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 DEPARTMENT OF FISH AND WILDLIFE
 Inland Deserts Region
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GAVIN NEWSOM, Governor
 CHARLTON H. BONHAM, Director



Comment Letter #1

October 16, 2020
 Sent via e-mail

Luis Lopez
 Development Services Director
 Development Services Department
 City of Coachella
 1515 Sixth Street
 Coachella, CA 92236

BEJARANO CANNABIS CULTIVATION PROJECT (PROJECT) INITIAL STUDY/DRAFT
 MITIGATED NEGATIVE DECLARATION (IS/MND)
 SCH# 2020090375

Dear Mr. Lopez:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of Coachella for the Bejarano Cannabis Cultivation Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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

CDFW ROLE

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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.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Coachella

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Objective: The objective of the Project is to construct two buildings—a two-story facilities/administration building (53,244 sq. ft.) and a one-story building (172,461 sq. ft.) for the indoor cultivation of cannabis—on an approximately 10-acre site in the City of Coachella. The Project would involve construction of associated parking lots, an 8 ft. tall concrete security fence around the perimeter of the site, a 52,141 sq. ft. retention basin surrounded by landscaping, and landscaping around the property boundary. However, the Initial Study/Draft Mitigated Negative Declaration (IS/MND) indicates that the proposed Project would become operational before construction by means of an "interim scenario," which includes placement on-site of six containers (each 8 x 40 ft.) and 24 hoop houses (each 24 x 100 ft.) to be used for the cultivation of cannabis. The interim scenario would commence after site clearing and continue until an undetermined date "at or before" (p. 3) the permanent facility is operational. Water would be provided by the Coachella Water Authority (CWA) and would be entirely from groundwater pumped from CWA wells. A biotreatment retention basin would be constructed on-site to collect and treat runoff.

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Location: The Project is located at 48100 Harrison Street on two parcels designated as commercial (APN 603-290-020) and vacant (APN 603-290-021) in the City of Coachella, Riverside County. Major highways are located north (Interstate 10) and east (CA-86) of the parcels. The Project is located within the Whitewater River watershed, and the Whitewater River is immediately adjacent to the parcels (less than 300 feet) to the east. The Whitewater River has its headwaters in the San Bernardino Mountains and drains to the Salton Sea, southeast of the parcels. The Project is located within the Whitewater River (Indio) Subbasin of the Coachella Valley Groundwater Basin.

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Timeframe: The Project is planned in phases: Site to be cleared and start of cultivation under interim scenario (approximately first quarter 2020); start date for construction of permanent buildings (second quarter 2022); completion date of construction (second quarter 2023).

COMMENTS AND RECOMMENDATIONS

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CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (i.e., biological resources). The IS/MND has not adequately identified and disclosed the Project's impacts (i.e., direct, indirect, and cumulative) to biological resources and whether those impacts are less than significant. CDFW offers the following comments and recommendations to assist the City in adequately identifying and mitigating the Project's potentially significant impacts to biological resources. In addition to the sections below, CDFW has the following concerns:

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1. Interim cultivation scenario—structural specifications/analysis of impacts lacking: The IS/MND indicates that an interim cannabis cultivation operation will be conducted prior to and during construction of the permanent facility. The interim structures, consisting of 6 containers and 24 hoop houses, are described as “temporary and easily removed or moved” (p. 3). Structural specifications are lacking for the containers and hoop houses, and the activities to be conducted in the containers have not been specified. In addition, the scope and timing of the interim cultivation operation have not been fully described. Because hoop houses are not fully enclosed structures with permanent walls/roof and impermeable floors, the cultivation conducted from the time the site is cleared of vegetation until completion of the permanent facility would result in outdoor cultivation of cannabis for a period of as much as several years. (Note that the City of Coachella's ordinance currently allows indoor cultivation only for the zone in which this Project occurs.) CDFW is concerned that outdoor cultivation of cannabis in temporary structures has different impacts on biological resources than does cultivation that occurs in fully enclosed structures. Impacts to biological resources, such as pesticides, toxic runoff, use of artificial light, and others, should be fully analyzed in the IS/MND (see the section “Cannabis-Specific Impacts on Biological Resources” below for further information). Page 44 of the IS/MND states that because “the cannabis cultivation operations will occur indoors, it is not anticipated that any irrigation runoff will be discharged from the site,” and this statement is offered as evidence that impacts would be less than significant. However, CDFW is concerned that cultivation under the interim scenario would result in potentially significant toxic runoff from the temporary greenhouses. Prior to construction of the retention basin, there does not appear to be any provision for how to capture or treat this toxic runoff. In addition, impacts of the toxic runoff to the retention basin after its construction have not been addressed. CDFW recommends the IS/MND include a complete description of the 6 containers and 24 temporary greenhouses, detailed scope and timing of the interim scenario, and a full analysis of the impacts of the interim cultivation operation on biological resources. In addition, see the section “Role of Lake and Streambed Alteration (LSA) Program in Cannabis Licensing.” Please be aware that separate notification to CDFW may be required for the interim cultivation scenario (outdoor cultivation) and the permanent facility (indoor cultivation) as part of the state licensing process for cannabis cultivation.

