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Governor's Office of Planning & Research

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STATE CLEARINGHOUSE

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CANNABIS ORDINANCE PROJECT, ZOA NO. 2020-04 (PROJECT)
INITIAL STUDY/NEGATIVE DECLARATION (ND) SCH# 2020019073

Dear Mr. Bassi:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an ND from the City of Wildomar for the Cannabis Ordinance Project, ZOA No. 2020-04 (Project) pursuant 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, 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

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

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

CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). 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 Wildomar

Objective: The proposed Project (Zoning Ordinance Amendment No. 2020-04) establishes the regulatory framework for licensing and operation of cannabis businesses—including cultivation, manufacturing, distribution, and testing laboratories—in the City of Wildomar. Modifications to the existing municipal code and adoption of new municipal code sections would allow the following:

- Retail sale of cannabis in General Commercial and Scenic Highway Commercial zones.
- Cultivation, manufacturing, distribution, and testing of cannabis in Industrial Park and Manufacturing-Service Commercial zones.

The Project stipulates that cannabis businesses must have required state and local licenses and that outdoor cultivation is prohibited. In addition, the Project places no limit on the number of cannabis businesses that may be established within the zoned areas and indicates that those businesses may either be housed in existing buildings (which may involve demolition or renovation) or request the ability to construct new buildings.

Location: The City of Wildomar is located in western Riverside County and has a total area of approximately 23.7 square miles. It is surrounded by Lake Elsinore to the north/northwest, Canyon Lake to the north, the City of Menifee to the northeast, the City of Murrieta to the south/southeast, and unincorporated Riverside County to the east, west, and southwest. Interstate 15 crosses the city from north/northwest to south/southeast. The City of Wildomar lies primarily within the Santa Margarita River Watershed, with some portions draining to the Santa Ana River Watershed.

COMMENTS AND RECOMMENDATIONS

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). Although most cannabis businesses under the proposed ordinance are expected to be housed in existing buildings, the Initial Study/Negative Declaration (IS/ND) acknowledges that future construction of new buildings "could be located on parcels that contain habitat for special-status plant or wildlife

species, or adjacent to wetlands, riparian habitats, or other waters of the U.S.” and that “such development could have potentially significant impacts on sensitive biological resources” (p. 24). However, the IS/ND provides no information about the location of these parcels or the “sensitive biological resources” occurring within or adjacent to these parcels. In addition, the IS/ND acknowledges that “demolition and/or renovations of older structures to accommodate future cannabis businesses” (p. 44) may also occur as a result of the proposed ordinance, which would also have potential impacts on biological resources depending on the location of such future projects. Absent any site- or project-specific information, including a biological baseline, it is unclear (1) whether the Project’s impacts (i.e., direct, indirect, and cumulative impacts) have been adequately identified and disclosed and (2) whether those impacts are less than significant.

CDFW recommends that the IS/ND be revised to include specific information on the location of parcels with “sensitive biological resources,” a complete assessment of those sensitive biological resources, and analysis of the Project’s potential impacts on those resources, as well as appropriate avoidance, minimization, and mitigation measures. In addition, all future project approvals (discretionary or ministerial) resulting from the proposed ordinance should analyze whether there are potential impacts that were not previously analyzed under the revised document. For projects that were not previously analyzed, site-specific surveys and analysis should be required. The revised document should identify the anticipated CEQA documentation for forthcoming projects approved pursuant to this ordinance.

Section 15074(b) of the CEQA Guidelines requires the City of Wildomar to consider comments received during the public review process, and CDFW has identified potentially significant environmental effects and impacts. Absent the City of Wildomar’s attention to incorporating CDFW’s comments and including appropriate mitigation measures or project revisions to reduce the impacts to a less than significant level in the final adopted document, future revisions to the final document may be necessary under CEQA Guidelines before CDFW can issue permits for any future projects resulting from the proposed ordinance.

CDFW offers the following comments and recommendations to assist the City of Wildomar in adequately identifying and/or mitigating the Project’s significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. The comments and recommendations are also offered to enable CDFW to adequately review and comment on the proposed Project with respect to the Project’s consistency with the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP).

Assessment of Impacts on Biological Resources

The IS/ND stipulates that future development resulting from the Project will comply with “all local, state, and federal laws pertaining to biological resources” and that compliance will include “site-specific biological evaluation, wetland delineation, pre-construction requirements for sensitive species, and payment of MSHCP fees” (pp. 24 and 25). However, deferring site-specific evaluation of new construction to the future prevents the

City of Wildomar from determining with certainty that the Project will have no significant impacts.

The IS/ND lacks sufficient, specific, and current biological information on the existing habitat and potential species in the Project area. To enable CDFW staff to adequately review and comment on the Project, a complete assessment of the biological resources within and adjacent to all potential future project locations should be included. For example, page 24 of the IS/ND states “[t]he sizes and locations of future businesses are unknown at this time; however, such future development could be located on parcels that contain habitat for special-status plant or wildlife species, or adjacent to wetlands, riparian habitats, or other waters of the U.S. Such development could have potentially significant impacts on sensitive biological resources.” Absent identifying site-specific biological assessments, and subsequent CEQA discretionary review processes, the IS/ND has identified a potentially significant impact without also having identified avoidance, minimization, or mitigation measures—an unmitigated impact. Without establishing a biological baseline by incorporating site-specific biological surveys, CDFW believes it is inappropriate to deem future projects consistent with a Community Plan, General Plan, or Zoning pursuant to California Code of Regulations, section 15183. The revised document should include a requirement that subsequent projects conduct a biological resources assessment utilizing the established survey protocols at the appropriate time of year and weather conditions to maximize species detection probability. The revised document should also require the survey results to be publicly circulated through a subsequent CEQA review process.

With respect to biological surveys, particular emphasis should be placed on identifying rare, threatened, endangered, or sensitive species and their habitats. (Further information about survey protocols may be found at CDFW’s website:

<https://wildlife.ca.gov/Conservation/Survey-Protocols>). In addition, avoidance and minimization measures, as well as mitigation measures that would reduce potential impacts to a level that is less than significant if impacts cannot be avoided, should be included in the analysis of Project impacts.

