



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING
MARVIN A. ROSE, INTERIM DIRECTOR

THIS IS A NEW PROJECT REFERRAL

DATE: 4/5/2018
TO: 1st District Legislative Assistant, Agricultural Commissioner, Building Division, Environmental Health, Cal Fire/County Fire, Public Works, San Miguel CSD, CA Fish and Wildlife, U.S. Fish and Wildlife, National Guard/Camp Roberts, RWQCB, San Miguel Advisory Council, AB52
FROM: Brandi Cummings (b.cummings@co.slo.ca.us or 805-781-1006)

PROJECT NUMBER & NAME: DRC2018-00036 DAYSPRING

PROJECT DESCRIPTION: Proposed Conditional Use Permit for three 1 acre outdoor cultivation sites and use of existing 2480 sq/ft building for processing, nursery, and mobile dispensary, 13340 North River Rd. San Miguel, CA

APN(s): 027-271-041

Return this letter with your comments attached no later than 14 days from receipt of this referral. CACs please respond within 60 days. Thank you.

PART I: IS THE ATTACHED INFORMATION ADEQUATE TO COMPLETE YOUR REVIEW?

- ☒ YES (Please go on to PART II.)
☐ NO (Call me ASAP to discuss what else you need. We have only 10 days in which we must obtain comments from outside agencies.)

PART II: ARE THERE SIGNIFICANT CONCERNS, PROBLEMS OR IMPACTS IN YOUR AREA OF REVIEW?

- ☐ YES (Please describe impacts, along with recommended mitigation measures to reduce the impacts to less-than-significant levels, and attach to this letter.)
☒ NO (Please go on to PART III.)

PART III: INDICATE YOUR RECOMMENDATION FOR FINAL ACTION.

Please attach any conditions of approval you recommend to be incorporated into the project's approval, or state reasons for recommending denial.

IF YOU HAVE "NO COMMENT," PLEASE SO INDICATE, OR CALL.

Applicant needs to update Stormwater Control Plan, see attached comments.

4/19/18
Date

Ann Gillespie
Name

781-5602
Phone



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING
MARVIN A. ROSE, INTERIM DIRECTOR

Date: 04/19/2018
To: Brandi Cummings
From: Ann Gillespie, Stormwater Program Manager

Subject: Referral Comments, DRC2018-00036 Dayspring

Thank you for the opportunity to provide information on the proposed project. Based on the information provided in the referral package, the applicant should be made aware of the following conditions and requirements that may impact the proposed project.

Recommended Project Conditions of Approval:

1. **At the time of application for construction permits**, the applicant must account for the total area of disturbance associated with construction and indicate the limits of disturbance on the plans. Projects that disturb greater than 1.0 acre for construction related activities must enroll in the General Permit for Stormwater Discharges Associated with Construction (Order 2009-0009-DWQ).

Building Division Stormwater Comments:

1. The existing pre-project impervious area (all paving and structures) is listed as 2,480 square feet on the Land Use Application, but is indicated as 55,756 square feet on the Stormwater Control Plan. Please explain the discrepancy in these values and update the Stormwater Control Plan as appropriate.
2. The area of disturbance for construction purposes on the submitted plans must include all of the following:
 - a. Utility improvement areas (installation of water lines or water supply tanks),
 - b. New roadways, driveways or turnouts. Include road upgrades that change the grade, line, surface, or drainage capacity of existing roads.
 - c. Limits of all grading for permanent structures (dry storage containers, water tanks, roads, buildings, or greenhouses). Greenhouses have associated electrical, mechanical, foundation, and plumbing details.
3. The area of disturbance associated with construction does not need to include the following areas:
 - a. Temporary hoophouses or crop protection canopies. (Hoophouses and canopies have no associated electrical, mechanical, foundation or plumbing details.)
 - b. Outdoor growing areas where cannabis will be planted if the disturbance is limited to disking, harrowing, terracing and leveling and soil preparation for the purpose of planting.



Date: August 6, 2019
To: Eric Hughes, Project Planner
From: David E. Grim, Development Services
Subject: Public Works Comments on DRC2018-00036 Dayspring CUP, North River Rd., San Miguel, APN 027-271-041

Thank you for the opportunity to provide information on the proposed subject project. It has been reviewed by several divisions of Public Works, and this represents our consolidated response.

Public Works Comments:

- A. The response was revised on September 13, 2018 after review of the August 7, 2018 OEG traffic report and revised again on August 6, 2019 after a changed project description was submitted by the applicant.
- B. The existing entrance gate and walls are located within the County right-of-way.
- C. The proposed project is within a drainage review area. Drainage plan may be required at the time of future building permit submittal by Public Works. The applicant should review Chapter 22.52.110 of the Land Use Ordinance.
- D. Prior to commencing permitted activities, and in accordance with Title 13.01 of the County Code, the applicant must pay to the Department of Public Works the San Miguel Area Road Improvement Fee based on the latest adopted area fee schedule and the peak hour trips generated. Based on the August 7, 2018 OEG trip generation letter, no new trips would be generated by the project; however, if the project description changes, these calculations will need to be revisited. Additionally, although the subject property is not currently within the San Miguel Fee Area, it is bounded by and subject to inclusion in future road fee area updates, with new fee amounts planned to go into effect in 2020. If building permits have not been submitted by that time, and if the project description changes further such that it would generate net new trips, it must pay the road improvement fee in effect at that time.

Recommended Project Conditions of Approval:

Access

- 1. **Prior to commencing permitted activities**, the applicant shall submit to the Department of Public Works an encroachment permit application, plans, fees, and post a cash damage bond to install improvements within the public right-of-way in accordance with County Public Improvement Standards. The plans are to include, as applicable:
 - a. To remove or relocate all existing non-permitted obstructions from within the public right-of-way of the project frontage. Known obstruction include, but are not limited to:
 - i. Entrance gate.
 - ii. Entrance walls and signage.

2. **Prior to commencing permitted activities**, all work in the public right-of-way must be constructed or reconstructed to the satisfaction of the Public Works Inspector and in accordance with the County Public Improvement Standards; the project conditions of approval, including any related land use permit conditions; and the approved improvement plans.
3. **Prior to commencing permitted activities**, the applicant shall provide evidence to the Department of Planning and Building that onsite circulation and pavement structural sections have been designed and shall be constructed in conformance with Cal Fire standards and specifications back to the nearest public maintained roadway.
4. **On-going condition of approval (valid for the life of the project)**, and in accordance with County Code Section 13.08, no activities associated with this permit shall be allowed to occur within the public right-of-way including, but not limited to, project signage; tree planting; fences; etc. without a valid encroachment permit issued by the Department of Public Works.
5. **On-going condition of approval (valid for the life of the project)**, the property owner shall be responsible for operation and maintenance of public road frontage landscaping and maintaining County driveway sight distance standards in a viable condition and on a continuing basis into perpetuity.

Drainage

6. **At the time of application for construction permits**, the applicant may be required to submit complete drainage plans and report prepared by a licensed civil engineer for review and approval in accordance with Section 22.52.110 of the Land Use Ordinance.
7. **At the time of application for construction permits**, the applicant may be required to submit complete erosion and sedimentation control plan for review and approval in accordance with 22.52.120.
8. **At the time of application for construction permits**, the applicant shall demonstrate that the project construction plans are in conformance with their Stormwater Control Plan.

