctuary, Carl O. Gerhardy Wildlife Sanctuary, and Puzzle Creek Conservation Bank.

Recommendation: The DPEIR should identify all conserved lands in the Project area and analyze how cultivation activities could result in potential impacts to these resources from habitat loss, access and drainage improvements, fencing, lighting, utility installation, pesticide drift, runoff, and other activities needed to support cannabis uses. The analysis should account for sufficient buffer areas from these lands and cultivation uses. Finally, the DPEIR should also provide a mechanism for analyzing and mitigating for potential impacts to public and other conserved lands from cannabis activities at the individual (site) level.

General Comments

1. Disclosure. The DPEIR should provide an adequate, complete, and detailed disclosure about the effects which a proposed project is likely to have on the environment (Pub. Resources Code, § 20161; CEQA Guidelines, § 15151). Such disclosure is necessary so CDFW may provide comments on the adequacy of proposed avoidance, minimization, or mitigation measures, as well as assess the significance of the specific impact relative to plant and wildlife species impacted (e.g., current range, distribution, population trends, and connectivity).
2. Project Description and Alternatives. To enable adequate review and comment on the proposed Project from the standpoint of the protection of fish, wildlife, and plants, CDFW recommends the following information be included in the DPEIR.
 - a. A complete discussion of the purpose and need for, and description of the proposed Project.
 - b. A range of feasible alternatives to the Project location to avoid or otherwise minimize direct and indirect impacts on sensitive biological resources and wildlife movement areas. CDFW recommends the County select Project designs and alternatives that would avoid or otherwise minimize direct and indirect impacts on biological resources. CDFW also recommends the County consider establishing appropriate setbacks from sensitive and special status biological resources. Setbacks should not be impacted by ground disturbance or hydrological changes from any future Project-related construction, activities, maintenance, and development. As a general rule, CDFW recommends reducing or clustering a development footprint to retain unobstructed spaces for

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vegetation and wildlife and provide connections for wildlife between properties and minimize obstacles to open space.

- c. Project alternatives should be thoroughly evaluated, even if an alternative would impede, to some degree, the attainment of the Project objectives or would be more costly (CEQA Guidelines, § 15126.6). The DPEIR shall include sufficient information about each alternative to allow meaningful evaluation, public participation, analysis, and comparison with the proposed Project (CEQA Guidelines, § 15126.6).
 - d. Where the Project may impact aquatic and riparian resources, CDFW recommends the County select Project designs and alternatives that would fully avoid impacts to such resources. CDFW also recommends an alternative that would not impede, alter, or otherwise modify existing surface flow, watercourse and meander, and water-dependent ecosystems and natural communities. Project designs should consider elevated crossings to avoid channelizing or narrowing of watercourses. Any modifications to a river, creek, or stream may cause or magnify upstream bank erosion, channel incision, and drop in water level, which may cause the watercourse to alter its course of flow.
3. Direct and Indirect Impacts on Biological Resources. The DPEIR should provide a thorough discussion of direct and indirect impacts expected to affect biological resources with specific measures to offset such impacts. The DPEIR should address the following:
- a. A discussion of potential impacts from lighting, noise, temporary and permanent human activity, exotic species, and identification of any mitigation measures. A discussion regarding Project-related indirect impacts on biological resources. These include resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., preserve lands associated with a Natural Community Conservation Plan (Fish & G. Code, § 2800 et. seq.)).
 - b. A discussion of both the short-term and long-term effects of the Project on species population distribution and concentration, as well as alterations of the ecosystem supporting those species impacted (CEQA Guidelines, § 15126.2(a)).
 - c. Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in areas adjacent to the Project, should be fully analyzed and discussed in the DPEIR.
 - d. A discussion of post-Project fate of drainage patterns, surface flows, and soil erosion and/or sedimentation in streams and water bodies. The discussion should also address the potential water extraction activities and the potential resulting impacts on habitat supported by the groundwater. Measures to mitigate such impacts should be included.