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, including, but not limited to, Bell’s sage sparrow (*Artemisiospiza belli belli*), California glossy snake (*Arizona elegans occidentalis*), California horned lark (*Eremophila alpestris actia*), California Orcutt grass (*Orcuttia californica*), coastal California gnatcatcher (*Polioptila californica californica*), coast horned lizard (*Phrynosoma blainvillii*), loggerhead shrike (*Lanius ludovicianus*), Munz’s onion (*Allium munzii*), northwestern San Diego pocket mouse (*Chaetodipus fallax fallax*), orange-throated whiptail (*Aspidoscelis hyperythra*), quino checkerspot butterfly (*Euphydryas editha quino*), red-diamond rattlesnake (*Crotalus ruber*), Riverside fairy shrimp (*Streptocephalus woottoni*), San Bernardino kangaroo rat (*Dipodomys merriami parvus*), San Diego black-tailed jackrabbit (*Lepus californicus bennettii*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), southern California legless lizard (*Anniella stebbinisi*), southern California rufous-crowned sparrow (*Aimophila ruficeps canescens*), spreading navarretia (*Navarretia*

fossalis), western pond turtle (*Emys marmorata*), and western spadefoot (*Spea hammondi*), as well as the following:

Burrowing Owl (*Athene cunicularia*)

The Project area has the potential to support both nesting and foraging habitat for burrowing owl (*Athene cunicularia*), a California Species of Special Concern. CDFW recommends that the City of Wildomar follow the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation* (2012), available at CDFW's website (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>).

The *Staff Report on Burrowing Owl Mitigation* specifies that project impact evaluations include the following: (1) habitat assessment, (2) surveys, and (3) an impact assessment. The three progressive steps are effective in evaluating whether a project will result in impacts to burrowing owls, and the information gained from the steps will inform any subsequent avoidance, minimization, and mitigation measures. Habitat assessments are conducted to evaluate the likelihood that a site supports burrowing owls. Burrowing owl surveys provide information needed to determine the potential effects of proposed projects and activities on burrowing owls and to avoid take in accordance with Fish and Game Code sections 86, 3503, and 3503.5. Impact assessments evaluate the extent to which burrowing owls and their habitat may be impacted, directly or indirectly, in and within a reasonable distance of the proposed Project area.

Crotch Bumble Bee (*Bombus crotchii*)

Crotch bumble bee is a Candidate Endangered species under CESA. As a Candidate species, *B. crotchii* receives the same legal protection as Endangered or Threatened species under CESA (Fish & G. Code, § 2085). The IS/ND does not analyze potential impacts to *B. crotchii*. Therefore, CDFW recommends that an entomologist conduct a focused survey for *B. crotchii* based on the species' need. Special focus should be placed on identifying potential nest and overwintering sites as any ground disturbance may lead to take of adults, eggs, or larvae that are in the ground.

Golden Eagle (*Aquila chrysaetos*)

Consistent with CEQA Guidelines, section 15380, the status of the golden eagle as a Fully Protected species (Fish & G. Code, § 3511) qualifies it as an endangered, rare, or threatened species under CEQA. The abundance of golden eagles in California is currently unknown, and little is known about populations trends, although in some areas of their range, they are thought to be declining. The threats to this species include habitat loss (particularly foraging and nesting habitat), poisoning from pesticides and lead ammunition, and collision with man-made structures (e.g., wind turbines; CDFW 2018a).

Use of pesticides in cannabis cultivation may impact golden eagles by direct poisoning (Henny et al. 1987, Littrell and Hunter 1988, Fleischli et al. 2004, Pimentel 2005, Mineau and Palmer 2013); secondary poisoning through ingestion of prey that ingested rodenticides (Mendelssohn and Paz 1977, Elliott et al. 1996, Pimentel 2005); starvation

from decreased prey availability (Wengert 2015); alterations of the thyroid gland that negatively impact thyroid homeostasis and metabolism (Pandey and Mohanty 2015); reduction in egg production and reduced clutch sizes (Pimentel 2005, Berny 2007); decreased ability to thermoregulate and short-term hypothermia (Grue et al. 1997); and reduction in clotting ability causing mortality from excessive bleeding as a result of minor wounds from prey (Erickson and Urban 2004). Even if used indoors, pesticides such as rodenticides may result in secondary poisoning through ingestion of sickened animals that leave the premises or ingestion of lethally poisoned animals that are disposed of outside. In addition, improper use, storage, or disposal of pesticides may also have impacts on this species.

Vegetation removal for cultivation sites or structures may impact golden eagles that use large trees for nesting and cover (Zeiner et al. 1990). Additionally, vegetation clearing can cause habitat loss, fragmentation, and create edge effects that permeate far beyond the cultivation site (Harris 1988, Murcia 1995). Roads can also be a source of mortality for raptors, and roads have also been shown to decrease reproductive success of eagles (Anthony and Isaacs 1989, Varland et al. 1993, Trombulak and Frissell 2000). Noise from road use, generators, and other equipment may be disruptive to hunting and nesting golden eagles, and exposure to vehicle noise has been shown to increase stress hormone levels in some raptor species (Hayward et al. 2011). The level of impact depends on how close the road is to the nest site, how much use it gets, and how accustomed any particular pair is to road noise. Golden eagles may be more susceptible to disturbance such as this than other eagles, such as bald eagles (personal communication, Carrie Battistone, CDFW). Artificial light may attract or disorient nesting golden eagles (Ogden 1996, Longcore and Rich 2004, 2016), and it can also suppress the immune system of birds (Moore and Siopes 2000). Therefore, Project impacts on golden eagles should be assessed.

Least Bell's Vireo (*Vireo bellii pusillus*)

Because the Project will occur within the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), additional considerations may be required. Briefly, if least Bell's vireos are present at the Project site, then 90% of the occupied portions of the property that provide for long-term conservation value for vireos would typically be conserved. Conservation of suitable habitat within 100 meters of undeveloped landscape adjacent to conserved habitat may also be required under the MSHCP.

