



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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March 6, 2020

Ms. Crystal Acker, Planner
Sonoma County Permit and Resource Management Department
2550 Ventura Avenue,
Santa Rosa, CA 95403
crystal.acker@sonoma-county.org

Subject: UPC17-0018 TRV Corp. Cannabis Cultivation Operation, Initial Study/Mitigated Negative Declaration, SCH #2020029060, Sonoma County

Dear Ms. Acker:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration from Sonoma County (County) for the TRV Corp. Cannabis Cultivation Operation (Project) pursuant the California Environmental Quality Act (CEQA). The public review period ends on March 18, 2020.

CDFW is therefore submitting comments on the Initial Study/Mitigated Negative Declaration (IS/MND) to inform the County, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project. CDFW is providing these comments and recommendations regarding those activities involved in the Project that are within CDFW's area of expertise and relevant to its statutory responsibilities (Fish and Game Code, § 1802), and/or which are required to be approved by CDFW (CEQA Guidelines, §§ 15086, 15096 and 15204).

CDFW ROLE

CDFW is a Trustee Agency with responsibility under CEQA (Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is

encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c), 21083; CEQA Guidelines, §§ 15380, 15064, and 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code section 2080.

Lake and Streambed Alteration

Pursuant to Business and Professions Code 26060 1(b)(3), every license for cultivation issued by the California Department of Food and Agriculture (CDFA) must comply with Section 1602 of the Fish and Game Code or receive written verification from CDFW that an LSA Agreement is not required. Therefore, for any such activities (including construction for the purpose of cannabis cultivation), the Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 et seq. of the Fish and Game Code. CDFW has authority over activities in streams and/or lakes that will divert or obstruct the natural flow; change the bed, channel, or bank (including vegetation associated with the stream or lake) of a river or stream; or use or deposit material from a streambed. Based on this notification and other information, CDFW determines whether an LSA Agreement with the applicant is required prior to conducting the proposed activities.

CDFW is currently in the LSA process for the TRV Corp (6095 Bodega Avenue, Petaluma) project site. The LSA document number for this project is EPIMS-08143. Covered activities under the LSA Agreement include Himalayan blackberry (*Rubus armeniacus*) management and the removal of concrete from the streambed. These project activities should be incorporated within the CEQA analysis when identifying potential biological resource impacts.

PROJECT DESCRIPTION SUMMARY

Proponent: TRV Corp (as represented by Michael Wright)

Description and Location: The Project consists of the development of a 14,000-square-foot greenhouse, which would operate as a commercial mixed light cannabis greenhouse. The proposed greenhouse would provide 10,000 square-foot of mixed light canopy/flowering space (Type 2b state license), and 2,500 square feet of vegetative propagation space. Additionally, support spaces, including a restroom, office, security closet, and storage spaces would be constructed.

An existing on-site well in addition to rain catchment from the proposed greenhouse roof would be used for cannabis irrigation. The Project proposes collection and conveyance of storm water from new impervious surfaces (other than the roof) to a new on-site detention basin that would be sized to treat storm water runoff in accordance with the County requirements. A new approximately 850-gallon pressure distribution septic system would be added to the site.

The following stream enhancement activities will be covered under the current LSA Agreement to improve on-site stream functionality. A total of approximately 70 small cinder blocks, 8 larger concrete pieces (with a diameter of approximately 2 feet), and 4 pipe segments (approximately 3-4 feet across) will be removed from the stream. In addition to this, about 225 linear feet of Himalayan blackberry will be managed via the method of goat grazing.

COMMENTS AND RECOMMENDATIONS

CDFW offers the below comments and recommendations to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Several species have the potential to be impacted by this Project, such as California tiger salamander (CTS; *Ambystoma californiense*), California red-legged frog (CRLF; *Rana draytonii*), and special-status bat species.

