

CHAPTER 8 MITIGATION MEASURES

8.1 List of Mitigation Measures

8.1.1 Aesthetics

M-AE.2-1: Conduct Project-Level Visual Analysis for Cannabis Facilities

Each cannabis facility application shall include a visual analysis to evaluate the potential for a proposed cannabis cultivation facility to substantially degrade the visual character or quality of public views. Potential visual impacts shall be addressed by siting outdoor and mixed-light cultivation facilities outside of public views. If this cannot be achieved, the applicant shall provide the reasoning in writing (e.g., all sites within the property are within public views, the site was previously farmed and selecting a new site would require additional grading, other sites contain sensitive resources, other sites do not contain fertile soils or other suitable conditions for growing cannabis). The siting of outdoor and mixed-light cultivation facilities will be subject to the County's review and approval during the permit application process.

8.1.2 Biological Resources

M-BI.1-1: Conduct Preapproval Reconnaissance-Level Surveys for Biological Resources

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County under the program. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ:

Reconnaissance-Level Survey

- A reconnaissance-level survey for biological resources shall be conducted on the parcel of the cannabis use by a qualified biologist (i.e., familiar with wildlife, plants, and habitats in San Diego County) and approved by the County (i.e., on the County approved CEQA consultant list) prior to any staging or development activities. A qualified biologist would:
 - hold a wildlife biology, botany, ecology, forestry, or other relevant degree from an accredited university;
 - be knowledgeable in relevant species life histories and ecology;
 - be able to correctly identify relevant species and habitats;
 - be knowledgeable about survey protocols;
 - be knowledgeable about state and federal laws regarding the protection of special-status species; and
 - have experience with CDFW's CNDDDB and Biogeographic Information and Observation System (BIOS).

The reconnaissance-level survey shall include the following elements:

- Prior to the reconnaissance-level survey, the qualified biologist shall conduct a data review to determine the special-status plants; special-status wildlife; rare, narrow endemic plant and animal species; critical populations of sensitive plant species; sensitive habitats (e.g., federally protected wetlands, waters of the state, riparian habitat, sensitive natural communities); and regional linkages/wildlife movement corridors that have the potential to occur within the proposed activity footprint of the cannabis use. This will include review of the best available, current data, including vegetation mapping data, the San Diego MSCP, the BMO, and database searches of the CNDDDB, the CNPS Inventory of Rare and Endangered Plants of California, and the USFWS Inventory for Planning and Consultation.
- Prior to the reconnaissance-level survey, the qualified biologist shall determine whether the project constitutes an agricultural activity (i.e., cultivation) that would be exempt under the San Diego County MSCP, whether the project site is located within a PAMA or a Biological Resource Core Area as defined in the San Diego MSCP and BMO, and the tier level of vegetation on the project site (“List of San Diego County Vegetation Communities and Tier Levels within the San Diego MSCP”).
- The qualified biologist shall map land cover, identify natural communities, and assess the habitat suitability of the proposed activity footprint of the cannabis use for special-status plants, special-status wildlife, and sensitive habitats identified as having potential to occur, consistent with the requirements of the San Diego MSCP and BMO for species covered by the plan, and consistent with Term 10 under Attachment A (General Requirements and Prohibitions) of SWRCB Order WQ 2023-0102-DWQ and Section 86.504 (Administrative Process and Evaluations; Environmental Initial Study) of the BMO.
- The biologist shall provide a report to the applicant and San Diego County Planning & Development Services with evidence to support a conclusion as to whether special-status species and sensitive habitats are present or are likely to occur within the proposed activity footprint of the cannabis use. The type of report will depend on the type of permit (i.e., ministerial, discretionary) and the size of the project, at the discretion of the County.
- If the reconnaissance-level survey identifies no potential for special-status plants, special-status wildlife, or sensitive habitats to occur, the applicant may not be subject to additional biological resources protection measures.
- If special-status plants, special-status wildlife, habitat suitable for these species, or sensitive habitats are identified within or adjacent to the proposed activity footprint of the cannabis use, then additional mitigation measures would apply.

M-BI.1-2: Participate in the San Diego MSCP Including Payment of Fees and Implementation of Mitigation Measures for Covered Species

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with the following required compliance with SWRCB Order WQ 2023-0102-DWQ.

Species Covered under the San Diego MSCP

If species covered under the San Diego MSCP are determined to be present or likely to be present within the proposed activity footprint of the cannabis use, the applicant shall assume presence of these species and satisfy the requirements of the San Diego MSCP and the BMO. This measure applies to species currently covered under the South County Subarea Plan and species covered in the future under the North County Plan, East County Plan, and Butterfly HCP. This measure applies to cultivation and noncultivation activities that are not exempt from participation in the MSCP.

- If species covered under the San Diego MSCP that are not listed under CESA or ESA or are only listed under CESA could occur within the proposed activity footprint of the cannabis use, payment of HCP/NCCP mitigation fees, dependent on the habitat on the project site that will be converted, and implementation of applicable MSCP and BMO habitat-based and species-based mitigation measures are required.
- If species covered under the San Diego MSCP that are listed under ESA could occur within the proposed activity footprint of the cannabis use, the applicant must avoid impacts by implementing no-disturbance buffers or redesigning the project until such time as federal permits, authorizations, and procedures/protocols under the HCP portion of the San Diego MSCP can be applied.
- Because some outdoor cultivation activities may be exempt from participation in the MSCP, potential impacts on species covered under the MSCP shall be addressed outside of the mitigation structure of the MSCP and through implementation of the measures described below.

Special-Status Species Not Covered under the San Diego County MSCP

If species not covered under the San Diego MSCP are determined to be present or likely to be present within the proposed activity footprint of the cannabis use that is not exempt from participation in the MSCP, the applicant shall apply additional mitigation measures consistent with state and local requirements. This measure applies to all species not currently covered under the South County Subarea Plan. Should any of these species become subsequently covered under the North County Plan, East County Plan, or Butterfly HCP, the previous measure shall apply.

M-BI.1-3: Conduct Special-Status Plant Surveys and Implement Avoidance Measures and Mitigation for Plant Species Not Covered under the San Diego MSCP

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- Prior to commencement of development activities associated with cultivation and noncultivation activities and during the blooming period for the special-status plant species with potential to occur on the site, a qualified botanist approved by the County shall conduct protocol-level surveys for special-status plants in all proposed disturbance areas following the survey methods from CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW 2018).