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2. Impacts to riparian area associated with Whitewater River: The IS/MND fails to analyze impacts of the Project on riparian habitat and wildlife associated with Whitewater River, located less than 300 ft. east of the Project site. Although a levee separates the river from the Project site, construction on the site may impact nesting birds in the riparian area due

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to proximity. In addition, the interim cultivation operation has the potential to impact wildlife associated with the riparian habitat through use of pesticides and artificial light in 24 temporary hoop houses for a period of up to several years. The IS/MND should analyze impacts to the riparian area associated with Whitewater River, and that analysis should address impacts of both construction of the permanent facility and operation of the interim cultivation scenario.

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3. Conflicting information and missing mitigation measure for burrowing owl (*Athene cunicularia*): The IS/MND (p. 25) provides conflicting information about burrowing owl habitat on the Project site, first stating that the Project site “would not be considered suitable for BUOW” because no “appropriately sized” burrows or sign were observed, and then concluding that “due to the presence of burrows that are of appropriate size for BUOW to colonize, a preconstruction survey” is recommended. Furthermore, no mitigation measure for the preconstruction survey has been included on page 68. See the “Burrowing Owl” section below for further discussion.

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4. Management of the biotreatment retention basin: CDFW is concerned about potential impacts resulting from the biotreatment retention basin. Typically, retention basins have a spillway for high flow. The IS/MND does not indicate where any associated spillway would discharge and if it would have impacts on biological resources in the area. In addition, as biotreatment basins have the potential to create habitat that attracts wildlife, CDFW is concerned that basins be managed properly. The biotreatment retention basin will have to be maintained, which poses concerns about work period/season, nesting birds, vegetation removal, and sensitive species surveys. The IS/MND should analyze these issues.

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5. Installation of transformers: Page 2 of the IS/MND indicates that “several transformers” will be installed on the Project site; however, impacts of transformers on biological resources have not been analyzed. Birds, especially raptors, may utilize transformers for perching or nesting, with the potential for electrocution or disturbance of nesting sites. CDFW recommends that the IS/MND analyze biological impacts of the transformers.

Assessment of Impacts on Biological Resources

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The IS/MND bases its analysis of impacts on biological resource assessments conducted in October 2017 and January 2020 (Appendices 2a and 2b). The biological resource assessments for 2017 and 2020 provide identical results, including the same wildlife and plants species for both field surveys. Vegetation was described as ornamental and ruderal; however, saltbush (*Atriplex* sp.) appears to be shown in Photos 7 and 8 of the 2020 report but was not included in the list of vegetation given in the 2020 report.

The biological resource assessments indicate that burrowing owl and Coachella Valley fringe-toed lizard (*Uma inornata*) have “moderate potential” to occur on the Project site based on literature review. However, the reports conclude that the site is not “considered suitable” for burrowing owl because no individuals or sign (pellets, feathers, white wash, burrows, or host burrowers) were observed. (Note that the IS/MND contradicts this finding on p. 25; see the “Burrowing Owl” section below.) The biological resource assessments also report that no suitable habitat was found for Coachella Valley fringe-toed lizard at the Project site. The IS/MND concludes that the Project would have no impact on any sensitive species. However, the IS/MND does not analyze impacts to sensitive species utilizing the

1-12 | riparian habitat associated with Whitewater River, nor does it analyze impacts to
cont'd | groundwater-dependent species.