Amphibians

California Tiger Salamander

Though the Project site is located outside of CTS critical habitat, the Project site contains potentially suitable estivation and migration habitat. CTS are known to be able to travel 1.3 miles from upland habitat to breeding ponds. The nearest breeding pond detection is located over 1.3 miles north of the site; however, there was also detection of two adult CTS occurrences on the U.S. Coast Guard Training Center approximately 1.9 miles from the Project site (California Natural Diversity Database (CNDDDB) accessed February 2020). Based on the aerial imagery, the land use between the species occurrences is contiguous, open farmland with no obvious migration barriers. The farm landscape between surrounding the Project site contains livestock ponds that CTS may use as breeding habitat. Therefore, it is possible that the observed adults were breeding in ponds within 1.3 miles of the Project site. It also should be noted that the two adult occurrences described above are located outside of the Designated Critical Habitat boundary.

Mitigation Measure BIO-3 requires the applicant to install silt fencing (exclusion fencing) during construction and have a qualified biologist on-site to avoid impacts to CTS.

CTS spend a majority of their lives underground in burrows created by fossorial mammals. Burrow systems can be complex and extend laterally underground beyond the burrow observed at the surface. Based on their life history, it is unlikely a salamander would be found during pre-construction monitoring and surveys unless the surveys included actions such as burrow excavation, pitfall traps and drift fencing. Grading and filling of habitat during construction can crush or trap CTS in underground burrows, and can reduce or fragment available breeding or non-breeding habitat (Trenham et al. 2000).

BIO-3 should be modified to include a buffer of at least 30 feet around all small mammal burrow openings to avoid impacts to CTS residing in underground burrows. If impacts to burrows are unavoidable and/or the 30-foot buffer is infeasible, the Project applicant should either: 1) conduct two years of protocol-level pit fall trapping surveys to determine presence/absence, or 2) assume presence.

Please be advised that actions such as trapping, relocation of individuals out of harm's way, and installing fencing around the Project site could result in "take" of CTS (or other listed species). A CESA ITP (pursuant to Fish and Game Code Section 2080 et seq.) should be obtained in advance of such activities. If buffers are infeasible and presence of CTS is either assumed or determined through surveys, the Project would also require take coverage.

Pursuant to a CESA ITP, additional mitigation measures may include preserving off-site habitat, by either 1) purchasing CTS habitat credits at a CDFW-approved conservation bank (see <https://www.wildlife.ca.gov/Conservation/Planning/Banking/Approved-Banks>), or 2) by placing a conservation easement over lands providing habitat, funding an endowment for managing the lands for the benefit of CTS in perpetuity, and preparation and implementation of a long-term management plan.

California Red-Legged Frog

CRLF can also spend prolonged time in small mammal burrows (D'Amore 2007; Tatarian 2008). The U.S. Fish and Wildlife Service designates an upper protective buffer limit of one mile (USFWS 2010). Minimum distances around aquatic habitat should be determined by local known dispersal distances. Activities that will decrease ground squirrel populations, impede movement, or cause take of CRLF in uplands are advised to also be avoided. CDFW also recommends a qualified biologist experienced in the identification and life history of CRLF be on-site during any removal of existing structures, including all concrete and blackberry from the on-site stream, or containers currently in the Project area. Unless USFWS authorizes relocation, any frogs found on-site must be allowed to leave the area on their own.

Migratory Birds and Nesting Raptors

Tree Removal

On page 4 of the IS/MND, it states that one or two mature eucalyptus trees will be removed from the site. Mature eucalyptus trees provide suitable habitat for multiple species, including nesting raptors and roosting bats. To replace the nesting and roosting habitat provided by the trees that would be removed, the County should consider requiring on-site planting of native trees at a minimum ratio of 1:1 to nonnative eucalyptus.

Nesting Birds: Raptor Nests

Mitigation Measure Bio-5 addresses nesting bird survey parameters for raptors and passerine species.

CDFW recommends that a qualified biologist, experienced in raptor behavior, be required to monitor the behavior of any raptors nesting within disturbance distance of Project activities. The qualified biologist should have authority to order the cessation of all Project activities within disturbance distance of any raptor nest if the birds exhibit abnormal nesting behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young). Abnormal nesting behaviors which may cause reproductive harm include but are not limited to: defensive flights/vocalizations directed towards project personnel, standing up from a brooding position,

interrupted feeding patterns, and flying away from the nest. Project activities within line of sight of the nest should not resume until the qualified biologist has consulted with CDFW and both the qualified biologist and CDFW confirm that the bird's behavior has normalized or the young have left the nest.

