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Governor's Office of Planning & Research

May 29, 2020

JUN 01 2020

STATE CLEARINGHOUSE

Shawn Monk
City of California City
21000 Hacienda Blvd.
California City, California 93505

Subject: Shepard Place Cannabis Facility (Project)
Draft Initial Study/Mitigated Negative Declaration (MND)
SCH No. 2020050074

Dear Mr. Monk:

The California Department of Fish and Wildlife (CDFW) received an Initial Study/Mitigated Negative Declaration from the city of California City for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, 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.

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

Protected Furbearing Mammals: CDFW has jurisdiction over furbearing mammals pursuant to Title 14, California Code of Regulations, section 460. This Section states, "Fisher, marten, river otter, desert kit fox and red fox may not be taken at any time"; therefore, CDFW cannot authorize their take.

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).

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: American Gro Eco, Inc.

Objective: The Project proposes to develop a 2,400 square foot cannabis cultivation and manufacturing facility on a 0.4-acre parcel. The Project site will be secured by an 8-foot chain link fence.

Location: The proposed development will occur on an approximately 0.41-acre parcel located south of Shepard Place and north of Lindbergh Boulevard, just south of the

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California City Airport in California City, Kern County, California on a portion of Section 16, Township 32 South, Range 37 East, of USGS 7.5 Minute Quad Map Mojave NE, M.D.B.M. Assessor's Parcel Number (APN) 216-162-01.

Timeframe: Unspecified.

COMMENTS AND RECOMMENDATIONS

CDFW previously provided comments for this Project in a letter dated June 25, 2019 "Proposed Construction and Cannabis Cultivation on APN 216-162-01 located in California City, Kern County" (Attachment A).

CDFW offers the following comments and recommendations to assist the city of California City in adequately identifying and/or mitigated the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

Currently, the MND indicates that Project impacts would be less than significant with the implementation of mitigation measures described in the MND. On page 15 in Section IV – Biological Resources subsection BIO 1 of the MND states "The Project proponent will file for, and process to completion, an *Incidental Take Permit*, in compliance with CDFW's discretionary authority as defined by Title 14 of the California Code of Regulations (section 15357 of the CEQA Guidelines). Under this *Incidental Take Permit*, CDFW will review and determine the necessary minimization and mitigation measures; including, but not limited to, the purchase of credits from a CDFW approved conservation or mitigation bank." With the information provided, CDFW is unable to concur that there will be "Less Than Significant Impact" to special-status species including the State and federally threatened desert tortoise (*Gopherus agassizii*) and the State threatened Mohave ground squirrel (*Xerospermophilus mohavensis*). The MND does not state for which species the State Incidental Take Permit (ITP) will be obtained. Additionally, no timeframe is given for obtaining the State ITP, and it is unclear if pursuing an ITP is conditional on future Project site conditions. Mitigation measures must be fully enforceable through permits conditions, agreements, or other legally binding instruments (CEQA Guidelines § 15126.4, subd. (a)(2)). CDFW recommends changing the measure to include enforceable language regarding when the State ITP will be obtained and species to be covered.

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)?

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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 and federally threatened desert tortoise (*Gopherus agassizii*); the State threatened Mohave ground squirrel (*Xerospermophilus mohavensis*); the State Species of Special Concern burrowing owl (*Athene cunicularia*), American badger (*Taxidea taxus*), and Le Conte's thrasher (*Toxostoma lecontei*); and the State protected furbearing mammal desert kit fox (*Vulpes macrotis* ssp. *macrotis*) (CDFW, 2019).