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- e. An analysis of impacts from proposed changes to land use designations and zoning, and existing land use designation and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the DPEIR.
4. Nesting Birds. To avoid impacts to nesting birds, CDFW recommends that clearing of vegetation occur outside of the peak avian breeding season, which generally runs from February 1 through September 1 (as early as January 1 for some raptors). If Project construction is necessary during the bird breeding season, a qualified biologist with experience in conducting breeding bird surveys should conduct a nesting bird survey within three days prior to work in the area. If an active nest is identified, a buffer shall be established between the construction activities and the nest so that nesting activities are not interrupted. For the given Project site, CDFW generally recommends a 100-foot buffer from common avian species, 300 feet for listed or highly sensitive avian species, and 500 feet for raptors. The buffer should be delineated by temporary fencing and remain in effect as long as construction is occurring. No Project construction shall occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be impacted by the Project. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.
 5. Mitigation Measures. Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in a project through the use of feasible alternatives or mitigation measures (CEQA Guidelines, §§ 15002(a)(3), 15021). Pursuant to CEQA Guidelines section 15126.4, an environmental document shall describe feasible measures which could mitigate impacts below a significant level under CEQA. Mitigation measures must be feasible, effective, implementable, and fully enforceable/imposed by the lead agency through permit conditions, agreements, or other legally binding instruments (Pub. Resources Code, § 21081.6(b); CEQA Guidelines, § 15126.4).
 - a. The DPEIR should provide mitigation measures that are specific and detailed (i.e., responsible party, timing, specific actions, location) in order for a mitigation measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).
 - b. If a proposed mitigation measure would cause one or more significant effects, in addition to impacts caused by the proposed Project, the DPEIR should include a discussion of the effects of proposed mitigation measures (CEQA Guidelines, § 15126.4(a)(1)). In that regard, the DPEIR should provide an adequate, complete, and detailed disclosure about the Project's proposed mitigation measure(s). Adequate disclosure is necessary so CDFW may assess the potential impacts of proposed mitigation measures.

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6. Compensatory Mitigation. The DPEIR should include compensatory mitigation measures for the Project's significant impacts (direct and/or through habitat modification) to sensitive and special status plants, animals, and habitats. Mitigation measures should emphasize avoidance and minimization of Project-related impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore inadequate to mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. Areas proposed as mitigation lands should be protected in perpetuity with a conservation easement and financial assurance and dedicated to a qualified entity for long-term management and monitoring.
7. Long-term Management of Mitigation Lands. For proposed mitigation lands, the DPEIR should include measures to protect the targeted habitat values in perpetuity. The mitigation should offset Project-induced qualitative and quantitative losses of biological resources. Issues that should be addressed include (but are not limited to) restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion. An appropriate endowment should be set aside to provide for long-term management of mitigation lands.
8. Translocation/Salvage of Plants and Animal Species. Translocation and transplantation is the process of removing plants and wildlife from one location and permanently moving it to a new location. CDFW generally does not support the use of translocation or transplantation as the primary mitigation strategy for unavoidable impacts to endangered, rare, or threatened plants and animals. These efforts are experimental, and the outcome is unreliable. CDFW has found that permanent preservation and management of habitat capable of supporting these species is often a more effective long-term strategy for conserving plants and animals and their habitats.
9. Scientific Collecting Permit. A Scientific Collecting Permit would be necessary if there is a plan to capture and relocate wildlife. Pursuant to the California Code of Regulations, title 14, section 650, biologist(s) must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project-related activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). A Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). For more information, please see CDFW's [Scientific Collecting Permit webpage](#).⁸