Consistent with CEQA Guidelines, section 15380, the status of the least Bell's vireo as an endangered species pursuant to the federal Endangered Species Act (16 U.S.C., § 1531 et seq.) and the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) qualifies it as an endangered, rare, or threatened species under CEQA. Least Bell's vireos were abundant and widespread in the United States until the 1950s (Grinnell and Miller 1944). By the 1960s, they were considered scarce (Monson 1960), and by 1980, there were fewer than 50 pairs remaining (Edwards 1980), although this number had increased to 2,500 by 2004 (Kus and Whitfield 2005). The primary cause of decline for this species has been the loss and alteration of riparian woodland habitats (USFWS 2006). Fragmentation of their preferred habitat has also increased their exposure to brown-

headed cowbird (*Molothrus ater*) parasitism (Kus and Whitfield 2005). Current threats to their preferred habitat include colonization by nonnative plants such as *Arundo donax* and altered hydrology (diversion, channelization, etc.; USFWS 2006).

Pesticides used in cannabis cultivation may impact least Bell's vireos by poisoning (Fleischli et al. 2004, Pimentel 2005); depleting the prey base, leading to localized population declines of vireos (Hallmann et al. 2014); alterations of the thyroid gland that negatively impact thyroid homeostasis and metabolism (Pandey and Mohanty 2015); reduction in egg production and reduced clutch sizes (Pimentel 2005, Berny 2007); and decreased ability to thermoregulate and short-term hypothermia (Grue et al. 1997). Improper use, storage, or disposal of pesticides may also have impacts on this species. In addition, pesticides and/or fertilizers can run off into watersheds polluting them and degrading habitat quality (Bauer et al. 2015, Carah et al. 2015). Fertilizer runoff has also been shown to cause algae outbreaks in wetlands.

Construction affects least Bell's vireos by decreasing and/or fragmenting intact habitat. Greenhouses and other operation-related structures are often constructed in 100-year floodplains that require grading and fill; they frequently have concrete floors, which create a permanent construction footprint that cannot be readily converted back to floodplain (Poff et al. 1997). Wang et al. (2017) found that development in such areas can disconnect rivers from their natural floodplains, as well as displace, fragment, and degrade essential riparian habitat. Finally, least Bell's vireos have been documented striking stationary objects such as those that might be associated with the construction of greenhouses (Ball et al. 1995).

Vegetation removal affects least Bell's vireos by altering the vegetation structure. The species requires a well-developed shrub layer for foraging and breeding (Rosenberg et al. 1991), which is often removed to create openings beneath the tree canopy for placement of greenhouses and other structures. Vegetation clearing also degrades the habitat by creating openings that are more easily colonized by nonnative plant species such as *Arundo donax* and *Tamarix* sp. In addition, removal of native vegetation fragments the habitat, which creates more edge areas. These edge areas have been shown to benefit brown-headed cowbird (*Molothrus ater*) as well as nest predators such as California scrub jay (*Apelocoma californica*) and other corvids. Lastly, these and other edge effects such as noise and artificial light permeate far beyond the site (Harris 1988, Murcia 1995).

Imported soils used in cultivation can often contain invasive nonnative plant species (Butsic and Brenner 2016). Invasive nonnative plant species have been shown to reduce habitat quality for least Bell's vireos. In addition, nonnative species often proliferate along roads and trails; therefore, construction and/or use of roads and trails within and adjacent to riparian habitat can facilitate the spread of these invasive species (Brothers and Spingarn 1992, Greenberg et al. 1997).

Noise from road use, generators, and other equipment may disrupt least Bell's vireo mating calls or songs, which could impact reproductive success (Patricelli and Blickley 2006, Halfwerk et al. 2011). Noise has been shown to reduce the density of nesting birds (Francis et al. 2009), and Bayne et al. (2008) found that songbird abundance and density

were significantly reduced in areas with high levels of noise. Additionally, noise exceeding 70 dB(A) may affect feather and body growth of young birds (Kleist et al. 2018). Artificial light may attract or disorient migrating least Bell's vireos by disrupting navigation (Ogden 1996, Longcore and Rich 2004, 2016) and may also suppress their immune system (Moore and Siopes 2000). In addition, songbirds that live in areas with artificial light often begin morning choruses during night hours (Derrickson 1988, Miller 2006, Fuller et al. 2007), which may disrupt typical breeding behaviors.

Stephens' Kangaroo Rat (*Dipodomys stephensi*)

The Project occurs within the Stephens' Kangaroo Rat Habitat Conservation Plan (SKR HCP) fee area boundary. State and federal authorizations associated with the SKR HCP provide take authorization for Stephens' kangaroo rat within its boundaries, and the MSHCP provides take authorization for Stephens' kangaroo rat outside of the boundaries of the SKR HCP, but within the MSHCP area boundaries. The revised document should identify if any portion of the Project will occur on SKR HCP lands or on Stephens' kangaroo rat habitat lands outside of the SKR HCP but within the MSHCP. Note that the SKR HCP allows for encroachment into the Stephens' kangaroo rat Core Reserve for public projects; however, there are no provisions for encroachment into the Core Reserve for privately owned projects. If impacts to Stephens' kangaroo rat habitat will occur from the proposed Project, the revised document should specifically quantify permanent impacts to Stephens' kangaroo rat core habitat and the appropriate mitigation to compensate for those impacts.

Consistent with CEQA Guidelines, section 15380, the status of Stephens' kangaroo rat as an endangered species pursuant to the federal Endangered Species Act (16 U.S.C., § 1531 et seq.) and a threatened species pursuant to the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) qualifies it as an endangered, rare, or threatened species under CEQA. Stephens' kangaroo rats are endemic to southern California. They have experienced significant range contractions historically from habitat loss from urbanization and conversion of land for agriculture (Zeiner et al. 1990). Habitat loss as well as continued degradation and fragmentation continue to threaten the species.

Use of pesticides in cultivation could impact Stephens' kangaroo rat by poisoning from herbicides, as their diet primarily consists of vegetation and seeds (Zeiner et al. 1990, Freemark and Boutin 1995, Pimentel 2005); poisoning from rodenticides (Sánchez-Barbudo et al. 2012); reduced litter sizes (Grue et al. 1997, Pimentel 2005); alteration of ovarian development and function (Tiemann 2008); decreased coordination and motor skills and slow response rates to noise (Wolansky and Harrill 2008); decreased ability to thermoregulate (Ahdaya et al. 1976, Grue et al. 1997); elimination of food and cover resources (Johnson and Hansen 1969, Spencer and Barrett 1980); and short-term hypothermia (Grue et al. 1991, Gordon 1994). Improper use, storage, or disposal of pesticides may also have impacts on this species.