Results from the General Biological Resource Assessment and Endangered Species Report (Report) indicates no special-status species, or their sign was noted; however, the Report did not include protocol level surveys for all of these species. For projects within the vicinity of California City, with suitable habitat, CDFW recommends prior to initiating any vegetation- or ground-disturbing Project activities that protocol-level surveys be conducted for special status-species. Protocol-level surveys differ from the surveys reported in the Report in their timing, methodology, and surveyor qualifications. Specifically, protocol-level surveys are designed for maximum detectability, have multiple survey days, and must be conducted precisely as described in the methodology. In addition, protocol-level survey results are to be submitted to CDFW for review and are valid for one year from when the surveys are completed. Absent results from protocol-level surveys conducted within the last calendar year, CDFW cannot concur that species were or are absent from the proposed Project site.

Also, the MND did not address impacts to birds, non-listed plants and animals, and the fully protected furbearing mammal, desert kit fox (*Vulpes macrotis* ssp. *macrotis*). Therefore, additional significant impacts may result from Project activities that were not analyzed nor mitigated for.

An analysis of potential impacts and recommended mitigation measures summarized by species follows below.

COMMENT 1: Desert Tortoise

Issue: The Project site is within the range of desert tortoise and appears to contain suitable habitat based on aerial imagery. Desert tortoise are most common in desert scrub, desert wash, and Joshua tree habitats (CDFW, 2018).

Specific impact: Potentially significant impacts that may result from Project-related activities include loss of foraging habitat, habitat degradation and fragmentation, burrow destruction, and direct mortality.

Evidence impact is potentially significant: Human impacts to desert tortoise include habitat conversion to agriculture and urban lands, degradation of habitat by off-highway vehicles (OHV), intentional killing of tortoises, and killing by cars and OHV (Doak, Kareiva, Kleptka, 1994). Habitat conversion to agriculture results in the loss of habitat and may lead to an increase in the predator raven population,

drawdown of water table, introduction of pesticides and other toxic chemicals, and the potential introduction of invasive plants (Boarman, 2002). Project activities may result in the loss of potential desert tortoise habitat through conversion, may increase habitat fragmentation, and expand urbanization into the area.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential Project-related impacts to desert tortoise, CDFW recommends conducting the following evaluation of the Project site and including the following measures in the MND.

Mitigation Measure 1: Desert Tortoise Surveys

CDFW advises surveys for desert tortoise be conducted by a qualified wildlife biologist who understands the pre-project survey protocol as outlined in "Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*)" (USFWS, 2010) and has previous experience surveying for desert tortoise. Survey results are advised to be submitted to both CDFW and the USFWS. As indicated in the Report of APN 216-162-01, the survey for desert tortoise was conducted on April 1, 2020. The protocol as outlined in "Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*)" (USFWS, 2010) was not followed. According to the protocol, if neither tortoises nor sign are encountered during the action area surveys and the project, or any portion of the project is less than or equal to 200 acres, three additional 10-meter belt transects at 200-meter intervals parallel to and/or encircling the project area perimeter should be surveyed. Please note desert tortoise surveys are valid for one year and should be conducted within a year of the start of Project implementation. If conducting surveys is not feasible, the applicant can assume presence and acquire a State ITP pursuant Fish and Game Code section 2081 subdivision (b) prior to initiating any vegetation- or ground-disturbing activities.

Mitigation Measure 2: Desert Tortoise Take Authorization

If desert tortoise are found within the Project area during surveys or construction activities, consultation with CDFW is advised to discuss how to implement the Project and avoid take; or if avoidance is not feasible, to acquire a State ITP prior to any vegetation- or ground-disturbing activities. Any take of desert tortoise without take authorization would be a violation of Fish and Game Code section 2080.

COMMENT 2: Mohave Ground Squirrel (MGS)

Issue: The Project site is within the range of MGS and based on aerial imagery, the Project site appears to contain suitable habitat for MGS.

Specific impact: Without appropriate avoidance and minimization measure for MGS, potential significant impacts associated with the Project's construction include

burrow collapse, inadvertent entrapment, reduced reproductive success, and mortality of individuals.