Storm Water Pollution Prevention Plan (SWPPP)

9. **At the time of application for construction permits**, if the project site disturbs 1.0 acre or more the applicant must enroll for coverage under California's Construction General Permit, which may include preparation of a project Storm Water Control Plan even if the project is located outside a Stormwater Management Area.

Storm Water Control Plan (SWCP)

10. **At the time of application for construction permits**, the applicant shall demonstrate whether the project is subject to post-construction stormwater requirements by submitting a Stormwater Control Plan application or Stormwater Post Construction Requirements (PCRs) Waiver Request Form.
 - a. The applicant must submit a SWCP for all regulated projects subject to Performance Requirement #2 and above. The SWCP must be prepared by an appropriately licensed professional and submitted to the County for review and approval. Applicants must utilize the County's latest SWCP template.
 - b. If post-construction stormwater control measures (SCMs) are proposed, the applicant must submit a draft Stormwater Operations and Maintenance Plan for review by the County. The plan must consist of the following Planning & Building Department forms;
 1. Structural Control Measure Description (Exhibit B)
 2. Stormwater System Contact Information
 3. Stormwater System Plans and Manuals

- c. If applicable, following approval by the County, the applicant shall record with the County Clerk-Recorder the Stormwater Operation and Maintenance Plan and an agreement or provisions in the CCRs for the purpose of documenting on-going and permanent storm drainage control, management, treatment, inspection and reporting.

11. **Prior to acceptance of the improvements (if applicable)**, the Stormwater Operations and Maintenance plan and General Notice must be updated to reflect as-built changes, approved by the County, and re-recorded with the County Clerk-Recorder as amendments to the original document.

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COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING
MARVIN A. ROSE, INTERIM DIRECTOR

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DATE: 4/5/2018
TO: 1st District Legislative Assistant, Agricultural Commissioner, Building Division, Environmental Health, Cal Fire/County Fire, Public Works, San Miguel CSD, CA Fish and Wildlife, U.S. Fish and Wildlife, National Guard/Camp Roberts, RWQCB, San Miguel Advisory Council, AB52
FROM: Brandi Cummings (b.cummings@co.slo.ca.us or 805-781-1006)

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5/10/18 Mike Sander 805 712-9170
Date Name Phone

The DRC2018-00036 DAYSPRING (Pretty Smith Winery) proposal minor use permit for three 1 acre outdoor cultivation at 13340 North River Road. Gavino moved, and John seconded, to approve the permit along with a notification of the neighbors within 1000 ft. Motion carried.

Mindy Fogg

From: Lisa Bugrova <lisa@kirk-consulting.net>
Sent: Thursday, February 21, 2019 10:30 AM
To: Mindy Fogg
Cc: Jessica Edmondson
Subject: Fw: DRC2018-00036 (Pretty/Dayspring CUP) - San Miguel Advisory Council recommendation and Environmental Health referral response

CAUTION: This email originated from outside of Rincon Consultants. Be cautious before clicking on any links, or opening any attachments, until you are confident that the content is safe .

Mindy,

We are finalizing the questions left on the environmental side on this project and making some clarifying edits to the PD, but attached is the Environmental health response removing the holds regarding the water system and haz mat flow chart.

Thanks!

-Lisa

Lisa Bugrova
Kirk Consulting
Cell (805)792-2820

From: Peter Hague <phague@co.slo.ca.us>
Sent: Monday, July 23, 2018 4:08 PM
To: Lisa Bugrova; Kealoha L. Ghiglia
Subject: Re: DRC2018-00036 (Pretty/Dayspring CUP) - San Miguel Advisory Council recommendation and Environmental Health referral response

Hi Ke,

Please remove any EH holds associated with this project.

Regards,
Peter Hague
Environmental Health Specialist
San Luis Obispo County Health Agency
Environmental Health Services
2156 Sierra Way, San Luis Obispo, CA, 93401
Office: (805)781-5554
Fax: (805) 781-4211

From: Lisa Bugrova <lisa@kirk-consulting.net>
Sent: Monday, July 23, 2018 3:35 PM
To: Peter Hague
Subject: RE: DRC2018-00036 (Pretty/Dayspring CUP) - San Miguel Advisory Council recommendation and Environmental Health referral response

Hi Peter,

The cannabis grow will consist of outdoor growing in hoopouses, a greenhouse, as well as use of an existing commercial building for indoor nursery plants. There will be no use of carbon dioxide cylinders or diesel/propane generators/windmill/pumps. The site is a former winery with existing irrigation in place and power available for all of the proposed uses. No agricultural chemicals above 55 gallons or 500 lbs or listed as extremely hazardous will be used for the cultivation.

Lisa Bugrova

Senior Planner / Project Manager

KIRK CONSULTING | 8830 MORRO RD | Atascadero, CA 93422

Office 805.461.5765 | Cell 805.792.2820

From: Peter Hague <phague@co.slo.ca.us>

Sent: Thursday, July 5, 2018 3:55 PM

To: Lisa Bugrova <lisa@kirk-consulting.net>

Subject: Re: DRC2018-00036 (Pretty/Dayspring CUP) - San Miguel Advisory Council recommendation and Environmental Health referral response

Hi Lisa,

I have reviewed the attached flowchart, in which you indicate that hazardous materials will not be present at the proposed facility in amounts above reportable thresholds. Can you give me a quick overview of the facility? My understanding is that the facility will be a cannabis grow. Will there be any carbon dioxide cylinders or diesel/propane generators/windmill/pumps? Any agricultural chemicals above 55 gallons or 500 lbs or listed as extremely hazardous (e.g. rodenticides or aluminum phoside)?

Regards,

Peter Hague

Environmental Health Specialist

San Luis Obispo County Health Agency

Environmental Health Services

2156 Sierra Way, San Luis Obispo, CA, 93401

Office: (805)781-5554

Fax: (805) 781-4211

From: Lisa Bugrova <lisa@kirk-consulting.net>

Sent: Thursday, July 5, 2018 12:48 PM

To: Peter Hague

Subject: FW: DRC2018-00036 (Pretty/Dayspring CUP) - San Miguel Advisory Council recommendation and Environmental Health referral response

Hello Peter,

I am following up on this project in regards to a request for a Hazardous Materials Declaration Flowchart. Can you confirm that submission of this form meets the EH requirements for tracking this project or is additional consultation necessary?

Thank you,

Lisa

Lisa Bugrova

Senior Planner / Project Manager

KIRK CONSULTING | 8830 MORRO RD | Atascadero, CA 93422

Office 805.461.5765 | Cell 805.792.2820

From: Lisa Bugrova

Sent: Thursday, June 7, 2018 10:54 AM

To: 'klghiglia@co.slo.ca.us' <klghiglia@co.slo.ca.us>

Cc: 'phague@co.slo.ca.us' <phague@co.slo.ca.us>

Subject: FW: DRC2018-00036 (Pretty/Dayspring CUP) - San Miguel Advisory Council recommendation and Environmental Health referral response

Good Morning Kealoha,

I was forwarded your referral response yesterday from Rincon Associates on the above-mentioned project. I am familiar with CUPA regulations and have attached the Haz Materials Business Plan Exemption form signed for the applicant via filed Consent of Landowner documentation on file with the Department of Planning and Building.