Vegetation removal may impact Stephens' kangaroo rats as they use vegetation for cover from predators, and they require seeds, grasses, and forbs for forage (Zeiner et al. 1990). Additionally, vegetation clearing would result in further habitat loss and fragmentation, as

well as create edge effects that permeate far beyond the cultivation site (Harris 1988, Murcia 1995). Habitat loss and fragmentation are threats to current populations of Stephens' kangaroo rats. Road construction and use often result in mortality for small mammals (Trombulak and Frissell 2000) and further fragment otherwise suitable habitat.

Artificial light has been shown to suppress the immune system of some mammals (Bedrosian et al. 2011), and it can cause disruption of normal circadian rhythms. Rodents often decrease foraging in higher light levels due to higher risk of predation (Clarke 1983, Daly et al. 1992, Bird et al. 2004). Cultivation operations and construction areas often have significant amounts of noise from generators and other equipment. Rodents have been shown to increase their vigilance behavior when exposed to noise because they need to rely more on visual detection of predators when auditory cues are masked by noise (Rabin et al. 2006). This can result in unnecessary increased energy expenditure that may negatively impact survival.

Tricolored Blackbird (*Agelaius tricolor*)

Consistent with CEQA Guidelines, section 15380, the status of the tricolored blackbird as a threatened species under the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) qualifies it as an endangered, rare, or threatened species under CEQA. Tricolored blackbird populations, which once numbered in the millions in California, have declined significantly in recent years according to state censuses (CDFW 2018b). The long-term decline is primarily related to habitat loss and degradation (including both the nesting vegetation and the larger foraging landscape) from urbanization and conversion to agriculture (Beedy et al. 2017). Tricolored blackbirds require three resources for successful nesting: (1) secure nesting vegetation, (2) a source of water, and (3) foraging habitat (usually much larger in extent than the nesting vegetation) that provides sufficient insect food resources. Loss of any of these habitat components can result in an area becoming unsuitable for breeding. Additional known or suspected threats to the tricolored blackbird include destruction of breeding colonies when nesting vegetation is harvested, high levels of predation by native and nonnative predators, direct and indirect (food resources) effects of pesticides, killing as an agricultural pest through shooting or poisoning, drought, and climate change. The species' colonial breeding nature puts it at increased risk from many of these threats (CDFW 2018b).

Pesticides used in cannabis cultivation may impact tricolored blackbirds by poisoning (Fleischli et al. 2004, Pimentel 2005, Mineau and Palmer 2013); starvation or reductions in reproductive success from decreased prey availability (Hallmann et al. 2014); alterations of the thyroid gland that negatively impact thyroid homeostasis and metabolism (Pandey and Mohanty 2015); impaired immune function (Gibbons et al. 2015); reduction in reproductive capacity, including declines in egg production and reduced clutch sizes (Pimentel 2005, Berny 2007, Gibbons et al. 2015); decreased ability to thermoregulate and short-term hypothermia (Grue et al. 1997); declines in fat stores and body mass (Gibbons et al. 2015, Eng et al. 2017); and disorientation, which may inhibit regular behavior and movement. Improper use, storage, or disposal of pesticides may also have impacts on this species.

Wetlands are an important component of tricolored blackbird habitat, particularly for nest sites but also for roosting sites in the nonbreeding season (Beedy 2008). Pesticides and fertilizers can run off into watersheds polluting them and degrading habitat quality (Bauer et al. 2015, Carah et al. 2015). Fertilizer runoff has also been shown to cause algae outbreaks in wetlands.

Vegetation removal may impact tricolored blackbirds as they require sufficient vegetation to provide cover for the nest (Beedy 2008). This is especially true at sites where tricolored blackbird colonies have bred in the past, or when the vegetation removed includes plant species that provide high-quality nesting habitat (e.g., emergent wetland plants, Himalayan blackberry, thistles, nettles, and certain agricultural grain fields). Vegetation removal can also reduce the extent of available foraging habitat, which is critical for successful nesting by tricolored blackbird colonies. Additionally, vegetation clearing can cause fragmentation and create edge effects that permeate far beyond the site (Harris 1988, Murcia 1995). Invasive plant species may also reduce habitat quality for tricolored blackbirds, and many activities involved in cannabis cultivation can exacerbate this issue. Imported soils used on many cultivation sites can often contain invasives (Butsic and Brenner 2016), and road use can increase the spread of invasive plant species (Brothers and Spingarn 1992, Greenberg et al. 1997). Areas where greenhouses or other structures are constructed also often become degraded and are prone to establishment of invasives as are areas where vegetation removal is taking place (Mallery 2010).

Noise from road use, generators, and other equipment may disrupt tricolored blackbird mating calls or songs, which could impact their reproductive success (Patricelli and Blickley 2006, Halfwerk et al. 2011). Noise has been shown to reduce the density of nesting birds (Francis et al. 2009). Bayne et al. (2008) found that songbird abundance and density were significantly reduced in areas with high levels of noise. Artificial light may attract or disorient tricolored blackbirds, disrupting their navigation (Ogden 1996, Longcore and Rich 2004, 2016), and it can also suppress the immune system of birds (Moore and Siopes 2000). Additionally, songbirds that live in areas with artificial lights often begin morning choruses during night hours (Derrickson 1988, Miller 2006, Fuller et al. 2007).

White-Tailed Kite (*Elanus leucurus*)

Consistent with CEQA Guidelines, section 15380, the status of the white-tailed kite as a Fully Protected species (Fish & G. Code § 3511) qualifies it as an endangered, rare, or threatened species under CEQA. White-tailed kites, once threatened with extinction in California primarily due to habitat loss, shooting, and egg collection, recovered substantially in the mid-1900s (Dunk 1995). The current population size in California is unknown, but the population is known to fluctuate relative to vole populations (their primary prey). Threats to white-tailed kites include habitat loss from conversion and vegetation clearing, drought, and disturbance at nest sites (Dunk 1995).

