

groundwater withdrawal, there are some measures that are detailed in the SEIR/SEIS and the CVMSHCP Major Amendment that address this activity indirectly. For instance, conservation measures directly related to maintaining groundwater levels for mesquite hummocks in the Willow Hole Conservation Area are outlined in the Final SEIR/SEIS, Section 4.1 (pages 4.1-15 to 4.1-16) as part of additional MSWD conservation obligations and will also be added to Section 6.6.1 of the Plan for consistency (see Errata to Plan). A Specific obligation related to restoration of the mesquite hummock Natural Community is obligation number 3, which states that MSWD will provide \$100,000 for non-native tamarisk removal in the Willow Hole Conservation Area to improve water availability to mesquite hummocks. Non-native tamarisk uses significant quantities of water, which is therefore not available to mesquite or other native plants that are part of the mesquite hummocks natural community. This obligation states, "To improve the water available to mesquite hummocks, MSWD will provide funds to CVCC to be used for the removal of non-native tamarisk from the Willow Hole Conservation Area in the amount of \$100,000 to cover the costs of tamarisk removal from approximately 30 acres of conservation lands. CVCC will ensure that removal of tamarisk occurs on lands controlled by CVCC or other public or private conservation lands."

The Draft SEIR/SEIS states that the hydrological regime that supports the mesquite hummocks in the Mission Creek subbasin is not well understood. As such, specific restoration measures for the mesquite in this area are not well understood and are currently being explored by CVCC and MSWD at this time. MSWD conservation obligation number 4 (page 4.1-15), which will be added to Section 6.6.1 of the Plan, specifically addresses mesquite restoration. Obligation number 4 requires that MSWD will also contribute \$20,000 to the cost of a study being conducted by CVCC of the feasibility of mesquite restoration and development of a mesquite restoration plan. The draft mesquite restoration study and restoration plan was submitted on October 31, 2013. MSWD will contribute to and participate in CVCC's research evaluating the relationship between mesquite hummocks and groundwater for the mesquite hummock areas within their district boundary. To address the decline of mesquite hummock areas in the Willow Hole Conservation Area, MSWD will work with CVCC, the Wildlife Agencies, and other relevant Permittees to identify and implement a plan to enhance, restore, and maintain the mesquite hummocks natural community and to address changed circumstances, identified in the CVMSHCP, that affect this natural community as a part of their CVMSHCP implementation activities." The data and technical expertise to be provided by MSWD if they become a Permittee is essential to development and implementation of this plan.

Concerns regarding groundwater withdrawal and preventing lowering of groundwater levels in mesquite communities are addressed in the Draft SEIR/SEIS, as discussed in Response IP-2-4.

## Response to Comments

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Additionally, to address concerns regarding direct and indirect impacts from groundwater withdrawal within the Willow Hole Conservation Area, the following clarification has been added to the SEIR/SEIS (pages 4.1-14 to 4.1-15, see Final SEIR/SEIS): “Furthermore, if Permittees propose Covered Activities within the Willow Hole Conservation Area, the impacts to the mesquite hummock Natural Community shall be addressed during the Joint Project Review process. MSWD, as a Permittee, will limit the installation of new wells within the fault zone associated with mesquite hummock natural communities, in the area east of Little Morongo Road and south of 18<sup>th</sup> Avenue, until the development and implementation of a mesquite restoration plan (described in Section 4.1, page 4.1-15) is completed.”

### Comment IP-2-7

**Instead, the proposed MA provides a “wait and see” approach to whether the lowering of the groundwater table will continue to contribute to the declining health of the mesquite hummocks, including the mesquite hummocks in the Willow Hole Conservation Area, which it may possibly treat as a “changed circumstance”. Section**

**6.6.3.4 discusses lowering the water table as a changed circumstance only if there is “an increase in the depth to groundwater that significantly affects water availability to mesquite plants in the Willow Hole, East Indio Hills, or Thousand Palms Conservation Areas.” If lowering of the groundwater table occurs, and if the mesquite plants are impacted, then Adaptive Management actions will be taken to “ameliorate the effects of substantial lowering of the water table” as a “Changed Circumstance”. (Proposed MA, page 6-41 and page 9-236) These are ultimately subjective measures and provide no clarity or assurance to the public of what the trigger actually would be for a “Changed Circumstance” and additional review. This also seems to indicate that significant damage to mesquite hummocks in these Conservation Areas must occur first in order to demonstrate that a Changed Circumstance has occurred. Only once the damage has occurred, the Proposed MA promises to develop “feasible measures to ameliorate the effects”. Whether there are, in fact, feasible measures is the subject of a study now underway, which is “in progress” but was “delayed”. (2012 Year End Monitoring Report, Page 29) As of today, it is not clear if any measures to ameliorate the effects of groundwater lowering are, in fact, feasible and therefore proposing a process which allows these fragile and rare natural communities to be damage before any conservation measures are taken does not provide the needed protection required in the CVMSHCP under State or Federal law.**

### Response IP-2-7

This comment refers to the definition of Changed Circumstances as it relates to lowering of the water table and its impacts on mesquite communities. The definition provides a general threshold of a lowered water table that will be refined based on information obtained through monitoring by the CVCC Monitoring Program. Rather than allowing significant damage to occur to mesquite hummocks in the Conservation Areas, the intent of the Major Amendment Changed Circumstances for lowering of the water table is to provide early detection of lowered

groundwater levels through the Monitoring Program activities. As stated in the Major Amendment, Section 6.8.3.4, Preventive Measures (page 6-45), "This monitoring program increases the probability of early detection of a substantial lowering of the water table. Early detection improves the chances of successfully addressing any threat posed by a substantial lowering of the water table. Should monitoring detect such a substantial lowering, appropriate Adaptive Management actions will be taken." Please refer to Responses IP-2-3, IP-2-4 and IP-2-6, which address measures that ameliorate the effects of groundwater lowering to protect sensitive mesquite hummock communities, and also Response IP-2-2, which describes that groundwater impacts from groundwater withdrawal are not covered under the Major Amendment and that mitigation under CEQA is not required in this SEIR/SEIS.

That being said, the CVCC is not taking a wait and see approach but is actively investigating the status of the mesquite hummock Natural Community. The study of mesquite hummocks is currently in progress as part of the Monitoring Program. Through the Monitoring Program, a more accurate mapping of the distribution and extent of the mesquite has been completed. As part of the Major Amendment process, a review of the measures that could be taken to restore and enhance mesquite hummocks was completed. During this process, the need to remove non-native tamarisk was identified as an important restoration action. The need for additional data was also identified as critical to our ability to identify measures and establish triggers that can be used to monitor the health and sustainability of this natural community. The obligations of MSWD to provide data and funding for monitoring wells located in close proximity to the mesquite hummocks is essential to this evaluation.

As noted in previous comments (see IP-2-3), MSWD is involved in a plan to stabilize the groundwater at 2009 levels through a variety of measures identified in the Water Management Plan. As a result of actions taken by local water agencies, recharge of the groundwater is occurring with a goal of eliminating groundwater overdraft (Water Management Plan, page 6-1). Management and protection of the groundwater is an important goal for MSWD as their ability to provide water to their customers depends on a reliable supply of groundwater. Existing pumps may no longer function as groundwater levels decline below the level where water is currently extracted through pumping; the financial investment necessary to drill deeper to obtain water is significant. MSWD has a vested interest in protecting and enhancing the groundwater that goes beyond the requirements of the CVMSHCP.

The inclusion of MSWD as a Permittee of the CVMSHCP has benefits in terms of the maintenance, restoration, and enhancement of mesquite hummocks. Coordination with MSWD, CVWD and other water agencies as they implement the Water Management Plan, including the objective to eliminate groundwater overdraft, is expected to benefit the protection of mesquite hummocks. Data to be provided by MSWD will fill gaps in our knowledge of the hydrological regimes, soil conditions and other elements necessary to maintain mesquite hummocks. The additional data collected will clarify and help define the Adaptive Management needs for

## Response to Comments

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mesquite. These data would otherwise have to be obtained by CVCC at an additional cost. The funding to be provided by MSWD to remove non-native tamarisk will help restore the natural hydrological regime associated with mesquite by removing the high water using tamarisk trees that currently dominate some of the mesquite areas. As a non-Permittee, MSWD is not obligated to participate or contribute to mesquite hummock protection. They currently have the ability to withdraw groundwater without any specific mitigation requirements related to Covered Species and natural communities. As there are no endangered species which are completely dependent on mesquite hummocks, requirements for mitigation are considerably less than under the CVMSHCP. As a Permittee, MSWD is required to work with CVCC to ensure the long-term maintenance of the mesquite hummock Natural Community.

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### Comment IP-2-8

**Mesquite hummocks are important for several species. Chapter 9 of the Proposed MA mentions the need to evaluate the impacts of groundwater management on crissal thrasher Habitat, and on yellow bat Habitat, particularly in mesquite areas. (Proposed MA, pages 9-159 and 9-224) Chapter 9 also indicates that preservation of mesquite hummocks for Coachella Valley round-tailed ground squirrel is "desirable" (Proposed MA, page 9-236). Therefore, we question whether the current wait and see approach with regard to the lowering of the groundwater table within the Proposed MA provides adequate conservation measures to deal with the declining health of mesquite hummocks, especially within the Willow Hole Conservation Area.**

### Response IP-2-8

This comment provides a summary of the importance of mesquite hummock habitat for various sensitive species. As discussed in Responses IP-2-2 and IP-2-6, mitigation for groundwater withdrawal impacts are not required under CEQA as groundwater withdrawal is not a Covered Activity under the Major Amendment. Any impacts from that activity would be addressed in future CEQA and/or NEPA analyses. However, general measures addressing groundwater withdrawal are included in the Major Amendment and SEIR/SEIS for the purposes of full disclosure. Conservation measures that address the health of the mesquite hummocks occurring within Conservation Areas, including the Willow Hole Conservation Area, are discussed in the Major Amendment, as outlined in Response IP-2-7, and in the Final SEIR/SEIS, as outlined in Responses IP-2-4 and IP-2-6. As described in Response IP-2-7, monitoring and evaluation of the status of the mesquite hummock Natural Community has been underway since 2011. The study of mesquite hummocks currently in progress has identified critical restoration and information needs that will be addressed through the Major Amendment and the participation of MSWD as a Permittee under the CVMSHCP.

Comment IP-2-9

**In addition, we believe the SEIR/SEIS fails to accurately identify that the Proposed MA will allow significant harm to mesquite hummocks to occur before beginning to identify and implement measures to protect the hummocks, and that there is a risk that no feasible measures will be identified. Thus there is a risk that the Proposed MA may not be able to protect mesquite hummocks, especially in the Willow Hole Conservation Area, which is a Conservation Area affected by the proposed MA. We urge you to consider adopting specific conservation measures for the mesquite hummocks in this area that will restore the declining health of these natural communities and prevent additional damage to these natural communities and the covered species that depend on them. Alternatively, at minimum, clear triggers must be adopted for when future measures are to be developed that are based on objective criteria and will ensure conservation measures are put in place before additional damage to mesquite hummocks occurs.**

**Setting aside whether the proposed MA has adequate measures in place to address the declining health of the mesquite hummocks, we turn to issues raised by the proposed MA of adding new Permittees.**

Response IP-2-9

As discussed in Responses IP-2-2 and IP-2-6, mitigation for groundwater withdrawal impacts are not required under CEQA as part of this Major Amendment. However, general measures addressing these issues are included in the CVMSHCP and SEIR/SEIS. As discussed in Responses IP-2-4 and IP-2-6, conservation measures for mesquite hummock habitat are described. One specific conservation measure, removal of non-native tamarisk, is included to help restore the natural condition and allow available water to be used by mesquite. Specific conservation measures and clear, quantitative triggers for implementing conservation and restoration activities will be determined based on the results of the completed 2013 Water Management Plan prepared by MSWD, CVWD, and DWA (see Draft SEIR/SEIS, Section 4.1, page 4.1-14) and the mesquite restoration plan that is currently being prepared (see Draft SEIR/SEIS, Section 4.1, page 4.1-15). In addition, MSWD will implement conservation obligations 1-6 as described in the Final SEIR/SEIS (pages 4.1-14 to 4.1-16), which will be incorporated into the Amended Plan in Section 8.4.1.2, Adaptive Management. The need for more data is essential to our ability to identify successful conservation measures. See also Response IP-2-7.

In addition, MSWD will provide monetary support to implement conservation measures for mesquite habitat on a time line as described in the Draft SEIR/SEIS, Section 4.1, pages 4.1-14. The total \$350,000 MSWD contribution to support the Monitoring Program, the Management Program, and Adaptive Management "may be paid in full the first full fiscal year after approval of the Major Amendment, or it may be paid in installments over a maximum of five years,

## Response to Comments

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beginning in the first full fiscal year after approval of the Major Amendment. Interest shall be paid by MSWD at the annual rate of 5.14% on the outstanding balance.”

Furthermore, all Permittees are required to be consistent with their obligations of the Plan in order to receive Take authorization for Covered Species.

### Comment IP-2-10

#### **2. The SEIR/SEIS Fails to Adequately Address the Impacts of the Proposed MA with Regard to DHS.**

**The proposed MA proposes to add DHS as a Local Permittee. We have reviewed the proposed MA, and it appears that DHS will accept responsibilities consistent with other City Permittees. As a result of DHS becoming a Permittee, the Upper Mission Creek/Big Morongo Canyon Conservation Area will include an additional 770 acres of conserved land, restoring the Conservation Area Boundary to the boundary that was proposed in 2006. The Draft SEIR/SEIS concludes that the impacts of the DHS becoming a Permittee are not significant, and are overall beneficial to the natural communities and wildlife movement within the CVMSHCP Area.**

### Response IP-2-10

Comment acknowledged. The comment is a summary of the addition of DHS as a Local Permittee to the CVMSHCP and is not related to the adequacy of the SEIR/SEIS analysis. No specific response is necessary.

### Comment IP-2-11

**However, under the proposed MA the DHS has no specific requirements regarding restoration, enhancement or preservation of mesquite hummocks, especially in the Willow Hole Conservation Area, even though the development that will be authorized by the DHS as a Permittee will result in the lowering of the groundwater table. As**

### Response IP-2-11

This comment refers to the concern that DHS would have no specific requirements for restoration, enhancement, or preservation of mesquite hummocks, especially in the Willow Hole Conservation Area, and that the development authorized by DHS would result in a lowered groundwater table. Once again, groundwater withdrawal is not a Covered Activity under the Major Amendment. Any impacts from that activity would be addressed in future CEQA and/or

NEPA analyses when specific proposals are made. As a general matter, restoration, enhancement, and preservation of sensitive species and natural communities is the responsibility of the CVCC, acting on behalf of the Local Permittees, rather than being the responsibility of Local Permittees such as DHS. As a local Permittee, DHS will collect the Local Development Mitigation Fee which supports the acquisition, monitoring and management of mesquite hummocks. Some of the mesquite hummock habitat is still in private ownership and until it is permanently conserved through the CVMSHCP, there is no ability to ensure its protection. As a Local Permittee to the Plan, DHS is responsible for implementing and processing JPRs for development that they authorize. The JPR process will ensure that impacts of development on the mesquite hummock Natural Community are analyzed and avoidance, minimization, and mitigation measures are implemented as applicable. In addition, conservation measures such as removal of non-native tamarisk to make more water available to mesquite, and other measures described in Response IP-2-4 and IP-2-6 will ensure the long-term persistence of the mesquite hummock habitat.

The requirements for restoration, enhancement and preservation of mesquite hummocks are accomplished primarily through the Monitoring and Management program. As described in Sections 8.4.1 (monitoring and management) and 10.2.7 (mesquite hummocks) of the CVMSHCP, specific objectives are included to maintain the mesquite hummocks, and as they are declining now, develop and implement a plan to ensure they are conserved. These monitoring and management objectives will help us meet the plan goal to, "Ensure conservation of Habitat quality through protection, monitoring and Adaptive Management, and restoration where necessary, to contribute to maintenance of this community within Conservation Areas." As a Local Permittee, DHS will be responsible for working with the CVCC, MSWD and other partners to accomplish the CVMSHCP goals and objectives.

#### Comment IP-2-12

**indicated above in Section 1(C), the SEIR/SEIS fails to identify that the proposed MA will allow significant harm to mesquite hummocks in the Willow Hole Conservation Area to occur before beginning to identify and implement measures to protect the hummocks, and that there is a risk that no feasible measures will be identified.**

#### Response IP-2-12

This comment reiterates the concern that the Major Amendment and the Draft SEIR/SEIS do not adequately address identification and implementation of measures that protect mesquite hummocks before significant harm occurs. Please refer to Responses IP-2-7, IP-2-8, and IP-2-9.