Further, I offer the following confirmation of project details that exempt the project from the Public Water Supply requirement.

1. The property is currently owned and operated as Pretty-Smith Winery. Upon final sale to the proposed cannabis operator, the winery operations and associated events will no longer occur.
2. The cannabis cultivation operations will be managed by a staff of 5 full time employees with a seasonal harvest staff of 9. The seasonal staff will be onsite three to four times per year, for six day

periods. The operation will not have an onsite population of 25 persons or more, including residents and employees.

Please let me know if this response is sufficient to meet Environmental Health's concerns on this project. If you have additional questions, or would like additional details of the proposed project, please let me know.

Thank you,

Lisa

Lisa Bugrova

Senior Planner / Project Manager

KIRK CONSULTING | 8830 MORRO RD | Atascadero, CA 93422

Office 805.461.5765 | Cell 805.792.2820

From: Rob Mullane <rmullane@rinconconsultants.com>

Sent: Wednesday, June 6, 2018 5:26 PM

To: Lisa Bugrova <lisa@kirk-consulting.net>

Subject: DRC2018-00036 (Pretty/Dayspring CUP) - San Miguel Advisory Council recommendation and Environmental Health referral response

Hi Lisa,

We received two items related to this project:

1. the attached note from the San Miguel Advisory Council
2. A referral response from Environmental Health

Please contact either Kealoha or Peter at Environmental Health regarding their requirements, and please let me know what the conclusion is on the whether a public water system permit is needed.

I am still anticipating a referral response letter from the Ag Department, and will send that along once received. Thank you.

Rob Mullane, MS, AICP

Senior Program Manager



Rincon Consultants, Inc.

805 547 0900 EXT 119 MOBILE 805 350 3282

www.rinconconsultants.com

Environmental Scientists Planners Engineers

5000 Fastest Growing Companies – Inc. Magazine

From: Rob Mullane

Sent: Friday, April 27, 2018 2:17 PM

To: 'Lisa Bugrova'

Cc: 'houseofholistics2013@gmail.com'; bcummings@co.slo.ca.us; Harley Voss

Subject: Information Hold Letter for DRC2018-00036 (Pretty/Dayspring CUP, 13350 River Road)

Lisa,

Attached is the information hold letter for this project. Please let me know if you have any questions or would like to further discuss the letter. I'll be out of the office the rest of this afternoon, but available next week.
Thanks.

Rob Mullane, MS, AICP
Senior Program Manager



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COUNTY OF SAN LUIS OBISPO

DEPARTMENT OF AGRICULTURE / WEIGHTS & MEASURES

Martin Settevendemie, Agricultural Commissioner / Sealer of Weights & Measures

DATE: August 26, 2020

TO: Eric Hughes, Project Manager

FROM: Lynda L. Auchinachie, Agriculture Department

SUBJECT: Recommendations for Dayspring Cannabis Conditional Use Permit DRC2018-00036 (2031)

The Agriculture Department has become aware of potential incompatibility issues between cannabis activities and traditional crop production since the original referral comments on May 22, 2018. The proposed outdoor cannabis activities are located proximate to parcels that support wine grape vineyards. These vineyards are known to use pesticides that cannabis is required to be tested for by California law to ensure there are no pesticide residues above the established tolerance levels. The establishment of the proposed project has the potential to cause traditional agricultural operations to cease or curtail their crop production activities near the proposed site because of the state regulations which have imposed pesticide residue thresholds for cannabis which are significantly lower than the residue thresholds allowed for traditional crops.

The Agriculture Element has policies to protect and encourage agricultural operations and conserve agricultural resources. As stated in Section 22.40.020 of the San Luis Obispo County Code, cannabis is not an agricultural commodity with respect to local "right to farm" ordinances nor is it considered "crop production and grazing" as a land use type. In this regard, the County has significant interest in ensuring the continued viability of agricultural operations adjacent and near cannabis cultivation operations. For this reason, the following conditions of approval and finding for project approval are recommended to address the incompatibility issue:

Waiver and Release of Liability – Pesticide Use By Neighboring Agricultural Operations Condition of Approval

The applicant, and their representatives, agents, officers, employees, successors, landlords, tenants, insurers, assigns and any other party claiming a direct or indirect financial, ownership or commercial interest in the project or the cannabis or cannabis products produced or located on the site (Releasing Parties"), shall, as a condition of approval of this land use permit, release, waive, discharge, hold harmless and covenant not to sue any property owner, property operator/tenant or pest control business, pest control advisor or qualified applicator, including their owners, agents, officers, employees and authorized representatives ("Released Parties"), for any claim, loss or damage to cannabis or cannabis products located on the project site arising out of the

recommendation or application of a registered pesticide on an agricultural commodity located outside the project site by a person or business who holds the required state license or certificate and local Operator Identification Number and, if applicable, Restricted Materials Permit, and who follows required state and local pesticide use reporting and does not grossly depart from industry norms, standards and practices regarding the application of said pesticide. This condition does not extend to any loss or damage caused by the gross negligence or willful misconduct of a Released Party, or a violation of Food and Agricultural Code Section 12972 verified by the County Agricultural Commissioner. This condition expressly extends to any statutory violations, except as set forth herein, including but not limited to actual or alleged violations of Food and Agricultural Code Section 12973, so long as the violations are not caused by the gross negligence or willful misconduct of a Released Party. Approval of this land use permit, as a land use decision, is a quasi-judicial action regulatory in nature involving the application of preexisting laws or standards to a specific project and does not involve negotiated consideration by both the County and the application, unlike a development agreement (see 78 Ops. Cal. Atty. Gen. 230), and therefore is not subject to the limitations of Civil Code section 1668 because this land use decision is not contractual in nature. This condition of approval shall have no impact on the enforcement or application of State pesticide laws and regulations by state or local agencies, including but not limited to licensing and certification requirements, pesticide use reporting and operator identification numbers, pesticide use enforcement inspections and investigations, issuance of cease and desist orders, initiation of administrative or criminal enforcement actions, and imposition of administrative, civil and criminal penalties.