⁸ <https://wildlife.ca.gov/Licensing/Scientific-Collecting>

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10. Wetland Resources. CDFW, as described in Fish and Game Code section 703(a), is guided by the [Fish and Game Commission's \(Commission\) policies](#).⁹ Through its Wetlands Resources policy, the Commission "...seek[s] to provide for the protection, preservation, restoration, enhancement, and expansion of wetland habitat in California" (California Fish and Game Commission, 2005). It is the policy of the Commission to strongly discourage development in or conversion of wetlands. It opposes, consistent with its legal authority, any development or conversion that would result in a reduction of wetland acreage or wetland habitat values. To that end, the Commission opposes wetland development proposals unless, at a minimum, project mitigation assures there will be 'no net loss' of either wetland habitat values or acreage. The Commission strongly prefers mitigation which would achieve expansion of wetland acreage and enhancement of wetland habitat values."
- a. The Wetlands Resources policy provides a framework for maintaining wetland resources and establishes mitigation guidance. CDFW encourages avoidance of wetland resources as a primary mitigation measure and discourages the development or type conversion of wetlands to uplands. CDFW encourages activities that would avoid the reduction of wetland acreage, function, or habitat values. Once avoidance and minimization measures have been exhausted, a project should include mitigation measures to assure a "no net loss" of either wetland habitat values, or acreage, for unavoidable impacts to wetland resources. Conversions include, but are not limited to, conversion to subsurface drains, placement of fill or building of structures within the wetland, and channelization or removal of materials from the streambed. All wetlands and watercourses, whether ephemeral, intermittent, or perennial, should be retained and provided with substantial setbacks, which preserve the riparian and aquatic values and functions benefiting local and transient wildlife populations. CDFW recommends mitigation measures to compensate for unavoidable impacts be included in the DPEIR and these measures should compensate for the loss of function and value.
 - b. The Fish and Game Commission's Water policy guides CDFW on the quantity and quality of the waters of this State that should be apportioned and maintained respectively so as to produce and sustain maximum numbers of fish and wildlife; to provide maximum protection and enhancement of fish and wildlife and their habitat; encourage and support programs to maintain or restore a high quality of the waters of this State; prevent the degradation thereof caused by pollution and contamination; and endeavor to keep as much water as possible open and accessible to the public for the use and enjoyment of fish and wildlife. CDFW recommends avoidance of water practices and structures that use excessive amounts of water, and minimization of impacts that negatively affect water quality, to the extent feasible (Fish & G. Code, § 5650).

⁹ <https://fgc.ca.gov/About/Policies/Miscellaneous>

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Agency Collaboration

In an effort to streamline the process of implementing licensing for cannabis cultivation in the County, CDFW recommends regular meetings between the County and CDFW regional staff to discuss permitting, enforcement, and compliance topics related to cannabis cultivation. In such meetings, agency priorities can be identified, important environmental issues addressed, site visits and enforcement efforts coordinated, and opportunities for grant funding discussed. CDFW looks forward to partnering with the County to minimize significant impacts to wildlife resources through collaboration and review of individual projects and mitigation that will follow under the Project.

Recommendation: CDFW requests the County include a mechanism that includes CDFW and other resource agency review and input on individual projects that come under the Project as early in the process as possible. This could occur as a part of reviewing each project and preparation and implementation of project-level habitat protection plans, wildlife protection plans, tree protection plans, or water use plans. Prior to the issuance of administrative or ministerial permits, the County should coordinate with CDFW regarding appropriate enforceable measures to address and mitigate for site-specific impacts to biological resources. Coordination should include review of individual written checklists, project specific site plans, biological assessments, habitat protection plans, wildlife protection plans, tree protection plans, and water use plans. Measures in these plans should be integrated into the County's land use entitlement and business licensing for projects to address site-specific conditions. This will allow cannabis operations to confidently move forward with State licensing under the DCC and ensure compliance with the FGC.

CDFW appreciates the opportunity to comment on the NOP for the Project. We look forward to receiving the DPEIR and working with the County in partnership to support the regulation of commercial cannabis businesses while protecting the fish and wildlife resources held in trust for all Californians. CDFW is available for consultation during all stages of the CEQA process, to share information related to fish and wildlife resources, and discuss potential impacts and proposed mitigation. If you have any questions regarding this letter, please contact Keith Yaeger, Senior Environmental Scientist (Specialist), at (562) 519-7144 or by email at Keith.Yaeger@wildlife.ca.gov.