A qualified botanist would:

- be knowledgeable about plant taxonomy;
 - be familiar with plants of the region, including special-status plants and sensitive natural communities;
 - have experience conducting floristic botanical field surveys as described in the *CDFW Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities*, or experience conducting such botanical field surveys under the direction of an experienced botanical field surveyor;
 - be familiar with the *California Manual of Vegetation* (Sawyer et al. 2009 or current version, including updated natural communities data at <http://vegetation.cnps.org/>); and
 - be familiar with federal, state, and local statutes and regulations related to plants and plant collecting.
- If special-status plants are not found, the botanist shall document the findings in a report to CDFW, USFWS, the County, and the applicant, and no further mitigation will be required.
 - If special-status plant species are found, the qualified botanist shall consult with CDFW to designate a no-disturbance buffer and/or redesign of the commercial cannabis cultivation site improvements that shall be reflected in application materials to the County. If special-status plants cannot be avoided, then the applicant shall consult with CDFW to determine if an incidental take permit should be obtained (i.e., for special-status species listed under CESA) or if compensatory mitigation would be required (for special-status plants with a CRPR of 1 or 2, and/or on the County of San Diego sensitive plant List A or List B). Impacts on these special-status plant species would be mitigated such that there would be no net loss of occupied habitat or individuals. Mitigation measures shall include, at a minimum, preserving and enhancing existing populations, establishing populations through seed collection or transplantation from the site that is to be affected, and/or restoring or creating habitat in sufficient quantities to achieve no net loss of occupied habitat or individuals. Habitat and individual plants lost shall be mitigated at a minimum 1:1 ratio (up to a 3:1 ratio), considering acreage as well as function and value. Success criteria for preserved and compensatory populations will include the following requirements:
 - The extent of occupied area and plant density (number of plants per unit area) in compensatory populations will be equal to or greater than the affected occupied habitat.
 - Compensatory and preserved populations will be self-producing. Populations will be considered self-producing when:
 - plants reestablish annually for a minimum of 5 years with no human intervention such as supplemental seeding; and
 - reestablished and preserved habitats contain an occupied area and flower density comparable to existing occupied habitat areas in similar habitat types in the project vicinity.

- If off-site mitigation includes dedication of conservation easements, purchase of mitigation credits, or other off-site conservation measures, the details of these measures will be included in the mitigation plan, including information on responsible parties for long-term management, conservation easement holders, long-term management requirements, success criteria such as those listed above and other details, as appropriate to target the preservation of long-term viable populations.
- Any mitigation plan for unavoidable impacts on special-status plants must be reviewed and approved by the County, USFWS, and CDFW.
- If special-status plant species are found that have a CRPR of 3 or 4 and/or are on the County of San Diego sensitive plant List C or List D, the qualified botanist shall determine whether implementation of cultivation and noncultivation activities on the site would threaten the local long-term survival of these plant species and shall prepare a report that contains evidence supporting the conclusion.
- If the qualified botanist determines that implementation of cultivation and noncultivation activities on the site would not threaten the local long-term survival of these plant species, the botanist shall submit the report documenting this conclusion to the County and CDFW for approval. If the County and CDFW concur with the conclusion, then further mitigation for impacts on these special-status species would not be required.
- If the qualified botanist determines that implementation of cultivation and noncultivation activities on the site would threaten the local long-term survival of these plant species, the botanist shall consult with CDFW to designate a no-disturbance buffer and/or redesign of the commercial cannabis cultivation site improvements that shall be reflected in application materials to the County. Impacts on these special-status plant species may need to be mitigated such that there would be no net loss of occupied habitat or individuals, as determined by the qualified biologist in consultation with the County and CDFW.

M-BI.1-4: Implement Measures to Avoid Introduction or Spread of Invasive Plant Species

This measure shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation shall be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ to avoid the introduction or spread of plants classified as invasive plant species by the California Invasive Plant Council.

- The application will include identification of invasive plant species that occur on the site and where they are located. The application will identify specific measures to be employed for the removal of invasive species and on-site management practices.
- All invasive plant species shall be removed from the site using measures appropriate to the species. For example, species that cannot easily reroor, resprout, or disperse seeds may be left on site in a debris pile. Species that resprout readily or disperse seeds (e.g., Pampas grass) should be hauled off-site and disposed of appropriately at a landfill site.
- Heavy equipment and other machinery shall be inspected for the presence of invasive species before on-site use and shall be cleaned before entering the site to reduce the risk of introducing invasive plant species.

M-BI.1-5: Conduct Preconstruction Surveys for Special-Status Amphibians

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- If arroyo toads or California red-legged frogs are detected during the initial biological survey (see M-BI.1-1) or are determined to be likely to occur (i.e., aquatic or upland habitats potentially suitable for the species are present on the site), then it shall be assumed that cultivation and noncultivation activities could result in take of these federally listed species, and the application shall be denied.
- If western spadefoot toads are detected during the initial biological survey (see M-BI.1-1) or are determined to be likely to occur (i.e., aquatic or upland habitats potentially suitable for the species are present on the site) and this species (which is currently proposed for listing) is listed under ESA at the time of the survey, then it shall be assumed that cultivation and noncultivation activities could result in take of the species, and the application shall be denied.
- If special-status amphibians other than arroyo toad, California red-legged frog, and western spadefoot (if listed under ESA at the time of the survey) are detected during the initial biological survey (see M-BI.1-1) or are determined to be likely to occur, consultation with CDFW shall be initiated to determine whether mitigation measures, such as project design modifications, relocation of the site, relocation of individual animals, or installation of exclusionary fencing, shall be necessary and appropriate.
- Regardless of detection during the initial biological survey, if habitat suitable for special-status amphibians other than arroyo toad, California red-legged frog, and western spadefoot (if listed under ESA at the time of the survey) is present in the proposed development area, a qualified biologist familiar with the life cycle of these species (i.e., coast range newt, western spadefoot [if not listed under ESA at the time of the survey]) shall conduct preconstruction surveys of proposed new development activities 48 hours before new development activities. Preconstruction surveys for special-status amphibian species shall be conducted throughout the proposed construction area and a minimum 400-foot buffer around the proposed development area or other buffer size as recommended by CDFW. Surveys shall consist of “walk and turn” surveys of areas beneath surface objects (e.g., rocks, leaf litter, moss mats, coarse woody debris) for salamanders and visual searches for frogs. Preconstruction surveys shall be conducted during the appropriate season to maximize potential for observation for each species, and appropriate surveys shall be conducted for the applicable life stages (i.e., eggs, larvae, adults).
- If special-status amphibians are not detected during the preconstruction survey and, for arroyo toad, California red-legged frog, or western spadefoot (if listed under ESA at the time of the survey), the species is determined to be unlikely to occur, then further mitigation is not required.
- If special-status amphibians other than arroyo toad, California red-legged frog, and western spadefoot (if listed under ESA at the time of the survey) are detected during the preconstruction survey, work on the site shall not commence until the applicant has consulted with CDFW as described above. Injury to or mortality of special-status

amphibians shall be avoided by modifying project design, relocating the site, or relocating individual animals.