Finding for Project Approval

It is the declared policy of this County under Chapter 5.16 of the San Luis Obispo County Code and the County Agriculture Element to protect and encourage agricultural operations and conserve agricultural resources. Pursuant to Section 22.40.020 of the San Luis Obispo County Code, cannabis is not an agricultural commodity with respect to local "right to farm" ordinances nor is it considered "crop production and grazing" as a land use type. In this regard, the County has significant interest in ensuring the continued viability of agricultural operations adjacent and near cannabis cultivation operations. The County acknowledges that the establishment of the proposed project has the potential to cause traditional agricultural operations to cease or curtail their crop production activities near the proposed site because of state regulations which have imposed pesticide residue thresholds for cannabis which are significantly lower than the residue thresholds allowed for traditional agricultural crops. More specifically, the County has received substantial evidence indicating pesticide applicators would refuse to serve an agricultural operation if a cannabis site is permitted in close proximity to the agricultural operation because fear of potential crippling liability should a nearby cannabis operation be able to allege their cannabis has been

made unmarketable by an offsite pesticide application, even if the levels of pesticide residue on the cannabis would otherwise be well within the amounts allowed for traditional agricultural food crops, like citrus, avocado, vineyards, vegetables and strawberries. The County has received reports in other jurisdictions, such as the County of Santa Barbara, of agricultural operations curtailing activities because of nearby cannabis operations, as well as lawsuits being filed by cannabis operations against nearby traditional agricultural operations and pesticide applicators related to cannabis allegedly made unmarketable by pesticide applications in nearby traditional agricultural fields. In accordance with the rights afforded to the County by Article XI, section 7 of the California Constitution, and in order to adequately protect agricultural operations and conserve agricultural resources within the County, the imposition and enforceability of the condition of approval requiring the applicant to release, waive, discharge, hold harmless and covenant not to sue for any claim, loss or damage to cannabis or cannabis products related to an offsite pesticide application, as set forth within the condition of approval, is a condition to the issuance of the land use permit and making the findings required to approve this land use permit under County Code, specifically, the findings required by Sections 22.62.050.C.1 and 22.62.060.C.4c and d. If any clause or provision of this condition of approval is asserted by Releasing Party to be illegal, invalid or unenforceable, or is determined by a court of competent jurisdiction to be illegal, invalid, or unenforceable under present or future laws and the applicant does not provide or agree to adequate alternatives, this land use permit may be deemed void ab initio and there would be no vested rights to commence or continue cannabis activities on the site. If you have any questions, please call me at 805.781.5914.



General Manager
Rob Roberson

Fire Chief
Rob Roberson

Assistant Fire Chief
Scott Young

Prevention Officer
Scott Young

Mission Statement

Committed to serving the community with effectiveness, efficiency, and care to support the economic and social quality of life in San Miguel

Proudly serving San Miguel with:
Fire Protection
Since 1887

P.O. Box 180
1150 Mission Street
San Miguel, CA 93451

Tel. 805-467-3388
Fax 805-467-9212

September 18, 2019

Preliminary Fire, Life & Safety Plan Review

Regarding:
13350 North River Road
San Miguel, CA 93451
APN # 027-241-003

The San Miguel Fire Department has prepared this Preliminary Fire, Life & Safety Plan Review Letter, for the above referenced project based on the project information provided on September 10th, 2019, Dated August 20th, 2019, Sheets, G-001, A-001, A-002, A-004, A-005, A-6.0, A-6.1, S-1.0, S-2.0, FQ-102, & Z-001.

This Preliminary Fire, Life & Safety Plan Review Letter addresses overall site access, and access to water for the sole purpose of firefighting only.

All additional plans, submittals, and required project information shall be submitted for review, and approval prior to the issuance of permits or commencement of any construction activity.

All fees are required to be paid at the time of submittal.

The items listed below require correction, modification and or alteration based on the plans provided at the time of this submittal.

- Reference the correct APN for this address.
- Install an all-weather Fire Access Road to the South of the hoop house location, connecting to the East and West fire access roads, providing access to all sides of the area, and avoiding dead end access. CFC 503, 503.2.5. Refer to red-line notes on sheets A-001 & A-002.
- All Fire Access Roads are to be designated No Parking Lanes with appropriate signage and or markings CFC 503.4.
- All security gates shall provide for Fire Department access and meet the requirements as stated in CFC503.6. Refer to red-line notes sheet A-002.
- Provide Knoxbox key boxes containing master keys for the entire facility, contact information, access codes, alarm codes and alarm company information at the River Road, and Mission Lane access locations. CFC 506. Refer to red-line notes on sheet A-001.
- Provide 5 additional Fire Department approved Warhead connections in the designated locations as shown on sheet A-002 red-line notes. CFC 507.5.1.
- Show the location of the existing fire hydrant.

- Provide a turnout midway along the existing Driveway from the River Road access. Title 14 California Code of Regulations 1273.05(c), CFC Appendix "D".
- The River Road Driveway access shall be posted a No Parking area CFC 503.4.
- Additional dedicated firefighting water storage may be required based on the Fire Protection Engineers recommendation upon fire sprinkler plan review. 2019 NFPA 13, 5.2.2, A.19.2.4.2.

Respectfully Submitted,



Scott Young
Assistant Fire Chief
Prevention Officer

Eric Hughes

From: Michael Stoker
Sent: Tuesday, September 3, 2019 9:31 AM
To: Eric Hughes
Cc: Cheryl Journey
Subject: Re: Re-referral DRC2018-00036

Eric,

Please find buildings recommendations for DRC2018-00036 below. Please let me know if you have any questions.

In regards to this preliminary review, a building permit is required. The drawings specify the work to be completed is for three 1-acre outdoor cultivation sites (hoop house), 20,400 square feet of outdoor nursery in hoop houses, 45,000 square feet of greenhouses for indoor cultivation and nursery, 7,680 square feet of drying containers, and use of existing 4,740 sq/ft building for processing, nursery, and mobile dispensary which will include processing and transport. A California State licensed design professional (Architect/Engineer) shall prepare plans in compliance with current codes adopted by the County of San Luis Obispo (Current version of the California Building Standards Codes and Title 19 of the SLO County Codes at time of permit submittal).

While a thorough plan review will be conducted at the time of the building permit application, the following items are noted to assist design review;

1. A California licensed Architect or Engineer is required to submit the plans for this project per BPC 5536.1.
2. A pre application meeting will be needed prior to submitting for a building permit to answer any questions and / or discuss code related issues.
3. Separate building permits will be required for separate structures located on the site, each drying container, greenhouses, etc.
4. Specify the occupancy classification and Type of Construction on the cover sheet of the plans to verify compliance with the current version of CBC.
5. Provide a building tabulation on the plans clarifying the floor area (square footage) for each proposed use/occupancy within each structure and for the overall structure.
6. Provide floor plans, elevations, sections, etc. to accurately show the work being completed and layout of the proposed uses within each structure.
7. Any fire resistive walls or ceilings due to occupancy separations will need to be detailed on the plans to comply with the requirements of with CBC, including Chapter 5, 6 and 7. The specific details for the wall construction on the plans will need to reference an approved UL listing or gypsum manual listing.
8. Mixed occupancy buildings will need to comply with the CBC, specifically CBC Chapter 5 Section 508.

