



Air Pollution Control District San Luis Obispo County

Via Email

April 15, 2019

Cassidy McSurdy
County of San Luis Obispo Department of Planning and Building
976 Osos Street, Room 300
San Luis Obispo, CA 93408
cmcsurdy@co.slo.ca.us

SUBJECT: APCD Comments Regarding the Proposed Nahail Outdoor Cannabis
Cultivation Project (DRC2019-00042)

Dear Ms. McSurdy:

Thank you for including the San Luis Obispo County Air Pollution Control District (APCD) in the environmental review process. We have completed our review of the proposed project located on Neal Springs Road in Templeton. The project proposes a Minor Use Permit for 3-acres of outdoor cannabis cultivation and the use of 1-5 vehicles for transporting/distributing product. The site will be accessed by an unpaved driveway approximately 2,650 feet long.

The following are APCD comments that are pertinent to this project.

GENERAL COMMENTS

As a commenting agency in the California Environmental Quality Act (CEQA) review process for a project, the APCD assesses air pollution impacts from both the construction and operational phases of a project, with separate significant thresholds for each. **Please address the items contained in this letter that are highlighted by bold and underlined text.**

CONSTRUCTION PHASE

Construction Phase Impacts - Below Threshold

The APCD evaluated the construction phase of this project to assess potential air quality impacts from the proposed project. The construction phase impacts will likely be less than the APCD's significance threshold values identified in Table 2-1 of the [CEQA Air Quality Handbook](#) (April 2012). **Therefore, with the exception of the requirements below, the APCD is not requiring other construction phase mitigation measures for this project.**

Developmental Burning

APCD Rule 501 prohibits developmental burning of vegetative material within San Luis Obispo County. If you have any questions regarding these requirements, contact the APCD Engineering & Compliance Division at 805-781-5912.

OPERATIONAL PHASE

OPERATIONAL PHASE IMPACTS - Exceeds Threshold

Based on the APCD's spreadsheet modeling for estimating operational dust emissions from daily traffic on unmitigated unpaved roads, the project could exceed the APCD's daily operational particulate matter (PM₁₀) emissions threshold identified in Table 3-2 of the [CEQA Air Quality Handbook](#) (April 2012). The modeling uses the California Air Resources Board's unpaved road emission factor that is used in their statewide emissions inventory. The screening table reference is available at: slocleanair.org/rules-regulations/land-use-ceqa.php. **If the project will exceed 11 daily vehicle round trips, the APCD recommends that the project implement the on-site PM₁₀ mitigation measures listed below.**

Mitigate Unpaved Access Roads by implementing one of the following:

- a. For the life of the project, pave and maintain the roads, driveways, and/or parking areas; or
- b. For the life of the project, maintain the unpaved roads, driveways, and/or parking areas with a dust suppressant (see Technical Appendix 4.3 of the [CEQA Air Quality Handbook](#) (April 2012) for a list of APCD-approved suppressants) such that fugitive dust emissions do not exceed the APCD's 20% opacity limit for greater than 3 minutes in any 60-minute period (APCD Rule 401) or prompt nuisance violations (APCD Rule 402) will occur;
- c. Also, to improve the dust suppressant's long-term efficacy, the applicant shall also implement and maintain design standards to ensure vehicles that use the on-site unpaved road are physically limited (e.g., speed bumps) to a posted speed limit of 15 mph or less.

If the project's access involves a city or county owned and maintained road, the applicant shall work with the applicable Public Works Department to ensure that the mitigation follows the agency's road standards for that section of road. The applicant may propose other measures of equal effectiveness as replacements by contacting the APCD's Planning & Outreach Division at 805-781-5912.