M-BI.1-6: Conduct Surveys for Special-Status Reptiles and Implement Avoidance Measures

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- If southwestern pond turtles are detected during the initial biological survey (see M-BI.1-1) or are determined to be likely to occur (i.e., aquatic or upland habitats potentially suitable for the species are present on the site) and this species (which is currently proposed for listing) is listed under ESA at the time of the survey, then it shall be assumed that cultivation and noncultivation activities could result in take of the species, and the application shall be denied.
- If special-status reptiles other than southwestern pond turtle (if listed under ESA at the time of the survey) are detected during the initial biological survey (see M-BI.1-1) or are determined to be likely to occur, consultation with CDFW shall be initiated to determine whether mitigation measures, such as project design modifications, relocation of the site, relocation of individual animals, or installation of exclusionary fencing, shall be necessary and appropriate.
- Regardless of detection during the initial biological survey, if habitat suitable for special-status reptiles other than southwestern pond turtle (if listed under ESA at the time of the survey) and including southwestern pond turtle (if not listed under ESA at the time of the survey) is present in the proposed development area, a qualified biologist familiar with the life cycle of these species shall conduct preconstruction surveys of proposed new development activities 48 hours before new development activities. Preconstruction surveys for special-status reptile species shall be conducted throughout the proposed construction area, and a minimum 400-foot buffer, or other buffer size as recommended by CDFW, shall be established around the proposed development area. Surveys shall consist of “walk and turn” surveys of areas beneath surface objects (e.g., rocks, leaf litter, moss mats, coarse woody debris) for reptiles and visual searches for southwestern pond turtles in aquatic habitat and potential burrows.
- If special-status reptiles are not detected during the preconstruction survey and, for southwestern pond turtle (if listed under ESA at the time of the survey), the species is determined to be unlikely to occur, then further mitigation is not required.
- If special-status reptiles other than southwestern pond turtle (if listed under ESA at the time of the survey) are detected during the preconstruction survey, work on the site shall not commence until the applicant has consulted with CDFW as described above. Injury to or mortality of special-status reptiles shall be avoided by modifying project design, relocating the site, or relocating individual animals.

M-BI.1-7: Conduct Preconstruction California Spotted Owl Surveys and Establish Protective Buffers

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- If a qualified biologist determines that the project site contains or is adjacent to habitat suitable for California spotted owls during the initial biological survey (see M-BI.1-1), the qualified biologist will determine whether a documented California spotted owl nesting occurrence is present within 0.25 miles of a project site by reviewing California spotted owl occurrence data in the CNDDDB and contacting biologists from adjacent public lands (e.g., US Forest Service land), as applicable, to obtain any recent survey and occurrence data for California spotted owl that have not been made publicly available (e.g., in the CNDDDB).
- If a nesting occurrence is determined to be present or if nesting habitat suitable for California spotted owl as determined by a biologist during the initial biological survey (see M-BI.1-1) is present within or within 0.25 miles of a project site, then the following measures will be followed:
 - Protocol-level surveys for California spotted owl will be conducted by a qualified biologist within a 0.25-mile radius surrounding the project site prior to any construction or staging activities where a documented nest or nesting habitat is present within 0.25 miles of the project site. Surveys for California spotted owl will be conducted pursuant to the *Protocol for Surveying for Spotted Owls in Proposed Management Activity Areas and Habitat Conservation Areas* (US Forest Service 1993) or any protocol subsequently developed by USFWS should the species be listed.
 - If California spotted owls are determined to be absent within 0.25 miles from the site, then further mitigation is not required.
 - If nesting California spotted owls are identified during protocol-level surveys and determined to be present within 0.25 miles of the project site, then it is presumed that cultivation and noncultivation activities, including development and operation, could result in take of California spotted owls through habitat modification or disturbance. Therefore, if California spotted owls are determined to be present within 0.25 miles of the project site, proposed cultivation and noncultivation activities will not be permitted.

M-BI.1-8: Conduct Take Avoidance Survey for Burrowing Owl and Implement Avoidance Measures

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- If habitat suitable for burrowing owls is determined to be present on the site during the initial biological survey (see M-BI.1-1), a qualified biologist shall conduct a focused

survey for burrowing owls in areas of habitat suitable for the species (e.g., grasslands, agricultural areas) on and within a minimum of 1,640 feet (500 meters) of the cultivation or noncultivation site using survey methods described in Appendix D of the *Staff Report on Burrowing Owl Mitigation* (CDFW 2012). Inaccessible areas (e.g., adjacent private property) will not be surveyed directly, but the biologist may use binoculars or a spotting scope to survey these areas. A minimum of 4 surveys shall be conducted to determine whether burrowing owls occupy the site. If feasible, at least 1 survey should be conducted between February 15 and April 15, and the remaining surveys should be conducted between April 15 and July 15 and at least 3 weeks apart. Because burrowing owls may recolonize a site after only a few days, 1 of the surveys, or an additional survey, shall be conducted no less than 14 days before initiating ground disturbance activities to verify that take of burrowing owl would not occur.

- If no occupied burrows are found, the qualified biologist shall submit a report documenting the survey methods and results to the applicant, the County, and CDFW, and no further mitigation shall be required.
- If an active burrow is found within a minimum of 1,640 feet of ground-disturbing activities that would occur during the nonbreeding season (September 1 through January 31), the applicant shall establish and maintain a minimum protection buffer of 164 feet (50 meters) around the occupied burrow throughout construction. The actual buffer size shall be determined by the qualified biologist based on the time of year and level of disturbance in accordance with guidance provided in the *Staff Report on Burrowing Owl Mitigation* (CDFW 2012). The protection buffer shall be adjusted if, during consultation with the County and CDFW, a qualified biologist determines that an alternative buffer would not disturb burrowing owl use of the burrow because of particular site features or other buffering measures.
- If an active burrow is found during the breeding season (February 1 through August 31), occupied burrows shall not be disturbed and shall be provided with a protective buffer at a minimum of 1,640 feet (500 meters). There is an option for the size of the buffer to be adjusted depending on the time of year and level of disturbance as outlined in the burrowing owl staff report. The size of the buffer shall be reduced if a broad-scale, long-term monitoring program acceptable to the County and CDFW is implemented so that burrowing owls are not adversely affected.

M-BI.1-9: Conduct Preconstruction Special-Status Nesting Raptor Surveys and Establish Protective Buffers

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- To minimize the potential for loss of nesting raptors, tree and other vegetation removal activities shall occur only during the nonbreeding season (September 1 through January 31), if feasible.
- If removal of trees and other vegetation cannot be avoided during the breeding season, before removal of any trees or ground-disturbing activities between February 1 and August 31, a qualified biologist shall conduct preconstruction surveys for nesting raptors

and shall identify active nests within a certain distance, depending on the species that are known or have potential to be present. The survey radius for American peregrine falcon, bald eagle, and golden eagle shall be a minimum of 0.5 miles from the proposed development area boundary. The survey radius for Swainson's hawk and white-tailed kite shall be a minimum of 0.25 miles from the proposed development area boundary. The survey radius for all other raptor species shall be a minimum of 500 feet from the proposed development area boundary. The surveys shall be conducted between February 1 and August 31.

- If nesting special-status raptors are determined to be absent, then further mitigation is not required.
- If active nests are identified during preconstruction raptor surveys, then impacts on nesting raptors shall be avoided by establishing appropriate buffers around the nests. Factors to be considered for determining buffer size shall include the presence of natural buffers provided by vegetation or topography, nest height, locations of foraging territory, and baseline levels of noise and human activity. Buffer size may be adjusted if the qualified biologist and the applicant, in consultation with CDFW, determine that such an adjustment would not be likely to adversely affect the nest. Typical buffer sizes are 0.5 miles for American peregrine falcon, bald eagle, and golden eagle; 0.25 miles for Swainson's hawk and white-tailed kite; and 500 feet for other raptor species. No activity shall occur within the buffer areas until the qualified biologist has determined, in coordination with CDFW, that the young have fledged, the nest is no longer active, or reducing the buffer would not likely result in nest abandonment. Monitoring of the nest by a qualified biologist during and after construction activities (e.g., ground disturbance, vegetation removal) shall be required if the activity has potential to adversely affect the nest.
- Removal of bald and golden eagle nests is prohibited regardless of their occupancy status under the federal Bald and Golden Eagle Protection Act. If bald or golden eagle nests are found during preconstruction surveys, then the nest tree shall not be removed.
- Trees shall not be removed during the breeding season for nesting raptors unless a survey by the qualified biologist verifies that there is not an active nest in the tree.