Evidence impact is potentially significant: Major threats to MGS are drought, habitat destruction, habitat fragmentation, and habitat degradation (Gustafson, 1993). MGS is restricted to a small geographic range and the greatest habitat loss has occurred near desert towns including California City (Gustafson, 1993). Natural cycling is anticipated in MGS populations therefore the true indicators of the status of the species are the quantity, pattern of distribution, and quality of habitat (Gustafson, 1993). Project activities may result in the loss of potential MGS habitat through conversion, may increase habitat fragmentation, and expand urbanization into the area.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential Project-related impacts to MGS, CDFW recommends conducting the following evaluation of the Project site and including the following measures in the MND.

Mitigation Measure 3: MGS Surveys

CDFW recommends that a qualified biologist, with appropriate permits, conduct protocol surveys for MGS following the methods described in the “Mohave Ground Squirrel Survey Guidelines” (CDFG, 2003) during the appropriate survey season prior to Project implementation. Survey methods include trapping by a qualified biologist up to three times per trapping season. The MGS survey reported in the Report did not follow the methods described in the “Mohave Ground Squirrel Survey Guidelines”. Results of the MGS surveys are advised to be submitted to the CDFW. Please note MGS surveys are valid for one year and should be conducted within a year of the start of ground-disturbing activities.

Mitigation Measure 4: MGS Avoidance

In order to implement full avoidance for MGS, CDFW recommends a 50-foot no-disturbance buffer be employed around all burrows that could be used by MGS.

Mitigation Measure 5: MGS Take Authorization

If MGS are found within the Project area during preconstruction surveys or construction activities, consultation with CDFW is recommended to discuss how to implement the Project and avoid take; or if avoidance is not feasible, to acquire a State ITP prior to any ground-disturbing activities. Any take of MGS without take authorization would be a violation of Fish and Game Code section 2080.

COMMENT 3: Burrowing Owl (BUOW)

Issue: BUOW have been documented within one mile of the Project area (CDFW, 2019). Desert habitat within the Project area may support small mammal burrows, a requisite habitat feature for BUOW. Habitat both within and surrounding the Project area may also provide suitable foraging habitat for BUOW.

Specific impact: Without appropriate avoidance and minimization measures for BUOW, potential significant impacts include nest abandonment, which may result in reduced nesting success such as reduced health or vigor of eggs or young, in addition to direct mortality in violation of the Migratory Bird Treaty Act and Fish and Game Code.

Evidence impact is potentially significant: The Project area is within the range of BUOW and suitable burrow habitat may be present on and in the vicinity of the Project area. BUOW rely on burrow habitat year-round for their survival and reproduction. Threats to BUOW include habitat loss and degradation from urbanization of farmland, changes in agriculture practices, and loss of open lands (Gervais, Rosenberg, Comrack, 2008). In addition, activities including grading, disking, cultivation, earth moving, burrow blockage, heavy equipment compacting of burrows, and disturbance which may result in harassment of owls at occupied burrows have the potential to result in take of BUOW (CDFG, 2012). Additionally, activities that may impact BUOW populations include eradication of host burrowers, changes in vegetation management, and use of pesticides and rodenticides (CDFG, 2012). Therefore, the Project has the potential to significantly impact local BUOW populations. In addition, and as described in CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG, 2012), excluding BUOW is considered a potentially significant impact under CEQA.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential Project-related impacts to burrowing owl, CDFW recommends conducting the following evaluation of the Project site and including the following measures in the MND.

Mitigation Measure 6: BUOW Surveys

CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's (CBOC) "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC, 1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG, 2012). CDFW advises that surveys include a 500-foot buffer around the Project area. As documented in the Report, only one BUOW survey was conducted on April 1, 2020. According to the "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC, 1993) a complete burrowing owl survey consists of four site visits.

Mitigation Measure 7: BUOW Avoidance

If BUOW are found within the Project area 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)

Mitigation Measure 8: BUOW Passive Relocation and Mitigation

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 that 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 1 burrow collapsed to 1 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.