Use of pesticides in cannabis cultivation may impact white-tailed kites by direct poisoning (Henny et al. 1987, Littrell and Hunter 1988, Fleischli et al. 2004, Pimentel 2005, Mineau and Palmer 2013); secondary poisoning through ingestion of prey that ingested rodenticides (Mendelssohn and Paz 1977, Elliott et al. 1996, Pimentel 2005); starvation

from decreased prey availability (Wengert 2015); alterations of the thyroid gland that negatively impact thyroid homeostasis and metabolism (Pandey and Mohanty 2015); reduction in egg production and reduced clutch sizes (Pimentel 2005, Berny 2007); decreased ability to thermoregulate and short-term hypothermia (Grue et al. 1997); and reduction in clotting ability causing mortality from excessive bleeding as a result of minor wounds from prey (Erickson and Urban 2004). Even if used indoors, pesticides such as rodenticides may result in secondary poisoning through ingestion of sickened animals that leave the premises or ingestion of lethally poisoned animals that are disposed of outside. In addition, improper use, storage, or disposal of pesticides may also have impacts on this species.

Vegetation removal may impact white-tailed kites that use trees for nesting and cover; they require areas with dense groves of trees and high canopy cover for nesting and roosting (Zeiner et al. 1990). Additionally, vegetation clearing can cause fragmentation and create edge effects that permeate far beyond the cultivation site (Harris 1988, Murcia 1995). Roads can be a source of mortality for raptors, and roads have also been shown to decrease reproductive success of some raptors (Anthony and Isaacs 1989, Varland et al. 1993, Trombulak and Frissell 2000). Noise from road use, generators, and other equipment may be disruptive to hunting white-tailed kites, and exposure to vehicle noise has been shown to increase stress hormone levels in some raptor species (Hayward et al. 2011). Artificial light may attract or disorient white-tailed kites (Ogden 1996, Longcore and Rich 2004, 2016) and can also suppress the immune system of birds (Moore and Siopes 2000).

Southwestern willow flycatcher (*Empidonax traillii extimus*)

Consistent with CEQA Guidelines, section 15380, the status of the southwestern willow flycatcher (*Empidonax traillii extimus*) as an endangered species pursuant to the federal Endangered Species Act (16 U.S.C., § 1531 et seq.) and the willow flycatcher (*Empidonax traillii*), including all subspecies, as endangered under the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) qualifies this species (and subspecies) as an endangered, rare, or threatened species under CEQA. The willow flycatcher is a Neotropical migrant that breeds in the western United States, and in California, it is primarily restricted to the Sierra Nevada and southern Cascades and was historically widespread in riparian willow thickets and montane meadow complexes. However, the quantity and quality of suitable habitat was significantly reduced by the removal and destruction of riparian vegetation, overbrowsing by livestock, cowbird parasitism, and water diversions and groundwater pumping that altered the riparian vegetation on which they rely (Serena 1982, Ehrlich et al. 1988, USFWS 2014).

Pesticides used in cannabis cultivation may impact willow flycatchers by poisoning (Fleischli et al. 2004, Pimentel 2005), starvation from decreased prey availability (Hallmann et al. 2014), alterations of the thyroid gland that negatively impact thyroid homeostasis and metabolism (Pandey and Mohanty 2015), reduction in egg production and reduced clutch sizes (Pimentel 2005, Berny 2007), and decreased ability to thermoregulate and short-term hypothermia (Grue et al. 1997). Improper use, storage, or disposal of pesticides may have impacts on this species. Pesticides and fertilizers can also

run off into watersheds polluting them and degrading habitat quality (Bauer et al. 2015, Carah et al. 2015). In addition, fertilizer runoff has been shown to cause algae outbreaks in wetlands. Their nesting territories are exclusively in vegetation communities that are adjacent to wetlands (e.g., rivers, streams, and lakes; Zeiner et al. 1990, USFWS 2014).

Construction could also impact willow flycatchers by decreasing available habitat. Greenhouses and other operation-related structures are often constructed in 100-year floodplains that require grading and fill; they frequently have concrete floors, which create a permanent construction footprint that cannot be readily converted back to floodplain (Poff et al. 1997). Wang et al. (2017) found that development in such areas can disconnect rivers from their natural floodplains, as well as displace, fragment, and degrade essential riparian habitat. Vegetation removal for cultivation sites may impact willow flycatchers as they require dense, expansive vegetated areas for nesting sites (Zeiner et al. 1990, USFWS 2014). Additionally, vegetation clearing can cause fragmentation and create edge effects that permeate far beyond the cultivation site (Harris 1988, Murcia 1995). Willow flycatchers are known to live in a metapopulation structure that is most secure when the sites are well connected (USFWS 2014); fragmentation from clearing for cultivation sites could, therefore, negatively impact the connections between populations in the metapopulation.

Noise from road use, generators, and other equipment may disrupt willow flycatcher mating calls, which could impact their reproductive success (Patricelli and Blickley 2006, Halfwerk et al. 2011). Noise has been shown to reduce the density of nesting birds (Francis et al. 2009). Bayne et al. (2008) found that songbird abundance and density were significantly reduced in areas with high levels of noise. Artificial light may attract or disorient migrating willow flycatchers, disrupting their navigation (Ogden 1996, Longcore and Rich 2004, 2016). It can also suppress the immune system of birds (Moore and Siopes 2000). Additionally, songbirds that live in areas with artificial lights often begin morning choruses during night hours (Derrickson 1988, Miller 2006, Fuller et al. 2007).

Nesting Birds

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 eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

CDFW recommends that the revised document include the results of avian surveys as well as specific avoidance and minimization measures to ensure that impacts to nesting birds

do not occur. Project-specific avoidance and minimization measures may include, but are not limited to, project phasing and timing, monitoring of project-related noise (where applicable), sound walls, and buffers, where appropriate. The revised document should also include specific avoidance and minimization measures that will be implemented should a nest be located within the project site. If preconstruction surveys are proposed, CDFW recommends that they be completed no more than three (3) days prior to vegetation clearing or ground disturbance activities, as instances of nesting could be missed if surveys are conducted sooner.