M-BI.1-10: Conduct Preconstruction Special-Status Nesting Bird Surveys and Establish Protective Buffers

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- To minimize the potential for disturbance to or loss of special-status birds or other bird nests, vegetation removal activities shall occur only during the nonbreeding season (September 15 through January 31), if feasible.
- Because coastal California gnatcatcher is a resident species and may be present year-round, there is no reliable season during which all impacts on non-nesting coastal California gnatcatchers could be avoided. Coastal California gnatcatcher is listed under ESA, and USFWS requires protocol-level surveys to determine presence or absence of the species, and these surveys must be conducted by a Section 10(a)(1)(A) permitted biologist. Because of the current federal legal status of cannabis activities, USFWS would

not permit these surveys. Furthermore, the San Diego County HLP Ordinance requires issuance of a take permit for coastal California gnatcatcher pursuant to the Special 4(d) Rule under ESA for projects that would directly or indirectly affect any coastal sage scrub habitat types. For the same reasons, cultivation and noncultivation activities would not be permitted on parcels that contain coastal sage scrub habitat (see M-BI.5-1).

- If removal of trees and other vegetation cannot be avoided during the breeding season, before removal of any trees or vegetation or ground-disturbing activities between February 1 and August 31, a qualified biologist shall conduct preconstruction surveys for special-status and common nesting birds on the site and within 1,000 feet of the site. The surveys shall be conducted no more than 3 days before construction begins.
- Surveys will follow established protocols, where these protocols exist (e.g., surveys for least Bell's vireo will follow the protocols in *Least Bell's Vireo Survey Guidelines* [USFWS 2001]).
- Because the nests of least Bell's vireo, southwestern willow flycatcher, and other riparian nesting birds are small and difficult to find, occupancy of habitat suitable for this species will be determined by a qualified RPF or biologist familiar with the life history and calls of these species. If least Bell's vireos, southwestern willow flycatcher, or other riparian nesting birds are observed calling, exhibiting territorial displays, carrying nest materials, carrying prey, or other signs of breeding behavior, the habitat will be considered occupied.
- If no active nests are found during focused surveys, then further mitigation is not required.
- If nests associated with species listed under both CESA and ESA or only under ESA (i.e., California least tern, coastal California gnatcatcher, least Bell's vireo, light-footed Ridgway's rail, southwestern willow flycatcher, western snowy plover, western yellow-billed cuckoo) are found during surveys, the applicant must avoid impacts by implementing no-disturbance buffers or redesigning the project until such time as federal permits, authorizations, and procedures/protocols can be applied. No-disturbance buffers for these species shall be at least 1,000 feet.
- If active nests of species not listed under ESA are located during the preconstruction surveys, the biologist shall notify CDFW. If deemed necessary by CDFW, modifications to the project design to avoid removal of occupied habitat while still achieving project objectives may be required. If the County determines in consultation with CDFW that avoidance is not feasible or conflicts with project objectives, construction shall be prohibited within a no-disturbance buffer, the size of which shall be determined by the qualified biologist in consultation with CDFW. No-disturbance buffers shall be a minimum of 100 feet from the nest to avoid disturbance, depending on the species identified, until the nest is no longer active. No-disturbance buffers surrounding tricolored blackbird colonies shall be a minimum of 500 feet.

M-BI.1-11: Conduct Preconstruction Crotch's Bumble Bee Habitat Suitability Surveys and Focused Surveys

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation

will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- Before implementation of ground-disturbing activities, a qualified biologist shall conduct a habitat assessment for Crotch's bumble bee following the guidance in *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* (CDFW 2023). Results of the habitat assessment shall be submitted to the applicant, the County and CDFW before initiating ground-disturbing activities. If the area of proposed new development activities contains habitat suitable for Crotch's bumble bee (e.g., nesting habitat, foraging habitat, overwintering habitat), the following measures shall be followed:
 - To avoid impacts on nesting Crotch's bumble bee, cultivation and noncultivation activities shall not occur in habitats suitable for this species from April through September (i.e., flight season) if feasible.
 - Focused surveys for Crotch's bumble bees shall be conducted following the guidance in the *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* (CDFW 2023). Crotch's bumble bee presence may also be assumed. If Crotch's bumble bees are determined to be absent during focused surveys, then further mitigation is not required. If Crotch's bumble bees are detected during focused surveys or presence is assumed, the following measure shall be implemented:
 - If Crotch's bumble bees are detected during review and surveys or presence is assumed, the qualified biologist shall contact CDFW for coordination regarding avoidance and mitigation. Avoidance and mitigation measures may include seasonal avoidance or physical avoidance of nest or overwintering sites.

M-BI.1-12: Conduct Preconstruction Special-Status Butterfly Habitat Suitability Surveys and Focused Surveys

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- To avoid impacts on overwintering monarch butterflies, new development related to cultivation and noncultivation activities shall not occur in monarch overwintering sites (Xerces Society 2018) and within a buffer surrounding the overwintering site, the size of which will be determined by the qualified biologist to avoid disturbance to the site (but at least 100 feet).
- If, during implementation of M-BI.1-1, a previously undetected monarch overwintering site is found by a qualified biologist, cultivation and noncultivation activities shall be prohibited in the overwintering site and within a buffer surrounding the overwintering site, the size of which will be determined by the qualified biologist to avoid disturbance to the site (but at least 100 feet).
- If, during implementation of M-BI.1-1, a qualified biologist determines that habitat suitable for overwintering monarchs is present on a site, a qualified biologist familiar with monarchs and monarch overwintering habitat will conduct focused surveys for

monarch colonies in these areas between October 1 and March 31 and will identify any colonies found within the treatment area. Any identified colonies shall be avoided as described above. If no overwintering colonies are found, further mitigation to protect overwintering monarchs will not be required.