Operational Phase Permit – Masking/Neutralizing Agents for Indoor/Outdoor Agricultural Growing of Cannabis

The APCD has jurisdiction over nuisance related to odors and air contaminant emissions emanating from masking/neutralizing agents used to control or eliminate cannabis odors. Verified nuisance odors may result in enforcement action which could include the requirement for odor controlling devices. **If masking or neutralizing agents will be used related to indoor/outdoor cannabis agricultural crops, to determine permit applicability, please contact APCD Engineering and Compliance Division at 805-781-5912 or online at: slocleanair.org/air-quality/complaints.php.**

Nuisance – Agricultural Growing of Cannabis

The California Department of Food and Agriculture has identified cannabis as an agricultural product, therefore the APCD recognizes cannabis as an agricultural crop. The California Health and

April 15, 2019

Page 3 of 3

Safety Code Section 41705 specifically exempts APCD's jurisdiction over nuisance related to odors emanating from the growing of agricultural crops. However, as a controlled substance, crop waste from the agricultural growing of cannabis is not eligible for agricultural burning. **For nuisance concerns related to the agricultural growing of cannabis, please contact the San Luis Obispo County Code Enforcement at 805-781-5600 or online at: slocounty.ca.gov/Departments/Planning-Building/Code-Enforcement/Report-Suspected-Code-Violation.aspx.**

Again, thank you for the opportunity to comment on this proposal. If you have any questions or comments, feel free to contact me at (805) 781-5912.

Sincerely,



JACKIE MANSOOR
Air Quality Specialist

JNM/jjh

cc: Jeff Nahial, Landowner
Dora Drexler, APCD

h:\plan\ceqa\project_review\4000\4100\4146-1\4146-1.docx

Brandi Cummings

From: Jeff Stranlund <jstranlund@co.slo.ca.us>
Sent: Monday, April 8, 2019 12:09 PM
To: Cassidy McSurdy
Subject: DRC2019-00047 Riparian Biosupport, DRC2019-00042 Nahial

Morning Cassidy,

The Assessor's Office requests lease and production sharing agreements on these properties. Let me know if you have any questions. Thanks and have a good day.

		Riparian		
	Mercy Springs	Biosupport (Kirk		
14,331,064	LLC, (Sloan?)	Azevedo)	DRC2019-00047	CUP
20,301,010	Jeff Nahial	Mark Legreid	DRC2019-00042	MUP

- Provide to the Assessor's Office full copies of any leases (ground, greenhouse or otherwise) or production sharing agreements related to "Cannabis Activities" on the subject property.

Jeff Stranlund
Assessor's Office/ Supervising Appraiser
County of San Luis Obispo, Ca
(805) 788-2327

This e-mail, and any files transmitted with it, are intended only for the person or entity to which it is addressed and may contain confidential, protected, and/or privileged material. Any review, re-transmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient, is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

Brandi Cummings

From: Cassidy McSurdy <cmcsurdy@co.slo.ca.us>
Sent: Thursday, April 11, 2019 1:31 PM
To: Brandi Cummings; Jameson Honeycutt; Cassidy Williams
Subject: EXTERNAL:FW: DRC2019-00042 NAHAIL NORTH COUNTY E-Referral, MINOR USE PERMIT, TEMPLETON

Best Regards,

Cassidy McSurdy | Land Use Technician
(p) 805-788-2959 cmcsurdy@co.slo.ca.us
[Website](#) | [Facebook](#) | [Twitter](#) | [Map](#)



COUNTY OF SAN LUIS OBISPO
Planning & Building

From: Michael Stoker <mstoker@co.slo.ca.us>
Sent: Thursday, April 11, 2019 1:03 PM
To: Cassidy McSurdy <cmcsurdy@co.slo.ca.us>
Cc: Cheryl Journey <cjourney@co.slo.ca.us>; Don C. Moore <dcmoore@co.slo.ca.us>
Subject: Re: DRC2019-00042 NAHAIL NORTH COUNTY E-Referral, MINOR USE PERMIT, TEMPLETON

Cassidy,

Please find buildings recommendations for DRC2019-00042 below. Please let me know if you have any questions.