9. The fire and smoke protection features (i.e. exterior walls, projections, openings, rated wall assemblies, shaft enclosures, parapet, etc) shall be shown, calculated and detailed on the plans to comply with CBC, including Chapter 7.
10. Provide an occupant load and exiting analysis on the plans to verify compliance with CBC, including Chapter 10.
11. The accessibility elements throughout will need to be shown, detailed, and / or noted on the plans to verify compliance with CBC Chapter 11B. (i.e. accessible parking, path of travel, restroom design, accessible amenities, rooms, doors, electrical outlets, etc.).
12. Provide plans which clearly show the structural design to verify compliance with the 2016 California Building Code and referenced standards. The plans and supporting calculations will need to be prepared by a California Licensed Design Professional (Architect or Engineer) justifying the structural design.
13. The drying containers will be required to be on a permanent foundations and comply with the requirements of the California Code of Regulations Title 24.
14. Provide isometric / single line drawings for the electrical, plumbing, and mechanical elements to verify compliance with the current versions of the California Electrical, Plumbing, and Mechanical Codes.
15. Provide a plumbing fixture analysis on the plans to verify the number of fixtures provided are sufficient for the proposed use and complies with CPC Chapter 4 and Table A and Table 422.
16. Provide an equipment schedule on the plans and any referenced standards or spec sheets that are applicable.
17. Provide details for anchorage for all equipment. For equipment weighing more than 400 lbs, provide calculations for seismic anchorage in accordance with ASCE 7-10, Chapter 13 or current version.
18. If there are any hazardous materials, provide HIMS sheet to specify the types and quantities. Also, show proper storage location on the plans.
19. Energy Calculations will need to be provided to verify compliance with current California Energy Code.
20. Compliance with the current California Green Building Code and County of San Luis Obispo Green Building Ordinance will need to be show on the plans.
21. The building(s) will need to be provided with fire sprinklers and an alarm system under a separate permit. At the time of the permit application provide plans and calculations showing the design of the system.

Thanks

County Of San Luis Obispo

Planning & Building

Michael Stoker, CASp

Building Division Supervisor

(p) 805-781-1543

mstoker@co.slo.ca.us

From: Eric Hughes <ehughes@co.slo.ca.us>

Sent: Thursday, August 29, 2019 3:20 PM

To: Michael Stoker <mstoker@co.slo.ca.us>

Subject: Re-referral DRC2018-00036

Hi Mike,

Did you ever have any comments on this project? It was re-referred on 7/30/19 (see attached). I'm trying to update the staff report and never received any comments from either referral. I'll take your basic checklist 😊
I know you are busy, but any way to get it ASAP?

Thanks,
Eric

[Eric Hughes](#) | Planner III

County of San Luis Obispo Planning and Building
976 Osos Street, Room 300, San Luis Obispo, CA 93408
(p) 805-781-1591 ehughes@co.slo.ca.us



State of California – The Natural Resources Agency
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Central Region
1234 East Shaw Avenue
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(559) 243-4005
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



RECEIVED

22 JUL 2019

PLANNING & BUILDING

July 19, 2019

Megan Martin
County of San Luis Obispo
Department of Planning and Building
976 Osos Street, Room 300
San Luis Obispo, California 93408
Mamartin@co.slo.ca.us

**Subject: Conditional Use Permit (DRC2018-00036 Daysprings Pretty)
Mitigated Negative Declaration (MND)
Outdoor Cannabis Cultivation (Project)**

Dear Ms. Martin:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from San Luis Obispo County for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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

CDFW ROLE

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

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). For example, 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 authorized as provided by the Fish and Game Code will be required.

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

Land Conversion: Project activities that result in land conversion may also result in habitat loss for special status species, migration/movement corridor limitations, or fragmentation of sensitive habitat. Loss of habitat to development and agriculture are contributing factors to the decline of many special status species and game species. CDFW recommends CEQA documents generated for cannabis activities address cumulative impacts of land conversion.

Cannabis Water Use: Water use estimates for cannabis plants are not well established in literature and estimates from published and unpublished sources range between 3.8-liters and 56.8-liters per plant per day. Based on research and observations made by CDFW in northern California, cannabis grow sites have significantly impacted streams through water diversions resulting in reduced flows and dewatered streams (Bauer et al., 2015). Groundwater use for clandestine cannabis cultivation activities have resulted in lowering the groundwater water table and have impacted water supplies to streams in northern California. CDFW recommends that CEQA documents address the impacts to groundwater and surface water that may occur from Project activities.

Light Pollution: Cannabis cultivation operations often use artificial lighting or “mixed-light” techniques in both greenhouse structures as well as indoor operations to increase yields. Night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication (i.e., bird song; Miller, 2006), determining when to begin foraging (Stone et al., 2009), behavior thermoregulation (Beiswenger, 1977), and migration (Longcore & Rich, 2004). Even aquatic species can be affected; migration of salmonids can be slowed or halted by the presence of artificial lighting (Tabor et al., 2004; Nightingale et al., 2006). Phototaxis, a phenomenon which results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it (Longcore and Rich, 2004). CDFW recommends CEQA documents address light pollution in the analysis of impacts.

Cumulative Impacts: General impacts from Projects include habitat fragmentation, degradation, habitat loss, migration/movement corridor limitations, and potential loss of individuals to the population. Multiple cannabis-related Projects have been proposed throughout San Luis Obispo County with similar impacts to biological resources. CDFW recommends the lead agency consider all approved and future projects when determining impact significance to biological resources.

Water Pollution: Pursuant to Fish and Game Code section 5650, it is unlawful to deposit in, permit to pass into, or place where it can pass into "Waters of the State" any substance or material deleterious to fish, plant life, or bird life, including non-native species. It is possible that without mitigation measures this Project could result in pollution of Waters of the State from storm water runoff or construction-related erosion. Potential impacts to the wildlife resources that utilize watercourses in the Project area include the following: increased sediment input from road or structure runoff; toxic runoff associated with Project-related activities and implementation; and/or impairment of wildlife movement. The Regional Water Quality Control Board and United States Army Corps of Engineers also have jurisdiction regarding discharge and pollution to Waters of the State.

Bird Protection: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

Fully Protected Species: CDFW has jurisdiction over fully protected species of birds, mammals, amphibians, reptiles, and fish pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Take of any fully protected species is prohibited and CDFW cannot authorize their incidental take.

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or Federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T as specified in the CEQA Guidelines (Cal. Code Regs., tit. 14, Chapter 3, § 15380), CDFW recommends it be fully considered in the environmental analysis for this Project.

PROJECT DESCRIPTION SUMMARY

Proponent: Helios Dayspring

Objective: The Project proponent is seeking a Conditional Use Permit for 240,000 square feet of outdoor (hoop house) cultivation, 45,000 square feet of indoor (greenhouse) cultivation, operation of a non-storefront dispensary, use of an existing 2,370 square foot building, and installation of eleven (11) 10,000-gallon water storage tanks.

Location: The Project will take place at 13350 North River Road in San Miguel, California; Assessor's Parcel Number (APN) 027-271-041.

Timeframe: Unspecified.

RECOMMENDATIONS

CDFW offers the following recommendations to assist San Luis Obispo County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

I. Environmental Setting and Related Impact

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or the United States Fish and Wildlife Service (USFWS)?

Review of the California Natural Diversity Database (CNDDDB) reveals records for several special-status species within the vicinity of the Project area including, but not limited to, State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); State threatened tricolored blackbird (*Agelaius tricolor*); CDFW Watch List and Fully Protected golden eagle (*Aquila chrysaetos*); State Species of Special Concern American badger (*Taxidea taxus*), Salinas pocket mouse (*Perognathus inornatus psammophilus*), burrowing owl (*Athene cunicularia*), pallid bat (*Antrozous pallidus*), Townsend's big-eared bat (*Corynorhinus townsendii*), western spadefoot (*Spea hammondi*), San Joaquin coachwhip (*Masticophis flagellum ruddocki*), coast horned lizard (*Phrynosoma blainvillii*), and northern California legless lizard (*Anniella pulchra*); and CDFW Watch List prairie falcon (*Falco mexicanus*) (CDFW, 2018).