Special Status Species

1-13 | The California Natural Diversity Database (CNDDDB) is a positive-detection database only, meaning that the absence of species data reported by CNDDDB does not indicate absence of the species from a project site. The CNDDDB indicates the potential for special status species in or adjacent to the Project area. A query of CNDDDB and BIOS (Biogeographic Information and Observation System), including unprocessed data, for the USGS quad (Indio) containing the Project site returned 32 species, including the 19 species listed in the biological resource assessments (Appendices 2a and 2b of the IS/MND) and 13 additional species: lowland leopard frog (*Lithobates yavapaiensis*; CDFW Species of Special Concern [SSC]), summer tanager (*Piranga rubra*; SSC), yellow-headed blackbird (*Xanthocephalus xanthocephalus*; SSC), Yuma Ridgway's rail (*Rallus obsoletus yumanensis*; state threatened and federally endangered species and CDFW fully protected), MacNeill's sootywing (*Hesperopsis graciellae*), Algodones euparagia (*Euparagia unidentate*), California floater (*Anodonta californiensis*), San Diego banded gecko (*Coleonyx variegatus abboti*; SSC), desert tortoise (*Gopherus agassizii*; state and federally threatened species), ribbed cryptantha (*Johnstonella costata*), southwestern spiny rush (*Juncus acutus* ssp. *leopoldii*), pink velvet-mallow (*Horsfordia alata*), and Newberry's velvet-mallow (*Horsfordia newberryi*).

A query of CNDDDB and BIOS for species occurrences reported within a 2-mile buffer of the Project parcel returned 14 species: Le Conte's thrasher (*Toxostoma lecontei*; SSC), Crissal thrasher (*Toxostoma crissale*; SSC), black-tailed gnatcatcher (*Poliophtila melanura*; CDFW Watch List); burrowing owl (*Athene cunicularia*; SSC), glandular ditaxis (*Ditaxis claryana*; California Rare Plant Rank 2B.2), Coachella Valley milk-vetch (*Astragalus lentiginosus* var. *coachellae*; federally endangered species and California Rare Plant Rank 1B.2), chaparral sand-verbena (*Abronia villosa* var. *aurita*; California Rare Plant Rank 1B.1), gravel milk-vetch (*Astragalus sabulorum*; California Rare Plant Rank 2B.2), Algodones euparagia (*Euparagia unidentate*), Palm Springs round-tailed ground squirrel (*Xerospermophilus tereticaudus chlorus*; SSC), American badger (*Taxidea taxus*; SSC), western yellow bat (*Lasiurus xanthinus*; SSC), western mastiff bat (*Eumops perotis californicus*; SSC), Coachella Valley fringe-toed lizard (*Uma inornata*; state endangered and federally threatened species), and flat-tailed horned lizard (*Phrynosoma mcallii*; SSC).

Nesting Birds

1-14 | It is the project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or

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1-15 | The biological resource assessments indicate that bird species were observed on the Project site, and the IS/MND indicates “the project area may include locations that function as nesting locations for native birds” (p. 26). Note that Fish and Game Code protections are not limited to “native birds.” With respect to nesting birds, CDFW is concerned about (1) impacts to nesting birds from vegetation removal on the Project site itself and (2) impacts to nesting birds in the adjacent riparian area associated with Whitewater River as a result of construction of the permanent facility (e.g., noise/disturbance) and operation of the interim outdoor cultivation facility (e.g., artificial light and pesticides).

CDFW recommends the revised document include specific avoidance and minimization measures to ensure that impacts to nesting birds on the Project site and in the adjacent riparian area associated with Whitewater River do not occur. Project-specific avoidance and minimization measures may include, but are not limited to, project phasing and timing (avoiding the peak breeding season), monitoring of project-related noise (where applicable), sound walls, and buffers, where appropriate. CDFW recommends that preconstruction surveys be conducted no more than three days prior to vegetation clearing or ground disturbance activities. The revised document should also include specific avoidance and minimization measures that will be implemented should a nest be located within the Project site. CDFW recommends the following mitigation measure:

1-16 | **MM BIO-1: Nesting bird surveys shall be conducted by a qualified avian biologist no more than three (3) days prior to vegetation clearing or ground disturbance activities. Preconstruction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the preconstruction nesting bird surveys, a Nesting Bird Plan (NBP) shall be prepared and implemented by the qualified avian biologist. At a minimum, the NBP shall include guidelines for addressing active nests, establishing buffers, ongoing monitoring, establishment of avoidance and minimization measures, and reporting. The size and location of all buffer zones, if required, shall be based on the nesting species, individual/pair’s behavior, nesting stage, nest location, its sensitivity to disturbance, and intensity and duration of the disturbance activity. To avoid impacts to nesting birds, any grubbing or vegetation removal should occur outside peak breeding season (typically February 1 through September 1).**

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) for proposed MM BIO-1–5 (see Attachment 1).