In regards to this preliminary review, a building permit is not required unless the grading for the road is over 50 cu. yards. The drawings specify the work to be completed consists of a 3 acre outdoor cultivation. If this changes, the building division will need to rereview the proposed plans to verify if a building permit is required and the following are some of the items that would need to be addressed at time of the building permit application;

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 the separate structure/building located on the site (i.e, green house, site lighting, water storage tank and the 8' tall fence).
4. Please specify the buildings Occupancy Group and Type of Construction on the cover sheet of the plans to coordinate with the California Building Code.
5. Provide a reference on the cover sheet of the plans to the applicable codes.
6. The greenhouses will need to comply with the requirements of CBC Appendix C.
7. 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.
8. 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.
9. 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.
10. A grading permit may be required for the access road to the site if it exceeds 50 cu. Yards.

If there is any processing on the site the following items will be applicable as it would change the buildings "Occupancy Group":

11. Please specify the buildings Occupancy Group and Type of Construction on the cover sheet of the plans to coordinate with the California Building Code.
12. Provide an allowable area analysis on the plans to verify compliance with CBC Chapter 5, including Table 503 and sections 504, 506, and 508. Also, provide information stating is the building is using the separated, non-separated, or accessory occupancy method or combination of each per CBC Chapter 5.
13. 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.
14. Provide an occupant load and exiting analysis on the plans to verify compliance with CBC, including Chapter 10 for the processing containers, security trailer.
15. 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, access to work areas, etc.)
16. Provide a plumbing fixture analysis on the plans to verify the number of fixtures provided is sufficient for the proposed use and complies with CPC Chapter 4 and Table A and Table 422.

thanks

County Of San Luis Obispo
Planning & Building
Michael Stoker, CASp
 Building Division Supervisor
 (p) 805-781-1543
mstoker@co.slo.ca.us

From: Mail for PL_Referrals Group
Sent: Friday, April 5, 2019 1:17 PM
To: Cassidy McSurdy
Subject: DRC2019-00042 NAHAIL NORTH COUNTY E-Referral, MINOR USE PERMIT, TEMPLETON

County of San Luis Obispo
Department of Planning & Building

DRC2019-00042 NAHAIL NORTH COUNTY E-Referral, MINOR USE PERMIT, TEMPLETON

APN: 020-301-010

This application was recently filed with the Planning Department for review and approval. Because the proposal may be of interest or concern to your agency or community group, we are notifying you of the availability of a referral on the project.

[DIRECT LINK to NAHAIL Referral Package](#)

Link to webpage for all referral packages on new website (07/26/2017 and later):
<http://www.slocounty.ca.gov/Departments/Planning-Building/Forms-Documents/Informational/Planning-Referrals.aspx>

Link to Archive Referrals: <http://archive.slocounty.ca.gov/planning/referrals.htm>

Community Advisory Groups: You will want to contact the applicant and/or agent for the project to request a presentation to your group, or simply to answer questions about the project. The telephone number and address for the applicant/agent are provided in the link below.

Please comment on all issues associated with this project **within 14 days** of receiving this e-mail
(Community Advisory Groups: please respond within 60 days)

Direct your comments to the project manager(s):
Cassidy McSurdy (cmcsurdy@co.slo.ca.us or 805-788-2959)

Referral Response:

As part of your response to this referral, please answer the following questions:

Are there significant concerns, problems or impacts in your area of review?

If Yes, please describe the impacts along with any recommendations to reduce the impacts in your response.

If your community has a "vision" statement in the Area Plan - does the community feel this project helps to achieve that vision? If No, please describe.

What does the community like or dislike about the project or proposal?

Is the project compatible with surrounding development, does it fit in well with its surroundings? If No, are there changes in the project that would make it fit in better?

Does the community believe the road(s) that provide access to the site is(are) already overcrowded?

Does the community wish to have a trail in this location?

If the proposal is a General Plan Amendment, does the community feel the proposed change would encourage other surrounding properties to intensify, or establish intense uses that would not otherwise occur?

Please feel free to include information or questions other than those listed above. You may also choose to respond that you have no comments regarding the proposal.