Review of aerial imagery indicates the Project area consists of existing structures, oak woodland, annual grassland, fallow fields, grape vineyards, and streams to the north and west. The Project area contains habitats with the potential to support special status species and has the potential to impact biological resources. An analysis of potential impacts and recommended mitigation measures summarized by species follows below.

COMMENT 1: Golden Eagle (GOEA)

Issue: GOEA have been documented to occur within 7 miles of the Project area. Suitable GOEA nesting habitat includes cliffs of all heights and large trees in open areas. Review of aerial imagery indicates that large trees could occur within or adjacent to the Project area that could provide suitable nesting habitat for GOEA.

Specific impact: Without appropriate avoidance and minimization measures for GOEA, potentially significant impacts associated with the Project's construction could include nest abandonment, reduced reproductive success, reduced health and vigor of eggs and/or young.

Evidence impact is potentially significant: Habitat loss and breeding are the primary threats to GOEA (Smith et al., 2008; WRI 2009). Potential suitable nesting habitat for GOEA may occur within or adjacent to the Project area. Therefore, subsequent ground-disturbing activities have the potential to significantly impact GOEA.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to GOEA, CDFW recommends conducting the following evaluation of the subject parcel and implementing the following mitigation measures.

Recommended Mitigation Measure 1: GOEA Surveys

CDFW recommends that construction be timed to avoid the normal bird breeding season (February 1 through September 15). However, if construction must take place during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for GOEA in accordance with the USFWS' "Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations" (USFWS, 2010), no more than 10-days prior to the start of implementation to evaluate presence/absence of GOEA in proximity to Project activities and to evaluate potential Project-related impacts.

Recommended Mitigation Measure 2: GOEA Avoidance

If a GOEA is found during preconstruction surveys, CDFW recommends implementation of a minimum ½- mile no-disturbance buffer. CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged, and are no longer reliant upon parental care for survival. In the event that a GOEA is detected during surveys, consultation with CDFW is warranted to discuss how to implement

the Project and avoid take. Take of any fully protected species is prohibited and CDFW cannot authorize their incidental take.

COMMENT 2: Other State Species of Special Concern

Western spadefoot, Salinas pocket mouse, and Monterey dusky-footed woodrat

Issue: Western spadefoot occur in grassland in playas and alkali flats (Thomson et al., 2016). Salinas pocket mouse spend days in their burrows and inhabit grassland areas, desert scrub, and oak savannah communities with sandy soils or other friable soils (Brylski et al., 1998). Monterey dusky-footed woodrat prefers forest habitats with moderate canopy, year-round greenery, a brushy understory, and suitable nest building materials (Zeiner et al., 1990c).

The subject parcel is within the range of all three of the species mentioned above. All three species have been documented to occur in the Project vicinity and the Project area likely supports the habitat elements mentioned above. Therefore, the subject parcel is suitable for occupation or colonization by these species.

Specific impact: Without appropriate avoidance and minimization measures for western spadefoot, Salinas pocket mouse, and Monterey dusky-footed woodrat, potentially significant impacts associated with the Project's construction could include den/burrow abandonment, which may result in reduced health or vigor of eggs and/or young, and/or direct mortality.

Evidence impact is potentially significant: Habitat loss and degradation is a primary threat to the species mentioned above (Williams, 1986; Thomson et al., 2016). Impacts to grasslands or the pond within the Project area have the potential to significantly impact local populations of these species.

Recommended Potentially Feasible Mitigation Measure(s)

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

Recommended Mitigation Measure 3: Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation to determine if the Project area or its immediate vicinity contains suitable habitat for the species mentioned above.

Recommended Mitigation Measure 4: Species of Special Concern Surveys

If suitable habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for each species and their requisite habitat features to evaluate potential impacts resulting from ground-disturbance.

Recommended Mitigation Measure 5: Avoidance

Avoidance whenever possible is encouraged via delineation and observing a 50-foot no-disturbance buffer around burrows and dens.

COMMENT 3: Pesticide Use

Issue: The Project has the potential to temporarily and permanently impact biological resources through the use of pesticides. The United States Environmental Protection Agency (USEPA) regulates pesticides at the Federal level and the California Department of Pesticide Regulation (DPR) regulates pesticides at the State Level. There are currently no pesticides registered specifically for use directly on cannabis. Based on DPR guidance, the only pesticide products not illegal to use on cannabis are those that contain an active ingredient that is exempt from residue-tolerance requirements and (1) registered and labeled for use that is broad enough to include use on cannabis (i.e., unspecified green plants) or (2) exempt from registration requirements as a minimum risk pesticide under Federal Insecticide, Fungicide, and Rodenticide Act section 25(b) and California Code of Regulations, Title 3, section 6147.

Specific impact: Baker (2018) reports the direct effects of pesticides on wildlife include "acute poisoning, immunotoxicity, endocrine disruption, reproductive failure, altered morphology and growth rates, and changes in behavior" (p. 1). Increased anticoagulant rodenticide use has been noted by CDFW staff at clandestine cannabis cultivation sites throughout the State, including the use of illegal rodenticides in endangered species habitat in San Luis Obispo County (D. Hacker, personal communication, March 28, 2017). The use of pesticides, including anticoagulants and their potential for secondary poisoning to native species, is a significant concern. According to Baker (2018), "[p]esticides can indirectly impact wildlife through reduction of food resources and refuges, starvation due to decreased prey availability, hypothermia, and secondary poisoning" (p. 3).

Evidence impact is potentially significant: The Project includes a 240,00 square foot outdoor nursery area and does not make clear if pesticides will be used. The Project area contains potentially suitable habitat and features that could support several special-status species. As a result, Project activities have the potential to significantly impact special-status species through the use of pesticides.

Recommended Potentially Feasible Mitigation Measures

CDFW recommends the MND address and fully analyze the use of pesticides, including the risk of secondary poisoning to native species caused by the use of rodenticides. CDFW recommends the MND include a measure that requires the use of herbicides, rodenticides, or fertilizers on the Project area to be restricted to those approved by USEPA and DPR.

COMMENT 4: Lake and Streambed Alteration

Issue: The Project has the potential to temporarily and/or permanently impact an ephemeral stream that flows to the Salinas River. Activities within or adjacent to this stream may be subject to CDFW's lake and streambed alteration regulatory authority, pursuant Fish and Game Code section 1600 et seq.

Specific impact: Work within or adjacent to the stream channel has the potential to result in substantial diversion or obstruction of natural flows; substantial change or use of material from the bed, bank, or channel (including removal of riparian vegetation); deposition of debris, waste, sediment, toxic runoff or other materials into water causing water pollution and degradation of water quality.

Evidence impact is potentially significant: The Project area includes activities adjacent to a stream that may be subject to CDFW's lake and streambed alteration regulatory authority. The stream appears to be a source water that contributes to Salinas River and therefore, activities within the stream as a result of the Project have the potential to impact downstream waters. Although mostly dry, recent studies have shown that biodiversity and habitat values of dryland streams are considerably higher than in the adjacent uplands, transporting and delivering water, and providing linear habitat connectivity and refuge, and concentrating seeds, organic matter and sediment. Moreover, the ecological viability of the dryland environment depends on the sustainability of the physical/hydrological processes that form and maintain episodic streams and the habitat they support (Brady & Vyverberg, 2013).