## Response to Comments

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### Comment IP-2-13

The proposed MA would also add MSWD as a Local Permittee. Unlike Cities, which all have similar land use authority and authorize similar "development" projects, the obligations of water agencies within the CVMSHCP are unique to each agency, depending upon the lands they own and administer, and the activities that they intend to carry out within the CVMSHCP area. Thus, the requirements of each agency must be evaluated in context.

According to the MSWD website, MSWD has a service area of 86,400 acres, with 14 active wells, 20 reservoir sites, 276 miles of water lines, 89 miles of sewer lines, 12,951

water connections and 10 pressure zones<sup>2</sup>. MSWD water production in 2010 was 8,664.69 acre foot ("af"). MSWD extracts 38% of the water in the Mission Creek Subbasin, which is an overdraft condition. (Proposed MA, page 10-44) MSWD does not have any land use authority, but does have plans for expansion of its system to accommodate the proposed growth within the region, and wants such future construction of activities to be "covered" under the proposed MA. The proposed

### Response IP-2-13

This comment summarizes information contained in the Draft SEIR/SEIS and on the MSWD website. No specific response related to the adequacy of the SEIR/SEIS analysis is necessary.

### Comment IP-2-14

construction of activities to be "covered" under the proposed MA. The proposed covered activities include construction, operation, and maintenance of new water transmission lines, storage reservoirs, sewer lines, recycled water lines, and one new wastewater treatment plant<sup>3</sup>. According to the SEIR/SEIS, some of MSWD's projects will lead to a greater direct physical disturbance in Conservation Areas than under the current CVMSHCP. (SEIR/SEIS, page 2-6). The surface disturbance is limited to less than 3 acres for a majority of the covered species. (SEIR/SEIS, page 4.1-4) The additional MSWD surface disturbance is to be offset by an additional 770 acres, as a result of DHS becoming a Permittee, to one of the Conservation Areas. (SEIR/SEIS, Page 4.1-4) Further, according to the SEIR/SEIS, the additional disturbance will be minimized by the avoidance, minimization and conservation measures of the Proposed MA. (SEIR/SEIS, Page 4.1-4)

### Response IP-2-14

This comment is restating information contained in the Draft SEIR/SEIS. No response related to the adequacy of the SEIR/SEIS is necessary.



### Comment IP-2-15

In exchange for the ability to authorize "Take" for its various projects, MSWD will "assist in creation of sustainable conservation areas that protect endangered and threatened species and the habitats upon which they depend." (SEIR/SEIS, page 1-5). MSWD has "committed to conservation measures for the approximately 61 acres that they own in the Conservation Area and other measures for activities outside Conservation Areas." (SEIR/SEIS, page 2-4) However, unlike the other water agencies in the CVMSHCP, MSWD does not currently own conserved land that it can contribute to the Proposed MA. (Proposed MA, page 4-9) Furthermore, it is unclear if the Proposed MA requires MSWD to conserve any of its land, or whether MSWD is required to comply with the avoidance, minimization and mitigation measures for the following reasons:

### Response IP-2-15

This comment is stating information contained in the Draft SEIR/SEIS regarding MSWD obligations for conservation measures and conservation lands. The commenter makes reference to the CVMSHCP Major Amendment, Section 4.1.2, page 4-9, stating that MSWD does not currently own conserved land that it can contribute to the Major Amendment. MSWD does currently own 61 acres in the Conservation Area that will be contributed to the Plan at a future date; however, this land is not currently in conservation status, with the appropriate legal instrument to ensure conservation in perpetuity. Because the land is not currently in conservation, MSWD is not included in Table 4-3: Local Permittee Existing Conservation Lands. Nevertheless, if MSWD is added as a Permittee under the Plan, their lands will be conserved as described in the language quoted in IP 2-16. As a Local Permittee MSWD will also be required to implement avoidance, minimization, and mitigation measures as outlined in the Final SEIR/SEIS, Section 4.1, page 4.1-14.

### Comment IP-2-16

- 1 It appears that there are no requirements in Section 4 compelling MSWD to conserve any of its lands. All "MSWD land" are designated as "Level 4" lands, meaning that there are "no mandates to protect natural qualities" on these lands. (Proposed MA, pages 2-8 to 2-9)

### Response IP-2-16

This comment refers to a presumed lack of requirements in Section 4 of the Major Amendment to the Plan compelling MSWD to conserve its lands. MSWD lands are listed as Level 4 lands in Section 2.5, Non-Conservation Lands (pages 2-8 to 2-9) of the Major Amendment to the Plan.

## Response to Comments

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However, if MSWD is added as a Permittee under the plan, they will be required to conserve lands they own as stated in the CVMSHCP Major Amendment, Section 4.2.2.2.1, Conservation of Non-Conserved Permittee Owned Lands in Conservation Areas (page 4-13) and as addressed in Response IP-2-15. The following excerpt will be modified per the underlined insertions to provide more clarity (see Errata to Plan): “The CVWD, ~~and~~ IID [Imperial Irrigation District], and MSWD lands totaling about 6,800 ~~6,700~~ acres will be conserved incrementally over time as CVWD, ~~and~~ IID, and MSWD mitigate Covered Activities, through a recorded Legal Instrument acceptable to the Wildlife Agencies. The Legal Instrument may include conveying fee title or conservation easements on these lands to CVCC. If before Year 50 of Plan implementation, either CVWD, ~~or~~ IID, or MSWD still owns land in the Conservation Areas that has not been conserved by any of the foregoing methods, CVWD, ~~and/or~~ IID, and/or MSWD shall cooperate with CVCC in the conservation of these lands through acquisition by CVCC or other means.”

In addition, Table 4-6: Non-Conserved Permittee Owned Lands (Section 4.2.2.2.2, page 4-14), indicates that MSWD will conserve, through acquisition or other means, 61 acres in the Upper Mission Creek/Big Morongo Canyon and Willow Hole Conservation Areas.

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Comment IP-2-17

- 2 **Section 4.2.2.2 indicates that the Permittees [including MSWD] have an obligation to conserve "7,700 acres of currently non-conserved Local Permittee-owned lands." (Proposed MA, page 4-13) Table 4-6 indicates that MSWD owns land within the Upper Mission Creek/Big Morongo Canyon and the Willow Hole conservation areas, and MSWD owned land appears to part of the calculation of 7,700 acres targeted for conservation, pursuant to Section 4.2.2.1. Figure 4-4, which depicts the location of Permittee lands to be conserved, was not changed as part of the Proposed MA and, as indicated above, Chapter 2 indicates that there are no conservation restrictions on any MSWD land.**

Response IP-2-17

This comment refers to information contained in the Major Amendment to the Plan in Section 4.2.2.2 and Table 4-6. MSWD-owned lands are part of the calculation of the total 7,700 acres targeted for conservation. The conservation of 7,700 acres of currently non-conserved Local Permittee-owned lands represents an increase of 200 acres (from 7,500 acres). The depiction in Figure 4-4 of Local Permittee Lands to Be Conserved is not currently at a scale capable of accurately depicting this small increase in acreage. However, as discussed in Response IP-2-16, if MSWD is added as a Permittee to the Plan, they will be required to conserve lands that they own through conveyance of fee title or conservation easements to CVCC. MSWD's conservation acreage commitment is presented as an acreage number and a conservation area in Table 4-6 (page 4-14).

Comment IP-2-18

- 3 **One searches in vain for any requirements specific to MSWD under either Section 4.3.7 discussing the Upper Mission Creek/Big Morongo Canyon Conservation Area, or 4.3.8 discussing the Willow Hole Conservation Area. MSWD is not required to preserve any of its lands in either of these conservation areas as part of the Proposed MA. (Proposed MA, Pages 4-13 and 4-14) Nor is MSWD required to limit further overdraft from the water basins or otherwise take measures that would protect the existing mesquite hummock communities from further harm.**

Response IP-2-18

This comment refers to requirements specific to MSWD for Upper Mission Creek/Big Morongo Canyon Conservation Area in Section 4.3.7 and Willow Hole Conservation Area in Section 4.3.8 of the CVMSHCP Major Amendment. To reflect MSWD public land ownership in the Upper Mission Creek/Big Morongo Canyon Conservation Area, MSWD will be added to Table 4-40: Land Ownership Upper Mission Creek/Big Morongo Canyon Conservation Area (see Errata to

## Response to Comments

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Plan). To reflect MSWD public land ownership in the Willow Hole Conservation Area, MSWD will be added to Table 4-45: Land Ownership Willow Hole Conservation Area (see Errata to Plan).

If added as a Permittee under the Plan, MSWD will be required to protect the mesquite hummock Natural Communities, as discussed in Responses IP-2-3, IP-2-4, IP-2-6, IP-2-7, and IP-2-9.

### Comment IP-2-19

- 4 **Even if one were to assume that somehow Table 4-6 and Section 4.2.2.2 requires MSWD, as a Permittee, to conserve its portion of the 7,700 acres identified in Table 4-6, the Proposed MA has an exemption indicating that if the lands have public facilities that are part of the "Covered Activities" identified in Section 7.3, those lands, they will only be conserved "to the extent consistent with the Covered Activities" which is vague and ambiguous language. (Proposed MA, page 4-13)**

### Response IP-2-19

This comment refers to concerns that MSWD is not required to conserve its portion of lands as part of the 7,700 acres identified in Table 4-6 of the Major Amendment to the Plan. As discussed in Responses IP-2-16, IP-2-17, and IP-2-18, if MSWD is added as a Permittee to the Plan, they can either conserve lands that they own or pay the Local Development Mitigation Fee to meet their obligations under the Plan.

Also, this comment expresses concern regarding vague and ambiguous language regarding conservation of lands with public facilities that are part of the Covered Activities described in Section 7.3 of the CVMSHCP Major Amendment. As stated in Section 4.2.2.2.1 of the Major Amendment to the Plan (page 4.1-13), "Some parcels contain public facilities that are Covered Activities under the Plan as identified in Section 7.3. These parcels will be conserved to the extent consistent with the Covered Activities." The intent is not to exempt lands with public facilities from implementing conservation measures, but rather to state or describe that conservation of lands with public facilities that are Covered Activities must be consistent or comply with the measures specific to the Covered Activities that are outlined in Tables 7-4 through 7-13. These tables include a column with Avoidance/Minimization Measures Required for each facility where a Covered Activity is planned. In addition, Section 7.3 includes the following statement below each table describing the Permittees' responsibilities: "Impacts of the above projects are also mitigated through Permittees' portion of Reserve Assembly and through the Monitoring Program, Management Program, and Adaptive Management."

Comment IP-2-20

- 5 Although each permittee must comply with the Avoidance, Minimization and Mitigation Measures of Section 4.4, for most species these measures "do not apply to O & M of covered activities". There are limited requirements for O & M to comply under the following circumstances:
- Activities on levees, berms, dikes and similar features that are known to contain burrowing owls, although it appears these requirements are only triggered if the project is "subject to CEQA", which most O & M activities are not, and any requirements are further only applicable in a vague sense "to the maximum extent feasible". In addition, unlike other water districts, MSWD is not required to prepare a manual for maintenance staff regarding burrowing owls that may inhabit levees, berms, dikes or similar features;
  - Activities that affect Fluvial Sand Transport, which requires activities to be "conducted in a manner to maintain the fluvial sand transport capacity of the system";
  - Activities in habitat for Peninsular Bighorn Sheep, which requires O & M to be done outside of the lambing season; and
  - Activities in habitat for the Palm Springs pocket mouse, which must avoid impacts to Palm Springs pocket mouse and its habitat. (Proposed MA, pages 4-169 to 4-178)

Response IP-2-20

This comment correctly states that Required Avoidance, Minimization, and Mitigation Measures do not apply to operations and maintenance (O&M) of Covered Activities for some of the Covered Species (CVMSHCP Major Amendment, Section 4.4). The comment lists the following species and processes where O&M activities do apply under some circumstances: burrowing owl (*Athene cunicularia*), fluvial sand transport, peninsular bighorn sheep (*Ovis canadensis nelsoni*), and Palm Springs pocket mouse (*Perognathus longimembris bangsi*) and its habitat.

This comment also lists concerns regarding burrowing owl avoidance, minimization, and mitigation measures for O&M activities. The commenter states that requirements to protect burrowing owls on levees, berms, dikes, and similar features are only triggered if a project is subject to the California Environmental Quality Act (CEQA) and that most O&M activities are not subject to CEQA. As stated in the Major Amendment to the Plan, Section 4.4, page 4-168, "This measure does not apply to single-family residences and any non-commercial accessory uses and structures including but not limited to second units on an existing legal lot, or to O&M of Covered Activities other than levees, berms, dikes, and similar features that are known to contain burrowing owl burrows." Therefore, Permittees are required to implement avoidance, minimization, and mitigation measures for O&M activities on levees, berms, dikes, and similar features, regardless of whether the activity is subject to CEQA. In addition, per the Implementing Agreement, Section 14.12 (page 47), under Migratory Bird Treaty Act, "The Section 10(a)

## Response to Comments

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Permit shall constitute a Special Purpose Permit under 50 Code of Federal Regulations section 21.27, for the Take of Covered Species listed under FESA and which are also listed under the MBTA (16 U.S.C. §§ 703-712), in the amount and/or number specified in the MSHCP, subject to the terms and conditions specified in the Section 10(a) Permit. Any such Take will not be in violation of the MBTA.” Therefore, Permittees must comply with the conditions of the CVMSHCP and avoid Take of birds, including burrowing owls, which are protected under the MBTA, even for O&M activities. The commenter is also concerned that MSWD is not required to prepare a manual for burrowing owls as is required of other water districts. For clarification and consistency with other water district requirements, MSWD will be required to prepare a manual for O&M staff to protect burrowing owls that inhabit levees, berms, dikes, or similar features; to satisfy this condition, MSWD may use a similar manual which has been prepared by other agencies and adapt it for their own use. This requirement will be added to Section 4.4, Burrowing Owl, of the Major Amendment to the Plan (see Errata to Plan).

Habitat for peninsular bighorn sheep does not occur within lands owned by MSWD and therefore MSWD will not be conducting O&M activities within peninsular bighorn sheep habitat.

Avoidance, minimization, and mitigation measures also apply to O&M activities associated with Covered Riparian Bird Species (CVMSHCP Major Amendment, Section 4.4, pages 4-169 to 4-170). As stated in the Major Amendment to the Plan (page 4-170), “Covered Activities, including O&M of facilities and construction of permitted new projects, in riparian Habitat will be conducted to the maximum extent Feasible outside of the March 15–September 15 nesting season for least Bell’s vireo, and the May 1–September 15 nesting season for southwestern willow flycatcher, summer tanager, yellow warbler, and yellow-breasted chat. If Covered Activities must occur during the nesting season, surveys shall be conducted to determine if any active nests are present. If active nests are identified, the Covered Activity shall not be conducted within 200 feet of an active nest. If surveys conducted during the nesting season document that Covered nesting riparian bird Species are not present, the Covered Activity may proceed.”

Comment IP-2-21

6. All other conservation measures apparently do not apply to O & M activities. The Proposed MA is somewhat confusing, however, because even though O & M activities are not required to comply with the Desert Tortoise measures, there is a large section of text which purports to limit such activities with regard to Desert Tortoise. (Proposed MA, page 4-171) Furthermore, Proposed MA, Page 7-52 indicates that MSWD will develop a future "Plan" regarding minimizing the impacts of its maintenance activities "after" adoption of the Proposed MA. Since most of the avoidance measures exempt maintenance activities from the conservation measures, and to the extent there are not exempted they need only be followed "to the maximum extent feasible", it is unclear exactly what measures will or will not be required to be in the future for MSWD once the Proposed MA is adopted, and whether there will be any future conservation value in MSWD lands.