Burrowing Owl (*Athene cunicularia*)

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The IS/MND (p. 25) provides conflicting information about burrowing owl habitat on the Project site, first stating that the Project site “would not be considered suitable for BUOW” because no “appropriately sized” burrows or sign were observed, and then concluding that “due to the presence of burrows that are of appropriate size for BUOW to colonize, a preconstruction survey” is recommended. CDFW is concerned that the IS/MND does not clearly state whether suitable habitat was observed on the Project site. CDFW recommends that the City of Coachella follow the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012), ensure that an appropriate habitat assessment has been conducted to evaluate the likelihood that the site supports burrowing owl, and clearly report the results of the habitat assessment. Note that if suitable habitat is identified, the *Staff Report on Burrowing Owl Mitigation* recommends additional burrowing owl surveys and an impact assessment. Because of the potential for burrowing owls to occur in the Project area, CDFW recommends that preconstruction surveys be conducted to ensure burrowing owls are not impacted by the Project:

MM BIO-2: Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the *Staff Report on Burrowing Owl Mitigation* (2012 or most recent version). Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation*. If the preconstruction surveys confirm occupied burrowing owl habitat, project activities shall be immediately halted, and the qualified biologist shall coordinate with CDFW to develop avoidance, minimization, and mitigation measures to be approved by CDFW and required by the City of Coachella as conditions of approval prior to commencing Project activities.

Groundwater-Dependent Species

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The Project is located within the Coachella Valley Groundwater Basin, and the water source for Project activities will be solely from groundwater pumped from Coachella Water Authority wells. However, the IS/MND does not analyze impacts to groundwater-dependent species and ecosystems, including cumulative impacts. Because groundwater and surface water are connected, groundwater depletion may impact rivers, streams, lakes, and wetlands, as well as the wildlife and vegetation they support, by decreasing surface water flows to these ecosystems (Moran et al. 2014, Nelson and Szeptycki 2014). Located in the Whitewater River watershed, the Project parcels are immediately adjacent to the Whitewater River, which drains to the Salton Sea. Regardless of whether species occur on the parcel itself, groundwater drawdown associated with Project activities may have direct and indirect impacts on sensitive species in the Whitewater River and Salton Sea watersheds, including, **but not limited to**, the following:

- Coachella Valley fringe-toed lizard (*Uma inornata*): Consistent with CEQA Guidelines (§ 15380), the status of the Coachella Valley fringe-toed lizard as a threatened species pursuant to the federal Endangered Species Act (16 U.S.C., § 1531 *et seq.*) and endangered under the California Endangered Species Act (CESA; Fish & G. Code, § 2050 *et seq.*) qualifies it as an endangered, rare, or threatened species under CEQA.

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The Coachella Valley fringe-toed lizard relies on groundwater-dependent vegetation (Rohde et al. 2019). Groundwater pumping lowers the water table necessary for mesquite plants (*Prosopis* spp.) that create the dune system on which it relies.

- Desert pupfish (*Cyprinodon macularis*): Consistent with CEQA Guidelines (§ 15380), the status of the desert pupfish as an endangered species pursuant to the federal Endangered Species Act (16 U.S.C., § 1531 *et seq.*) and CESA (Fish & G. Code, § 2050 *et seq.*) qualifies it as an endangered, rare, or threatened species under CEQA. Groundwater pumping is one of the main threats to desert pupfish populations (USFWS 2010), resulting in habitat loss and alteration (Rohde et al. 2019). CDFW is concerned about the impacts that groundwater depletion may have on this species.
- Yuma Ridgway's rail (*Rallus obsoletus yumanensis*): Consistent with CEQA Guidelines (§ 15380), the status of the Yuma Ridgway's rail as an endangered species pursuant to the federal Endangered Species Act (16 U.S.C. § 1531 *et seq.*) and threatened under CESA (Fish & G. Code, § 2050 *et seq.*), and a Fully Protected species (Fish & G. Code § 3511), qualifies it as an endangered, rare, or threatened species under CEQA. This species relies on marsh habitat for foraging, cover, and nesting; groundwater pumping that dewateres wetlands results in habitat loss (Rohde et al. 2019).