Ephemeral streams, such as the one on-site, function in the collection of water from rainfall, storage of various amounts of water and sediment, discharge of water as runoff and the transport of sediment, they provide diverse sites and pathways in which chemical reactions take place and provide habitat for fish and wildlife species. Disruption of stream systems such as these can have significant physical, biological, and chemical impacts that can extend into the adjacent uplands adversely affecting not only the fish and wildlife species dependent on the stream itself, but also the flora and fauna dependent on the adjacent upland habitat for feeding, reproduction, and shelter.

Recommended Potentially Feasible Mitigation Measure

Notification of Lake and Streambed Alteration

Based on aerial imagery, the Project site appears to contain features indicating an ephemeral stream may be present. CDFW has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource, pursuant to Fish and Game Code sections 1600 et seq. Section 1602(a) of the Fish and Game Code requires an entity to notify CDFW before engaging in activities that would substantially change or use any material from the bed, channel, or bank of any stream or substantially divert or obstruct the natural flow of a stream. Project activities are proposed that may involve activities within streams that are jurisdictional under Fish and Game Code 1602. CDFW recommends coordination with CDFW staff prior to ground-breaking activities on-site or submit a Lake or Streambed Alteration Notification to determine if the activities proposed within the streams are subject to CDFW's jurisdiction. Please note that CDFW is required to comply with the California Environmental Quality Act (CEQA) in the issuance of a Lake or Streambed Alteration Agreement.

Additionally, Business and Professions Code 26060.1 (b)(3) includes a requirement that California Department of Food and Agriculture (CDFA) cannabis cultivation licensees demonstrate compliance with Fish and Game Code section 1602 through written verification from CDFW. CDFW recommends submission of a Lake and Streambed Alteration Notification to CDFW for the proposed Project prior to initiation of any cultivation activities.

II. Editorial Comments and/or Suggestions

Mitigation Measure BIO-3, Exhibit B- Mitigation Summary Table, page 47.

As currently drafted, Mitigation Measure BIO-3 describes surveying the area for nesting birds within one week prior to activity beginning on site. If nesting birds are located on or near the proposed project site, they shall be avoided until they have successfully fledged, or the nest is no longer deemed active. A non-disturbance buffer of 250 feet will be placed around non-listed, passerine species, and a 500-foot buffer will be implemented for raptor species. All activity will remain outside of that buffer until a qualified biologist has determined that the young have fledged or that proposed construction activities would not cause adverse impacts to the nest, adults, eggs, or young. CDFW encourages Project implementation occur during the bird non-nesting season. However, if ground-disturbing activities must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

CDFW recommends that a qualified wildlife biologist conduct preconstruction surveys for active nests no more than 10-days prior to the start of ground disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the work site to identify nests and determine their status. A sufficient area means any area potentially affected by a project. In addition to direct impacts (i.e., nest destruction), noise, vibration, odors, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends a qualified biologist continuously monitor nests to detect behavioral changes resulting from the project. If behavioral changes occur, CDFW recommends the work causing that change cease and CDFW be consulted for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250-feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined the birds have fledged and are no longer reliant upon the nest or parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

Mitigation Measure BIO-3.a, Exhibit B- Mitigation Summary Table, page 47.

As currently drafted, BIO-3.a states if work is planned to occur within 150 meters of burrowing owl habitat a qualified biologist shall conduct a preconstruction survey for the species within 14 days of the onset of construction and a second survey shall be completed immediately prior to construction (e.g., within the preceding 24 hours). If avoidance of active burrows is infeasible, the owls can be passively displaced from their burrows according to recommendations made in the Staff Report and in coordination with CDFW.

If BUOW are found within the Project site, CDFW recommends implementing no-disturbance buffers, as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), prior to and during any ground-disturbing activities associated with Project implementation. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the

birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

* meters (m)

If BUOW are found to occupy the Project site and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of one burrow collapsed to one artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting BUOW. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance of the Project site during Project activities, at a rate that is sufficient to detect BUOW if they return.

Mitigation Measure BIO-4, Exhibit B- Mitigation Summary Table, page 47.

As currently drafted, BIO-4 describes during vegetation-disturbing activities, the environmental monitor shall walk behind the equipment to capture sensitive reptiles that are unearthed by the equipment. The surveyor shall capture and relocate any reptile observed during the survey effort. CDFW recommends if northern California legless lizard, coast horned lizard, or San Joaquin coachwhip are present in the work area, all work shall stop; they shall be allowed to leave the work area on their own volition or shall be moved out of harm's way by a qualified biologist.

Mitigation Measure BIO-7, Exhibit B- Mitigation Summary Table, page 49.

As currently drafted, BIO-7 describes if San Joaquin kit fox (SJKF) dens that are occupied or have been known to be occupied in the past, or a natal or pupping den is found during surveys, consultation with CDFW should occur to discuss how to implement the project and avoid take. CDFW recommends in addition to consultation with CDFW, the implementation of a 100-foot no-disturbance buffer around dens that are used or known to have been used at any time in the past by SJKF. If a natal or pupping den is found during surveys, consultation with CDFW is recommended.

Mitigation Measure BIO-9, Exhibit B- Mitigation Summary Table, page 49-50.

As currently drafted, BIO-9 describes conducting surveys for American badger dens within the impact footprint and surrounding accessible areas of the property at least two weeks prior to initiation of construction or site disturbance activities. A County-qualified biologist shall evaluate all dens found to determine whether or not they are active. No grading shall occur within 50 feet of an active badger den. Construction activities occurring between July 1 and February 28 shall comply with the following measures to avoid direct take of adult and weaned juvenile badgers through the forced abandonment of dens: if dens are too long to see the end, a fiber optic scope (or other acceptable method such as using tracking medium for a consecutive 3-night period) shall be used to assess the presence of badgers; inactive dens shall be excavated by hand with a shovel to prevent badgers from re-using them during construction; active den entrances shall be partially blocked with sticks, debris, and soil for 3-5 days to discourage badgers from continuing to use them. Access to the den shall be incrementally blocked to a greater degree over this period. After badgers have stopped using previously active den(s) within the project disturbance site, the den(s) shall be excavated by hand with a shovel to prevent re-entry; and the County-approved biologist shall be present during the initial clearing and grading activity. If additional badger dens are found at this time, all work shall cease until the biologist completes the measures described above for inactive and active dens. Once all badger dens have been excavated, work may resume.

CDFW recommends revising the time frame, July 1 and February 28, to include the breeding and rearing season, which is March through September.

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 CNDDDB. The CNDDDB field survey form can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

FILING FEES

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. Fees are payable upon filing of the Notice

of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs., tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the Project to assist San Luis Obispo County in identifying and mitigating Project impacts on biological resources.

Should you have questions regarding this letter or for further coordination, please contact Kelley Aubushon, Senior Environmental Scientist (Specialist), at the address provided on this letterhead, by telephone at (559) 243-8153, or by email at kelley.aubushon@wildlife.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie A. Vance', with a stylized, flowing script.