Sincerely,

DocuSigned by:



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Victoria Tang

Environmental Program Manager
South Coast Region

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cc: California Department of Fish and Wildlife
Victoria Tang
Randy Rodriguez
Jennifer Nguyen
Keith Yaeger

State Clearinghouse
State.Clearinghouse@opr.ca.gov

California State Water Resources Control Board
Brian Covellone, Brian.Covellone@waterboards.ca.gov

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Attachment A Figures

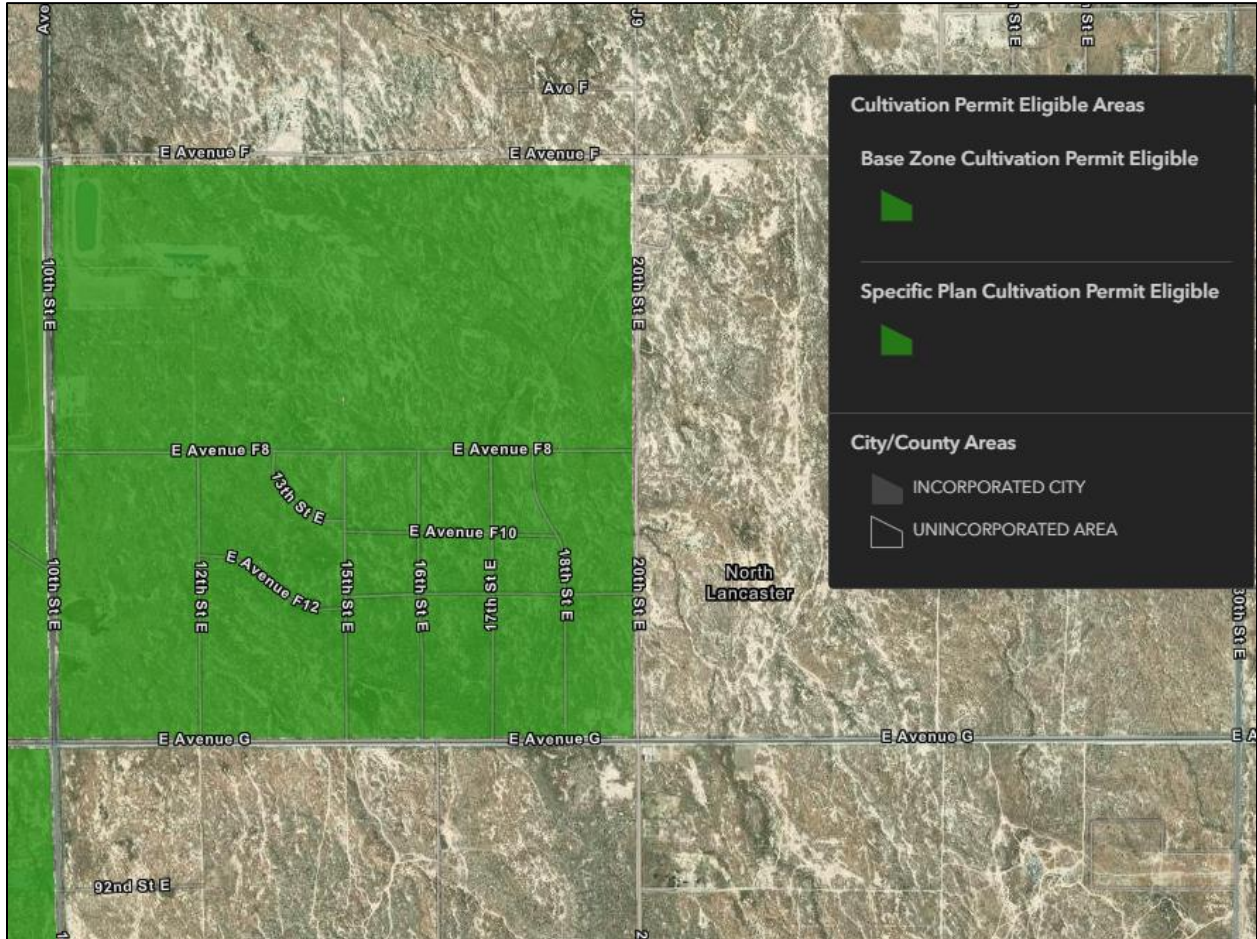


Figure 1. Example of undeveloped areas eligible for cannabis cultivation (approximately Latitude 34.742646, Longitude -118.099724; see County of Los Angeles [Draft Cannabis Business Permit Zoning Eligibility Analysis](#)).¹⁰

¹⁰<https://amecei.maps.arcgis.com/apps/instant/basic/index.html?appid=2c7641e8c0e347049d2271789eb0525c>