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING
TREVOR KEITH, DIRECTOR

THIS IS A NEW PROJECT REFERRAL

DATE: 4/5/2019
TO: 1st District Legislative Assistant, Agricultural Commissioner, Assessor, Air Pollution Control Board (APCD), Building Division, Cal Fire/County Fire, Environmental Health, Public Works, Sheriff, Caltrans, U.S. Fish and Wildlife, CA Fish and Wildlife, Upper Salinas Las Tablas Resource Conservation District, AB52
FROM: Cassidy McSurdy (cmcsurdy@co.slo.ca.us 805-788-2959)

PROJECT NUMBER & NAME: DRC2019-00042 Nahail

PROJECT DESCRIPTION: Proposed Minor Use Permit for 3 acres outdoor cannabis cultivation to be located at Neal Springs Rd. Templeton, CA.

APN(s): 020-301-010

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.

Please see attached.
4.16.19 Ke Ghiglia x5551
Date Name Phone



COUNTY OF SAN LUIS OBISPO HEALTH AGENCY
PUBLIC HEALTH DEPARTMENT

Michael Hill *Health Agency Director*

Penny Borenstein, MD, MPH *Health Officer/Public Health Director*

April 16, 2019

To: Cassidy McSurdy, Department of Planning and Building

From: Environmental Health
Kealoha Ghiglia

A handwritten signature in blue ink, appearing to be "K. Ghiglia", written over the name Kealoha Ghiglia.

RE: DRC2019-00042 Nahail CUP Cannabis Cultivation

Applicant to return attached Hazardous Materials Declaration Flowchart to this office. Be advised that threshold levels are 55 gallons, 500 pounds or 200 cubic feet and common materials include (but are not limited to): fuel, paint, lubricants, pesticides, herbicides, fertilizers, pool chemicals, and compressed gases. Contact Austin Avan at (805)781-1105 or aavan@co.slo.ca.us in this office with any questions regarding this form or hazardous materials requirements. The form should be submitted directly to Austin Avan.

Environmental Health Services

2156 Sierra Way, Suite B | San Luis Obispo, CA 93401 | (P) 805-781-5544 | (F) 805-781-4211
www.slopublichealth.org/ehs

HAZARDOUS MATERIALS BUSINESS PLAN EXEMPTION
FLOWCHART

Under penalty of law, I declare that I have followed the flowchart and checked the boxes that are appropriate for this business's operations. I also understand that the SLO County CUPA must be notified if our operations or procedures change and make the above statement inaccurate.

Name (print)

Signature

Business Name

Address

Date

START HERE
Do you generate hazardous waste in ANY quantity?

Do you store, use, or handle hazardous material at any one time during a calendar year in quantities equal to or greater than 55 gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of a compressed gas at standard temperature and pressure?

Are you a physician, veterinarian, pharmacist, dentist, or podiatrist who stores ONLY oxygen, nitrogen or nitrous oxide and the total quantity of each gas on-site is 1,000 cubic feet or less?

Sign and submit this document – you need not submit a business plan or pay a fee

Agricultural Business ☐

Is your facility either a :

Other Business ☐

Do you store **ONLY** motor vehicle fuel in above or underground tanks at 1,100 gallons or less capacity and the TOTAL volume of fuel is less than 20,000 gallons?

Submit Form S, Form I, and Form M one time only and pay a one time fee.

Do you store **ONLY** motor or lubricating oil and is the total volume less than 275 gallons? (Does not include waste oil)

Sign this document – you need not submit a business plan or pay a fee

Do you store **ONLY** motor or lubricating oil and is the total volume less than 275 gallons? (Does not include waste oil)

Do you store **ONLY** N-P-K fertilizers (excluding ammonium nitrates) less than 10,000 pounds total?

Do you apply liquid fertilizer no more than four times a year, apply and store it over period of less than seven days, and is the quantity less than 1,190 gallons and you do not store any other hazardous materials in reportable quantities?

Is your facility:
A): a remote site (a remote site is defined as an unstaffed facility located in an isolated, sparsely populated area. The facility is secured and not accessible to the general public) and
B): is the inventory less than: 500 cubic feet compressed inert gas, 500 gallons combustible liquid fuel, 200 gallons electrolytes in closed containers, 500 gallons lubricating and hydraulic fluids, and 1,200 gallons of flammable gas used as fuel (propane)?