Julie A. Vance
Regional Manager

REFERENCES

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CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

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25 JUL 2019

PLANNING & BUILDING

July 18, 2019

County of San Luis Obispo
Megan Martin, Project Manager
976 Osos Street, Room 300
San Luis Obispo, CA 93408-2040

Subject: Initial Study/Mitigated Negative Declaration (SCH#2019069095) –
Dayspring Pretty Conditional Use Permit (CUP) DRC2018-0036

Dear Ms. Martin:

Thank you for providing the California Department of Food and Agriculture (CDFA) CalCannabis Cultivation Licensing Division (CalCannabis) the opportunity to comment on the Initial Study/Mitigated Negative Declaration (IS/MND) (SCH#2019069095) prepared by the County of San Luis Obispo for the proposed Dayspring Pretty CUP DRC2018-00036 Project (Proposed Project).

CDFA has jurisdiction over the issuance of licenses to cultivate, propagate and process commercial cannabis in California. CDFA issues licenses to outdoor, indoor, and mixed-light cannabis cultivators, cannabis nurseries and cannabis processor facilities, where the local jurisdiction authorizes these activities. (Bus. & Prof. Code, §26012(a)(2).) All commercial cannabis cultivation within California requires a cultivation license from CDFA. For a complete list of all license requirements, including CalCannabis Licensing Program regulations, please visit: https://static.cdfa.ca.gov/MCCP/document/CDFA%20Final%20Regulation%20Text_01162019_Clean.pdf.

CDFA expects to be a Responsible Agency for this project because the project will need to obtain an annual cultivation license from CDFA. In order to ensure that the IS/MND is sufficient for CDFA's needs at that time, CDFA requests that a copy of the IS/MND, revised to respond to the comments provided in this letter, and a signed Notice of Determination be provided to the applicant, so the applicant can include them with the application package they submit to CDFA. This should apply not only to this Proposed Project, but to all future CEQA documents related to cannabis cultivation applications in the County of San Luis Obispo.



CDFA offers the following comments concerning the IS/MND.

General Comment (GC)

GC 1: Request for Electronic Copy

The graphics provided in the IS/MND are difficult to read in the scanned version provided by the State Clearinghouse. Further, the color and/or pattern demarcations for figures, such as those shown in Figure 5, "Habitat Map" (IS/MND, p. 19), are not easily discernible when scanned in black and white. CDFA requests that in the future, the County provide an electronic version of each IS/MND to CDFA at the same time as it files the document with the State Clearinghouse. Documents may be sent to Crystal D'Souza, staff counsel at: crystal.dsouza@cdfa.ca.gov.

GC 2: Acknowledgement of CDFA Regulations

The IS/MND acknowledges that CDFA is responsible for the licensing of cannabis cultivation. The IS/MND could be more informative by also acknowledging that CDFA is responsible for regulation of cannabis cultivation and enforcement, as defined in the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) and CDFA regulations related to cannabis cultivation (Bus. & Prof. Code, §26102). The IS/MND's analysis would also benefit from discussion of the protections for environmental resources provided by CDFA's regulations. In particular, the impact analysis could be further supported by a discussion of the effects of state regulations on reducing the severity of impacts on the following resource topics:

- Aesthetics (See 3 California Code of Regulations §8304(c); §8304(g).)
- Air Quality and Greenhouse Gas Emissions (See §8102(s); §8304(e); §8305; §8306.)
- Biological Resources (See §8102(w); §8102(dd); §8216; §8304(a-c); §8304(g).)
- Cultural Resources (See §8304(d).)
- Hazards and Hazardous Materials (See §8102(q); §8106(a)(3); §8304(f); §8307.)
- Hydrology and Water Quality (See §8102(p); §8102(v); §8102(w); §8102(dd); §8107(b); §8216; §8304(a and b); §8307.)
- Noise (See §8304(e); §8306.)
- Utilities and Service Systems (See §8102(s); §8108; §8308.)
- Energy (See §8102(s); §8305; §8306.)
- Cumulative Impacts (related to the above topics).

Specific Comments and Recommendations

In addition to the general comment provide above, CDFA provides the following specific comments regarding the analysis in the IS/MND.

THIS SECTION IS INTENDED TO BE LEFT BLANK

Comment No.	Page No(s).	Resource Topic	IS/MND Text	CDFA Comments and Recommendations
1	8	Project Description	Other Public Agencies Whose Approval is Required	The IS/MND's Project Description (p. 2) indicates the Proposed Project would include the operation of a non-storefront dispensary. Retail sale of cannabis and/or cannabis products requires a state license from the Bureau of Cannabis Control (BCC). The IS/MND could be improved by listing the BCC as an agency whose approval may be required and the type of license that will be required for the Proposed Project.
2	15	Air Quality	Using the GHG threshold information described in the Setting section, the project is expected to generate less than the Bright-Line Threshold stationary source (industrial) projects of 10,000 metric tons of GHG emissions.	The IS/MND could be more informative if it provided additional information about how this conclusion was reached, including any analysis or GHG emissions modeling completed for the Proposed Project.
3	18	Biological Resources	Mitigation is required along with appropriate setbacks from the wetland to reduce impacts to a level below significant.	The IS/MND does not list wetlands as a habitat type. Figure 5 identifies three ravines, but does not specify whether any associated wetland habitat exists. The IS/MND could be improved by clarifying the existence of wetland habitat and revising the associated terminology in the text of the IS/MND and/or Figure 5.

Comment No.	Page No(s).	Resource Topic	IS/MND Text	CDFA Comments and Recommendations
4	21	Cultural Resources	N/A	The IS/MND lists four tribes that were contacted for the Proposed Project as part of compliance with AB52. The IS/MND describes a response from only one tribe, the Northern Chumash Tribal Council. The IS/MND could be improved by providing information about whether any responses were received from the other three tribes listed.
5	37	Water and Hydrology	Table 3 below provides a summary of projected water demand prepared by _____ along with the water use offset achieved by eliminating seven acres of vineyards.	There appears to be an error as the table below the text is labeled Table 4. Additionally, the IS/MND could be improved by providing information regarding the preparer of the summary of projected water demand for the Proposed Project.
6	38	Mandatory Findings of Significance	N/A (General Comment)	The IS/MND could be improved by identifying whether any other cannabis growing operations exist or have been proposed in the vicinity of the Proposed Project, and whether the Proposed Project would make a considerable contribution to any cumulative impacts from these other projects.
7	43	Project-specific Studies and Other References	In addition, the following project specific information and/or reference materials have been considered as a part of the Initial Study:	In order to ensure that CDFA has supporting documentation for the IS/MND, CDFA requests that a copy of all project-specific studies listed on Page 43 be provided to the

Comment No.	Page No(s).	Resource Topic	IS/MND Text	CDFA Comments and Recommendations
				applicant so such items can be included with an application package submitted to CDFA.

Conclusion

CDFA appreciates the opportunity to provide comments on the IS/MND for the Proposed Project. If you have any questions about our comments or wish to discuss them, please contact Kevin Ponce, Senior Environmental Scientist Supervisor, at (916) 263-0801 or via e-mail at kevin.ponce@cdfa.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lindsay Rains', with a stylized, flowing script.

Lindsay Rains
Licensing Program Manager