



DEPARTMENT OF FISH AND WILDLIFE

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September 2, 2025

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Subject: Central Valley Growers, LLC
Initial Study/ Mitigated Negative Declaration (IS/MND)
Central Valley Growers (Project)
SCH No. 2025071347

Dear Kevin Ponce:

The California Department of Fish and Wildlife (CDFW) received a notice of intent to adopt an IS/MND from the Department of Cannabis Control (DCC) for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish and Game 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

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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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.

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 & Game Code, § 2050 *et seq.*), related authorized as provided by the Fish and Game Code will be required.

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

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

Lake and Streambed Alteration: CDFW has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource, pursuant to Fish and Game Code sections 1600 *et seq.* Section 1602 subdivision (a) of the Fish and Game Code requires an entity to notify CDFW before engaging in activities that would substantially change the bed, channel, or bank of a stream or substantially divert or obstruct the natural flow of a stream.

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

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PROJECT DESCRIPTION SUMMARY

Proponent: Central Valley Growers, LLC

Objective: The Project proponent is seeking a Use Permit to operate a mixed-light commercial cannabis cultivation, nursery, and distribution business, including 36 greenhouses for cultivation and nursery production, a warehouse to be used for office space, storage, and processing, and accessory facilities including parking, fencing, landscaping, and water tanks. Currently one greenhouse has been completed and the remaining 35 will be completed within three to five years. Approximately 1,200 mature almond trees will be removed. The Project will result in approximately 12.1 acres of total disturbance.

Location: The Project will take place at 2789 Howard Road in Patterson, California, 95363; Stanislaus County; Assessor's Parcel Number 016-019-036-000.

Timeframe: Unspecified.

COMMENTS AND RECOMMENDATIONS

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

In particular, CDFW is concerned regarding potential impacts to resources including special status species resulting from the ground-disturbing development activities and ongoing facilities operation, including but not limited to the CESA candidate western burrowing owl (*Athene cunicularia hypugaea*).

The Project has the potential to impact biological resources. CDFW recommends that the following modifications, or edits be incorporated into the MND, including proposed avoidance, and minimization measures prior to its adoption by DCC.

Western burrowing owl

The MND states that western burrowing owl (BUOW) has the potential to occur within the Project site, which contains potentially suitable nesting habitat. The California Fish and Game Commission approved BUOW as a candidate for potential listing as a protected species under CESA on October 10, 2024, and published these findings in the California Regulatory Notice Register on October 25, 2024. As such, BUOW is now a candidate under CESA and receives the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085).

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CDFW does not concur that Mitigation Measure BIO-4 is sufficient to avoid significant impacts and unauthorized take of BUOW. CDFW concurs that focused surveys should be conducted specifically following the 2012 Staff Report on Burrowing Owl Mitigation (Staff Report) (CDFG 2012); however, the no-disturbance buffers proposed in this measure do not currently reflect what is recommended in the Staff Report. As such, CDFW recommends the MND include the following measures:

Recommended Mitigation Measure 1: BUOW Avoidance Buffer

Should a BUOW individual or known BUOW den (active or inactive) be detected, either during pre-construction surveys or construction activities, CDFW recommends that no-disturbance buffers, as outlined in the Staff Report on Burrowing Owl Mitigation, be implemented prior to and during any ground-disturbing activities. CDFW also recommends that these buffers be implemented for both wintering and breeding BUOW.

Recommended Mitigation Measure 2: BUOW Take Authorization

If a BUOW individual or known BUOW den (active or inactive) is detected, and the no-disturbance buffers outlined in the Staff Report are not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an Incidental Take Permit, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Additionally, CDFW stresses that passive relocation of BUOW, as proposed in BIO-4, should not occur without prior take authorization from CDFW. Passive relocation is likely to directly result in unauthorized take of the species, and implementation of the measure could itself result in a potentially significant impact under CEQA.