Submit a one time business plan, complete exemption form R and pay a one time fee.

Submit a business plan and pay an annual fee to:

Within San Luis Obispo city limits:
SLO City Fire Dept, 2160 Santa Barbara Ave
San Luis Obispo, CA 93401-5240
Ph: (805) 781-7380

All other cities and unincorporated areas:
San Luis County CUPA, PO Box 1489
2156 Sierra Way
San Luis Obispo, CA 93406
Ph: (805) 781-5544

COMMON HAZARDOUS MATERIALS

- Lubricants
- Solvents
- Compressed Gases
- Fuel
- Pesticides
- Paint

COMMON HAZARDOUS WASTES

- Crank Case Oil
- Used Anti-Freeze
- Paint
- Used automotive batteries
- Spent solvents

Not sure?

Please contact The County of San Luis Obispo
Public Health Department
Division of Environmental Health
at
(805) 781-5544

Brandi Cummings

From: Cassidy McSurdy <cmcsurdy@co.slo.ca.us>
Sent: Monday, April 8, 2019 12:54 PM
To: Brandi Cummings; Cassidy Williams; Jameson Honeycutt
Subject: EXTERNAL:FW: [EXT]RE: AB52, NCTC -- DRC2019-00042 NAHAIL

See Below.

Best Regards,

Cassidy McSurdy | Land Use Technician
(p) 805-788-2959 cmcsurdy@co.slo.ca.us
[Website](#) | [Facebook](#) | [Twitter](#) | [Map](#)



COUNTY OF SAN LUIS OBISPO
Planning & Building

From: Fred Collins <fcollins@northernchumash.org>
Sent: Monday, April 08, 2019 6:33 AM
To: Cassidy McSurdy <cmcsurdy@co.slo.ca.us>
Subject: [EXT]RE: AB52, NCTC -- DRC2019-00042 NAHAIL

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Good morning Cassidy,

NCTC would like to see the records search for the property, and or any archaeological reports for the property or adjacent.

Thank you,

Fred Collins
NCTC

From: Mail for PL_Referrals Group [<mailto:plreferrals@co.slo.ca.us>]
Sent: Friday, April 5, 2019 4:20 PM
To: fcollins_northernchumash.org
Cc: Cassidy McSurdy
Subject: AB52, NCTC -- DRC2019-00042 NAHAIL

County of San Luis Obispo

Department of Planning & Building

DRC2019-00042 NAHAIL, North County Referral, Minor Use Permit, Templeton
APN: 020-301-010

[Direct Link to NAHAIL Referral Package](#)

Cassidy McSurdy (805-788-2959 or cmcsurdy@co.slo.ca.us)

The deadline for consultation request
May 5, 2019

The County of San Luis Obispo is notifying you of the proposed project listed above. The project application was recently filed with the Planning Department for review and approval. State law under Assembly Bill 52 (Public Resources Code Section 21080.3.1) allows California Native American tribes 30 days to request consultation regarding possible significant effects that implementation of the proposed project may have on tribal cultural resources. The attached letter is your official notification and provides target timelines for the AB 52 Consultation Process.

If you have questions about this project or wish to request consultation, please contact the project manager(s) listed above and provide a designated lead contact person for this consultation



Date: April 11, 2019
To: Cassidy McSurdy, Project Planner
From: David E. Grim, Development Services
Subject: DRC2019-00042 Nahail MUP, Neal Springs Rd., Templeton, APN 020-301-010