Comment 4: American Badger

Issue: The Project area is within the range of American badger and contains suitable habitat features to support this species. American badger can occupy a diversity of habitats and requires sufficient food, friable soils, and open, uncultivated ground (Williams, 1986).

Specific impact: Without appropriate avoidance and minimization measures for American badger, potential significant impacts include den abandonment, which may result in reduced health or vigor of young, in addition to direct mortality.

Evidence impact is potentially significant: The American badger population in California has been declining due to agriculture and urban development (Williams, 1986). The Project area is within the range of American badger and suitable habitat may be present on or in the vicinity of the Project area. As a result, Project activities have the potential to significantly impact local populations of American badger.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential Project-related impacts to American badger, CDFW recommends conducting the following evaluation of the Project site and including the following measures in the MND.

Mitigation Measure 9: American Badger Surveys

To evaluate potential Project-related impacts to the American badger, CDFW recommends that a qualified biologist conduct focused surveys for American badger and their requisite habitat features, in advance of Project implementation.

Mitigation Measure 10: American Badger Avoidance

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

COMMENT 5: 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 subdivision (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 the development of a 2,400 square foot cannabis cultivation and manufacturing facility 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.

II. Editorial Comments and/or Suggestions

Cumulative Impacts: Multiple cannabis related projects have been proposed within California City boundary with similar impacts to biological resources. General impacts from these projects include habitat fragmentation, degradation, habitat loss, and potential loss of individuals to the population. CDFW recommends the lead agency consider all approved and future projects when determining impact significance to biological resources.

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

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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 & Rich, 2004). CDFW recommends CEQA documents address light pollution in the analysis of impacts.

Desert Kit Fox: The proposed Project site is within desert kit fox range and may contain suitable habitat for the species. The desert kit fox is protected under California Code of Regulations, Title 14, section 460, which prohibits take of the species at any time. CDFW recommends that the USFWS “Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance” (2011) be followed and that surveys be conducted accordingly and prior to commencing any Project-related activities. If any active or potential dens are found on the Project site during these surveys, consultation with CDFW would be warranted for guidance on take avoidance measures for the desert kit fox.

Notification of Lake and Streambed Alteration: 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 subdivision (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.

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. Additional information can be found here:

<https://www.wildlife.ca.gov/Conservation/Cannabis/Permitting>.

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Nesting birds: 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).

Habitat within the Project area likely provides nesting habitat for birds. For this reason, CDFW encourages Project implementation occur during the non-nesting bird 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.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist conduct pre-activity 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 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 that 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.

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,

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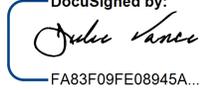
§ 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data#44524420-pdf-field-survey-form>. The 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: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

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.)

If you have any questions, please contact Kelley Aubushon, Senior Environmental Scientist (Specialist), at the address provided on this letterhead, by telephone at (559) 573-6117, or by electronic mail at Kelley.aubushon@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

Attachment

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Attachment A

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)**

PROJECT: Shepard Place Cannabis Facility

SCH No.: 2020050074

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure 1: Desert Tortoise Surveys	
Mitigation Measure 2: Desert Tortoise Take Authorization	
Mitigation Measure 3: Mohave Ground Squirrel Surveys	
Mitigation Measure 5: Mohave Ground Squirrel Take Authorization	
Mitigation Measure 6: Burrowing Owl Surveys	
Mitigation Measure 9: American Badger Surveys	
<i>During Construction</i>	
Mitigation Measure 2: Desert Tortoise Take Authorization	
Mitigation Measure 4: Mohave Ground Squirrel Avoidance	
Mitigation Measure 5: Mohave Ground Squirrel Take Authorization	
Mitigation Measure 7: Burrowing Owl Avoidance	
Mitigation Measure 8: Burrowing Owl Passive Relocation and Mitigation	
Mitigation Measure 10: American Badger Avoidance	