In addition, groundwater depletion may have cumulative impacts on biological resources if multiple cannabis cultivation operations use groundwater for irrigation. The IS/MND should include an analysis of impacts to groundwater-dependent species not covered by the Coachella Valley Multiple Species Habitat Conservation Plan as applicable to the Project .

Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP)

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CDFW issued Natural Community Conservation Plan Approval and Take Authorization for the CVMSHCP per Section 2800, *et seq.*, of the California Fish and Game Code on September 9, 2008. The CVMSHCP establishes a multiple species conservation program to minimize and mitigate habitat loss and provides for the incidental take of covered species in association with activities covered under the permit. Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed Project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. The proposed Project occurs in the City of Coachella, which is within the CVMSHCP boundary. To obtain additional information regarding the CVMSHCP please visit: <http://www.cvmshcp.org/>.

Cannabis-Specific Impacts on Biological Resources

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There are many impacts to biological resources associated with cannabis cultivation, whether indoor or outdoor cultivation (i.e., pesticides, fertilizers/imported soils, water pollution, groundwater depletion, vegetation clearing, construction and other development in floodplains, fencing, roads, noise, artificial light, dams and stream crossings, water diversions, and pond construction). CDFW recommends that the City consider cannabis-specific impacts to biological resources that may result from the Project activities.

Pesticides, Including Fungicides, Herbicides, Insecticides, and Rodenticides

Cannabis cultivation sites (whether indoor or outdoor) often use substantial quantities of pesticides, including fungicides, herbicides, insecticides, and rodenticides. Wildlife, including beneficial arthropods, birds, mammals, amphibians, reptiles, and fish, can be poisoned by pesticides after exposure to a toxic dose through ingestion, inhalation, or dermal contact (Fleischli et al. 2004, Pimentel 2005, Berny 2007). They can also experience secondary poisoning through feeding on animals that have been directly exposed to the pesticides. (Even if used indoors, rodenticides may result in secondary poisoning through ingestion of sickened animals that leave the premises or ingestion of lethally poisoned animals disposed of outside.) Nonlethal doses of pesticides can negatively affect wildlife; pesticides can compromise immune systems, cause hormone imbalances, affect reproduction, and alter growth rates of many wildlife species (Pimentel 2005, Li and Kawada 2006, Relyea and Diecks 2008, Baldwin et al. 2009).

CDFW recommends minimizing use of synthetic pesticides, and, if they are used, to always use them as directed by the manufacturer, including proper storage and disposal. Toxic pesticides should not be used where they may pass into waters of the state, including ephemeral streams, in violation of Fish and Game Code section 5650(6). Anticoagulant rodenticides and rodenticides that incorporate “flavorizers” that make the pesticides appetizing to a variety of species should not be used at cultivation sites. Alternatives to toxic rodenticides may be used to control pest populations at and around cultivation sites, including sanitation (removing food sources like pet food, cleaning up refuse, and securing garbage in sealed containers) and physical barriers (e.g., sealing holes in roofs/walls). Snap traps should not be used outdoors as they pose a hazard to nontarget wildlife. Sticky or glue traps should be avoided altogether; these pose a hazard to nontarget wildlife and result in prolonged/inhumane death. California Department of Pesticide Regulation stipulates that pesticides must certain criteria to be legal for use on cannabis. For details, visit: <https://www.cdpr.ca.gov/docs/cannabis/questions.htm>; <https://www.cdpr.ca.gov/docs/county/cacltrs/penfltrs/penf2015/2015atch/attach1502.pdf>.