Other Considerations

Rodenticides

Use of rodenticides at the construction site and cannabis facility should be prohibited. Use of pesticides or rodenticides is also not recommended in areas where raptors are foraging, breeding, or nesting. Second-generation rodenticides such as brodifacoum are used widely in the United States to kill rats and other rodents. Unfortunately, they may also kill or injure raptors, which consume poisoned rodents.

Fencing Hazards

The Project may result in the use of open pipes used as fence posts, property line stakes, signs, etc. CDFW recommends that all hollow posts and pipes be capped to prevent wildlife entrapment and mortality because these structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting, and roosting. Raptor's talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used on the Project site should be plugged with bolts or other plugging materials to avoid this hazard. Further information on this subject may be found at:

<https://ca.audubon.org/conservation/protect-birds-danger-open-pipes>

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://wildlife.ca.gov/Data/CNDDDB/Submitting-Data#44524420-pdf-field-survey-form>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

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., tit. 14, § 753.5; Fish and Game Code, § 711.4; Pub. Resources Code, § 21089).

Ms. Crystal Acker
Sonoma County Permit and Resource Management Department
March 6, 2020
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CONCLUSION

CDFW appreciates the opportunity to comment on the IS/MND to assist the County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ms. Mia Bianchi, Environmental Scientist, at (707) 428-2068 or mia.bianchi@wildlife.ca.gov; or Ms. Randi Adair, Senior Environmental Scientist (Supervisory), at (707) 576-2786 or randi.adair@wildlife.ca.gov.

Sincerely,



Gregg Erickson
Regional Manager
Bay Delta Region

Attachment

REFERENCES

- California Department of Fish & Wildlife (CDFW). 2020. California Natural Diversity Database (CNDDDB) Rarefind Electronic database. Sacramento, CA. Search of U.S. Geological Survey 7.5 minute quadrangles Two Rock and Cotati. Accessed February 2020.
- D'Amore, A. J. 2007. Conservation of California red-legged frogs: distribution correlates, spatial dynamics and behavioral interactions with an invasive species. Ph.D. thesis, University of California, Santa Cruz. 154 pp.
- O'Hare, M., Sanchez, D. L., & Alstone, P. (2013). Environmental risks and opportunities in cannabis cultivation. BOETC Analysis Corp. University of California, Berkeley, CA, USA.
- Tatarian, P. J. 2008. Movement patterns of California red-legged frogs (*Rana draytonii*) in an inland California environment. *Herpetological Conservation and Biology* 3(2): 155-169.
- Trenham, P. C., H. B. Shaffer, W. D. Koenig, and M. R. Stromberg. 2000. Life history and demographic variation in the California tiger salamander (*Ambystoma californiense*). *Copeia* 2:365-377.
- U.S. Fish and Wildlife Service (USFWS). 2010. Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the California Red- Legged Frog. *Federal Register* 75(51): 12816-12959. Available URL accessed 6/13/2013 <http://www.gpo.gov/fdsys/search/citation.result.FR.action?federalRegister.volume=2010&federalRegister.page=12816&publication=FR>

Attachment 1

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

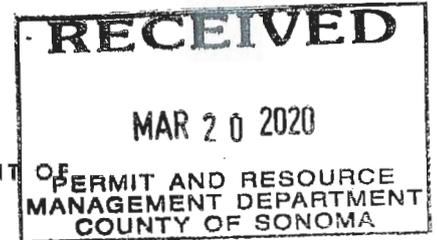
PROJECT: TRV Corp. Cannabis Cultivation Operation, Sonoma File No. UPC17-0018