Response IP-2-21

This comment states that there is an inconsistency in the Major Amendment to the Plan regarding desert tortoise (*Gopherus agassizii*) avoidance, minimization, and mitigation measures for O&M activities. The CVMSHCP Major Amendment (page 4-170) states, "This measure does not apply to single-family residences and any non-commercial accessory uses and structures, including but not limited to second units on an existing legal lot, or to O&M of Covered Activities for Permittee infrastructure facilities." Other areas of the Major Amendment include avoidance, minimization, and mitigation measures for desert tortoise. For example, on page 4-171, the following is stated: "For O&M activities in the Conservation Areas, the Permittees shall ensure that personnel conducting such activities are instructed to be alert for the presence of desert tortoise. If a tortoise is spotted, activities adjacent to the tortoise's location will be halted and the tortoise will be allowed to move away from the activity area. If the tortoise is not moving, it will be relocated by an Acceptable Biologist to nearby suitable Habitat and placed in the shade of a shrub. To the maximum extent Feasible, O&M activities will avoid the period from February 15 and October 31." For clarification and consistency, the following excerpt will be modified per the strikethrough text (see Errata to Plan): "Desert tortoise. This measure does not apply to single-family residences and any non-commercial accessory uses and structures, including but not limited to second units on an existing legal lot."; ~~or to O&M of Covered Activities for Permittee infrastructure facilities."~~

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## Response to Comments

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### Comment IP-2-22

- 7 **The requirements in Chapter 6 also indicate that MSWD has approximately 61 acres that will be conserved, but "only to the extent compatible with the O&M of the facilities". (Proposed MA, page 6-20) This seems contradictory with the fact that all MSWD lands are "level 4" lands, for which no conservation measures are required.**

### Response IP-2-22

This comment refers to conservation of lands owned by MSWD and the compatibility of conservation and O&M activities. As discussed in the Major Amendment to the Plan, Section 6.6.1 (page 6-20), MSWD owns 61 acres in the Conservation Areas, and MSWD shall cooperate with CVCC toward the conservation of those lands. The CVMSHCP Major Amendment outlines seven bulleted points describing how MSWD will cooperate with CVCC to conserve the lands they own. Among the possible conservation actions is: "For future facilities that are Covered Activities in a Conservation Area for which MSWD is the lead agency, MSWD may commit an equivalent dollar value of its lands in the Conservation Areas to permanent conservation in lieu of paying the Local Development Mitigation Fee. CVCC will continue to be responsible for ensuring that the Conservation Area Conservation Objectives are met." Also, the following is a possible conservation action: "If before Year 45 of CVMSHCP implementation, MSWD still owns land in the Conservation Areas that has not been conserved by any of the foregoing methods, MSWD shall cooperate with CVCC in the conservation of these lands through acquisition by CVCC or other means." Some O&M activities may not be compatible with conservation of lands owned by MSWD. Therefore, if O&M activities are not compatible with conservation on a particular portion of the 61 acres of land owned by MSWD, MSWD would be required to pay an equivalent dollar value that would contribute to permanent conservation. Furthermore, by the end of the 45 years of Plan implementation, MSWD would be required to contribute the remainder of the needed 61 acres of lands to conservation.

MSWD lands are listed as Level 4 lands in Section 2.5, Non-Conservation Lands (pages 2-8 to 2-9), of the Major Amendment to the Plan. However, if MSWD is added as a permittee to the Plan, they will be required to conserve lands that they own, as stated in the CVMSHCP Major Amendment, Section 4.2.2.2.1, Conservation of Non-Conserved Permittee Owned Lands in Conservation Areas (page 4-13).



Comment IP-2-23

- 8 **The Joint Project Review Process described in section 6.6.1.1 contemplates that the Permittee evaluate an "application", and since all MSWD construction would not have an applicant, it is not clear how this measure would be applied. (Proposed MA, page 6-22 to 6-23) Furthermore the requirement for using HANS (Habitat Evaluation and Acquisition Negotiation Strategy) as described in 6.6.1.2 appears only for "applicable permittees" and it not clear that MSWD is an applicable permittee or not. (Proposed MA, pages 6-16 and 6-22)**

Response IP-2-23

The commenter is unclear as to the process for Joint Project Review, as described in the Major Amendment to the Plan, Section 6.6.1.1. As a Permittee to the Plan as well as the project applicant, MSWD would be required to submit an application to conduct Covered Activities within the Conservation Area to CVCC. As described in Section 6.6.1.1, CVCC oversees compliance with the requirements of the CVMSHCP and the Implementing Agreement for all projects under the Local Permittees' jurisdiction in a Conservation Area. CVCC facilitates and monitors implementation of the CVMSHCP and provides assistance to Permittees in meeting the Conservation Goals and Objectives and implementing the Required Measures of the Plan. An application is described in Step 1 of the review process (page 6-23), "a project application or a request for a pre-application review shall include, at a minimum, a project description; a map in either electronic format compatible with CVCC's GIS or a map on a USGS 7.5 minute topographic map, indicating the location of the proposed project, including section, township, and range; and Assessor's Parcel Number(s)." Step 2 of the JPR process discusses additional information provided by the CVCC to the Permittees and project applicants, including "an analysis of how the proposed project would impact the Conservation Area Conservation Objectives and Required Measures delineated in Section 4.3 for each Conservation Area and in Section 9 for each proposed Covered Species' Goals and Objectives, and how the project would affect the maintenance of Rough Step in the affected Conservation Area."

The commenter is unclear as to the process for the Habitat Evaluation and Acquisition Negotiation Strategy (HANS) as described in the Major Amendment to the Plan, Section 6.6.1.2. The HANS process applies only to Permittees within the Santa Rosa and San Jacinto Mountains Conservation Area. As stated in Section 6.6.1.2, "A map of the area where the HANS Process will be used is shown in Section 4.3.21." Section 4.3.21 discusses the Santa Rosa and San Jacinto Mountains Conservation Area, which is depicted in Figure 4-26a. The following is an excerpt from Section 4.3.21 of the location description of this Conservation Area (page 4-147): "The Santa Rosa and San Jacinto Mountains Conservation Area encompasses virtually all of the desert slopes of the Santa Rosa and San Jacinto Mountains below the upper elevation limit of Peninsular bighorn sheep Habitat, as well as much of the higher elevation areas of the Santa Rosa Mountains where there is known and potential Habitat for the gray vireo." Therefore,

## Response to Comments

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because MSWD does not own land within the Santa Rosa and San Jacinto Mountains Conservation Area, MSWD would not be subject to the requirements of the HANS process.

### Comment IP-2-24

- 9 **For lands both inside and outside of conservation areas, MSWD can either pay the Local Development Mitigation Fee, or dedicate the equivalent value in land. However, to the extent that MSWD owns lands that are inside the conservation areas, the Coachella Valley Conservation Commission ("CVCC"), and not MSWD, is responsible for ensuring that the Conservation Area Conservation Objectives are met, although MSWD agrees to cooperate with CVCC to ensure its facilities are consistent with the conservation goals and objectives, required measures, avoidance and minimization measures, and land use agency guidelines, "as applicable". (Proposed MA, page 6-20) It therefore appears that adding MSWD as a Permittee creates an additional burden for CVCC, rather than for MSWD. MSWD is only required to "cooperate ... as applicable". The use of the words "as applicable" in this context add unnecessary ambiguity to MSWD requirements.**

### Response IP-2-24

This comment refers to a concern that the responsibilities for ensuring that the Conservation Area Conservation Objectives are met rest upon CVCC rather than MSWD. Implementation and coordination of the Plan is the role and obligation of CVCC. CVCC was formed for the purpose of overseeing the implementation of the Plan. As described in Section 6.1.1 of the Major Amendment to the Plan (page 6-1), "Implementation of the MSHCP will be overseen and administered by the Coachella Valley Conservation Commission (CVCC), a joint powers authority formed by the Local Permittees pursuant to the requirements of the California Government Code and other appropriate legal authorities." As described in the Implementing Agreement (Section 11.2.2, page 24), "As set forth in Section 6.1 of the MSHCP, implementation of the MSHCP will be overseen and administered by the CVCC, a joint regional authority formed by the County, the Cities, CVWD, and IID, and MSWD." The addition of MSWD would not create an added burden because the CVCC represents a coordinated effort among the Permittees, including a representative of MSWD.

This comment also refers to a concern of ambiguous language (the phrase "as applicable") regarding MSWD requirements to cooperate with conservation of the 61 acres of lands they own (page 6-20, Section 6.6.1). This concern is referencing the following bulleted conservation requirement for MSWD (last bullet, page 6-20): "It is understood that some portion of MSWD's 61 acres will be needed for future facilities including permanent operational sites. These future facilities will require limited area; MSWD agrees to cooperate with CVCC to ensure that these facilities are consistent with the CVMSHCP conservation goals and objectives, required measures, avoidance and minimization measures, and land use adjacency guidelines as applicable." The use of the phrase "as

applicable” is meant to express that not all required measures, avoidance and minimization measures, and land use adjacency guidelines will apply in the same manner or fashion for all portions of the 61 acres owned by MSWD. The habitat, Covered Species, and project conditions will likely vary among the properties and as such would require a site-specific evaluation of the measures that would be appropriate or applicable for the given situation and project impact. The use of the phrase “as applicable” does not imply or state that MSWD may apply conservation measures only if they choose to do so. As part of the process to become a Permittee, MSWD will have to adopt a resolution that requires adherence to all CVMSHCP requirements.

Comment IP-2-25

**In conclusion, the SEIR/SEIS's statements with regard to MSWD's commitments to conserve its land for conservation are not supported by the Proposed MA text.**

Response IP-2-25

This comment refers to a concern that the SEIR/SEIS statements regarding MSWD commitments to conserve their lands are not supported by the text in the Major Amendment to the Plan. Responses IP-2-13 through IP-2-24 address concerns raised by this commenter and provide clarifications regarding MSWD conservation commitments. Please refer to the Final SEIR/SEIS, and Errata to the Plan, for changes made to the texts for consistency between these documents.

Comment IP-2-26

**Regardless of whether MSWD contributes any additional land to the Conservation Areas, the Proposed Proposed MA would add provisions to the CVMSHCP requiring MSWD to make contributions of money. The total contribution is \$350,000, and is for the following activities:**

- \$110,000** to Endowment Fund for Monitoring on MSWD lands in the conservation areas, including lands transferred to CVCC.
- \$120,000** to support monitoring and analysis of groundwater levels
- \$100,000** to remove non-native tamarisk on 30 acres at Will Hole Conservation Area
- \$ 20,000** to contribute to the mesquite restoration feasibility study (Pages 6-20 to 6-22)

**The removal of tamarisk at the Will Hole Conservation Area is one of the other measures were already in the CVMSHCP, and MSWD is merely contributing funds to them which perhaps reduced the financial burdens of other permittees. Contrast this with the financial obligation of CVWD to pay \$4,108,400 and of IID to pay \$535,000. (Proposed MA, pages 6-18 to 6-19)**

## Response to Comments

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### Response IP-2-26

This comment provides a summary of MSWD's monetary contribution requirements and expresses concern that MSWD's monetary contribution requirement is small relative to other water districts. The comment also expresses concern that the monetary contribution will fund only one additional new measure relative to measures already in place. The financial obligations of CVWD, IID, and MSWD are based on a determination that is weighted to incorporate the acres of land owned in the Conservation Area. MSWD owns fewer acres compared to CVWD and IID; therefore, MSWD's financial obligation is relatively lower (CVWD owns 7,000 acres, IID owns 900 acres, and MSWD owns 61 acres). Additionally, it should be noted that CVWD's financial obligations are as high as they are because they have additional conservation requirements resulting from projects approved pre-CVMSHCP that were included within the CVMSHCP. Including the conservation from projects approved prior to the CVMSHCP provided a more holistic conservation approach. Also, IID is covered under the CVMSHCP for electrical facilities, not water facilities, which generally have less ground disturbance impact than water projects.

The funds contributed by MSWD would not reduce the financial burden of the other Permittees, as each Permittee is required to comply with the conditions and obligations specific to the lands they own and their Covered Activities (see Section 6.6.1, Obligations of the Local Permittees, of the Major Amendment to the Plan). Furthermore, the additional funds contributed by MSWD are to offset the cost of managing and monitoring the additional land area resulting from the inclusion of MSWD as a Permittee. Also, the obligations of each Permittee are similar in that each contributes to the Endowment Fund and "all other terms and conditions of the MSHCP and IA [Implementing Agreement] (See Section 13.0 of the IA)" (see Section 6.6.1 of the Major Amendment to the Plan, pages 6-15 to 6-17). Each Permittee then has individual obligations that are specific and relevant to the needs of the lands they own within the Conservation Area. Because the conditions are specific to the location of the properties (e.g., CVWD will establish 66 acres of permanent habitat for California black rail (*Laterallus jamaicensis coturniculus*) and Yuma clapper rail (*Rallus longirostris yumanensis*) in the Coachella Valley Stormwater Channel and Delta Conservation Area, and CVWD will establish at least 25 acres of managed replacement habitat for desert pupfish). Similarly, MSWD obligations are based on the impacts of their Covered Activities. The removal of non-native tamarisk (*Tamarix* sp.) within the Willow Hole Conservation Area with funds provided by MSWD is a measure that was identified during the development of the Major Amendment in consultation with MSWD, CVCC, USFWS, and CDFW, as an effective way to increase the water available to mesquite. Additionally, the \$120,000 contribution to support monitoring and analysis of groundwater levels will be applied to the land area owned by MSWD and therefore would be considered an additional measure (i.e., funds contributed by other Permittees are applied to their lands). Finally, the similar funding

requirements of all Permittees reflect the need for ongoing monitoring and management activities on all lands within the Plan Area and therefore the burden is distributed among the Permittees.

Comment IP-2-27

**B. MSWD's obligation to provide data is inadequate.**

**In addition to the contributions of money, MSWD is also required to contribute some data and photographs regarding water levels. Section 5.1.8 lists the MSWD responsibilities, which include providing data "as available" on water levels, water samples, and historical photographs. Technical expertise will be provided "as appropriate". Although MSWD will provide "relevant data", apparently there are no facilities near the mesquite dunes, meaning that MSWD may claim that it has no "relevant data". (Proposed MA, page 5-8) MSWD has no duty to help compile or interpret the data, and is not required to prove, before undertaking any new activities, that its activities will not lower the groundwater north of the fault dunes. Rather the responsibility for compiling the data and conducting the studies belongs to CVCC, which must wait until activities conducted by MSWD have already caused an impact.**

Response IP-2-27

This comment refers to concerns of inadequate language to describe MSWD's data contributions for monitoring and management. The commenter is correct in stating that Section 5.1.8 lists MSWD responsibilities. Because the existing text already provides qualifier language where it is needed and to provide clarification regarding what MSWD is responsible for, the following excerpt (Section 5.1.8, first bullet, page 5-8) will be modified per the underlined and strikethrough text (see Errata to Plan):

"With regard to the CVMSHCP requirements to maintain the mesquite hummock Natural Community, MSWD agrees to provide as it becomes available. ~~as available~~: 1) data on water levels in the Willow Hole Conservation Area, the "fault dunes" and associated mesquite hummocks east and west of Palm Drive; 2) water samples for a study of stable isotopes in mesquite tissue for use by the CVCC Monitoring Program team; 3) historical photographs or aerial imagery of the mesquite hummock areas in the Willow Hole Conservation Area that would help document changes from current conditions; 4) technical expertise of MSWD staff, or consultants as appropriate, in coordination with the CVCC Monitoring Team. MSWD is willing to provide any and all relevant data they have available to CVCC; however, MSWD does not have facilities which will provide needed data near the mesquite hummocks habitat. Additional facilities, including monitoring wells, will be required to collect data on groundwater levels near the hummocks habitat. CVCC will be responsible for coordinating the addition of these facilities, which is the role CVCC performs on behalf of all Permittees, as implementer of the Monitoring and Management program. CVCC will establish a schedule for collection of data with MSWD to obtain the necessary information within six months after the completion of the Major Amendment. MSWD will provide funds to be used for water monitoring wells or other means of

## Response to Comments

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gathering data on groundwater levels related to mesquite hummocks. The determination of how to best accomplish this monitoring, including placement of wells will be made in coordination with the CVCC staff, CVCC monitoring team, Wildlife Agencies, relevant Reserve Management committees, other relevant Permittees, and MSWD staff. These data and support from MSWD will enhance understanding of the hydrological regimes that support mesquite hummocks in the CVMSHCP area and provide baseline data for the ongoing monitoring of mesquite hummocks. ~~The District~~ MSWD will provide funds to support monitoring and analysis of groundwater levels in the amount of \$120,000.”

The commenter is correct in that there are no facilities near the mesquite hummock habitat. The MSWD requirement goes on to state, “Additional facilities will be required to collect data on groundwater levels near the hummocks habitat.” To provide clarification that CVCC will be responsible for the addition of these facilities and that CVCC will collect data from MSWD, the text has been modified as stated above.

The requirement on page 5-8 to provide “4) technical expertise of MSWD staff, or consultants as appropriate, in coordination with the CVCC Monitoring Team” is qualified by the term “as appropriate.” The “as appropriate” term applies to the “or consultants” clause. Some of the necessary technical expertise would be provided by MSWD staff, but expertise may be more appropriately provided by consultants; therefore, the intent of the phrase “as appropriate” is to specify that MSWD will provide technical expertise from staff or consultants depending on the situation or specific question.