- Quino checkerspot butterfly is associated with coastal sage scrub habitats. Pursuant to M-BI.5-1, cultivation and noncultivation activities would not be permitted on parcels that contain coastal sage scrub habitat, which would help maintain habitat function and avoid impacts on this species.
- Established survey protocols for federally listed butterfly species, including *Quino Checkerspot Butterfly Survey Guidelines* (USFWS 2014), *Survey Guidelines for the Laguna Mountains Skipper* (USFWS 2004), and *Hermes Copper Butterfly Survey Protocol* (USFWS 2024b), require surveyors to have recovery permits for these species pursuant to Section 10(a)(1)(A) of ESA. If monarch butterfly is listed, a similar protocol and similar permit requirements may be established. Because of the current federal legal status of cannabis activities, USFWS would not permit these surveys for the project. Therefore, if habitat suitable for special-status butterflies is determined to be present on a site during the initial biological survey (see M-BI.1-1), before commencing any development related to cultivation and noncultivation activities, a qualified biologist shall conduct an additional habitat assessment to determine whether (1) the project site is within the limited range of any federally listed butterfly species and (2) the project site contains the microhabitat features suitable for these species (e.g., vegetation and habitat type, host plant availability, food plant availability). Surveys to determine host plant and food plant availability shall be conducted during the typical bloom period for these species to increase the chances of detecting the plants, if present.
- Because surveys (i.e., capture surveys) for nonfederally listed butterfly species (i.e., Thorne's hairstreak, wandering skipper, alkali skipper [*Pseudocopaeodes eunus eunus*], Harbison's dun skipper [*Euphyes vestris harbisoni*], Hilda greenish blue [*Plebejus saepiolus hilda*], peninsular metalmark [*Apodemia virgulti peninsularis*], two-tailed swallowtail [*Papilio multicaudata*], yucca giant-skipper [*Megathymus yuccae*]) could result in take of federally listed species where the ranges of these species overlap, this above protocol shall also apply to these species.
- If habitat for special-status butterflies is determined not to be present on a project site by the qualified biologist, a report shall be prepared by the qualified biologist and submitted to the County for approval. If approved, then further mitigation is not required.
- If habitat potentially suitable for Thorne's hairstreak, wandering skipper, alkali skipper, Harbison's dun skipper, Hilda greenish blue, peninsular metalmark, two-tailed swallowtail, yucca giant-skipper, or monarch (if the species is not listed under ESA at the time of the survey) and habitat for federally listed butterfly species is not present on the project site, then the host plants for the nonfederally listed species shall be avoided and retained on the project site.
- If habitat suitable for Quino checkerspot, Laguna Mountains skipper, Hermes copper, or monarch (if the species is listed under ESA at the time of the survey) is present on a project site, the habitat will be considered occupied, and because these species are listed under ESA, the applicant must avoid impacts by implementing no-disturbance buffers or redesigning the project until such time as federal permits, authorizations, and procedures/protocols can be applied. If the project cannot be redesigned to avoid all

habitat suitable for these species and potential edge effects, then the application shall be denied.

M-BI.1-13: Conduct Habitat Assessment for Special-Status Terrestrial Invertebrates and Implement Avoidance Measures

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- If habitat suitable for special-status terrestrial invertebrates (non-butterflies) is determined to be present on the site during the initial biological survey (see M-BI.1-1), the following measures shall apply.
 - If special-status terrestrial invertebrate species are found that are in the County of San Diego sensitive animal Group II (i.e., all non-butterfly terrestrial invertebrate species that could occur in the program area), the qualified biologist shall determine whether implementation of cultivation and noncultivation activities on the site would threaten the local long-term survival of these species and shall prepare a report that contains evidence supporting the conclusion.
 - If the qualified biologist determines that implementation of cultivation and noncultivation activities on the site would not threaten the local long-term survival of these species, the biologist shall submit the report documenting this conclusion to the County and CDFW for approval. If the County and CDFW concur with the conclusion, then further mitigation for impacts on these special-status species would not be required.
 - If the qualified biologist determines that implementation of cultivation and noncultivation activities on the site would threaten the local long-term survival of these species, the biologist shall consult with CDFW to designate a no-disturbance buffer and/or redesign of the commercial cannabis cultivation site that shall be reflected in application materials to the County. Impacts on these special-status invertebrate species may need to be mitigated such that there would be no net loss of occupied habitat or individuals, as determined by the qualified biologist in consultation with the County and CDFW.

M-BI.1-14: Avoid Special-Status Fairy Shrimp Habitat

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- If vernal pool habitat suitable for special-status fairy shrimp is determined to be present on a site during the initial biological survey (see M-BI.1-1), a no-disturbance buffer will be implemented surrounding all vernal pool habitat, the size of which will be determined by a qualified biologist, and the project will be redesigned to completely avoid this habitat. If the project cannot be redesigned to avoid all habitat suitable for these species, then the application shall be denied.

M-BI.1-15: Conduct Preconstruction Bat Survey and Establish Protective Buffers

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- Before commencing any development related to cultivation and noncultivation activities, a qualified biologist shall conduct surveys for roosting bats. If evidence of bat use is observed, the species and number of bats using the roost shall be determined. Bat detectors may be used to supplement survey efforts. If no evidence of bat roosts is found, then no further mitigation will be required.
- If special-status bats are found in the surveys, a mitigation program addressing mitigation for the specific occurrence shall be submitted to the County and CDFW by the qualified biologist subject to the review and approval of the County in consultation with CDFW. Implementation of the mitigation plan shall be a condition of project approval. The mitigation plan shall establish a buffer area around the nest that is large enough to prevent disturbance to the colonies during hibernation or while females in maternity colonies are nursing young.

M-BI.1-16: Conduct Preconstruction Survey for Special-Status Rodents and Rabbits and Establish Protective Buffers

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- Before commencing any development related to cultivation and noncultivation activities, a qualified biologist shall conduct focused surveys for kangaroo rat burrows or burrow complexes, rodent burrows (i.e., for pocket mice and grasshopper mice), woodrat nests, and jackrabbit nests no more than 14 days prior to development and staging activities associated with cultivation and noncultivation activities.
- If rodent burrows suitable for Pacific pocket mouse are found on a site within the limited range of the species (i.e. near Escondido Creek and the San Dieguito River) or kangaroo rat burrows and burrow complexes suitable for Stephen's kangaroo rat are found on a site within the limited range of this species (i.e., the northern half of the county) (CWHR 2024b), the applicant must avoid impacts by implementing no-disturbance buffers or redesigning the project until such time as federal permits, authorizations, and procedures/protocols can be applied. If the project cannot be redesigned to avoid all habitat suitable for these species, then the application shall be denied.
- While these burrows may be associated with other mouse or kangaroo rat species that are not listed under ESA, live trapping surveys would be required to determine the species, which could result in take of ESA-listed species. Because of the current federal legal status of cannabis activities, USFWS would not permit these surveys.
- If rodent burrows outside of the range of Pacific pocket mouse and not associated with kangaroo rats, woodrat nests, or jackrabbit nests are detected during focused surveys,

a no-disturbance buffer would be established around the burrow, the size of which would be determined by the qualified biologist to prevent burrow collapse and disturbance from cultivation and noncultivation development activities, and no project activities would occur within this buffer.

M-BI.1-17: Conduct Preconstruction American Badger Survey and Establish Protective Buffers

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- Before commencing any development related to cultivation and noncultivation activities, a qualified biologist shall conduct surveys of grassland or agricultural habitats within the site to identify any American badger burrows/dens. These surveys shall be conducted no more than 30 days prior to the start of construction.
- If occupied burrows are not found, further mitigation shall not be required.
- If occupied burrows are found, impacts on active badger dens shall be avoided by establishing exclusion zones around all active badger dens, within which construction related activities shall be prohibited until denning activities are complete or the den is abandoned. The qualified biologist shall monitor each den once per week to track the status of the den and to determine when it is no longer occupied.

M-BI.1-18: Conduct Preconstruction Southern California Ringtail Survey and Establish Protective Buffers

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- Prior to commencement of development related to cultivation and noncultivation activities occurring within the southern California ringtail nesting season (April 15 through June 30), including tree or shrub removal, a qualified biologist shall conduct pre-construction surveys of all habitat suitable within the site and shall record sightings of individual ringtails, as well as potential dens.
- If individuals or potential or occupied dens are not found, further mitigation will not be required.
- If ringtails are detected or if potential dens of this species are detected, an appropriate method shall be used by the qualified biologist to confirm whether a ringtail is occupying the den. This may involve use of remote field cameras, track plates, or hair snares. Other devices, such as a fiber optic scope, may be utilized to determine occupancy. If no ringtail occupies the potential den, the entrance will be temporarily blocked so that no other animals occupy the area during ground disturbance, vegetation removal, or installation of cultivation sites, but only after it has been fully inspected. The blockage will be removed once these activities have been completed.