The IS/MND indicates that the Project cultivation activities will involve pesticides (p. 40). Because of the potential for Project activities to involve the use of pesticides in temporary hoop houses that may not have fully enclosed, permanent walls/roof and impermeable floors, CDFW recommends that the City of Coachella include a mitigation measure conditioning the Project to development of a plan to avoid, minimize, and mitigate the impacts of pesticides used in cannabis cultivation. In addition to the HAZ-2 mitigation measure indicated in the IS/MND, CDFW recommends inclusion of the following mitigation measure focused on avoiding impacts to biological resources:

MM BIO-3: Prior to construction and issuance of any grading permit, the City of Coachella shall develop a plan with measures to avoid, minimize, or mitigate the impacts of pesticides used in cannabis cultivation, including fungicides, herbicides, insecticides, and rodenticides. The plan should include, but is not limited to, the following elements: (1) Proper use, storage, and disposal of pesticides, in accordance with manufacturers’ directions and warnings. (2) Avoidance of pesticide use where toxic runoff may pass into waters of the State, including ephemeral streams. (3) Avoidance of pesticides that cannot

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legally be used on cannabis in the state of California, as set forth by the Department of Pesticide Regulation. (4) Avoidance of anticoagulant rodenticides and rodenticides with “flavorizers.” (5) Avoidance of sticky/glue traps. (6) Inclusion of alternatives to toxic rodenticides, such as sanitation (removing food sources like pet food, cleaning up refuse, and securing garbage in sealed containers) and physical barriers.

Artificial Light

Cannabis cultivation operations often use artificial lighting or “mixed-light” techniques in greenhouse structures and indoor operations to increase yields. If not disposed of properly, these lighting materials pose significant environmental risks because they contain mercury and other toxins (O’Hare et al. 2013). In addition to containing toxic substances, artificial lighting often results in light pollution, which has the potential to significantly and adversely affect fish and wildlife. Night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication (e.g., birdsong; Miller 2006), determining when to begin foraging (Stone et al. 2009), behavioral thermoregulation (Beiswenger 1977), and migration (Longcore and Rich 2004). Phototaxis, a phenomenon that results in attraction and movement toward light, can disorient, entrap, and temporarily blind wildlife species that experience it (Longcore and Rich 2004).

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The IS/MND indicates that Project activities will involve new sources of artificial light, including from “interior and exterior building lighting, safety and security lighting, and vehicular traffic.” The IS/MND does not, however, stipulate whether artificial light will be used for cultivation in the temporary hoop houses during the interim cultivation scenario and has not analyzed these impacts. Because the Project is located immediately adjacent to riparian habitat associated with Whitewater River, and because of the potential for the use of artificial light to impact nocturnal wildlife species and migratory birds that fly at night, CDFW recommends the following mitigation measure:

MM BIO-4: Light should not be visible outside of any structure used for cannabis cultivation. Employ blackout curtains where artificial light is used to prevent light escapement. Eliminate all nonessential lighting from cannabis sites and avoid or limit the use of artificial light during the hours of dawn and dusk when many wildlife species are most active. Ensure that lighting for cultivation activities and security purposes is shielded, cast downward, and does not spill over onto other properties or upward into the night sky (see the International Dark-Sky Association standards at <http://darksky.org/>). Use LED lighting with a correlated color temperature of 3,000 Kelvins or less, properly dispose of hazardous waste, and recycle lighting that contains toxic compounds with a qualified recycler.

Role of Lake and Streambed Alteration (LSA) Program in Cannabis Licensing

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Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may adversely impact any river, stream, or lake. California Department of Food and Agriculture (CDFA) requires cannabis cultivators to demonstrate compliance with Fish and Game Code section 1602 prior to issuing a cultivation license (Business and Professions Code, § 26060.1). To qualify for an Annual License from CDFA, cultivators

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must have an LSA Agreement or written verification from CDFW that one is not needed. Cannabis cultivators may apply online for an LSA Agreement through EPIMS (Environmental Permit Information Management System; <https://epims.wildlife.ca.gov>) and learn more about permitting at <https://wildlife.ca.gov/Conservation/Cannabis/Permitting>. Separate notification may be required for both the interim cultivation scenario and the permanent cultivation facility. CDFW recommends the following mitigation measure:

MM BIO-5: Prior to construction and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Applicant should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.