Cannabis-Specific Impacts on Biological Resources

Artificial Light

Cannabis cultivation operations often use artificial lighting or “mixed-light” techniques in both greenhouse structures as well as indoor operations to increase yields. If not disposed of properly, these lighting materials pose significant environmental risks as 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., bird song; Miller 2006), determining when to begin foraging (Stone et al. 2009), behavioral thermoregulation (Beiswenger 1977), and migration (Longcore and 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 toward light, can disorient, entrap, and temporarily blind wildlife species that experience it (Longcore and Rich 2004).

CDFW recommends that light should not be visible outside of any structure used for cannabis cultivation. Use 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, as these windows of time are 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 all lighting that contains toxic compounds with a qualified recycler.

Fencing

Temporary and/or permanent fencing is often erected around cultivation sites or structures. Fencing can be a hazard to wildlife causing entanglement and mortality (van der Ree 1999, Stuart et al. 2001, Harrington and Conover 2006). CDFW recommends using wildlife-friendly fencing at cultivation sites or structures.

Fertilizers/Imported Soils

Cultivation of cannabis requires a nitrogen-rich soil environment, and thus, many cultivators use fertilizers and imported soils to increase the nitrogen content of the local soils. Nutrient enrichment can increase the abundance of pests and pathogens, and the use of imported soils can contain invasive plant or animal species that harm native biodiversity (Matson et al. 1997, Johnson et al. 2010, Butsic and Brenner 2016). Excess nutrients from fertilizers that run off into watersheds can cause nutrient imbalances in the watershed that kill fish and other wildlife (NDIC 2007) and decrease the activity of aquatic species (Xu and Oldham 1997). Fertilizer runoff can also cause algae outbreaks, which, when they begin to decay, deplete the water of oxygen, suffocating fish and other aquatic life (Mallery 2010). CDFW recommends using organic fertilizers and avoiding synthetic fertilizers, as well as minimizing use of fertilizers in areas where it is likely they could run off into watersheds.

Greenhouse Construction and Other Development in Floodplains

Construction of greenhouses and other operation-related structures can result in degradation of habitat, habitat loss, and fragmentation. Floodplains are an important physical and biological part of riverine ecosystems. All rivers flood, and flooding is a natural and reoccurring event. Ecological services provided by riverine floodplains include trees and vegetation that anchor riverbanks, preventing bank erosion; sustaining commercial fisheries and listed anadromous salmonid populations by providing river habitat such as shade, overhanging banks, habitat complexity, large woody debris, insect and foliage drop contributing to the aquatic food chain, and high-flow refugia for fish during flood events; vitally important habitat to numerous riparian-dependent wildlife species, such as reptiles, amphibians, bats, and migratory songbirds; and natural filters, absorbing nutrients and other pollutants from water and making rivers healthier for drinking, swimming, and supporting fish and wildlife species.

Greenhouses and other operation-related structures are often constructed in 100-year floodplains and require grading and fill; they frequently have concrete floors, which create a permanent construction footprint that cannot be readily converted back to floodplain (Poff et al. 1997). Wang et al. (2017) found that development in such areas can disconnect rivers from their natural floodplains, as well as displace, fragment, and degrade essential riparian habitat. Furthermore, development in floodplains can reduce the benefits of natural flooding regimes including deposition of river silt on valley floor soils and recharging of wetlands.

Development in floodplains is vulnerable to erosion and flood damage. Once structures are built and threatened by river flooding, property owners often seek to armor riverbanks and build or raise levees to prevent future property damage. Thus, not only does development displace riparian and floodplain habitat when it is built, but it often results in further riparian habitat and floodplain loss through rock armoring and levee construction. Floodplains also provide vital water storage capacity during flood events. Significantly, development in floodplains cuts off floodplains or displaces floodplain volume and flood storage capacity, often resulting in higher flood stages and more or greater flooding downstream. Flood-

damaged properties also have a high potential to result in contaminant releases into river systems.

Greenhouses and other operation-related structures may require fuel clearance (under fire codes: Pub. Resources Code, § 4291), which often requires vegetation clearing. Thus, these areas often become degraded and are prone to establishment by invasive species. The response of local wildlife populations to development can last several decades after the habitat alterations have occurred (Hansen et al. 2005). Additionally, the effects of development can alter ecological processes and biodiversity in areas that are far removed from the construction area (Hansen et al. 2005, Johnson and Klemens 2005).

CDFW recommends that no greenhouses or any operation-related structures be constructed within floodplains of any wetland or stream. If construction cannot be prevented, CDFW recommends the following avoidance and minimization measures: Ensure that construction minimizes site degradation, and use mechanisms to prevent establishment of invasive species on the construction site. Create a physical buffer between structures and natural waterbodies; a minimum of 100 feet measured from the top of the bank or edge of riparian area, whichever is greater, is suggested (Johnson and Klemens 2005). However, note that although buffer zones can effectively “reduce pollutants from runoff” and “serve as a screen for wetland wildlife,” many species “respond to changes in surrounding uplands at a scale much broader than the narrow strip encompassed within these zones” (Johnson and Klemens 2005, p. 78). Finally, where project construction necessitates temporary ground disturbance and vegetation removal in the habitat buffer, the disturbed buffer area should be restored to enhance fish and wildlife habitats and water quality. This enhancement could include decompacting soil, site recontouring, and revegetation with native species.

Noise

Construction for cannabis operations may result in a substantial amount of noise through road use, equipment, and other project-related activities. This may adversely affect wildlife species in several ways as wildlife responses to noise can occur at exposure levels of only 55 to 60 dB (Barber et al. 2009). (For reference, normal conversation is approximately 60 dB, and natural ambient noise levels [e.g., forest habitat] are generally measured at less than 50 dB.) Anthropogenic noise can disrupt the communication of many wildlife species including frogs, birds, and bats (Sun and Narins 2005, Patricelli and Blickley 2006, Gillam and McCracken 2007, Slabbekoorn and Ripmeester 2008). Noise can also affect predator-prey relationships as many nocturnal animals such as bats and owls primarily use auditory cues (i.e., hearing) to hunt. Additionally, many prey species increase their vigilance behavior when exposed to noise because they need to rely more on visual detection of predators when auditory cues may be masked by noise (Rabin et al. 2006, Quinn et al. 2017). Noise has also been shown to reduce the density of nesting birds (Francis et al. 2009) and cause increased stress that results in decreased immune responses (Kight and Swaddle 2011).