- If a den is found to be occupied by a ringtail, a no-disturbance buffer will be placed around the occupied den location. The no-disturbance buffer will include the nest tree (or other structure) plus a buffer the size of which shall be determined by the qualified biologist in coordination with CDFW. Construction activities in the no-disturbance buffer will be avoided until the den is unoccupied as determined by a qualified biologist in coordination with CDFW.

M-BI.1-19: Conduct Preconstruction Mountain Lion Survey and Establish Protective Buffers

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- If potential nursely den habitat suitable for mountain lions is determined to be present on the site during the initial biological survey (see M-BI.1-1) within 7 days before commencement of development related to cultivation and noncultivation activities, a qualified biologist with familiarity with mountain lion and experience using survey methods for the species will conduct focused surveys in nursery den habitat suitable for the species adjacent to (i.e., within 2,000 feet of) the site to identify any potential mountain lion nurseries, as property access allows. Surveys will be conducted during dawn or dusk to increase the likelihood of detecting mountain lions.
- If no signs of a mountain lion nursery are found, then further mitigation would not be required for this species.
- If signs of a mountain lion nursery are found during surveys, further investigation will be required to determine if a mountain lion nursery is present. No staging or construction activities will occur in the area while further investigation is occurring. Survey methods will include the use of trail cameras, track plates, hair snares, and/or other noninvasive methods. Surveys using these noninvasive methods will be conducted for 3 days and 3 nights to determine whether a nursery may be present.
- If a nursery is known to occur in the area or further signs of a nursery are detected based on the surveys described above (e.g., lactating adult females or cubs on camera, repeated detections of an adult female in the area, growls or calls from cubs), a no-disturbance buffer of at least 2,000 feet will be implemented for a minimum of 10 weeks. Staging and construction activities will not occur within this buffer during this time to avoid disturbance of mountain lion nurseries or injury or mortality of young. CDFW will be notified of the nursery and buffer location.

M-BI.2-1: Identify, Avoid, and Protect Riparian Habitat, Sensitive Natural Communities, and Oak Woodlands or Provide Compensation

As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1, General Requirements and Prohibitions, Terms 10 and 37), San Diego County shall require applicants to demonstrate compliance with the following measures for the protection of riparian habitat, sensitive natural communities, and oak woodlands from proposed cultivation and noncultivation activities:

- For cultivation and noncultivation activities that could disturb riparian habitat, sensitive natural communities, or oak woodlands, the application shall include a report prepared by a qualified biologist that summarizes the potential presence of any of these sensitive resources as identified during the biological survey conducted under M-BI.1-1. Furthermore, the qualified biologist shall perform a protocol-level survey following the survey methods from CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (current version dated March 20, 2018) of the site before the start of any development or staging related to cultivation or noncultivation activities. Sensitive natural communities shall be identified using the best means possible, including keying them out using the most current edition of *A Manual of California Vegetation* (including updated natural communities data at <http://vegetation.cnps.org/>) or referring to relevant reports (e.g., reports found on the VegCAMP website).
- All sensitive habitats identified during the protocol-level survey described above shall be flagged or fenced with brightly visible construction flagging and/or fencing under the direction of the qualified biologist before development or staging activities associated with cannabis activities begin. Grading, excavation, other ground-disturbing activities, and vegetation removal shall not occur in these areas. Foot traffic by construction personnel shall also be limited in these areas to prevent the introduction of invasive or weedy species. Periodic inspections during construction shall be conducted by the qualified biologist to maintain the integrity of exclusion fencing/flagging throughout the period of construction involving ground disturbance.
- Impacts on habitat, including sensitive habitats, on the site shall be subject to mitigation ratios described in the MSCP and BMO (County of San Diego County 2010a; see M-BI.1-2) as well as habitat mitigation ratios described in the *County of San Diego Guidelines for Determining Significance and Report Format and Content Requirement – Biological Resources* (County of San Diego 2010b).
- If the report documents that site development would affect the bed, bank, channel, or associated riparian habitat subject to CDFW jurisdiction under Fish and Game Code Section 1602, a Streambed Alteration Notification shall be submitted to CDFW, pursuant to Section 1600 et seq. of the Fish and Game Code. If proposed activities are determined to be subject to CDFW jurisdiction, the applicant shall abide by the conditions of any executed agreement before any ground disturbance.
- In consultation with CDFW, applicants shall compensate for permanent loss of riparian habitat at a minimum of a 2:1 ratio through contributions to a CDFW-approved wetland mitigation bank or through the development and implementation of a Compensatory Stream and Riparian Mitigation and Monitoring Plan for creating or restoring in-kind habitat in the surrounding area. If mitigation credits are not available, stream and riparian habitat compensation shall include establishment of riparian vegetation on currently unvegetated bank portions of streams affected by the project and enhancement of riparian habitat through removal of nonnative species, where appropriate, and planting of additional native riparian plants to increase the cover, continuity, and width of the riparian corridor along streams in the site and surrounding areas. Construction activities and compensatory mitigation shall be conducted in accordance with the terms of a streambed alteration agreement, as required under Section 1602 of the Fish and Game Code and SWRCB Order WQ 2023-0102-DWQ.

The Compensatory Stream and Riparian Mitigation and Monitoring Plan shall identify the following information:

- compensatory mitigation sites and criteria for selecting these mitigation sites;
- in-kind reference habitats for comparison with compensatory riparian habitats (using performance and success criteria) to document success;
- monitoring protocol, including schedule and annual report requirements (compensatory habitat shall be monitored for a minimum of 5 years from completion of mitigation, or human intervention [including recontouring and grading], or until the success criteria identified in the approved mitigation plan have been met, whichever is longer);
- ecological performance standards, based on the best available science and including specifications for native riparian plant densities, species composition, amount of dead woody vegetation gaps and bare ground, and survivorship; at a minimum, compensatory mitigation planting sites must achieve 80-percent survival of planted riparian trees and shrubs by the end of the 5-year maintenance and monitoring period, or dead and dying trees shall be replaced and monitoring continued until 80-percent survivorship is achieved;
- corrective measures if performance standards are not met;
- responsible parties for monitoring and preparing reports; and
- responsible parties for receiving and reviewing reports and for verifying success or prescribing implementation or corrective actions.

If the report documents that site development cannot avoid adverse effects on sensitive natural communities or oak woodlands, in consultation with CDFW, the applicant shall compensate for permanent loss of these habitats such that no net loss of habitat function occurs as follows:

- restoring sensitive natural community habitat function within the project site (e.g., using locally collected seed or cuttings);
- restoring degraded sensitive natural communities outside the project site at a sufficient ratio to offset the loss of habitat function (at least 3:1 for sensitive natural communities with an S1 or S2 rank, and at least 1:1 for other sensitive natural communities); or
- preserving existing sensitive natural communities of equal or better value to the sensitive natural community affected through a conservation easement at a sufficient ratio to offset the loss of habitat function (at least 3:1 for coastal prairie and at least 1:1 for other sensitive natural communities).