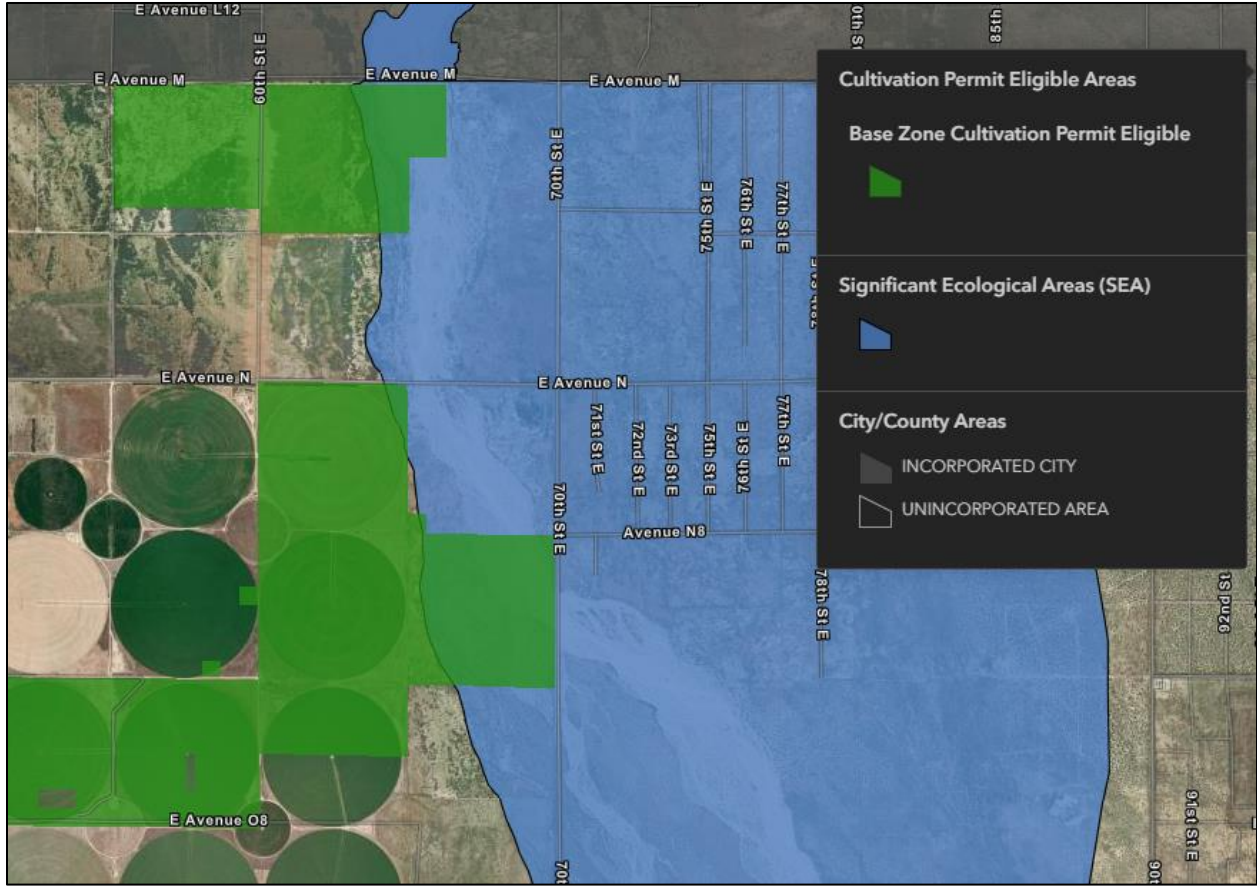


Figure 2. Example of areas within the designated Significant Ecological Area (SEA) that are eligible for cannabis cultivation (approximately Latitude 34.620178, Longitude - 118.012484; see County of Los Angeles [Draft Cannabis Business Permit Zoning Eligibility Analysis](#)).¹¹ The eligible areas within the SEA also contain stream resources (Little Rock Wash and tributaries).

¹¹<https://amecei.maps.arcgis.com/apps/instant/basic/index.html?appid=2c7641e8c0e347049d2271789eb0525c>