The commenter is concerned that MSWD has no duty to help compile or interpret data. As stated in the Major Amendment to the Plan, Section 5.1.8, MSWD Responsibilities (page 5-9), “MSWD will contribute to and participate in this research for the mesquite hummock areas within their district boundary.” Therefore, the Major Amendment to the Plan already stipulates that MSWD will coordinate with and assist CVCC as needed for the mesquite hummocks and groundwater research effort. However, to provide clarification, the following excerpt (Section 5.1.8, second bullet, page 5-9) will be modified per the underlined text (see Errata to Plan): “CVCC is responsible for evaluating the relationship between mesquite hummocks and groundwater through the Monitoring Program. MSWD will contribute to and participate in this research for the mesquite hummock areas within their district boundary. The objectives of this research will include, (1) to monitor the plant characteristics and hydrologic conditions of mesquite hummocks in the Coachella Valley; (2) to determine the source(s) of water utilized by the mesquite; and (3) to relate vegetation health and reproduction to varying hydrologic conditions in the Coachella Valley. The study will involve compiling existing vegetation and hydrologic data as GIS layers, coordination with MSWD on ground-water level data they collect from existing wells, and monitoring plant characteristics and hydrologic conditions at the sites including Willow Hole. MSWD will work with CVCC to collect, compile, analyze and interpret data, in accordance with appropriate MSWD staff technical expertise. The water-level trends

from these sites can be compared to precipitation and pumping trends to help determine the natural and/or human-induced impacts on the groundwater system. The GIS will be updated on an annual basis with the data collected by other agencies during this study. These data will be used in conjunction with the hydrologic data to determine if there is a correlation between the health of the mesquite and the hydrologic properties at the site (depth to water and soil moisture). Persistence of the mesquite trees will be monitored to determine if there is a relationship between water-table depth, soil moisture, and reproduction.”

Finally, the commenter is concerned that activities conducted by MSWD will cause impacts to habitat before data are compiled and information from studies gathered and interpreted. Please refer to Responses IP-2-7, IP-2-8, and IP-2-9, which address these concerns.

Comment IP-2-28

**If the study conducted by CVCC “demonstrates the decline of mesquite hammock areas in the Willow Hole Conservation Area”, which according to the SEIR/SEIS such decline has already been observed, then MSWD “will work with CVCC...to identify and implement a Plan to enhance, restore, and maintain the mesquite hammocks natural community as part of their CVMSHCP implementation activities”<sup>3</sup>. According to the SEIR/SEIS, the hydrologic regime is “complex and not well understood” which means that there is no assurance that a future Plan will identify measures to “mitigate the effects” since at this point it cannot be said with certainty that any feasible measure exist. (SEIR/SEIS, page 4-1-14 and Proposed MA, page 9-236) In any event, even if such measures can be identified, MSWD commits to participate in additional measures only “to the extent that measures are reasonable, feasible and within the resources of MSWD.” (Proposed MA, pages 5-8 to 5-9). Whether there are, in fact, feasible measures is the subject of a study which is “in progress” but was “delayed”. (2012 CVCC Year End Report, Page 29) Given that the decline has already occurred, the Proposed MA should provide for specific conservation measures to prohibit activities that may cause further declines and restore these natural communities rather than allowing MSWD to take actions that will further impair the mesquite hammocks and degrade habitat that covered species rely on.**

Response IP-2-28

This comment reiterates a concern expressed in the letter under comment 1C and addressed in Responses IP-2-4, IP-2-6, IP-2-7, and IP-2-9.

## Response to Comments

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### Comment IP-2-29

**For example, Section 6.5.3.4 of the Proposed MA does not identify any restoration or enhancement measures for MSWD, if additional lowering of the groundwater table and damage to mesquite hummocks is identified. In addition, Chapter 8 allegedly discusses the "Restoration by MSWD", which is, in fact, merely the contribution of money by MSWD. (Proposed MA, Pages 8-51 to 8-52) Contrast this with the preservation and restoration requirements for CVWD, another water agency Permittee, "CVWD will remove tamarisk...CVWD will restore and enhance mesquite" (Proposed MA, Page 4-117) In comparison, the measures for MSWD are overly vague, and do not appear to represent a true commitment on the part of MSWD, other than the obligations to provide money. At a minimum, the Proposed MA should require MSWD to provide the same level of commitment to restore mesquite as CVWD. After all MSWD extracts 58% of the water in the Mission Creek Subbasin, which is in overdraft. (Proposed MA, page 10-44)**

### Response IP-2-29

This comment is concerned with MSWD's level of restoration of mesquite habitat. The commenter's referencing of excerpts from Section 4.0, Section 8.0, and Section 10.0 of the Major Amendment to the Plan regarding MSWD and CVWD restoration obligations is acknowledged. Local Permittees are not responsible for conducting restoration activities themselves; rather, this responsibility rests upon CVCC. As discussed throughout Section 8.0, MSHCP Reserve System Management & Monitoring Program, of the Major Amendment to the Plan, restoration activities are conducted by and/or coordinated with the CVCC Monitoring and Management Program. Permittees that take a more active role in conducting restoration, as is the case with CVWD, do so as part of their individual and specific obligations unique to their lands within the Conservation Area. CVWD's restoration obligations relate to the mitigation requirements for specific projects negotiated with the wildlife agencies prior to the CVMSHCP permit. In addition, the level of restoration of habitat has been calculated based on the proportion of acres of owned lands and the nature of the Covered Activities for each Permittee. Furthermore, it is critical that CVCC receive monetary contributions from Permittees to accomplish the goals of restoration work, as is the obligation of MSWD (page 8-51 to 8-52). The CVCC is responsible for allocating the funds to the appropriate and needed restoration activity (e.g., funds from MSWD for tamarisk removal at the Willow Hole Conservation Area are allocated by CVCC to the entity conducting the on-the-ground tamarisk removal work).



Comment IP-2-30

**The Proposed MA Chapter 5 also states that MSWD confirms that it is preparing a Water Management Plan that is consistent with the MSHCP objectives to "manage the groundwater resource in perpetuity for the benefit of mesquite hummocks and the species that depend on this natural community". (Proposed MA, page 5-9) However, if the CVCC feasibility study is not complete, and if the hydrologic regime is "complex and not well understood" how can MSWD make that confirmation? There is no data to support it. Furthermore, if MSWD believed its future actions under the Water Management Plan would be truly consistent with the objective of the CVMSHCP, then the language "to the extent that measures are reasonable, feasible and within the resources of MSWD" regarding future conservation measures should be deleted from the Proposed MA.**

Response IP-2-30

This comment is concerned with MSWD's commitment and ability to implement mesquite habitat restoration. MSWD is committed to managing groundwater levels within the mesquite habitat in accordance with the information obtained through the Water Management Plan and the mesquite research and restoration plan. As stated in Section 4.1 of the Draft SEIR/SEIS (page 4.1-14), a Water Management Plan has been prepared by MSWD, CVWD, and DWA (Water Management Plan, 2013). As a Local Permittee, MSWD will also contribute \$20,000 to the cost of an ongoing study being conducted by CVCC on the feasibility of mesquite restoration and development of a mesquite restoration plan. The mesquite draft restoration study and restoration plan was completed as of October 31, 2013. These studies are being conducted because the data to adequately manage and protect the mesquite habitat do not currently exist. As stated in the Draft SEIR/SEIS, Section 4.1 (pages 4.1-13 to 4.1-14), "The hydrological regime, including availability of groundwater that supports the mesquite hummocks in this area is complex and not well understood." Once this information is available, it will be used to develop and implement needed restoration activities. Without gathering this baseline information, restoration activities formulated without the information obtained from the Water Management Plan would not be appropriate or effective. Baseline information will assist in evaluating and detecting habitat improvement or declines in health and will be an essential first step in properly recording/tracking and evaluating habitat changes over time. To clarify MSWD's commitment to managing groundwater levels and providing funding to CVCC to help CVCC manage the mesquite habitat, the following change (shown in underline/strikethrough) has been made to Section 4.1.4 of the Final SEIR/SEIS (page 4.1-16) (see Final SEIR/SEIS) and to Section 5.1.8 (page 5-9) of the Major Amendment to the Plan (see Errata to the Plan):

"6. If the study undertaken by the CVCC demonstrates the decline of mesquite hummock areas in the Willow Hole Conservation Area, MSWD will work with CVCC, the Wildlife Agencies, and other relevant Permittees to identify and implement a plan to enhance, restore, and maintain the mesquite hummocks natural community and to address changed circumstances, identified in the

## Response to Comments

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CVMSHCP, that affect this natural community as a part of their CVMSHCP implementation activities. As is required of all Permittees, MSWD commits to participate in additional measures that will result from the CVMSHCP Adaptive Management Plan analysis to the extent that measures are consistent with what is required of other Permittees ~~reasonable, feasible, and within the resources of the District~~. Further, MSWD confirms that the goals of the 2013 Water Management Plan prepared in cooperation with CVWD and Desert Water Agency are consistent with the objectives of the CVMSHCP to manage the groundwater resource in perpetuity for the benefit of mesquite hummocks and the species that depend on this natural community.”

### Comment IP-2-31

The Proposed Implementing Agreement has been modified to add a new section regarding MSWD Obligations (Section 13.13). The obligations for MSWD as set forth in the Implementing Agreement are limited and overly vague, but are essentially as follows:

- o compliance with measures in Section 4;
- o compliance with land use agency guidelines in Section 4.5;
- o compliance with avoidance, minimization and mitigation measure in section 4.4;
- o ensure implementation consistent with Goals and Objectives in Section 9; and
- o permanently protect and manage land legally controlled by the entity unless conveyed to the CVCC
- o Cooperate with CVCC toward a conservation of a portion of the 61 acres MSWD owns in the Conservation Area
- o Contribute money (\$350,000)
- o Participate as a member per 6.6.1.
- o Participate in the Joint Project Review Process described in Section 6.61.1. for its projects
- o Additional non-monetary contributions as set forth in the MSHCP.
- o All other “applicable” requirements, but nothing beyond the requirements of the MSHCP.

### **(Proposed Implementing Agreement, Pages 41-42)**

The words “if any” in subparagraph “A” add ambiguity to the Proposed Implementing Agreement. Does it mean that there may be no requirements for covered activities of MSWD in the various sections cited? If there are no requirements in those various sections, then why cite to them? Simply citing to entire chapters of the Proposed MA is overly vague and lacks the specificity to be enforceable as a contract, which is an essential function of the Implementing Agreement.

Response IP-2-31

This comment refers to concerns of inadequate language to describe MSWD's conservation commitments used in the Major Amendment to the Plan Implementing Agreement. The language contained in the Implementing Agreement for MSWD, Section 13.13, subparagraph A, is similar to language used for one other Permittee (Coachella Valley Mountains Conservancy, Section 13.12). However, MSWD does have specific Covered Activities that are presented in the Draft SEIR/SEIS, Section 2.4, Table 2-2 (page 2-8), and specific obligations for avoidance, minimization, and mitigation measures, as described in the Draft SEIR/SEIS, Section 4.1.4 (pages 4.1-13 to 4.1-17), and the Major Amendment to the Plan, Section 5.1.8 (pages 5-8 to 5-9). Therefore, the following excerpt (Major Amendment to the Plan, Volume 2, Implementing Agreement, Section 13.13, subparagraph A, page 41) will be modified per the strikethrough text to provide clarification of MSWD's conservation requirements:

“13.13 MSWD Obligations. MSWD has the following obligations under the MSHCP and this Agreement:

A. Implement the necessary requirements to fulfill the purposes of the Permits, the MSHCP and this Agreement for its Covered Activities, ~~if any~~. Such requirements include: 1) compliance with relevant processes and measures to ensure application of the Conservation Area requirements set forth in Section 4 of the MSHCP; 2) compliance with the applicable Land Use Adjacency Guidelines as set forth in Section 4.5 of the MSHCP; 3) compliance with the Avoidance, Minimization and Mitigation Measures in Section 4.4 of the MSHCP; 4) ensure implementation consistent with the Species Conservation Goals and Objectives in Section 9 of the MSHCP; and 5) permanently protect and manage Mitigation Land within the reserve system legally owned and/or controlled by the entity unless conveyed to the CVCC.”

The commenter also expresses concern that the Implementing Agreement cites entire chapters of the Major Amendment to the Plan rather than providing more specific citations. Referencing entire sections or chapters of the Major Amendment to the Plan in the Implementing Agreement for MSWD is consistent with the language used for other Permittees, which was previously approved in the Final Recirculated CVMSHCP (September 2007).

Comment IP-2-32

**~~In addition, the text indicates that MSWD has "additional non-monetary contributions" but fails to cite to the location within the Proposed MA where the contributions are required.~~**

## Response to Comments

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### Response IP-2-32

This comment notes that the Implementing Agreement does not specifically cite the location in the Major Amendment to the Plan of MSWD's non-monetary contributions. To provide clarification of MSWD's non-monetary contribution requirements in the Implementing Agreement, the following excerpt (Major Amendment to the Plan, Volume 2, Implementing Agreement, Section 13.13, subparagraph D, page 42) will be modified per the underlined text (see Errata to the Plan):

“D. Additional non-monetary contributions as set forth in Section 5.1.8 MSWD Responsibilities (page 5-8 to 5-9) and Section 6.6.1 Obligations of the Local Permittees, page 6-20 and Section 6.6.1 under subheading Additional MSWD Contributions, numbered items 2, 5, and 6 (page 6-21 to 6-22) of the MSHCP.”

### Comment IP-2-33

**Finally, according to subparagraph G, the requirements must be clearly spelled out in the CVMSHCP documents in order to be binding. Therefore, as indicated above in the preceding sections, the language of the Proposed MA should be revised to more clearly define the commitments of MSWD.**

### Response IP-2-33

This comment states that the MSWD requirements in Section 13.13, subparagraph G, of the Implementing Agreement must be clearly described in the Major Amendment to the Plan for them to be binding. Where needed and appropriate, changes have been made to the Major Amendment to the Plan that provide clarifications regarding the commitments of MSWD (see Errata to the Plan).

### Comment IP-2-34

**In conclusion, the Proposed Major Amendment does not adequately address conservation of mesquite hummock communities or habitat for the species that utilize and depend on this rare and declining natural community in the region. The Proposed Major Amendment provides an opportunity to include additional conservation measures to address the threats to mesquite hummocks that are a direct result of covered activities of both Desert Hot Springs and Mission Springs Water District. In**

### Response IP-2-34

This comment summarizes the concerns expressed throughout the comment letter regarding conservation measures for mesquite hummock communities and the species dependent upon this

habitat type. The commenter notes that the Major Amendment to the Plan provides an opportunity to include additional conservation measures for mesquite hummock habitat related to Covered Activities conducted by DHS and MSWD. The following responses have addressed concerns for mesquite habitat raised by this commenter and provide clarifications regarding MSWD and DHS conservation commitments: IP-2-3, IP-2-4, IP-2-5, IP-2-6, IP-2-7, IP-2-8, IP-2-9, IP-2-11, IP-2-12, IP-2-18, IP-2-26, IP-2-27, IP-2-28, IP-2-29, and IP-2-30. Where needed and appropriate, changes were made to the Draft SEIR/SEIS and the Major Amendment to the Plan as outlined in the Final SEIR/SEIS, and Errata to the Plan.

In response to the concerns raised by the commenter, the conservation commitments for DHS and MSWD as potential Local Permittees have been strengthened and, where necessary, clarified. Through the Major Amendment, additional conservation and management measures will be implemented to ensure the long-term persistence of the Covered Species and natural communities, including mesquite hummocks. By the inclusion of DHS and MSWD as Local Permittees, these agencies will be responsible to assist the CVCC to achieve the goals and objectives of the CVMSHCP. Conservation and management of the mesquite hummocks will be enhanced by the obligations of MSWD, including providing monitoring wells that are not currently available to monitor and evaluate the status of groundwater in the immediate vicinity of the mesquite and funding the restoration of mesquite hummock habitat through removal of tamarisk. MSWD has also agreed with a provision to limit the installation of new wells within the fault zone associated with mesquite hummock Natural Communities, in the area east of Little Morongo Road and south of 18<sup>th</sup> Avenue, until the development and implementation of a mesquite restoration plan (described in Section 4.1, page 4.1-15) is completed.

Without the Major Amendment to include DHS and MSWD as Local Permittees, these agencies would have no obligation to protect the Covered Species and natural communities. As partners under the CVMSHCP, both DHS and MSWD will contribute to the successful implementation of the conservation goals and objectives. The completion of the Water Management Plan, which describes a strategy to stabilize the groundwater in the Mission Creek subbasin, provides an opportunity for collaboration through the CVMSHCP to ensure the persistence of mesquite hummocks.