The applicant shall prepare and implement a Compensatory Mitigation Plan that includes the following elements:

- For preserving existing habitat outside the project site in perpetuity, the Compensatory Mitigation Plan will include a summary of the proposed compensation lands (e.g., the number and type of credits, location of mitigation bank or easement), parties responsible for the long-term management of the land, and the legal and

funding mechanism for long-term conservation (e.g., holder of conservation easement or fee title). The applicant will provide evidence in the plan that the necessary mitigation has been implemented or that the applicant has entered into a legal agreement to implement it and that compensatory habitat will be preserved in perpetuity.

- For restoring or enhancing habitat within the project site or outside the project site, the Compensatory Mitigation Plan will include a description of the proposed habitat improvements, success criteria that demonstrate the performance standard of maintained habitat function has been met, legal and funding mechanisms, and parties responsible for long-term management and monitoring of the restored or enhanced habitat.
- The following success criteria would be required to maintain habitat function for preserved and compensatory populations:
 - The extent of occupied area and density of plants associated with the sensitive natural community (number of plants per unit area) in compensatory habitats would be equal to or greater than the affected occupied habitat.
 - Compensatory and preserved sensitive natural communities would be self-producing. Populations would be considered self-producing when (1) plants associated with sensitive natural communities reestablish annually for a minimum of 5 years with no human intervention, such as supplemental seeding, and (2) reestablished and preserved habitats contain an occupied area and density comparable to existing occupied habitat areas in similar habitat types in the project vicinity.

M-BI.3-1: Identify State or Federally Protected Wetlands and Avoid These Features

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- The application shall include a report prepared by a qualified biologist that includes a summary of sensitive resources, including wetlands, streams, and rivers, that were identified during the biological survey conducted under M-BI.1-1.
- If the report documents that state or federally protected wetlands are present, a delineation of these resources, including wetlands that would be affected by the project, shall be prepared by a qualified biologist. The delineation shall be submitted to the County and the San Diego RWQCB.
- If, based on the delineation, it is determined that fill of any state or federally protected wetlands would result from implementation of the project, then the applicant shall modify the proposed project to avoid these resources by providing a buffer of at least 100 feet around these features. Depending on site features, a buffer of greater than 100 feet may be required. Buffer size shall be determined in consultation with CDFW and the San Diego RWQCB.
- Cannabis cultivation and noncultivation activities would be subject to Term 3 of Attachment A (Section 1, General Requirements and Prohibitions) of SWRCB Order

WQ 2023-0102-DWQ, which requires operations to comply with Fish and Game Code Section 1602. When cultivation or noncultivation activities would affect the bed, bank, channel, or associated riparian habitat subject to CDFW jurisdiction under California Fish and Game Code Section 1602, a Streambed Alteration Notification shall be submitted to CDFW, pursuant to Section 1600 et seq. of the California Fish and Game Code. If proposed activities are determined to be subject to CDFW jurisdiction, the applicant shall abide by the conditions of any executed agreement before any ground disturbance in areas that are under Section 1600 et seq. jurisdiction.

M-BI.4-1: Utilize Wildlife-Friendly Building and Fencing Designs

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- Buildings and other permanent structures that would be constructed for cultivation and noncultivation activities associated with the project shall be designed to minimize impacts on wildlife, including disruption to wildlife movement, bird strikes, and wildlife entanglement.
 - Building design shall utilize guidelines regarding building height, materials, external lighting, and landscaping provided in the American Bird Conservancy's Bird-Friendly Building Design (American Bird Conservancy 2015). The County shall require review of the design plans by a qualified biologist, who will determine whether the plans are sufficient to reduce the likelihood of bird strikes or recommend additional measures.
 - Fencing associated with cultivation and noncultivation activities associated with the project will utilize wildlife-friendly fencing design to minimize the risk of entanglement, entrapment, or impalement of wildlife. The County shall require the review of fencing design by a qualified biologist prior to installation. The fencing design shall meet, but not be limited to the following standards:
 - Minimize the chance of wildlife entanglement by avoiding barbed wire, loose or broken wires, or any material that could impale, snag, or entrap a leaping animal (e.g., wrought iron fencing with spikes).
 - Allow wildlife to jump over easily without injury. Typically, fences should be no more than 40 inches high on flat ground to allow adult deer to jump over. The determination of appropriate fence height will consider slope, as steep slopes are more difficult for wildlife to pass. If fencing is required to be greater than 40 inches high for security or logistical purposes, then the fencing shall be high enough to deter wildlife from attempting to jump over (i.e., greater than 8 feet tall).
 - Allow smaller wildlife to pass under easily without injury or entrapment.
 - Polyethylene plastic used for agricultural shade or crop structures shall be properly fastened, maintained in good condition, and regularly inspected for degradation from weather to prevent introduction of plastic into the natural environment, including waterways.

M-BI.4-2: Retain Wildlife Nursery Habitat and Implement Buffers to Avoid Wildlife Nursey Sites

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

If after implementation of M-BI.1-1, a qualified biologist determines that wildlife nursery sites are present within a proposed project site, the following measures shall be implemented prior to and during construction of a project:

- A qualified biologist will identify the important habitat features of the wildlife nursery and, prior to commencement of project activities (e.g., ground disturbance, vegetation removal, staging), will mark these features for avoidance and retention during project implementation to maintain the function of the nursery habitat.
- A no-disturbance buffer will be established around the nursery site if project activities are required while the nursery site is active/occupied. The appropriate size and shape of the buffer will be determined by a qualified biologist based on potential effects of project-related habitat disturbance, noise, visual disturbance, and other factors but will typically be a minimum of 100 feet. No project activity will commence within the buffer area until a qualified biologist confirms that the nursery site is no longer active/occupied. Monitoring of the effectiveness of the no-disturbance buffer around the nursery site by a qualified biologist during and after project activities may be required. If project activities cause agitated behavior of the individual(s), the buffer distance will be increased or project activities modified until the agitated behavior stops. The qualified biologist will have the authority to stop any project activities that could result in potential adverse effects on wildlife nursery sites.

M-BI.5-1: Prohibit Cultivation and Noncultivation Activities in Coastal Sage Scrub Habitat

The following shall be included as a performance standard for the licensing of new cultivation and noncultivation activities in unincorporated San Diego County. Compliance documentation will be provided to the County as part of the application materials and may be combined with required compliance with SWRCB Order WQ 2023-0102-DWQ.

- If after implementation of M-BI.1-1 and M-BI.2-1, a qualified biologist determines that a proposed cultivation or noncultivation site contains coastal sage scrub habitat, the project shall be designed such that direct and indirect impacts on this habitat would not occur as confirmed by the qualified biologist and the County. If the project cannot be redesigned to completely avoid direct and indirect impact on coastal sage scrub habitat, then the application will be denied, and cultivation and noncultivation activities will not be permitted on the site.