CDFW recommends restricting the use of equipment to hours least likely to disrupt wildlife (e.g., not at night or in early morning). Do not use generators except for temporary use in

emergencies. Power to sites can be provided by solar PV (photovoltaic) systems, cogeneration systems (natural gas generator), small micro-hydroelectric systems, or small wind turbine systems. Consider use of noise suppression devices such as mufflers or enclosures for generators. Sounds generated from any means must be below the 55- to 60-dB range within 50 feet from the source.

Pesticides, Including Fungicides, Herbicides, Insecticides, and Rodenticides

As mentioned previously, 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. Raptors (e.g., hawks and owls) and mammalian carnivores (e.g., fishers) are some of the common victims of secondary poisonings by anticoagulant rodenticides (Mendelssohn and Paz 1977, Gabriel et al. 2015, 2018). Even 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, when they are used, always use them as directed by the manufacturer, including proper storage and disposal. Anticoagulant rodenticides should not be used at cultivation sites, particularly those that incorporate “flavorizers” that make the pesticide appetizing to a variety of species. Alternatives include sanitation (removing food sources such as pet food, cleaning up refuse, and securing garbage in sealed containers), physical barriers, and snap traps (indoor use only) to control pest populations at and around cultivation sites.

Because of the potential for Project activities to involve the use of pesticides, including fungicides, herbicides, insecticides, and rodenticides, CDFW recommends that the City of Wildomar include a mitigation measure in the revised document conditioning the Project to development of a plan to avoid, minimize, or mitigate the impacts of pesticides used in cannabis cultivation. CDFW recommends the inclusion of the following mitigation measure:

MM BIO-1: For all projects allowed under the Cannabis Ordinance Project (ZOA No. 2020-04), prior to construction and issuance of any grading permit, the City of Wildomar should 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: proper use, storage, and disposal of pesticides; prohibition of pesticides that cannot be used on cannabis in the state of California; avoidance of anticoagulant rodenticides and rodenticides with “flavorizers”; and inclusion of alternatives to toxic rodenticides, such as sanitation, physical barriers, and snap traps (indoor use only).

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) for proposed MM BIO-1. The draft MMRP for MM BIO-1 is enclosed at the end of this letter.

Roads

Cannabis operations often require the construction of new roads or maintenance and increased use of existing ones to access cultivation areas. Roads can cause soil erosion and surface runoff that can transfer sediment into streams (Beschta 1978, Seyedbagheri 1996, Richardson et al. 2001). Vegetation clearing for road construction can also result in changes in species composition (Trombulak and Frissell 2000). Vehicle traffic on roads can have a number of environmental impacts including alteration of the physical and chemical environments such as soil compaction (Helvey and Kochenderfer 1990), dust mobilization that limits plants' ability to photosynthesize (Farmer 1993), and disruption of surface water flow (King and Tennyson 1984, Wemple et al. 1996), and there is a great deal of research showing that roads can increase the spread of invasive species (Brothers and Spingarn 1992, Greenberg et al. 1997, Gelbard and Belnap 2003, Ansong and Pickering 2013). Road use can also result in wildlife mortality, altered abundances and diversity of wildlife, and modification of animal behavior (Trombulak and Frissell 2000). Additionally, wildlife mortality can occur as a result of road construction (Trombulak and Frissell 2000). Cumulatively, roads can have an even more significant impact as increased road density may compound the documented effects of roads. For example, road density has been shown to affect habitat selection in frogs (Vos and Chardon 1998). Both independently and collectively, these impacts have the potential to affect public trust resources.

CDFW recommends limiting the construction of new roads and properly using and maintaining existing roads when possible. Restore drainage areas connected to current roadways to limit environmental impacts like erosion and diversion of surface flow. When new roads must be constructed or reconstructed, use practices that minimize environmental impacts

(http://www.pacificwatershed.com/sites/default/files/roadsenglishbookapril2015b_0.pdf).

Vegetation Clearing

Construction for cannabis operations can often include clearing of existing vegetation, which can have numerous impacts on the local ecosystem. Vegetation removal may result in the loss of special status plant species and the loss of habitat that supports numerous wildlife species. Clearing may also cause fragmentation and loss of sensitive habitats (Bauer et al. 2015) and create edge effects that permeate far beyond the cultivation site (Harris 1988, Murcia 1995). The activities associated with clearing may also disturb associated soil seed banks that sustain local plant populations. Removal of vegetation has also been shown to make communities vulnerable to colonization by invasive plant species and to spread pathogens (Mallery 2010). Additionally, the abundance of dried vegetation remaining after removals may increase risk for fires.

CDFW recommends that before vegetation removal a qualified biologist survey for the presence of special status plants and suitable habitat for special status wildlife species (at the appropriate time of year and weather conditions to maximize species detection probability). In addition, vegetation removal should be conducted outside of nesting season for bird species (Fish and Game Code 3503, 3511, 3513). If present, conduct protocol-level surveys for special status wildlife and develop appropriate avoidance and minimization or mitigation plans. Plan the site to minimize edge habitat and fragmentation. Utilize existing disturbed areas whenever possible for site development.

Water Pollution

Cannabis cultivation and construction can result in the delivery of pollutants into nearby streams and waterways. Cultivation can result in delivery of sediment, nutrients, petroleum products, and pesticides into streams and other waters, degrading the water quality and increasing turbidity (Reid and Dunne 1984, Bauer et al. 2015, Carah et al. 2015). CDFW recommends using best management practices to ensure minimal runoff and sediment delivery into waters near cultivation sites and confirming that all Regional Water Quality Control Board requirements are met.

Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP)

Within the Inland Deserts Region, CDFW issued Natural Community Conservation Plan Approval and Take Authorization for the Western Riverside County MSHCP per section 2800, et seq., of the California Fish and Game Code on June 22, 2004. The MSHCP 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.