Comment IP-2-35

**covered activities of both Desert Hot Springs and Mission Springs Water District. In addition, we believe that the language of the Proposed MA and Implementing Agreement is ambiguous and vague and needs to be clarified. Accordingly, the Center**

## Response to Comments

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### Response IP-2-35

This comment states that ambiguous and vague language in the Major Amendment to the Plan and the Implementing Agreement needs to be clarified. Concerns regarding the CVMSHCP Implementing Agreement have been addressed in Responses IP-2-31, IP-2-32, and IP-2-33. In addition, where needed and appropriate, changes were made to clarify the Major Amendment to the Plan as outlined in Errata to the Plan.

### Comment IP2-36

**Agreement is ambiguous and vague and needs to be clarified. Accordingly, the Center and Sierra Club request that the concerns raised above be addressed and that the Proposed Major Amendment and its SEIR/SEIS be revised prior to final consideration of the SEIR/SEIS and Proposed Major Amendment.**

### Response IP-2-36

This comment requests that the concerns expressed throughout the comment letter be addressed and the Major Amendment to the Plan and the Draft SEIR/SEIS be revised. The responses discussed in this document have addressed the concerns raised in this comment letter and where needed and appropriate, changes were made to the Draft SEIR/SEIS and the Major Amendment to the Plan as outlined in the Final SEIR/SEIS, and Errata to the Plan.

## Public Comments and Responses

### Comment Letter P-1

#### Comment P-1-1

**It was nice talking with you today about the future prospects of the above two parcels in the city of Desert Hot Springs.**

**As you are aware, these two parcels are jointly owned by the Khan Family Trust, 6149 Amberwood Drive, Alta Loma, CA 91701 and myself (Dr. Mohammed A. Athar) and my wife (Mrs. Ansa B. Athar), 6297 Surrey Ridge Road, Lisle, IL 60532.**

**In our phone conversation, you mentioned that no active plans for acquisition of this property by CVCC at the moment and that CVCC is attempting to make the City of Desert Hot Spring a party to the deal.**

#### Response P-1-1

Comment acknowledged. The two parcels discussed in the letter are located in DHS and the comment does not address the adequacy of the SEIR/SEIS analysis. No response is necessary.

#### Comment P-1-2

**I am requesting you to keep the Khan Family Trust and me and my wife informed of all future developments and any plans regarding the acquisition.**

#### Response P-1-2

CVCC maintains a website that provides information available to the public and other interested parties on the CVMSHCP developments and on the monitoring program, including documents, maps, annual reports, fees, and notices, at [www.cvmshcp.org](http://www.cvmshcp.org). In addition, the CVMSHCP website provides information on individual properties through the CVMSHCP Plan Parcel Report ([http://www.cvmshcp.org/parcel\\_lookup.php](http://www.cvmshcp.org/parcel_lookup.php)). Property owners may use the Parcel Report to look up specific parcels by entering the Assessor's Parcel Number (APN) to find the parcel's CVMSHCP Report. According to the Parcel Report, APNs 664-120-002 and 664-130-012 are located within the Upper Mission Creek/Big Morongo Canyon Conservation Area. These parcels are subject to the Morongo Wash Special Provisions Area. Information on new property acquisitions within the Plan Area can be found in the annual reports (available online at <http://www.cvmshcp.org/index.htm>). For more information, the public and other interested parties can contact the Coachella Valley Association of Governments by calling 760.346.1127.

**APPENDIX A**  
*Comment Letters*



**EXHIBIT - C**

## CVAG ATTACHMENT 1

### RESOLUTION NO. 07-009

#### CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE COACHELLA VALLEY MULTIPLE SPECIES HABITAT CONSERVATION PLAN AND APPROVING THE COACHELLA VALLEY MULTIPLE SPECIES HABITAT CONSERVATION PLAN / NATURAL COMMUNITY CONSERVATION PLAN, AND IMPLEMENTING AGREEMENT.

**WHEREAS**, the Coachella Valley Association of Governments (“CVAG”) has prepared, in cooperation and coordination with the California Department of Fish and Game (“CDFG”), United States Fish and Wildlife Service (“USFWS”), the Cities of Cathedral City, Coachella, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs and Rancho Mirage, the County of Riverside, Riverside County Flood Control, Riverside County Parks, Riverside County Waste Resources Management District, the Imperial Irrigation District (“IID”), the Coachella Valley Water District (“CVWD”), California Department of Transportation, California Department of Parks and Recreation, the Coachella Valley Mountains Conservancy, and other governmental agencies, property owners, development interests, environmental interest groups and other members of the public, a comprehensive Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan for the Coachella Valley in Riverside County (“MSHCP or Plan”); and

**WHEREAS**, the Coachella Valley MSHCP is a regional, comprehensive, multi-jurisdictional Habitat Conservation Plan focusing on Conservation of Federal and State-Listed Species, other rare and sensitive species, and their Habitats, while maintaining opportunities for recreation and a strong and sustainable environment for economic Development in the region; and

**WHEREAS**, the MSHCP boundary (“MSHCP Plan Area”) encompasses approximately 1,776 square miles, consisting of approximately 1.1 million acres, extending eastward from the Western Riverside County Multiple Species Habitat Conservation Plan boundary line in Cabazon where it is bounded by the range line common to Range 1 East and Range 2 East, bounded by the San Bernardino County line and the Little San Bernardino Mountains on the north and northeast; the ridgeline of the San Jacinto and Santa Rosa Mountains on the west and southwest; the boundary line with San Diego and Imperial Counties to the south; and bounded by the Chocolate Mountains Aerial Gunnery Range and the range line common to Range 13 East and Range 14 East on the east; and containing the cities of: Cathedral City, Coachella, Desert Hot Springs (which is not a Permittee), Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs, and Rancho Mirage, as well as portions of unincorporated Riverside County; and

**WHEREAS**, the MSHCP establishes a framework for compliance with State and Federal Endangered Species regulations while accommodating future growth in the MSHCP Plan Area, including issuance of “Take” Permits for certain species pursuant to Section 10(a)(1)(B) of the Federal Endangered Species Act (“ESA”) and Section 2800, et seq. of the California Fish and

Game Code (otherwise known as the "Natural Community Conservation Planning Act" or "NCCP Act of 2002"); and

**WHEREAS**, CVAG is the lead agency pursuant to the California Environmental Quality Act ("CEQA") (Public Res. Code, § 21000 et seq.) and the State CEQA Guidelines (14 CCR § 15000 et seq.), and the USFWS is the Federal lead agency under the National Environmental Policy Act ("NEPA") (40 C.F.R. 1508.16, 1508.17) (CVAG and USFWS will collectively be referred to hereinafter as "Lead Agencies"); and

**WHEREAS**, a joint Environmental Impact Report/Statement ("EIR/EIS") was previously prepared pursuant to CEQA and NEPA which provides a comprehensive assessment of the potential environmental impacts that could result from the adoption and implementation of the proposed MSHCP, and provides the appropriate decision-makers with the required information upon which to base a decision to adopt the MSHCP; and

**WHEREAS**, CVAG filed a Notice of Preparation ("NOP") of a Draft EIR/EIS with the State Clearinghouse on June 19, 2000. The NOP was also distributed to each responsible and trustee agency (and any federal agency involved in approving or funding the project) pursuant to State CEQA Guidelines Sections 15082(a) and 15373, and was circulated for a period of 30 days, pursuant to State CEQA Guidelines Sections 15082(b) and 15103; and

**WHEREAS**, pursuant to State CEQA Guidelines Section 15082, the Lead Agencies solicited comments from potential responsible agencies, including details about the scope and content of the environmental information related to the responsible agency's area of statutory responsibility, as well as the significant environmental issues, reasonable alternatives and mitigation measures that the responsible agency would need to have analyzed in the Draft EIR/EIS; and

**WHEREAS**, approximately 29 written comments were received by the Lead Agencies in response to the NOP; and

**WHEREAS**, the City of Desert Hot Springs elected to withdraw its Incidental Take Permit application and to be excluded from the MSHCP; and

**WHEREAS**, the revision of the Plan to remove the City of Desert of Hot Springs caused the Lead Agencies to prepare a Draft Recirculated MSHCP and a Draft Recirculated Environmental Impact Report/Supplemental Final Environmental Impact Statement (the "Draft Recirculated EIR/EIS"); and

**WHEREAS**, pursuant to State CEQA Guidelines Sections 15085 and 15372, the Draft Recirculated EIR/EIS was completed and released for public review, and a Notice of Completion ("NOC") was filed at the State Clearinghouse on or about March 26, 2007, and a Notice of Availability ("NOA") was filed with the Riverside County Clerk on or about March 27, 2007 with a request for a 30-day posting, and a copy of the NOA was published in the *Desert Sun* on or about March 24, 2007. The NOC and NOA provided a summary of the Plan and a deadline for submittal of comments, and contact information for obtaining or reviewing the Plan and the Draft Recirculated EIR/EIS; and

**WHEREAS**, CVAG, the lead agency under CEQA, released the Draft Recirculated EIR component of the Draft Recirculated EIR/EIS for public review and comment on March 26, 2007, which review period ended May 9, 2007; and

**WHEREAS**, the USFWS, the Federal lead agency, released the Draft Supplemental EIS component of the Draft Recirculated EIR/EIS for public review and comment on March 30, 2007, which review period ended May 29, 2007; and

**WHEREAS**, in March 2007, CVAG sent a letter to each property owner of record ("Property Owner Letter") within the Conservation Areas of the Plan notifying them that the Draft MSHCP, Implementing Agreement ("IA"), and Draft Recirculated EIR/EIS were available for review. As a result of the issuance of the Property Owner Letter, CVAG has responded to 200 telephone calls; and

**WHEREAS**, during the official public review period for the Draft Recirculated EIR/EIS, the Lead Agencies received 67 written comments on the Draft Recirculated EIR/EIS, including two after the close of the official review period; and

**WHEREAS**, pursuant to California Public Resources Code Section 21092.5, CVAG provided written responses to comments from all commenting agencies; and

**WHEREAS**, the Lead Agencies prepared the Final Recirculated EIR/EIS and, pursuant to Public Resources Code Section 21092.5, CVAG provided copies of the Final Recirculated EIR/EIS to all commenting agencies; and

**WHEREAS**, notice of a public hearing to be held on September 10, 2007, was published in the *Desert Sun*; and

**WHEREAS**, postcards to all landowners in the Conservation Areas notifying them of the September 10, 2007 public hearing and informing them that they may make a public comment of up to three minutes were mailed on August 31, 2007; and

**WHEREAS**, CVAG, at a public meeting on September 10, 2007, reviewed the Final Recirculated EIR/EIS, MSHCP/Natural Communities Conservation Plan ("NCCP"), IA, and other related documents in the record before it; and

**WHEREAS**, prior to taking action, the CVAG Executive Committee has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including the Final Recirculated EIR/EIS, and all oral and written evidence presented to it during all meetings and hearings; and

**WHEREAS**, the Final Recirculated EIR/EIS reflects the independent judgment of the CVAG and is deemed adequate for purposes of making decisions on the merits of the Project; and

**WHEREAS**, no comments made in the public hearings conducted by the Lead Agencies or any additional information submitted have produced substantial new information requiring

recirculation or additional environmental review under State CEQA Guidelines Section 15088.5; and

**WHEREAS**, as contained herein, CVAG has endeavored in good faith to set forth the basis for its decision on the Project; and

**WHEREAS**, all of the findings and conclusions made by CVAG pursuant to this Resolution are based upon the oral and written evidence presented to it as a whole; and

**WHEREAS**, all the procedures of CEQA and the State CEQA Guidelines have been met, and the Final Recirculated EIR/EIS, prepared in connection with the Project, is sufficiently detailed so that all potentially significant effects of the Project on the environment and measures necessary to avoid or substantially lessen such effects have been evaluated in accordance with the above-referenced Act and its Guidelines; and

**WHEREAS**, all other legal prerequisites to the adoption of this Resolution have occurred, now, therefore,

**BE IT RESOLVED, FOUND, DETERMINED, AND ORDERED** by the CVAG Executive Committee on September 10, 2007, that:

- A. Certain plant and animal species and Habitat exist, or may exist, within the MSHCP Plan Area, which are: 1) state or federally listed as threatened or endangered; 2) proposed for listing as threatened or endangered; or 3) identified as a CDFG Species of Special Concern, a California Fully Protected Species, a California Specially Protected Species, a sensitive plant species as determined by the California Native Plant Society, or other unlisted wildlife considered to be sensitive.
- B. Future growth and land Development within the MSHCP Plan Area, including both public and private projects, may result in impacts to 27 species ("Covered Species") identified in the Plan and its associated documents, eleven of which are listed under the ESA or the California Endangered Species Act ("CESA"). Thus, Take Authorization is required prior to the carrying out of otherwise lawful activities that may "Take" one or more of these Covered Species.
- C. The MSHCP establishes the conditions under which entities defined under the Plan and its associated documents as "Permittees" will receive certain long-term Take Authorizations and other assurances that will allow the taking of Covered Species incidental to lawful uses authorized by the Permittees; and
- D. The MSHCP provides for the assembly and management of a reserve for the Conservation of natural Habitat and its constituent wildlife populations, and establishes an overall Conservation Strategy for the MSHCP Plan Area that will guarantee the protection of the Covered Species. The Conservation Strategy includes the Conservation of the Covered Species, existing Habitat, the restoration of degraded Habitat, managing a Reserve System, and conducting biological monitoring in perpetuity.

- E. The MSHCP provides for the creation of a Reserve System that will conserve and manage approximately 723,480 acres of Habitat for the 27 Covered Species which includes approximately 557,100 acres of Existing Reserves (as of 2006) and 166,380 acres of Complementary Conservation and Additional Conservation Lands. (MSHCP, Table 4-1.)
- F. The MSHCP will serve as a Habitat Conservation Plan ("HCP") pursuant to Section 10(a)(1)(B) of the ESA, as well as an NCCP pursuant to the NCCP Act of 2002, as amended. The approval of the MSHCP and execution of the IA allows the CDFG and USFWS (collectively, the "Wildlife Agencies") to issue Take Authorizations for Covered Species in the MSHCP Plan Area to the signatories of the IA.
- G. The MSHCP provides Take Authorization for Covered Activities for the Covered Species. The MSHCP is "self-mitigating," meaning that most Project impacts are reduced to below a level of significance as a result of implementation of MSHCP components. Additionally, implementation of the Management and Monitoring Programs outlined in the MSHCP will further reduce all the potential impacts/consequences of the MSHCP.

**BE IT FURTHER RESOLVED** by CVAG that the Final Recirculated EIR/EIS and the evidence in the administrative record before it confirms that implementation of the MSHCP will result in no significant adverse environmental impacts.

A. Aesthetics

The MSHCP will result in the Conservation of approximately 723,480 acres of Habitat and protect an array of scenic resources, thereby having a positive or beneficial impact on aesthetics. (MSHCP, Table 4-1; Final Recirculated EIR/EIS, p. 2-9.) The aesthetic impacts potentially associated with the implementation of the MSHCP are primarily limited to those associated with the construction of new trails and interpretive facilities such as kiosks. (Final Recirculated EIR/EIS 4.9-18.) However, the MSHCP provides guidelines for the planning and Development of new trails and public access facilities which will avoid and minimize impacts. (*Ibid.*) The guidelines prohibit the use of off-road vehicles and motorized access by non-emergency or non-reserve management personnel, and restricts use of mountain bikes in some locations. (*Ibid.*) Based upon these provisions, the MSHCP will not adversely affect new trail and public access facilities, which can be conditioned as needed to effectively mitigate potential impacts to visual resources in these areas. (*Ibid.*) Accordingly, impacts on aesthetics are less than significant.

**Revised Trails Plan.** Impacts to aesthetic resources resulting from implementation of the Revised Trails Plan are limited to those associated with the construction of new trails, especially those within and along the lower elevations of the Santa Rosa and San Jacinto Mountains. (Final Recirculated EIR/EIS, p. 5-85.) However, approval for the construction of new perimeter trails and the

Palm Desert to La Quinta Connector will be deferred pending completion of a focused research program to further evaluate the effects of recreational trail use on PBS. (*Ibid.*)

New trail proposals will be evaluated for alignments that feature aesthetic impacts that are less than significant levels by subjecting the proposed routes to a visual impact analysis. Guidelines will be implemented to avoid and minimize impacts which include initial pre-design and construction assessments to minimize impacts. (Final Recirculated EIR/EIS, pp. 2-47 through 2-50.) The proposed MSHCP guidelines direct future trail alignments to existing dirt roads wherever possible. (Final Recirculated EIR/EIS, p. 2-48.) Trailhead guidelines direct such facilities to areas where they will be compatible with Conservation Goals and Objectives. (Final Recirculated EIR/EIS, p. 2-47.) New trail development within Conservation Areas outside the Santa Rosa and San Jacinto Mountains Conservation Area will be subject to the provisions of NEPA and/or CEQA, and will be required to demonstrate that trail and other facilities development would not have an adverse impact on visual or scenic resources. (Final Recirculated EIR/EIS, pp. 5-22, 5-44.) Therefore, the impact of the Plan is less than significant.

