



State of California – Natural Resources Agency  
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GAVIN NEWSOM, Governor  
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March 21, 2019

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 San Mateo County Planning Department  
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Governor's Office of Planning & Research  
 MAR 21 2019  
 STATE CLEARINGHOUSE

Dear Mr. Schaller:

Subject: Half Moon Grow Cannabis Cultivation License Application, Mitigated Negative Declaration, SCH #2019029135, San Mateo County

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the San Mateo County Planning Department (County) for the Half Moon Grow Cannabis Cultivation License Application (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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

**CDFW ROLE**

CDFW is a Trustee Agency with responsibility under CEQA §15386 for commenting on projects that could impact fish, plant or wildlife resources. CDFW is also considered a Responsible Agency if a project requires discretionary approval, such permits issued under the California Endangered Species Act (CESA) and the Native Plant Protection Act, Lake and Streambed Alteration Agreements (LSAA), and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

**PROJECT DESCRIPTION SUMMARY**

**Proponent:** Half Moon Grow, Inc.

**Objective:** The Project includes a proposed license for the cultivation of cannabis within existing greenhouses, utilizing an existing in-stream surface water diversion and infrastructure, an existing reservoir for water storage, and existing water tanks for water storage. No new construction or upgrades will occur on the Project site. All existing

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

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greenhouses contain concrete floors and fiberglass materials, and meet the requirements for an indoor cannabis cultivation site.

**Location:** The Project is located at 37 Frenchman's Creek Road, Half Moon Bay, San Mateo County, CA 94063, APN 048-320-020

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the following comments and recommendations below 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. Editorial comments or other suggestions may also be included to improve the document.

### **Environmental Setting and Biological Resources**

The CEQA document does not discuss biological resources that may be present at the site. However, based on a review of the California Natural Diversity Database (CNDDDB; CDFW 2019), special-status species may be present at the site. Fully protected, threatened or endangered, candidate, and other special-status species that are known to occur, or have the potential to occur in or near the Project site, include, but are not limited to:

- California red-legged frog (CRLF) (*Rana draytonii*)
- San Francisco garter snake (SFGS) (*Thamnophis sirtalis tetrataenia*)
- Monarch butterfly (*Danaus plexippus* pop. 1)
- Saltmarsh common yellowthroat (*Geothlypis trichas sinuosa*)
- Steelhead (*Oncorhynchus mykiss irideus* pop. 8)
- San Francisco dusky-footed woodrat (*Neotoma fuscipes annectens*)
- Pallid bat (*Antrozous pallidus*)
- Roosting bats
- Nesting birds

Potential impacts to these species associated with the Project are discussed in the following sections.

### **Lake or Streambed Alteration Notification**

CDFW is not listed as a Responsible Agency in the MND; however, 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 LSAA is not required.

Therefore, for any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 et seq. of the Fish and Game Code. Based on this notification and other information, CDFW determines whether an LSAA with the applicant is required prior to conducting the proposed activities. The notification process for

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cannabis cultivation projects is described on CDFW's website at <https://wildlife.ca.gov/Conservation/Cannabis>.

Additionally, Notification is required for any activity that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. Since this Project involves a stream diversion, this Project is subject to the Notification requirements. CDFW received the LSA Notification and prepared a draft LSAA, pursuant to Fish and Game Code §§ 1600 et. seq. Finalization of the draft LSAA is subject to completion of an adequate CEQA document and issuance of a Notice of Determination.

### **Water Source and Use**

The MND does not discuss Project-specific and/or cumulative impacts to the watershed and biological resources associated with water use and the stream diversion. CDFW has identified the following potential impacts associated with the diversion:

- The Project could dewater instream habitat in Frenchman's Creek during low-flow periods or as a result of instantaneous diversion rates, adversely affecting special-status fish, amphibians, and reptiles;
- The Project could reduce flows in the stream during low-flow periods, adversely affecting riparian vegetation and habitat and species that depend on such habitat;
- The Project could contribute to a cumulative reduction of streamflow in the watershed during the summer rearing period for steelhead.

To address the impacts above and avoid potential adverse impacts to fish, wildlife, and stream resources from the ongoing diversion, CDFW included the following Avoidance and Minimization Measures in the draft LSAA:

- The season of diversion shall be limited from January 1 to March 31 of each year ("forbearance period"). From April 1 to December 31, all water shall be allowed to pass the point of diversion.
- The maximum instantaneous rate of withdrawal shall not exceed 0.4 cubic feet per second (cfs) or 180 gallons per minute (gpm) at any time. The maximum amount of water to be diverted in any one year shall not exceed 10.66-acre feet.
- No water shall be diverted until at least 2.8 cfs is allowed to bypass the existing point of diversion.
- The Permittee may utilize water from a water hauling company the first year of this LSAA if the Permittee is unable to divert.

According to materials submitted with the Notification, the Applicant has sufficient water storage facilities in place, including an upland reservoir and sixteen 2,500-gallon storage tanks, to allow for water storage and use during the forbearance period.

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The County may wish to incorporate an analysis of streamflow impacts in the MND and include appropriate mitigation, such as the measures listed above, to demonstrate that such impacts would be reduced to a less-than-significant level.

### **Roosting Bats**

Bats are considered non-game mammals and are protected by state law from take and/or harassment (Fish and Game Code §4150, CCR §251.1). Several bat species are also considered Species of Special Concern (SOC). Evidence of roosting bats was observed in/near existing buildings on the Project site. Maternity colonies could be disturbed if buildings occupied by roosting bats are repurposed for cannabis cultivation.

To avoid potential impacts to bats, CDFW added the following measure to the draft LSAA for the Project: If any buildings that may provide habitat for any species of bat will be significantly altered, modified, or if activities could result in the disturbance to roosting bats, CDFW shall be consulted beforehand.

The County may wish to incorporate an analysis of impacts to roosting bats in the MND and include appropriate mitigation, such as the measure listed above, to demonstrate that such impacts would be reduced to a less-than-significant level.

### **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 the CNDDDB. The CNDDDB field survey data submittal instructions can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

### **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).

### **CONCLUSION**

CDFW appreciates the opportunity to comment on the MND to assist the San Mateo County Planning Department in identifying and mitigating Project impacts on biological resources.

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Questions regarding this letter or further coordination should be directed to Ms. Stephanie Holstege, Environmental Scientist, at (707) 210-5104 or [stephanie.holstege@wildlife.ca.gov](mailto:stephanie.holstege@wildlife.ca.gov); or to Ms. Randi Adair, Senior Environmental Scientist (Supervisory), at (707) 576-2786 or [randi.adair@wildlife.ca.gov](mailto:randi.adair@wildlife.ca.gov).

Sincerely,



Gregg Erickson  
Regional Manager  
Bay Delta Region

cc: State Clearinghouse (SCH# 2019029135)

#### REFERENCES

Bauer S, Olson J, Cockrill A, van Hatten M, Miller L, et al. (2015). Impacts of Surface Water Diversions for Marijuana Cultivation on Aquatic Habitat in Four Northwestern California Watersheds. PLOS ONE 10(9): e0137935.  
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