SCH No.: 2020029060

RECOMMENDED MITIGATION MEASURES	Responsibility for Implementation
<p><u>Mitigation Measure BIO-3: California tiger salamander avoidance/mitigation</u></p> <ul style="list-style-type: none"> • The Project applicant shall avoid all small mammal burrows by at least 30 feet and the place exclusion fencing around the construction site. If impacts to burrows and the buffer distances are unavoidable, the project proponent may conduct 2 years of protocol level pit fall trap for surveys. • If the protocol level surveys produce a positive occurrence of CTS on-site, CDFW strongly advises that the Project proponent obtain a CESA Permit (pursuant to Fish and Game Code Section 2080 et seq.) in advance of Project implementation. Issuance of a CESA Permit is subject to CEQA documentation; therefore, the CEQA document should specify impacts; mitigation, and should fully describe a mitigation, monitoring and reporting program. 	<p>Project Applicant/ Qualified Biologist</p>
<p><u>Recommended Mitigation Measure: California red-legged frog</u></p> <ul style="list-style-type: none"> • A Qualified Biologist experienced in the identification and life history of California red-legged frogs be on-site during any removal of existing structures, including all concrete and blackberry from the on-site stream, or containers currently in the Project Area. • Unless USFWS authorizes relocation, any frogs found on-site must be allowed to leave the area on their own. 	<p>Qualified Biologist</p>
<p><u>Recommended Mitigation Measure: Tree Replacement:</u></p> <ul style="list-style-type: none"> • Mature eucalyptus trees provide suitable habitat for multiple species, including nesting raptors and roosting bats. Therefore, the County should strongly consider onsite planting of native trees at a minimum ratio of 1:1 to replace the nonnative eucalyptus. 	<p>Project Applicant</p>



CALIFORNIA DEPARTMENT
OF FOOD & AGRICULTURE



March 17, 2020

Crystal Acker, Project Planner
Sonoma County Permit and Resource Management Department
2550 Ventura Avenue
Santa Rosa, CA 95403

Re: Initial Study/Mitigated Negative Declaration (IS/MND) for UPC17-0018; TRV Corp (Cannabis Cultivation Operation) (SCH No. 2020029060)

Dear Ms. Acker:

Thank you for providing the California Department of Food and Agriculture (CDFA) CalCannabis Cultivation Licensing Division (CalCannabis) the opportunity to comment on the Initial Study/Mitigated Negative Declaration (IS/MND) prepared by the County of Sonoma for the proposed UPC17-0018; TRV Corp Cannabis Facility Project (Proposed Project).

CDFA has jurisdiction over the issuance of licenses to cultivate, propagate and process commercial cannabis in California. CDFA issues licenses to outdoor, indoor, and mixed-light cannabis cultivators, cannabis nurseries and cannabis processor facilities, where the local jurisdiction authorizes these activities. (Bus. & Prof. Code, § 26012(a)(2).) All commercial cannabis cultivation within the California requires a cultivation license from CDFA. For a complete list of all license requirements, including CalCannabis Licensing Program regulations, please visit: https://static.cdffa.ca.gov/MCCP/document/CDFA%20Final%20Regulation%20Text_01162019_Clean.pdf.

CDFA expects to be a Responsible Agency for this project because the project will need to obtain an annual cultivation license from CDFA. In order to ensure that the IS/MND is sufficient for CDFA's needs at that time, CDFA requests that a copy of the IS/MND, revised to respond to the comments provided in this letter, and a signed Notice of Determination be provided to the applicant, so the applicant can include them with the application package it submits to CDFA. This should apply not only to this Proposed Project, but to all future CEQA documents related to cannabis cultivation applications in Sonoma County.

CDFA offers the following comments concerning the IS/MND.