ENVIRONMENTAL DATA

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CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database that 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

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The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required for the underlying project approval to be operative, vested, and final (Cal. Code Regs., title 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

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CDFW appreciates the opportunity to comment on the IS/MND to assist the City of Coachella in identifying and mitigating Project impacts on biological resources. CDFW concludes that the IS/MND does not adequately identify the Project's significant, or potentially significant, impacts on biological resources. Deficiencies in the City of Coachella's CEQA documentation can affect later project approval by CDFW in its role as a Responsible Agency. CDFW recommends that prior to adoption of the MND, the City of Coachella revise the document to include a more complete assessment of the Project's potential impacts on biological resources, including impacts from the interim cultivation operation, as well as appropriate avoidance, minimization, and mitigation measures.

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CDFW has Cannabis Unit staff who are available to provide guidance on impacts to biological resources and CDFW permitting. If you have any questions or would like to set up a meeting with CDFW staff to discuss this letter, please contact Heather Brashear, Environmental Scientist, at (909) 948-9625 or Heather.Brashear@Wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Scott Wilson
Environmental Program Manager

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

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ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Mitigation Measures	Schedule	Responsible Party
<p>MM BIO-1: Nesting bird surveys. Nesting bird surveys shall be conducted by a qualified avian biologist no more than three (3) days prior to vegetation clearing or ground disturbance activities. Preconstruction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the preconstruction nesting bird surveys, a Nesting Bird Plan (NBP) shall be prepared and implemented by the qualified avian biologist. At a minimum, the NBP shall include guidelines for addressing active nests, establishing buffers, ongoing monitoring, establishment of avoidance and minimization measures, and reporting. The size and location of all buffer zones, if required, shall be based on the nesting species, individual/pair's behavior, nesting stage, nest location, its sensitivity to disturbance, and intensity and duration of the disturbance activity. To avoid impacts to nesting birds, any grubbing or vegetation removal should occur outside peak breeding season (typically February 1 through September 1).</p>	<p>No more than three (3) days prior to vegetation clearing or ground disturbance activities.</p>	<p>City of Coachella.</p>
<p>MM BIO-2: Burrowing owl surveys. Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the <i>Staff Report on Burrowing Owl Mitigation</i> (2012 or most recent version). Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the <i>Staff Report on Burrowing Owl Mitigation</i>. If the preconstruction surveys confirm occupied burrowing owl habitat, project activities shall be immediately halted, and the qualified biologist shall coordinate with CDFW to develop avoidance, minimization, and mitigation measures to be approved by CDFW prior to commencing Project activities.</p>	<p>No less than 14 days prior to start of Project-related activities and within 24 hours prior to ground disturbance.</p>	<p>City of Coachella.</p>
<p>MM BIO-3: Pesticide management plan. Prior to construction and issuance of any grading permit, the City of Coachella shall develop a plan with measures to avoid, minimize, or mitigate the impacts of pesticides used in cannabis cultivation, including fungicides, herbicides, insecticides, and rodenticides. The plan should include, but is not limited to, the following elements: (1) Proper use, storage, and disposal of pesticides, in accordance with manufacturers' directions and warnings. (2) Avoidance of pesticide use where toxic runoff may pass into waters of the State, including ephemeral streams. (3) Avoidance of pesticides that cannot legally be used on cannabis in the State of California, as set forth by the Department of Pesticide Regulation. (4) Avoidance of anticoagulant rodenticides and rodenticides with "flavorizers." (5) Avoidance of sticky/glue traps. (6) Inclusion of alternatives to toxic rodenticides, such as sanitation (removing food sources like pet food, cleaning up refuse, and securing garbage in sealed containers) and physical barriers.</p>	<p>Prior to construction and issuance of any grading permit.</p>	<p>City of Coachella.</p>
<p>MM BIO-4: Artificial light. Light should not be visible outside of any structure used for cannabis cultivation. Employ blackout curtains where artificial light is used to prevent light escapement. Eliminate all nonessential lighting from cannabis sites and avoid or limit the use of artificial light during the hours of dawn and dusk when many wildlife species are most active. Ensure that lighting for cultivation activities and security purposes is shielded, cast downward, and does not spill over onto other properties or upward into the night sky (see the International Dark-Sky Association standards at http://darksky.org/). Use LED lighting with a correlated color temperature of</p>	<p>During Project activities.</p>	<p>City of Coachella.</p>

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3,000 Kelvins or less, properly dispose of hazardous waste, and recycle lighting that contains toxic compounds with a qualified recycler.		
MM BIO-5: Compliance with CDFW LSA Program. Prior to construction and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Applicant should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.	Prior to construction and issuance of any grading permit.	City of Coachella.

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