#### B. Agricultural Resources

Approximately 1,120 acres of the 84,900 acres of active agricultural use in the Plan Area will be included in the Conservation Areas. (Final Recirculated EIR/EIS, p. 4.5-2.) Conversion of all of this land from agricultural use to non-agricultural use if it ever occurs could constitute a maximum potential loss of 1.4% of agricultural lands in the Plan Area. (*Ibid.*) All of the 1,120 acres of agricultural land within the Conservation Areas are designated as "Farmland of Local Importance" by the California Department of Conservation. (*Ibid.*) These lands carry a heavy load of mineral salts from decades of irrigation. (*Ibid.*) Other agricultural soils in this area occur on lands that have been converted into or are planned for Development. (*Ibid.*) No other active or cultivatable land will be impacted by the implementation of the Plan. (*Ibid.*)

Additionally, the MSHCP will not impact any lands under Williamson Act contracts nor will it preclude entering into such contracts in the future on lands that are currently in active agriculture, whether such lands are located within or outside of a Conservation Area. (Final Recirculated EIR/EIS, p. 4.5-3.)

Finally, the Plan will not result in any changes in the physical or regulatory environment that would significantly impact farmland or result in the conversion of farmland to non-agricultural uses. (Final Recirculated EIR/EIS, p. 4.5-2.)

Therefore, given the minor impact to active agricultural lands and state-identified farmlands with the potential for conversion to agricultural use, the Plan will have a less than significant impact on agricultural lands.

C. Air Quality

The MSHCP Plan Area is located within the Salton Sea Air Basin. (Final Recirculated EIR/EIS, p. 4.9-12.) In and of itself, the MSHCP does not authorize future Development. (Final Recirculated EIR/EIS, p. 4.9-13.) However, Plan implementation may cause future Development to be displaced to other areas in the Coachella Valley rather than not occurring at all. (Final Recirculated EIR/EIS, p. 4.9-12.) The location of where this Development could be displaced is too speculative to analyze at this point. (*Ibid.*) In addition, minor vehicular emissions may result from vehicle trips in conjunction with biological monitoring and land management, or from persons traveling to the Reserve System to recreate. (*Ibid.*) But the total number of vehicle miles traveled will not increase significantly and will be statistically insignificant. (*Ibid.*) Based on the foregoing, the Plan's effects on air quality are less than significant.

D. Biological Resources

The intent of the MSHCP is to assure the protection in perpetuity of the Covered Species, natural communities and overall biodiversity, and to protect functioning ecosystems in the Plan Area. (Final Recirculated EIR/EIS, p. 4.7-2.) The MSHCP provides Take Authorization of Covered Species to Permittees for specified Covered Activities. (*Ibid.*) The MSHCP takes a species-specific approach in determining the requirements for the Conservation of each Covered Species.

Discussed below are the impacts to each Covered Species and the Plan features that will reduce Project impacts to below a level of significance.

1. **Impacts to Mecca aster (*Xylorhiza cognata*).** Individuals occurring outside the Conservation Areas will be subject to Habitat loss, including those occurring east of the Coachella Canal in the Mecca Hills. (Final Recirculated EIR/EIS, p. 4.7-11.) Approximately 6,328 acres (10%) of all Habitat and 30% of non-federal lands will be subject to Habitat loss under the MSHCP. (*Ibid.*) Approximately 1,339 acres (2%) of this is Core Habitat subject to Habitat loss under the Plan. (*Ibid.*) However, the remote locations and lack of threats make it unlikely that these levels of Habitat loss will ever occur. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** The MSHCP ensures Conservation of Core Habitat in five Conservation Areas, and protects Other Conserved Habitat in two Conservation Areas across a range of environmental conditions within which the species occurs. (MSHCP, Table 4-116.) The MSHCP also implements biological monitoring and Adaptive Management to identify threats and to ensure Conservation of this species. (*Ibid.*) All of these actions will conserve this species in perpetuity. (*Ibid.*) Conservation under the Plan includes 11,745 acres of Core Habitat in the Thousand Palms Conservation Area, 6,091 acres of Core Habitat in the Indio Hills Palms Conservation Area, 1,594



acres of Core Habitat in the East Indio Hills Conservation Area, 4,731 acres of Core Habitat in the Desert Tortoise and Linkage Conservation Area, and 31,655 acres of Core Habitat in the Mecca Hills/Orocopia Mountains Conservation Area. (MSHCP, Table 9-2.) Including Other Conserved Habitat in other Conservation Areas, the total Habitat to be conserved for this species in the Reserve System is 54,667 acres, or 86% of all Mecca aster Habitat in the Plan Area (98% of Core Habitat). (MSHCP, Tables 4-114 and 4-116.) The Plan will also control and manage activities that degrade this species' Habitat. (MSHCP, Table 4-116.)

Based on the above, impacts to the Mecca aster will be less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

2. **Impacts to the Coachella Valley milkvetch – *Astragalus lentiginosus* var. *coachellae*.** Individuals occurring outside of the MSHCP Conservation Area will be subject to Habitat loss. (Final Recirculated EIR/EIS, p. 4.7-5.) Approximately 15,400 acres (42%) of all Habitat and 51% of the non-Federal lands will be subject to Habitat loss under the MSHCP. (*Ibid.*) There will be approximately 928 acres (6%) of Core Habitat subject to Habitat loss under the MSHCP. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** Within the Plan Area, the MSHCP will conserve all remaining populations of this species where Essential Ecological Processes are intact. (*Ibid.*) Approximately 2,385 acres of Core Habitat will be conserved in the Snow Creek/Windy Point, 5,325 acres in the Whitewater Floodplain Conservation Area, 2,884 acres in the Willow Hole Conservation Area, and 4,292 acres in the Thousand Palms Conservation Area. (MSHCP, Table 9-4.) To protect the species in the range of environmental conditions in which it occurs, a total of 4,471 acres of Other Conserved Habitat will be protected in the Stubbe and Cottonwood Canyons, Whitewater Canyon, Highway 111/I-10, Upper Mission Creek/Big Morongo Canyon, Edom Hill, Indio Hills/Joshua Tree National Park Linkage, and Joshua Tree National Park Conservation Areas. (MSHCP, Table 9-4.) In total, the Plan will ensure protection and management in perpetuity of 11,650 acres of Habitat for this species, which, together with Existing Conservation Land, will result in approximately 19,357 acres of Habitat for this species being conserved under the MSHCP. (MSHCP, Table 4-114.) This includes 94% of the Core Habitat. (MSHCP, Table 4-116.) The MSHCP will also secure the sand source/transport systems for the Core Habitat areas, and will control and manage activities that degrade this species' Habitat, such as sand compaction and/or vegetation destruction, including from OHV travel and other human disturbance. (*Ibid.*) The Plan will also implement biological monitoring and Adaptive Management measures to address

various threats to the species and to ensure long-term persistence of this species. (*Ibid.*)

Thus, impacts to the Coachella Valley milkvetch under the MSHCP will be less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

3. **Impacts to the triple-ribbed milkvetch – *Astragalus tricarinatus*.** Approximately 164 acres (5%) of all Habitat and 11% of non-federal lands will be subject to Habitat loss under the MSHCP. (Final Recirculated EIR/EIS, p. 4.7-7.) There will be approximately 104 acres (5%) of Core Habitat subject to Habitat loss under the Plan. (Final Recirculated EIR/EIS, p. 4.7-7.)

**Features of the MSHCP that will reduce Project Impacts.** All known occurrences of triple-ribbed milkvetch will be conserved, along with the adjacent lands in Whitewater Canyon and Mission Creek. (*Ibid.*) In total, 2,838 acres (94% of all Habitat in the Plan Area, including 33 of the 34 known locations, and 96% of the Core Habitat, including Core Habitat in the Whitewater Canyon and Upper Mission Creek/Big Morongo Canyon Conservation Areas) will be included in the Reserve System. (MSHCP, Tables 4-114 and 4-116.) The MSHCP will protect Essential Ecological Processes, including hydrological regimes, necessary to maintain Habitat for this species. (MSHCP, Table 4-116.) The MSHCP will also implement biological monitoring and Adaptive Management to identify and address various threats to the species and to ensure long-term persistence of this species. (*Ibid.*)

In addition, the Required Avoidance, Minimization, and Mitigation Measures discussed at Section 4.4 of the MSHCP require that, for most Covered Activities within the modeled triple-ribbed milkvetch Habitat in Whitewater Canyon, Whitewater Floodplain, Upper Mission Creek/Big Morongo Canyon, and Santa Rosa and San Jacinto Mountains Conservation Areas, surveys by an Acceptable Biologist will be required for activities during the growing and flowering period from February 1 - May 15. (MSHCP, p. 4-177.) Any occurrences of the species will be flagged and public infrastructure projects shall avoid impacts to the plants to the maximum extent possible. (*Ibid.*) Known occurrences on a map maintained by CVCC shall not be disturbed. (*Ibid.*)

Based on the above, impacts to triple-ribbed milkvetch under the MSHCP will be less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

4. **Impacts to Orocopia sage (*Salvia greatae*).** Individuals occurring outside the Conservation Areas will be subject to Habitat loss, including those occurring on the east side of the Mecca Hills. (Final Recirculated EIR/EIS, p. 4.7-13.) Approximately 6,933 acres (9%) of all Habitat and 28% of non-federal lands will be subject to Habitat loss under the MSHCP. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** The MSHCP ensures Conservation of Core Habitat in two Conservation Areas, and protects Other Conserved Habitat in another Conservation Area across a range of environmental conditions within which the species occurs. (MSHCP, Table 4-116.) The MSHCP also implements biological monitoring and Adaptive Management to identify threats and to ensure Conservation of this species. (*Ibid.*) All of these actions will conserve this species in perpetuity. (*Ibid.*) Conservation under the Plan includes 735 acres of Core Habitat in the Desert Tortoise and Linkage Conservation Area, 64,377 acres of Core Habitat in the Mecca Hills/Orocopia Mountains Conservation Area, and 3,838 acres of Other Conserved Habitat in the Dos Palmas Conservation Area. (MSHCP, Table 9-7.) The total of Habitat for this species to be conserved in the Reserve System is 68,950 acres, or 87% of all Orocopia sage Habitat in the Plan Area (97% of Core Habitat). (MSHCP, Tables 4-114 and 4-116.) Threats to the species and its Habitat are minimal. (Final Recirculated EIR/EIS, p. 4.7-14.) The Plan will also control and manage activities that degrade this species' Habitat, such as OHV activity and other activities that could damage plants and their Habitat. (MSHCP, Table 4-116.)

Regarding the Covered Activities that may affect this species, such activities will disturb an insignificant amount of acreage, resulting in enough Conserved Habitat to maintain the plant in perpetuity. (Final Recirculated EIR/EIS, p. 4.7-14.)

Based on the above, impacts to the Orocopia sage will be less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

5. **Impacts to the Little San Bernardino Mountains linanthus (*Linanthus maculatus* or *Gilia maculate*).** Approximately 429 acres (13%) of all Habitat will be subject to Habitat loss under the MSHCP. (MSHCP, Table 4-114; Final Recirculated EIR/EIS p. 4.7-9.) This is 16% of the non-federal lands in the Plan Area. (Final Recirculated EIR/EIS, p. 4.7-9.) There will be approximately 234 acres (9%) of Core Habitat subject to Habitat loss under the Plan (0 acres outside and 234 acres inside Conservation Areas). (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** The Plan conserves large blocks of Habitat for linanthus in the Upper Mission

Creek/Big Morongo Canyon Conservation Area totaling 2,235 acres of Core Habitat in the Upper Mission Creek/Big Morongo Canyon Conservation Area, which has also been designed to preserve the braided streams and associated micro-topographic features to which this plant is adapted, 540 acres of Other Conserved Habitat in the Whitewater Canyon Conservation Area, and 180 acres of Other Conserved Habitat in the Willow Hole Conservation Area. (MSHCP, Table 9-8.) This is a total of approximately 2,955 acres (87% of all Habitat for this species in the Plan Area) to be conserved in the Reserve System. (MSHCP, Table 4-114.) The Plan also requires that the fluvial processes that sustain Habitat for the linanthus be maintained. (Final Recirculated EIR/EIS, p. 4.7-9.) The Plan will also control and manage activities that degrade linanthus Habitat, such as vehicular travel in washes and other activities that could damage plants and their Habitat. (MSHCP, Table 4-116.) The Plan will also implement biological monitoring and Adaptive Management measures to identify and address various threats to the species and to ensure long-term persistence of this species. (*Ibid.*) In addition, Section 4.4 of the MSHCP (Required Avoidance, Minimization, and Mitigation Measures) provides additional Conservation protection. That provision requires that, to avoid and minimize impacts to this species as much as possible, salvage of top soil and/or seeds should occur prior to ground disturbance in accordance with Section 6.6.1. Salvage should be conducted by or in cooperation with the CVCC. (MSHCP, p. 4-178.)

Based on the above, impacts to the Little San Bernardino Mountains linanthus will be less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

6. **Impacts to the Coachella Valley giant sand-treader cricket (*Macrobaenetes valgum*).** Individuals occurring outside the Conservation Areas will be subject to Take Authorization, including those occurring on the Big Dune. (Final Recirculated EIR/EIS, p. 4.7-15.) Approximately 13,682 acres (51%) of all Habitat and 61% of non-federal lands will be subject to Take under the MSHCP. (*Ibid.*) There will be approximately 533 acres (5%) of Core Habitat subject to Take Authorization under the MSHCP. (*Ibid.*) Nearly all (94%) of the Take will be outside Conservation Areas, such as on Big Dune (Palm Springs Sand Ridge), where the blowsand Habitat is shielded. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** The MSHCP ensures Conservation of Core Habitat in three Conservation Areas, and protects Other Conserved Habitat in four Conservation Areas across a range of environmental conditions within which the species occurs. (MSHCP, Table 9-9.) The MSHCP also ensures Conservation of Essential Ecological Processes including sand source/transport systems, and

implements biological monitoring and Adaptive Management to identify threats and to ensure Conservation of this species. (*Ibid.*) All of these actions will conserve this species in perpetuity. (*Ibid.*) Conservation under the Plan includes 1,243 acres of Core Habitat in the Snow Creek/Windy Point Conservation Area, 5,309 acres of Core Habitat in the Whitewater Floodplain Conservation Area, 3,869 acres of Core Habitat in the Thousand Palms Conservation Area, 1,594 acres of Other Conserved Habitat in the Willow Hole Conservation Area, 3 acres of Other Conserved Habitat in the Thousand Palms Conservation Area, 114 acres of Other Conserved Habitat in the Edom Hill Conservation Area, 754 acres of Other Conserved Habitat in the East Indio Hills Conservation Area, and 112 acres of Other Conserved Habitat in the Santa Rosa and San Jacinto Mountains Conservation Area. (MSHCP, Table 9-9.) The total of Habitat for this species to be conserved in the Reserve System is 12,997 acres, or 48% of all Coachella Valley giant sand-treader cricket Habitat in the Plan Area (95% of Core Habitat). (MSHCP, Tables 4-114 and 4-116.) The Plan will also control and manage activities that degrade Habitat for this species, such as OHV activity and other activities that can kill individuals or damage their Habitat. (MSHCP, Table 4-116.)