Compliance with approved habitat plans, such as the MSHCP, is discussed in CEQA. Specifically, 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. An assessment of the impacts to the MSHCP as a result of this Project is necessary to address CEQA requirements. To obtain additional information regarding the MSHCP please visit: <http://rctlma.org/epd/WR-MSHCP>.

The proposed Project occurs within the MSHCP area and is subject to the provisions and policies of the MSHCP. In order to be considered a covered activity, Permittees need to demonstrate that proposed actions are consistent with the MSHCP and its associated Implementing Agreement. The City of Wildomar is the Lead Agency and is a signatory to the Implementing Agreement of the MSHCP. As such, the City should identify in the revised document any zoned areas under the proposed ordinance change that fall within MSHCP Criteria Cells. Note that areas outside Criteria Cells may still have species survey requirements.

Because of the uncertainty of Project activities encroaching into MSHCP Criteria Cells, CDFW recommends that the City of Wildomar include a mitigation measure in the revised

document conditioning the Project to demonstrate compliance with the MSHCP and its associated Implementing Agreement. CDFW recommends the inclusion of the following mitigation measure:

MM BIO-2: For each subsequent project allowed under the Cannabis Ordinance Project (ZOA No. 2020-04), prior to construction and issuance of any grading permit, the City of Wildomar shall demonstrate compliance with the MSHCP and its associated Implementing Agreement via the completion of the Joint Project Review (JPR) process through the Western Riverside County Regional Conservation Authority (RCA) or via the provision of written correspondence from the RCA, the U.S. Fish and Wildlife Service, and California Department of Fish and Wildlife stating that the project is not subject to the JPR process.

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) for proposed MM BIO-2. The draft MMRP for MM BIO-2 is enclosed at the end of this letter.

Lake and Streambed Alteration (LSA) Program

LSA Agreements

Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: Substantially divert or obstruct the natural flow of any river, stream or lake; Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or Deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the floodplain of a body of water.

Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether an LSA Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify your Project that would eliminate or reduce harmful impacts to fish and wildlife resources.

CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code, § 21065). To facilitate issuance of an LSA Agreement, if necessary, the revised document should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources.

Role of the LSA Program in Cannabis Licensing

The California Department of Food and Agriculture 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). Cannabis cultivators may apply online for an LSA through the Environmental Permit Information Management System (EPIMS; <https://epims.wildlife.ca.gov>). A Self-Certification, General Agreement, or Standard Agreement may be issued depending on whether the project meets appropriate criteria as determined by CDFW.

ENVIRONMENTAL DATA

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 the California Natural Diversity Database (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

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 in order 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

CDFW appreciates the opportunity to comment on the IS/ND to assist the City of Wildomar in identifying and mitigating Project impacts on biological resources. CDFW concludes that the IS/ND does not adequately identify the Project's significant, or potentially significant, impacts on biological resources. Deficiencies in the City of Wildomar's CEQA documentation can affect later project approval by CDFW in its role as a Responsible Agency. CDFW recommends that the City of Wildomar revise the document to include specific information on the location of parcels with "sensitive biological resources," a complete assessment of those sensitive biological resources, and analysis of the Project's potential impacts on those resources, as well as appropriate avoidance, minimization, and mitigation measures. In addition, all future project approvals (discretionary or ministerial) resulting from the proposed ordinance should analyze whether there are potential impacts that were not previously analyzed under the revised document. For projects that were not

previously analyzed, site-specific surveys and analysis should be required. The revised document should identify the anticipated CEQA documentation for forthcoming projects approved pursuant to this ordinance.

Section 15074(b) of the CEQA Guidelines requires the City of Wildomar to consider comments received during the public review process, and CDFW has identified potentially significant environmental effects and impacts. Absent the City of Wildomar's attention to incorporating CDFW's comments and including appropriate mitigation measures or project revisions to reduce the impacts and effects to a less than significant level in the final adopted document, future revisions to the final document may be necessary under CEQA Guidelines before CDFW can issue permits for any future projects resulting from the proposed ordinance.

CDFW understands that cannabis businesses are a new area of operation for the City of Wildomar. As the City moves forward, please keep in mind that CDFW has Cannabis Unit staff who are available to provide guidance on impacts to biological resources and CDFW permitting matters. 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 at Heather.Brashear@Wildlife.ca.gov.

Sincerely,



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Mitigation Monitoring and Reporting Program for the City of Wildomar Cannabis Ordinance Project (ZOA No. 2020-04)

Mitigation Measure	Timing and Methods	Responsible Parties
Biological Resources		
BIO-1: 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: • Proper use, storage, and disposal of pesticides. • Prohibition of pesticides that cannot be used on cannabis in the state of California (including pesticides not registered for food use in California, California restricted materials, and pesticides on the groundwater protection list, as set forth by the Department of Pesticide Regulation). • Avoidance of anticoagulant rodenticides and rodenticides with “flavorizers.” • Inclusion of alternatives to toxic rodenticides, such as sanitation (removing food sources such as pet food, cleaning up refuse, and securing garbage in sealed containers), physical barriers, and snap traps (indoor use only).	Timing: Prior to construction and issuance of any grading permit. Methods: The City of Wildomar may consult a qualified biologist, as well as a hazardous materials specialist, to complete the plan.	Implementation: City of Wildomar. Monitoring and Reporting: City of Wildomar.
BIO-2: Demonstrate compliance with MSHCP and its associated Implementing Agreement. For each subsequent project allowed under the Cannabis Ordinance Project (ZOA No. 2020-04), compliance with the MSHCP and its associated Implementing Agreement should be	Timing: Prior to construction and issuance of any grading permit. Methods: The City of Wildomar will complete the JPR process through the RCA or obtain written	Implementation: City of Wildomar. Monitoring and Reporting: City of Wildomar.

demonstrated via the completion of the Joint Project Review (JPR) process through the Western Riverside County Regional Conservation Authority (RCA) or via the provision of written correspondence from the RCA, the U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW) stating that the project is not subject to the JPR process.	concurrence from the RCA, USFWS, and CDFW stating that the project is not subject to the JPR process.	
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