8.1.3 Cultural and Paleontological Resources

M-CR.1-1: Identify and Evaluate Historical Structures

- As part of compliance with SWRCB Order WQ 2023-0102-DWQ (Attachment A, Section 1 - Term 21) and County General Plan Policy COS-8.1, commercial cannabis cultivation and noncultivation sites in San Diego County would be required to identify and evaluate all historical (over 50 years in age) buildings and structures that are proposed to be removed or modified as part of commercial cannabis site operations. For discretionary projects, the County shall determine the appropriate level of investigation. The evaluation shall be prepared by an architectural historian or historical architect who meets the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, Professional Qualification Standards and is listed on the County of San Diego CEQA Consultant's List. The evaluation shall comply with State CEQA Guidelines Section 15064.5(b).
- For ministerial projects, this shall include the preparation of a historic structure report and evaluation of resources to determine their eligibility for recognition under federal, state, or County local official register of historic resources criteria.
- If resources eligible for inclusion in the NRHP, CRHR, or local official register of historic resources are identified, an assessment of impacts on these resources shall be included in the report, as well as detailed measures to avoid impacts. If avoidance of a significant architectural or built-environment resource is not feasible, additional mitigation options include specific design plans for historic districts and plans for alteration or adaptive reuse of a historical resource that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitation, Restoring, and Reconstructing Historic Buildings.

8.1.4 Energy

M-EN.2-1: Implement the requirements of the County's Climate Action Checklist

Each cannabis facility application shall include measures enumerated in the County's CAP Checklist as applicable.

8.1.5 Hydrology and Water Quality

M-HYD.2-1: Establish No Net Increase in Groundwater Use

If it can be demonstrated to the satisfaction of the County that the project would not have a net increase in groundwater production from existing baseline groundwater use in accordance with CEQA, no further action is needed. This documentation shall take the form of a groundwater analysis or memorandum.

M-HYD.2-2: Additional Groundwater Use

If a new or additional groundwater supplies are needed to support a project, a groundwater analysis shall be prepared by a California Professional Geologist and provided with the cannabis facility application that is consistent with the *County's Guidelines for Determining Significance and Report Format and Content Requirements: Groundwater Resources*. The

analysis shall identify whether groundwater use would be sustainable in accordance with County guidelines and if needed, provide mitigation measures to the extent feasible to reduce potential adverse effects on groundwater. This could include design modifications, such as limiting cultivation or using imported water if available. The groundwater analysis shall be submitted to the County for review and approval as part of the application process.

8.1.6 Noise

M-N.1-1: Incorporate Noise Reduction Measures into Construction Specifications

Applications for cannabis facilities shall include the following requirements into construction plan specifications/project plans.

- All construction equipment shall be properly maintained and equipped with noise-reduction intake and exhaust mufflers and engine shrouds, in accordance with manufacturer recommendations. Equipment engine shrouds shall be closed during equipment operation.
- At no time shall noise levels exceed a community noise equivalent (CNEL) of 60 dBA or 10+ dBA above existing noise levels at any existing residence or other noise-sensitive land use. An existing residence shall be considered the property line of any residentially zoned area or, in the case of agricultural land, any occupied off-site residential structures. Achieving the noise standards could involve the use of the following noise reduction measures or other equally effective measures:
 - Individual operations and techniques shall be replaced with quieter procedures (e.g., using welding instead of riveting, mixing concrete off-site instead of on-site, using electric powered equipment instead of pneumatic or internal combustion powered equipment) where feasible and consistent with building codes and other applicable laws and regulations.
 - Stationary noise sources, such as generators and pumps, shall be located as far away from noise-sensitive uses as feasible.
 - All construction equipment and equipment staging areas shall be located as far as possible from nearby structures and located to the extent feasible such that existing or constructed noise attenuating features (e.g., temporary noise wall or blankets) block line of sight between affected land uses and construction staging areas.
 - Noise monitoring during construction will be conducted, and records of monitoring results shall be maintained by the applicant and provided to the County upon request.
- No less than 1 week prior to the start of construction activities at a particular location, notification shall be provided to nearby land uses (e.g., businesses, residential uses) that are located within 150 feet of the construction site (i.e., based on the construction noise modeling, which is distance at which nearby receptors would experience noise levels exceeding acceptable daytime construction-noise levels).
- For construction activity that would occur within a clear line of sight of off-site noise-sensitive receptors, temporary noise curtains shall be installed as close as possible to the noise-generating activity such that the curtains obstruct the direct line of sight between the noise-generating construction activity and the nearby sensitive receptors.

Temporary noise curtains shall consist of durable, flexible, composite material featuring a noise barrier layer bound to sound-absorptive material on one side. The noise barrier layer shall consist of rugged impervious material with a surface weight of at least 1 pound per square foot and be designed to result in a 10-dB reduction at the sensitive receptor location. When installed properly, acoustic barriers can reduce construction noise levels by approximately 8–10 dB (EPA 1971).

M-N.2-1: Implement Noise Reduction Measures to Reduce Operational Noise Impacts at Distribution Facilities

Whenever a cannabis distribution facility is proposed on a parcel within 30 feet (i.e., the distance at which loading activities could exceed county noise standards) of a land use, a noise analysis shall be required and submitted with the permit application. The noise analysis shall be prepared in accordance with *County of San Diego Guidelines for Determining Significance: Noise* and will evaluate the effect of project implementation on nearby land uses and shall identify appropriate measures (e.g., equipment enclosures, equipment location, noise barriers) that reduce noise to acceptable levels as presented in Section 36.401 et seq. of the San Diego County Code of Regulatory Ordinances relating to Noise Abatement and Control and General Plan Noise Element Tables N-1 and N-2.

8.1.7 Transportation

M-TR.2-1: Conduct VMT Analysis and Identify VMT Impacts

Applications for cannabis facilities shall include a VMT analysis that determines whether the proposed cannabis facility would meet the screening criteria outlined in the *County of San Diego Transportation Study Guidelines, September 2022*, or any subsequent updates to these guidelines.

If the proposed commercial cannabis facility does not meet any of the screening criteria outlined in the *County of San Diego Transportation Study Guidelines*, the applicant shall conduct a project-level VMT analysis and identify VMT impacts associated with the cannabis facility. The project applicant shall reduce project-induced VMT impacts through implementation of VMT-reducing infrastructure and/or strategies that would mitigate the project's VMT-related impacts that would be incorporated into the commercial cannabis facility. In addition, the applicant shall also prepare and submit a Transportation Demand Management (TDM) Plan to the county for approval. The TDM Plan shall include a series of measures to reduce project-related VMT. Measures may include strategies such as ridesharing initiatives (e.g., carpooling), promoting alternative work schedules and telework, subsidizing employee use of public transit, and promoting bicycling, walking, and the use of public transit. The TDM Plan will be subject to the County's review and approval, and no development shall proceed until the TDM Plan is deemed acceptable by the County.

8.1.8 Utilities and Service Systems

M-UT.1-1: Obtain a Will Serve Letter to Demonstrate Adequate Water Supply

For municipal water use, project applicants shall obtain a will serve letter to provide verification that adequate water supplies are available as part of cannabis facility application submittals.

M-UT.1-2: Implement Water Conservation Measures

Applications for cannabis facilities shall include details on water conservation measures incorporated into the site design. Water conservation measures could include installation of water efficient plumbing fixtures and fittings and use of water-efficient landscaping, such as native plants and drip/subsurface irrigation. This shall include documentation of compliance with all applicable water conservation requirements associated with building features and landscaping.