Based on the above, impacts to the Coachella Valley giant sand-treader cricket will be less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

7. **Impacts to the Coachella Valley Jerusalem cricket (*Stenopelmatus cahullaensis*).** Individuals occurring outside the Conservation Areas will be subject to Take, including those occurring on the Big Dune. (Final Recirculated EIR/EIS, p. 4.7-17.) Approximately 9,989 acres (44%) of all Habitat and 49% of non-Federal lands will be subject to Take Authorization under the MSHCP. (*Ibid.*) Nearly all (96%) of the Take will be outside the Conservation Areas, where the Habitat is less likely to be occupied. (MSHCP, Tables 4-114 and 4-116.) There will be approximately 150 acres (9%) of Core Habitat subject to Take Authorization under the Plan. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** The MSHCP protects a contiguous Habitat in the Snow Creek/Windy Point Conservation Area, which appears to be the center of this species' distribution, and which will create a preserve of sufficient size to conserve this species in perpetuity. (MSHCP, Table 4-116.) The MSHCP also protects Other Conserved Habitat in six Conservation Areas across a range of environmental conditions within which the species occurs. (MSHCP, Table 9-11.) The MSHCP also ensures Conservation of Essential Ecological Processes including sand source/transport systems; maintains Biological Corridors and Linkages to allow connectivity and shifts in

distribution over time; and implements biological monitoring and Adaptive Management to identify threats and to ensure Conservation of this species. (MSHCP, Table 4-116.) All of these actions will conserve this species in perpetuity. Conservation under the Plan includes 1,540 acres of Core Habitat in the Snow Creek/Windy Point Conservation Area, and a total of 10,509 acres of Other Conserved Habitat in eleven Conservation Areas. (MSHCP, Table 9-11.) The total of Habitat for this species to be conserved in the Reserve System is 12,049 acres, or 53% of all Coachella Valley Jerusalem cricket Habitat in the Plan Area (91% of Core Habitat). (MSHCP, Tables 4-114 and 4-116.)

Based on the above, impacts to the Jerusalem cricket are less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

8. **Impacts to the desert pupfish (*Cyprinodon macularius*).** Individuals occurring outside the Conservation Areas will be subject to Take, including those occurring in shoreline pools of the Salton Sea. (Final Recirculated EIR/EIS, p. 4.7-20.) In addition, individuals occurring in the drains will be subject to Take by CVWD for ongoing maintenance activities in the drains. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** The Plan will ensure that existing desert pupfish Habitat and refugia populations are protected and managed. (MSHCP, Table 4-116.) The Plan conserves 100% of the 31 known locations for the species. (*Ibid.*) This includes Conservation of agricultural drains and shoreline pools. (*Ibid.*) The MSHCP will protect Core Habitat in Salt Creek in the Dos Palmas Conservation Area and in the agricultural drains in the Coachella Valley Stormwater Channel and Delta Conservation Area, and will protect refugia populations in the Thousand Palms Conservation Area and the Dos Palmas Conservation Area. (MSHCP, Table 9-13) In addition, the Plan requires CVWD to prepare a Monitoring and Adaptive Management Plan for desert pupfish within one year of Permit issuance to assure long-term viability of pupfish in the agricultural drains leading into the Salton Sea. (MSHCP, Table 4-116.) This Monitoring Program will result in updated information on the existing pupfish populations in the Salton Sink. (*Ibid.*) The Plan also requires CVWD to establish 25 acres of artificial pupfish Habitat. (Final Recirculated EIR/EIS, p. 4.7-21.)

Based on the above, impacts to the desert pupfish are less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

9. **Impacts to the arroyo toad (*Bufo californicus*).** Individuals occurring outside the Conservation Areas will be subject to Take, including those occurring in the Bonnie Bell area. (Final Recirculated EIR/EIS, p. 4.7-23.) Approximately 88 acres (4%) of all Arroyo toad Habitat and 11% of non-Federal lands will be subject to Take Authorization under the MSHCP. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** Pursuant to the recommendations of the Recovery Plan for the arroyo toad, the MSHCP calls for acquisition and management of key Habitat in Whitewater Canyon. (Final Recirculated EIR/EIS, p. 4.7-24.) The MSHCP will result in the Conservation of 2,007 acres of arroyo toad Habitat, including 2,004 acres of Core Habitat in the Whitewater Canyon Conservation Area, and 3 acres of Other Conserved Habitat in the Upper Mission Creek/Big Morongo Canyon Conservation Area. (MSHCP, Tables 4-114 and 4-116.) The 2,007 acres of Conserved Habitat is 96% of all arroyo toad Habitat, (and 96% of the Core Habitat) in the Plan Area. (*Ibid.*) The MSHCP will protect Essential Ecological Processes, including hydrological regimes, necessary to maintain Habitat for this species. (MSHCP, Table 4-116.) The MSHCP will also implement biological monitoring and Adaptive Management to identify and address various threats to the species and to ensure long-term persistence of this species. (*Ibid.*)

Based on the above, impacts to the arroyo toad are less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

10. **Impacts to the desert tortoise (*Gopherus agassizii*).** Individuals occurring outside the Conservation Areas will be subject to Take, including those occurring east of Hwy 62 and east of Dillon Rd to the boundary with Joshua Tree National Park. (Final Recirculated EIR/EIS, p. 4.7-33.) Approximately 67,229 acres (12%) of all Habitat and 28% of non-Federal lands will be subject to Take Authorization under the MSHCP. (*Ibid.*; MSHCP, Tables 4-114 and 4-116.) There will be approximately 11,478 acres (3%) of Core Habitat subject to Take Authorization under the Plan. (Final Recirculated EIR/EIS, p. 4.7-33.)

**Features of the MSHCP that will reduce Project Impacts.** Ninety-seven percent of the Critical Habitat in the eastern Plan Area will be conserved for desert tortoise and 86% of the occupied or potential Habitat is conserved under the Plan. (MSHCP, Table 4-116.) The MSHCP will result in the Conservation of approximately 145,911 acres of modeled Habitat together with Existing Conservation Land or a total of 491,810 acres conserved, including 365,379 acres of Core Habitat. (MSHCP, Table 9-15.) The MSHCP ensures Conservation of Core Habitat in seven

Conservation Areas from western to eastern parts of the Plan Area. (MSHCP, Table 4-116.) The MSHCP also maintains Biological Corridors and Linkages to ensure connectivity between Conservation Areas and with Habitat outside the Plan Area, and implements biological monitoring and Adaptive Management to identify threats and to ensure Conservation of this species. (*Ibid.*) All of these actions will conserve this species in perpetuity. (*Ibid.*) Conservation under the Plan includes 5,482 acres of Core Habitat in the Stubbe and Cottonwood Canyons Conservation Area, 4,374 acres of Core Habitat in the Whitewater Canyon Conservation Area, 26,519 acres of Core Habitat in the Upper Mission Creek/Big Morongo Canyon Conservation Area, 9,449 acres of Core Habitat in the Indio Hills/Joshua Tree National Park Linkage Conservation Area, 125,453 acres of Core Habitat in the Joshua Tree National Park Conservation Area, 84,151 acres of Core Habitat in the Desert Tortoise and Linkage Conservation Area, and 109,951 acres of Core Habitat in the Mecca Hills/Orocopia Mountains Conservation Area. (MSHCP, Table 9-15.) The MSHCP protects a total of 126,431 acres of Other Conserved Habitat in fourteen Conservation Areas across a range of environmental conditions within which the species occurs. (*Ibid.*) The total of Habitat for this species to be conserved in the Reserve System is 491,810 acres, or 86% of all desert tortoise Habitat in the Plan Area (97% of the designated Critical Habitat in the eastern portion of the Plan Area). (MSHCP, Table 4-116.) The Plan will also control and manage activities that degrade Habitat for this species, such as OHV activity and other activities that can kill individuals or damage their Habitat. (MSHCP, pp. 9-94 through 9-95.)

In addition, the Plan addresses recovery units within the Plan Area that were identified by the Desert Tortoise Recovery Plan in 1994. (Final Recirculated EIR/EIS, p. 4.7-34.) This Recovery Plan recommended establishment of the Joshua Tree National Park Desert Wildlife Management Area ("DWMA") and the Chuckwalla DWMA, both of which fall within the Plan Area of the MSHCP. (*Ibid.*)

In addition, Section 4.4 of the MSHCP (Required Avoidance, Minimization, and Mitigation Measures) provides additional Conservation protection. That provision requires that, under most circumstances, the Permittees will conduct surveys for desert tortoise before initiation of Development activities in modeled desert tortoise Habitat within Conservation Areas. (MSHCP, p. 4-170.) The Plan provides a specific procedure for such surveys.

For Operations and Maintenance ("O&M") activities in the Conservation Areas, personnel undertaking such activities are to be alert for the presence of desert tortoise. (MSHCP, p. 4-171.) If a tortoise is spotted, activities adjacent to the tortoise's location will be halted and the tortoise will be allowed to move away from the activity area. (*Ibid.*) If the tortoise is not moving, it will be relocated by an Acceptable Biologist to nearby



suitable Habitat and placed in the shade of a shrub. (*Ibid.*) To the maximum extent Feasible, O&M activities will avoid the period from February 15 and October 31. (*Ibid.*)

The Plan also has developed two utility development protocols (active season and inactive season) to avoid or minimize potential adverse impacts to the desert tortoise in the Conservation Areas from utility and road right-of-way projects. (MSHCP, pp. 4-171 through 4-176.)

Based on the above, impacts to the desert tortoise are less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

11. **Impacts to the Coachella Valley fringe-toed lizard (*Uma inornata*).** Individuals occurring outside the Conservation Areas will be subject to Take, including those occurring on the Big Dune. (Final Recirculated EIR/EIS, p. 4.7-26.) Approximately 13,681 acres (51%) of all Habitat and 61% of non-Federal lands will be subject to Take Authorization under Plan. (*Ibid.*) (MSHCP, Table 4-114.) There will be approximately 606 acres (5%) of Core Habitat subject to Take Authorization under the MSHCP. (Final Recirculated EIR/EIS p. 4.7-26.)

**Features of the MSHCP that will reduce Project Impacts.** The Coachella Valley fringe-toed lizard Recovery Plan was established in 1985, recommending over 50 measures that could be taken to lead to recovery of the lizard. (*Ibid.*) The MSHCP will meet or exceed the standards of this recovery plan by creating and implementing Conservation measures in the Conservation Areas. (Final Recirculated EIR/EIS, pp. 4.7-26 to -27.) The MSHCP will result in the Conservation of 6,999 acres of modeled Habitat together with Existing Conservation Land for a total of 12,998 acres conserved, including 11,245 acres (95%) of Core Habitat. (MSHCP, Table 9-16; Table 4-116.) This includes 1,244 acres of Core Habitat in Snow Creek/Windy Point Conservation Area, 5,309 acres of Core Habitat in Whitewater Floodplain Conservation Area, 823 acres of Core Habitat at Willow Hole Conservation Area, and 3,869 acres of Core Habitat in Thousand Palms Conservation Area. (MSHCP, Table 9-16.) In addition, the MSHCP will conserve 1,754 acres of Other Conserved Habitat in five Conservation Areas, representing a range of environmental conditions in which the species occurs. (MSHCP, Table 9-16.) The Plan will also conserve the scattered blowsand deposits and occupied Habitat in the Indio Hills. (Final Recirculated EIR/EIS, pp. 4.7-27 to -28.)

The Plan also employs measures to protect and maintain Essential Ecological Processes for sand transport to the new Conservation Areas, and provides Linkages between these Areas. (Final Recirculated EIR/EIS,

p. 4.7-29.) Furthermore, the Plan requires CVCC, CVAG and CalTrans to acquire 1,795 acres for interchange and arterial road Covered Activities listed in Table 7-1 of the MSHCP. (Final Recirculated EIR/EIS, p. 4.7-29.)

Adaptive Management implemented by the Plan includes several measures that will forestall or prevent extirpation in a Conservation Area. (*Ibid.*) Such measures include the establishment of "sand fences" to trap sand upwind in armored Habitat and create blowsand hummocks for expansion of the extant population. (*Ibid.*) Other measures which may be utilized as appropriate include hauling sand upwind, destabilizing armored deposits by physically removing vegetation and surface crusts, controlling exotic plant species and feral animals, and re-introduction of fringe-toed lizards into areas where they may be extirpated or into restored sites. (*Ibid.*)

Based on the above, impacts to the Coachella Valley fringe-toed lizard are less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

12. **Impacts to flat-tailed horned lizard (*Phrynosoma mcallii*).** Individuals occurring outside the Conservation Areas will be subject to Take, including those occurring on the Big Dune. (Final Recirculated EIR/EIS, p. 4.7-38.) Approximately 17,562 acres (54%) of all predicted Habitat, 65% of non-Federal predicted Habitat lands, 1,720 acres (33%) of all potential Habitat and 41% of all potential Habitat on non-Federal lands will be subject to Take under MSHCP. (*Ibid.*) There will be approximately 97 acres (2%) of Core Habitat subject to Take under the Plan. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** The MSHCP will result in the Conservation of 7,334 acres of modeled Habitat together with Existing Conservation Land for a total of 13,908 acres conserved. (MSHCP, Table 9-17.) Only one area of the MSHCP was delineated as Core Habitat for this species, at the Thousand Palms Preserve. (MSHCP, Table 9-17.) The Planning Team for this Plan delineated approximately 4,148 acres as Core Habitat. (*Ibid.*) Conservation Objectives ensure the Conservation of at least 4,051 acres in the Thousand Palms Conservation Area. (*Ibid.*) In addition, the MSHCP will conserve approximately 587 acres of Other Conserved Habitat in East Indio Hills and 5,134 acres of Other Conserved Habitat in Dos Palmas. (MSHCP, Tables 9-17.)

The MSHCP will also: Protect Other Conserved Habitat in a total of five Conservation Areas representing the range of environmental conditions within which this species occurs; Ensure Conservation of Essential Ecological Processes including sand source/transport systems; Maintain Biological Corridors and Linkages among conserved populations or

Habitats; and Implement biological monitoring and Adaptive Management to ensure Conservation of this species. (MSHCP, Table 4-116.)

Based on the above, impacts to the flat-tailed horned lizard are less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

13. **Impacts to the Yuma clapper rail (*Rallus longirostris yumanensis*).** Individuals occurring outside the Conservation Areas will be subject to Take. (Final Recirculated EIR/EIS, p. 4.7-63.) Approximately 63 acres (8%) of all Habitat and 13% of non-Federal lands will be subject to Take under the Plan. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** This bird is found only in the Dos Palmas and Coachella Valley Stormwater Channel and Delta Conservation Areas. Implementation of the Plan will provide for persistence of the Yuma clapper rail within the Plan Area, as currently unprotected portions of its Habitat and potential Habitat areas will be conserved. (MSHCP, p. 9-129.) Ninety-one percent of the modeled clapper rail Habitat will be conserved under the Plan. (MSHCP, Table 4-116.) The MSHCP will result in the Conservation of 426 acres of modeled Habitat together with Existing Conservation Land for a total of 697 conserved acres. (*Ibid.*) In addition, the CVWD will establish 66 acres of permanent replacement rail Habitat. (MSHCP, Table 4-116.) Management and Monitoring activities will be implemented to ensure Conservation of this species, including control of activities that degrade Habitat. (*Ibid.*) Biological monitoring and Adaptive Management will be implemented to ensure Conservation, and Essential Ecological Processes will be protected, including the regimes necessary to maintain rail Habitat. (*Ibid.*) Finally, because this rail is a California Fully Protected Species, the required surveys will be conducted in accordance with law. (*Ibid.*)

Based on the above, impacts to the Yuma clapper rail are less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the habitat, and protect Biological Corridors and Linkages, as appropriate.

14. **Impacts to the California black rail (*Laterallus jamaicensis coturniculus*).** Individuals occurring outside the Conservation Areas will be subject to Take, including any occurring in the Coachella Valley Stormwater Channel. (Final Recirculated EIR/EIS, p. 4.7-43.) Approximately 59 acres (9%) of all Habitat and 13% of non-Federal lands will be subject to Take under the Plan. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** This bird is found only in the Dos Palmas and Coachella Valley Stormwater Channel

and Delta Conservation Areas. Implementation of the Plan will provide for persistence of the California black rail within the Plan Area, as currently unprotected portions of its Habitat and potential Habitat areas will be conserved. (MSHCP, p. 9-135.) Ninety-one percent of the modeled clapper rail Habitat will be conserved under the Plan. (MSHCP, Table 4-116.) The MSHCP will result in the Conservation of 386 acres of modeled Habitat together with Existing Conservation Land for a total of 616 conserved acres. (*Ibid.*) In addition, the Coachella Valley Water District ("CVWD") will establish 66 acres of permanent replacement rail Habitat. Management and Monitoring activities would be implemented to ensure Conservation of this species, including control of activities that degrade Habitat. (*Ibid.*) Biological monitoring and Adaptive Management will be implemented to ensure Conservation, and Essential Ecological Processes will be protected, including hydrological regimes necessary to maintain rail Habitat. (*Ibid.*) Finally, because this rail is a California Fully Protected Species, the required surveys will be conducted in accordance with law. (*Ibid.*)

Given the level of Conservation, which includes establishment of permanent riparian Habitat and expansion of the marsh Habitat, all impacts are considered beneficial. Based on the above, impacts to the California black rail are less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

15. **Impacts to the burrowing owl (*Athene cunicularia*).** Impacts to burrowing owl are very difficult to predict, given the limited knowledge on their distribution and abundance in the Plan Area, and their ability to relocate when established nesting sites are lost, which are often in agricultural and urban areas. (Final Recirculated EIR/EIS, p. 4.7-41.) However, it is estimated that 45% of known locations for burrowing owl will be subject to Take in areas compromised by fragmentation, Development, and associated impacts. (MSHCP, Table 4-116.)