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 project site is located on a private access road off Neal Springs Rd, a County maintained roadway.
- B. The project is expected to generate 6 average daily trips (ADT) with 0.6 afternoon peak hour trips (PHT) based on the following project description:
 - 3 acres outdoor cultivation (2 ADT/acre)
- C. The proposed project is within the Templeton Area B Road Improvement Fee Area. Payment of Road Improvement Fees to mitigate cumulative development impacts is required prior to commencing permitted activities.
- D. The project site access road driveway approach on Neal Springs Road should be reconstructed to current County standards to protect the County public road from edge of pavement damage and minimize tracking soil and rocks onto the roadway surface.
- E. The proposed project is within a drainage review area, the applicant must ensure all proposed site grading and new impervious surfaces are constructed in compliance with the County drainage standards, Chapter 22.52.110 of the Land Use Ordinance and the Public Improvement Standards.
- F. If the project site disturbs 1.0 acre or more the applicant must enroll for coverage under California's Construction General Permit, which may require preparation of a project Stormwater Control Plan even though it is located outside a Stormwater Management Area.
- G. The site is within the Paso groundwater basin and is therefore subject to the Sustainable Groundwater Management Act (SGMA). However, the Groundwater Sustainability Agency responsible for overseeing SGMA compliance has not completed the planning efforts that will define the need for any groundwater mitigation requirements. In the interim, consideration of the project's impacts on the groundwater basin should be included in the project's CEQA analysis.

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:

- a. Reconstruct the existing Neal Springs Road project site access driveway approach to current B-1a and A-5 standards.
 - b. Except for the primary and secondary access driveways, all other existing property connections to Neal Springs Road shall be removed, scarified, revegetated, and fenced (or otherwise blocked) to prohibit access. The adjacent shoulder shall be restored to County road standards.
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; landscaping; agricultural operations; etc. without a valid Encroachment Permit issued by the Department of Public Works.

Fees

5. **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 Templeton Area B Road Improvement Fee based on the latest adopted area fee schedule (\$8,462 per peak hour trip) and 0.60 peak hour trips as estimated. The estimated fee is \$5,077 (\$8,462 x 0.6).

The fee schedule is subject to change by resolution of the Board of Supervisors. The applicant shall be responsible for paying the fee in effect at the time of payment.

Drainage

6. **At the time of application for construction permits**, the applicant may be required to submit complete drainage plans 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 shall submit complete erosion and sedimentation control plan for review and approval in accordance with Section 22.52.120 of the Land Use Ordinance.

Stormwater Pollution Prevention Plan (SWPPP)

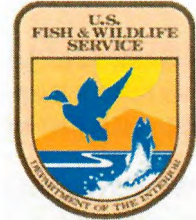
8. **At the time of application for construction permits**, if the project disturbs more than 1.0 acre or is part of a common plan of development, the applicant must enroll for coverage under California's Construction General Permit. Sites that disturb less than 1.0 acre must implement all required elements within the site's erosion and sediment control plan as required by San Luis Obispo County Codes.



United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE

Ecological Services
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003



IN REPLY REFER TO:
08EVEN00-2020-CPA-0004

November 4, 2019

Eric Hughes
Department of Planning and Building, County of San Luis Obispo
976 Osos Street, Room 300
San Luis Obispo, California 93408

Subject: Comments on the Proposed Conditional Use Permit DRC2019-00042 Nahail

Dear Mr. Hughes:

We have reviewed the Proposed Conditional Use Permit DRC2019-00042 Nahail for 3 acres of cannabis cultivation (Project) to be located at Neal Springs Rd (APN 020-301-010), San Luis Obispo County. We also have reviewed the biological resource assessment for the Project, and we provide the following comments for your consideration.

The mission of the U.S. Fish and Wildlife Service (Service) is working with others to conserve, protect, and enhance fish, wildlife, plants, and their habitats for the continuing benefit of the American people. To assist in meeting this mandate, the Service provides comments on public notices issued for projects that may have an effect on those resources, particularly federally listed plants and wildlife. The Service's responsibilities also include administering the Endangered Species Act of 1973, as amended (Act). The Act prohibits the unpermitted "take" of listed species [16 U.S.C. 1538(a)(1)(B)]. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Harm is further defined by the Service to include significant habitat modification or degradation that results in death or injury to wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. Such taking may be authorized by the Service in two ways: through interagency consultation for projects with Federal involvement pursuant to section 7, or through the issuance of an incidental take permit under section 10(a)(1)(B) of the Act.