Cannabis-Specific Impacts on Biological Resources

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 DCC consider cannabis-specific direct and indirect impacts to biological resources that may result from the Project activities.

Pesticides, Including Fungicides, Herbicides, 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

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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 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 many wildlife species by compromising their immune systems, causing hormone imbalances, affecting reproduction, and altering their growth rates (Pimentel 2005, Li and Kawada 2006, Relyea and Diecks 2008).

CDFW recommends minimizing the 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). For details, visit: <https://www.cdpr.ca.gov/docs/cannabis/questions.htm>.

Anticoagulant rodenticides and rodenticides that incorporate “flavorizers” that make the pesticides appetizing to a variety of species should not be used at cultivation sites. (Note that with the passage of AB 1788, signed by the governor on September 29, 2020, the general use of second-generation anticoagulants is now banned in California). 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 non-target wildlife. Sticky or glue traps should be avoided altogether; these pose a hazard to non-target wildlife and result in a prolonged/inhumane death. California Department of Pesticide Regulation stipulates that pesticides must meet certain criteria to be legal for use on cannabis. For pest management practices visit: <https://www.cdpr.ca.gov/docs/county/cacltrs/penfltrs/penf2015/2015atch/attach1502.pdf>.

Impacts of Cannabis Cultivation on Fish and Wildlife Resources: For more information on potential impacts to fish and wildlife resources as a result of cannabis cultivation visit: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=160552&inline>.

Editorial Comments and Suggestions

Nesting Birds

CDFW encourages conducting Project ground-disturbing activities during the bird non-nesting season. However, if ground disturbing activities must occur during the breeding season (February 1st through September 15th), the Project proponent is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

As currently written, BIO-3 includes conducting pre-construction surveys for nesting birds within one week prior to any construction activities proposed to occur between

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February 1 and August 31. If an active nest is found sufficiently close to work areas to be disturbed by project activities, a non-disturbance buffer zone shall be established.

CDFW recommends BIO-3 be amended to include the following. Pre-construction surveys for nesting birds should be extended to September 15th. Surveys will cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected by a project. In addition to direct impacts (i.e., nest destruction), noise, vibration, odors, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, a qualified biologist conducts a survey to establish a behavioral baseline of all identified nests. Once construction begins, a qualified biologist continuously monitors nests to detect behavioral changes resulting from the Project. If behavioral changes occur, the work causing that change shall cease and CDFW will be consulted for additional avoidance and minimization measures.

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

CDFW concurs with Mitigation Measure BIO-1-2 and -5 and believes the measures are protective of special-status wildlife. CDFW recommends the Mitigation Measures be incorporated into the final MND.

Biological Surveys: Acceptable species-specific survey procedures should be developed in consultation with CDFW . For CDFW “Survey and Monitoring Protocols and Guidelines” visit <https://wildlife.ca.gov/Conservation/Survey-Protocols>. Note that CDFW generally considers biological field assessments for wildlife and plants to be valid for a **one-year** period, except when significant environmental changes occur, such as disturbance resulting from urbanization or wildfire. Surveys should be conducted during wildlife’s active season when the wildlife species is most likely to be detected, and plant surveys conducted during the species blooming/flowering period. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.

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ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special status species and natural communities detected during Project surveys to CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES


If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the Project to assist DCC in identifying and mitigating the Project's impacts on biological resources.

Questions regarding this letter, or further coordination should be directed to Dalia Dull, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 807-1454, or by email at Dalia.Dull@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

ec. State Clearinghouse
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Attachment 1

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

**PROJECT: Central Valley Growers, LLC
Initial Study/Mitigated Negative Declaration (IS/MND)
Cannabis Cultivation (Project)
SCH No. 2025071347**

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure: BUOW	
• BUOW Avoidance Buffer	
• BUOW Take Authorization	
<i>During Construction</i>	
Mitigation Measure: BUOW	
• BUOW Avoidance Buffer	