General Comments (GCs)



GC1: Acknowledgement of CDFA Regulations

Although the IS/MND acknowledges that CDFA is responsible for cultivation, the analysis could benefit from acknowledging that CDFA is also responsible for enforcement, as defined in the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) and CDFA regulations related to cannabis cultivation (Bus. & Prof. Code, § 26103(a)). Additionally, the IS/MND's analysis could benefit from discussion of the protections for environmental resources provided by CDFA's regulations, similar to the discussion provided with regard to County regulations. In particular, the impact analysis for each of the following resource topics could be further supported by a discussion of the effects of state regulations on reducing the severity of impacts for each applicable topic:

- Aesthetics (See § 8304(c); § 8304(g).)
- Air Quality and Greenhouse Gas Emissions (See § 8102(s); § 8304(e); § 8305; § 8306.)
- Biological Resources (See § 8102(w); § 8102(dd); § 8216; § 8304(a-c); § 8304(g).)
- Cultural Resources (See § 8304(d).)
- Hazards and Hazardous Materials (See § 8102(q); § 8106(a)(3); § 8304(f); § 8307.)
- Hydrology and Water Quality (See § 8102(p); § 8102(v); § 8102(w); § 8102(dd); § 8107(b); § 8216; § 8304(a and b); § 8307.)
- Noise (See § 8304(e); § 8306.)
- Utilities and Service Systems (See § 8102(s); § 8108; § 8308.)
- Energy (See § 8102(s); § 8305; § 8306.)
- Cumulative Impacts (related to the above topics).

Specific Comments and Recommendations

In addition to the general comments provide above, CDFA provides the following specific comments regarding the analysis in the IS/MND.



Comment No.	Section No.	Page No.	Resource Topic	IS/MND Text	CDFA Comments and Recommendations
1	Cover Letter/ Findings	Cover letter p.2	N/A	Agencies and Permits Required	The IS/MND would be improved by indicating that the Proposed Project would also require either a Lake and Streambed Alteration Agreement (LSAA) from the California Department of Fish and Wildlife (CDFW) or a written verification that one is not required.
2	Introduction (I)	1	N/A	Technical studies provided by qualified consultants, other reports, documents, maps, and studies referred to in this document...	The link provided is broken. The IS/MND would be improved if it included the correct web address for the cited document: http://sonomacounty.ca.gov/Cannabis/Original-Jurisdiction .
3	Project Location and Aerial Map	7	N/A	N/A	Several features of the Proposed Project – most notably a new septic system and leach field, well and water storage tank, and detention basin – are referenced throughout the IS/MND but are not depicted or clearly labeled on the project location map and site plan. Labeling these features clearly on the figures would help CDFA reviewers in evaluating the Proposed Project.



Comment No.	Section No.	Page No.	Resource Topic	IS/MND Text	CDFA Comments and Recommendations
					In addition, the map does not label the various features depicted within the "Areas of Work." For example, an L-shaped feature is located east of the proposed building and south of the existing structures but its purpose is not identified. Likewise, a square feature is located at the western edge of the site boundary but is not labeled.
4	Site Map	9	N/A	N/A	The document would be more informative if it indicated the locations of the new septic system and leach field or the detention basin.
5	Introduction (V)	11	N/A	A referral packet was circulated to inform and solicit comments from selected relevant local and state agencies....	Please add CDFA to this list for future projects.
6	VII.3	21	Air Quality	"The project would not generate substantial amounts of criteria pollutants following	The BAAQMD CEQA Guidelines state: "The screening criteria identified in this section are not thresholds of significance." The IS/MND would be improved by referencing the adopted thresholds of significance for each impact, rather than relying exclusively on the screening criteria.



Comment No.	Section No.	Page No.	Resource Topic	IS/MND Text	CDFA Comments and Recommendations
				construction (see Item 3.b above)."	In addition, the BAAQMD CEQA Guidelines state: "If a project includes emissions from stationary source engines (e.g., back-up generators) and industrial sources subject to Air District Rules and Regulations, the screening criteria should not be used. The project's stationary source emissions should be analyzed separately from the land use-related indirect mobile- and area-source emissions." The evaluation of impacts from backup generators should include quantitative analysis or other substantial evidence.



Conclusion

CDFA appreciates the opportunity to provide comments on the IS/MND for the Proposed Project. If you have any questions about our comments or wish to discuss them, please contact Kevin Ponce, Senior Environmental Scientist, at (916) 576-4161 or via e-mail at kevin.ponce@cdfa.ca.gov.

Sincerely,



Lindsay Rains
Licensing Program Manager