Based on the biological resource report for the Project, the 54.4-acre property appears to be suitable habitat for the federally protected San Joaquin kit fox (*Vulpes macrotis mutica*). The property is comprised of annual grassland, provides a low-density prey base of small mammals, and is situated on soil types and gentle slopes that can support San Joaquin kit fox. The report notes that adjacent properties could provide suitable denning habitat, though denning on the Project property is unlikely. Kit fox home ranges vary from 1-12 mi² (Service 1998, p. 128), and young foxes frequently disperse about 5 miles from their natal home range (Service 1998, p. 126). Thus, it is possible that kit fox use the property and/or Project site for dispersal or foraging.

If San Joaquin kit fox use the property, the Project may cause adverse effects to the kit fox during construction or operation. More information may be needed to anticipate the potential adverse effects to kit fox. We recommend the project proponent provide information to the County and the Service on how long construction of the project will take to complete, including the planned second phase of 22,000 ft² of greenhouse cultivation. The risk that the construction phase will adversely affect kit fox is higher with longer periods of

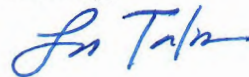
construction. Additionally, we recommend the project proponent provide to the County and the Service an analysis of the potential impacts to kit fox during operations and maintenance of the Project, and describe any best management practices to reduce potential impacts.

We recommend the project proponent implement measures to avoid effects to the species. The biological resource report outlines avoidance measures to reduce the potential impact of the Project to kit foxes (BR-3 through BR-13). We recommend several amendments to these measures to more effectively avoid impacts of the Project to kit fox. Our recommended amendments are indicated below:

- **BR-4 a.)** Pre-activity surveys for San Joaquin kit fox should be conducted within 30 days of the initiation of Project activities, but no less than 14 days prior to initiation of Project activities. This timeline will provide an opportunity to determine what changes may be necessary to avoid affects to kit fox in the event of a positive result. In addition to reporting survey dates, protocol, results and avoidance measures to the County, the project proponent will report results to the U.S. Fish and Wildlife Service's Ventura Office. All other components of BR-4 a. should remain unchanged.
- **BR-4 b.)** The qualified biologist will conduct daily site visits during disturbance activity, regardless of how long the disturbance activities proceed for. All other components of BR-4 b. should remain unchanged.
- **BR-4 c.)** Prior to or during project activities, if any observations are made of San Joaquin kit fox, or any known or potential San Joaquin kit fox dens are discovered within the project limits or a 200 foot buffer of the project limits, all activities shall halt, and the qualified biologist shall contact the Service and California Department of Fish and Wildlife. These recommendations should replace the first paragraph on BR-4 c.
- **BR-11.** Prior to, during, and after the site-disturbance and/or construction phase, use of pesticides, herbicides, or rodenticides shall be minimized and restricted. This is necessary to prevent primary or secondary poisoning of kit foxes and the depletion of prey populations on which they depend. All uses of such compounds should observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other State and Federal legislation. If rodent control must be conducted, zinc phosphide should be used because of a proven lower risk to kit fox.

If the project proponent cannot implement all of the avoidance measures in the biological resource assessment, as amended by the Service, the project proponent may need to contact the Service in order to ensure compliance with the Endangered Species Act. Therefore, we recommend that San Luis Obispo County condition approval of the Conditional Use Permit on the full implementation of avoidance measures, as outlined in the biological resource assessment, and as amended by the Service. Thank you for reaching out to the Service for comments on your project. Please contact Danielle Fagre at (805) 677-3339 or by electronic mail at danielle_fagre@fws.gov if you have questions regarding this letter or to arrange a meeting to discuss this issue further.

Sincerely,



Leilani Takano
Assistant Field Supervisor

Reference

[Service] U.S. Fish and Wildlife Service. 1998. Recovery plan for upland species of the San Joaquin Valley, California. U.S. Fish and Wildlife Service, Portland, Oregon.