**Features of the MSHCP that will reduce Project Impacts.** The reserve design process focused on inclusion of areas of contiguous Habitat in areas where burrowing owls are known to occur. (MSHCP, Table 4-116.) The MSHCP will result in the Conservation of 41 of the 74 known locations of burrowing owl, which include foraging areas. (*Ibid.*) These locations include areas in Snow Creek, Whitewater Floodplain Preserve, the Mission Creek area west of Highway 62, the Willow Hole-Edom Hill Preserve/ACEC area, the Thousand Palms Preserve, including the sand source area, and significant portions of the Indio Hills and Mecca Hills. (*Ibid.*) Overall the 723,480 acre Reserve System will contain sufficient Habitat to maintain a viable population of burrowing owls within the Plan Area. (Final Recirculated EIR/EIS, p. 4.7-41.)

The Avoidance, Minimization, and Mitigation Measures listed in Section 4.4 of the MSHCP will minimize Take of burrowing owls. (Final Recirculated EIR/EIS, p. 4.7-41.) In total, the Plan ensures the Conservation of burrowing owls within nine Conservation Areas, and the protection of Other Conserved Habitat in ten Conservation Areas. (MSHCP, Table 4-116.) Biological monitoring and Adaptive Management will also be implemented to ensure Conservation of this species. (*Ibid.*)

Based on the above, impacts to the burrowing owl are less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate. Thus, no mitigation measures are necessary.

16. **Impacts to the Southwestern willow flycatcher (*Empidonax traillii extimus*).** Individuals occurring outside the Conservation Areas will be subject to Take, including those in migratory Habitat east of the Coachella Canal and in a small portion of Dos Palmas. (Final Recirculated EIR/EIS, p. 4.7-53.) Approximately 168 acres (6%) of all breeding Habitat (11% on non-Federal lands) and 15,351 acres (27%) of migratory Habitat (42% on non-Federal lands) will be subject to Take under the MSHCP. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** Ninety-four percent of the modeled willow flycatcher breeding Habitat and 71% of the modeled willow flycatcher migratory Habitat is conserved under the Plan. (MSHCP, Table 4-116.) Permittees will protect and manage 1,037 acres of modeled breeding Habitat together with Existing Conservation Land for a total of 2,563 acres of breeding Habitat conserved. (*Ibid.*) The MSHCP will result in the Conservation of 19,534 acres of modeled migratory Habitat together with Existing Conservation Land for a total of 40,846 acres of migratory Habitat conserved. (*Ibid.*) The Conservation Areas in the Plan will protect 96% of the occupied and potential breeding Habitat and 95% of the potential migratory Habitat for this species. (*Ibid.*)

The Plan will also provide permanent protection to riparian Habitat via acquisition and management in several Conservation Areas and establish permanent riparian Habitat in the Coachella Valley Stormwater Channel and Delta Conservation Area. (Final Recirculated EIR/EIS, pp. 4.7-53 to -54.) CVWD will establish 44 acres of permanent Sonoran cottonwood-willow riparian forest in the Coachella Valley Stormwater Channel and Delta Conservation area as described in Section 4.3.20 of the MSHCP. (MSHCP, Table 4-116.) In addition, the Plan requires that, where disturbance of a given number of acres of a riparian natural community is authorized, an equivalent number of acres will be replaced to ensure that no net loss occurs. (*Ibid.*)

Implementation of biological monitoring and Adaptive Management will also take place to ensure Conservation of the vireo. (*Ibid.*) Essential Ecological Processes will also be protected, including hydrological regimes necessary to maintain riparian Habitat. In addition, the Required Avoidance, Minimization, and Mitigation Measures of Section 4.4 of the MSHCP require that Covered Activities, including construction and O&M activities, in riparian Habitat of the Cabazon, Stubbe and Cottonwood Canyons, Whitewater Canyon, Upper Mission Creek/Big Morongo Canyon, Thousand Palms, Indio Hills Palms, Joshua Tree National Park, Mecca Hills and Orocopia Mountains, Dos Palmas, Coachella Valley Stormwater Channel and Delta, and Santa Rosa and San Jacinto Mountains Conservation Areas, will be conducted to the maximum extent Feasible outside of the May 1 – September 15 nesting season for Southwestern willow flycatcher. (MSHCP, pp. 4-169 to -170.) If Covered Activities must occur during the nesting season, surveys shall be conducted to determine if any active nests are present. (*Ibid.*) If active nests are identified, the Covered Activity shall not be conducted within 200 feet of an active nest. (*Ibid.*) If surveys conducted during the nesting season document that Covered nesting riparian bird Species are not present, the Covered Activity may proceed. (*Ibid.*)

Based on the above, impacts to the Southwestern willow flycatcher are less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

17. **Impacts to the crissal thrasher (*Toxostoma crissale*).** Individuals occurring outside the Conservation Areas will be subject to Take, including those occurring on lands in the south portion of the valley near the Salton Sea. (Final Recirculated EIR/EIS, p. 4.7-47.) Approximately 5,172 acres (75%) of all Habitat and 76% of non-Federal lands will be subject to Take under the Plan. (*Ibid.*) There will be approximately 125 acres (9%) of Core Habitat subject to Take under the Plan. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** The MSHCP will result in the Conservation of 1,418 acres of modeled Habitat together with Existing Conservation Land for a total of 1,676 acres of land conserved. (MSHCP, Table 4-116.) Approximately 91% of the Core Habitat for this species will be conserved under the Plan, including 498 acres of occupied Habitat in Dos Palmas and 809 acres of occupied Habitat in the Coachella Valley Stormwater Channel and Delta Conservation Areas. (*Ibid.*; MSHCP, Table 9-22.) Implementation of the Plan will provide for the Conservation of the unprotected portions of crissal thrasher Habitat. (*Ibid.*)

The Required Avoidance, Minimization, and Mitigation Measures of Section 4.4 of the MSHCP will also ensure Conservation of the species. This section requires that, in the Willow Hole, Thousand Palms, Indio Hills Palms, East Indio Hills, Dos Palmas, and Coachella Valley Stormwater Channel and Delta Conservation Areas, surveys will be conducted by an Acceptable Biologist prior to the start of construction activities during the nesting season, January 15 – June 15, to determine if active nest sites for this species occur on the construction site and/or within 500 feet of the construction site, or to the edge of the property boundary if less than 500 feet. (MSHCP, p. 4-170.) If nesting crissal thrashers are found, a 500-foot buffer, or a buffer to the edge of the property boundary if less than 500 feet, will be established around the nest site. (*Ibid.*) The buffer will be staked and flagged. (*Ibid.*) No construction activities will be permitted within the buffer during the breeding season of January 15 – June 15 or until the young have fledged. (*Ibid.*)

The Plan will also: Protect Essential Ecological Processes including hydrological regimes necessary to maintain thrasher Habitat; Maintain Biological Corridors and Linkages for Habitat connectivity; and Implement biological monitoring and Adaptive Management to ensure Conservation of this species. (MSHCP, Table 4-116.)

Based on the above, impacts to the crissal thrasher are less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

18. **Impacts to the Le Conte's thrasher (*Toxostoma lecontei*).** Individuals occurring outside the Conservation Areas will be subject to Take, including those occurring on the Big Dune and the east end of the Indio Hills. (Final Recirculated EIR/EIS, pp. 4.7-44 to -45.) Approximately 96,133 acres (40%) of all Habitat and 53% of non-Federal lands will be subject to Take under the Plan. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** Ninety-five percent of the predicted Other Conserved Habitat for Le Conte's thrasher will be conserved and 54% of the modeled Habitat will be conserved under the Plan. (Final Recirculated MSHCP, Table 4-116.) The MSHCP will result in the Conservation of 73,204 acres of modeled Habitat together with Existing Conservation Land for a total of 132,456 acres of Other Conserved Habitat in twenty Conservation Areas across a range of environmental conditions within which the species occurs. (Final Recirculated MSHCP, Table 4-116.)

Management and monitoring activities will ensure Conservation of this species, including control of activities that degrade its Habitat. (MSHCP, Table 4-116.) Biological Corridors and Linkages will be maintained for

Habitat connectivity and Essential Ecological Processes will be protected, including hydrological regimes necessary to maintain thrasher Habitat. (*Ibid.*)

In addition, the Required Avoidance, Minimization, and Mitigation Measures of Section 4.4 of the MSHCP require that, prior to the start of most construction activities in all Conservation Areas, surveys will be conducted by an Acceptable Biologist on the construction site and within 500 feet of the construction site, or to the property boundary if less than 500 feet. (MSHCP, p. 4-176.) If nesting Le Conte's thrashers are found, a 500 foot buffer, or to the property boundary if less than 500 feet, will be established around the nest site. The buffer will be staked and flagged. (*Ibid.*) No construction will be permitted within the buffer during the breeding season of January 15 - June 15 or until the young have fledged. (*Ibid.*)

Based on the above, impacts to the Le Conte's thrasher are less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

19. **Impacts to the least Bell's vireo (*Vireo bellii pusillus*).** Individuals occurring outside the Conservation Areas will be subject to Take, including those in migratory Habitat east of the Coachella Canal and in a small portion of Dos Palmas. (Final Recirculated EIR/EIS, p. 4.7-51.) Approximately 761 acres (21%) of all breeding Habitat (31% on non-Federal lands) and 14,775 acres (25%) of migratory Habitat (41% on non-Federal lands) will be subject to Take under the Plan. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** Seventy-nine percent of the modeled vireo breeding Habitat, and 71% of the modeled vireo migratory Habitat will be conserved under the Plan. (MSHCP, Table 4-116.) The MSHCP will result in the Conservation of 1,282 acres of modeled breeding Habitat together with Existing Conservation Land for a total of 2,911 acres of breeding Habitat conserved. (*Ibid.*) The MSHCP will result in the Conservation of 19,301 acres of modeled migratory Habitat together with Existing Conservation Land for a total of 40,510 acres of migratory Habitat conserved. (*Ibid.*) The Plan will provide permanent protection to riparian Habitat via acquisition and management in several Conservation Areas and by establishment of permanent riparian Habitat in the Coachella Valley Storm Channel and Delta Conservation Area. (Final Recirculated EIR/EIS, p. 4.7-51.) CVWD will establish 44 acres of permanent Sonoran cottonwood-willow riparian forest in these two areas. (MSHCP, Table 4-116.)

Implementation of biological monitoring and Adaptive Management will also occur to ensure Conservation of the vireo. (*Ibid.*) Essential Ecological



Processes will also be protected, including hydrological regimes necessary to maintain riparian Habitat. (*Ibid.*) In addition, the Required Avoidance, Minimization, and Mitigation Measures of Section 4.4 of the MSHCP require that Covered Activities, including construction and O&M activities, in riparian Habitat of the Cabazon, Stubbe and Cottonwood Canyons, Whitewater Canyon, Upper Mission Creek/Big Morongo Canyon, Thousand Palms, Indio Hills Palms, Joshua Tree National Park, Mecca Hills and Orocochia Mountains, Dos Palmas, Coachella Valley Stormwater Channel and Delta, and Santa Rosa and San Jacinto Mountains Conservation Areas, will be conducted to the maximum extent Feasible outside of the March 15 – September 15 nesting season for least Bell's vireo. (MSHCP, pp. 4-169 to -170.) If Covered Activities must occur during the nesting season, surveys shall be conducted to determine if any active nests are present. (*Ibid.*) If active nests are identified, the Covered Activity shall not be conducted within 200 feet of an active nest. (*Ibid.*) If surveys conducted during the nesting season document that Covered nesting riparian bird Species are not present, the Covered Activity may proceed. (*Ibid.*)

Based on the above, impacts to the least Bell's vireo are less than significant and the benefits conferred by the Plan will provide permanent protection to its riparian Habitat.

20. **Impacts to the gray vireo (*Vireo vicinior*).** Individuals occurring outside the Conservation Areas will be subject to Take, including those occurring in the Pinyon Flats area. (Final Recirculated EIR/EIS, p. 4.7-49.) Approximately 3,913 acres (4%) of all Habitat and 18% of non-Federal lands will be subject to Take under the MSHCP. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** Ninety-six percent of the occupied or potential Habitat is conserved under the Plan. (MSHCP, Table 4-116.) The MSHCP will result in the Conservation of 13,194 acres of modeled Habitat together with Existing Conservation Land for a total of 101,544 conserved acres. (*Ibid.*) The MSHCP protects a total of 30,519 acres of Other Conserved Habitat in Joshua Tree National Park Conservation Area and 66,089 acres of Other Conserved Habitat in Santa Rosa and San Jacinto Mountains Conservation Area. (MSHCP, Table 9-25.)

Management and monitoring activities will ensure Conservation of this species, including control of activities that degrade its Habitat. (MSHCP, Table 4-116.) The Plan calls for coordination with federal agencies regarding appropriate management prescriptions for Pinyon-juniper woodland and chaparral Habitats and control of brown-headed cowbird nest parasitism. (*Ibid.*)

Based on the above, the Plan will not have a significant impact on the gray vireo.

21. **Impacts to the yellow warbler (*Dendroica petechia brewsteri*).** Individuals occurring outside the Conservation Areas will be subject to Take, including those in migratory Habitat east of the Coachella Canal and in a small portion of Dos Palmas. (Final Recirculated EIR/EIS, p. 4.7-58.) Approximately 168 acres (6%) of all breeding Habitat (11% on non-Federal lands) and 15,371 acres (27%) of migratory Habitat (42% on non-Federal lands) will be subject to Take under the Plan. (Final Recirculated EIR/EIS, p. 4.7-59.)

**Features of the MSHCP that will reduce Project Impacts.** Ninety-four percent of the modeled yellow warbler breeding Habitat and 71% of the modeled yellow warbler migratory Habitat is conserved under the Plan. (MSHCP, Table 4-116.) The Plan will ensure the protection and management of 1,037 acres of modeled breeding Habitat together with Existing Conservation Land for a total of 2,563 acres of breeding Habitat conserved. (*Ibid.*) The MSHCP will result in the Conservation of 19,534 acres of modeled migratory Habitat together with Existing Conservation Land for a total of 40,846 acres of migratory Habitat conserved. (*Ibid.*)

The Plan will provide permanent protection to riparian Habitat via acquisition and management in several Conservation Areas and by establishment of permanent riparian Habitat in the Whitewater Storm Channel and Delta Conservation Area. (Final Recirculated EIR/EIS, p. 4.7-59.) CVWD will establish 44 acres of permanent Sonoran cottonwood-willow riparian forest in the Coachella Valley Stormwater Channel and Delta Conservation area as described in Section 4.3.20 of the MSHCP. (MSHCP, Table 4-116.) In addition, the Plan requires that, where disturbance of a given number of acres of a riparian natural community is authorized, an equivalent number of acres will be replaced to ensure that no net loss occurs. (*Ibid.*)

Implementation of biological monitoring and Adaptive Management will also take place to ensure Conservation of the yellow warbler. (*Ibid.*) Essential Ecological Processes will also be protected, including hydrological regimes necessary to maintain riparian Habitat. In addition, the Required Avoidance, Minimization, and Mitigation Measures of Section 4.4 of the MSHCP require that Covered Activities, including construction and O&M activities, in riparian Habitat of the Cabazon, Stubbe and Cottonwood Canyons, Whitewater Canyon, Upper Mission Creek/Big Morongo Canyon, Thousand Palms, Indio Hills Palms, Joshua Tree National Park, Mecca Hills and Orocopia Mountains, Dos Palmas, Coachella Valley Stormwater Channel and Delta, and Santa Rosa and San Jacinto Mountains Conservation Areas, will be conducted to the maximum extent Feasible outside of the May 1 – September 15 nesting season for

yellow warbler. (MSHCP, pp. 4-169 to -170.) If Covered Activities must occur during the nesting season, surveys shall be conducted to determine if any active nests are present. (*Ibid.*) If active nests are identified, the Covered Activity shall not be conducted within 200 feet of an active nest. (*Ibid.*) If surveys conducted during the nesting season document that Covered nesting riparian bird Species are not present, the Covered Activity may proceed. (*Ibid.*)

Based on the above, impacts to the yellow warbler are less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

22. **Impacts to yellow-breasted chat (*Icteria virens*).** Individuals occurring outside the Conservation Areas will be subject to Take, including those in migratory Habitat east of the Coachella Canal and in a small portion of Dos Palmas. (Final Recirculated EIR/EIS, p. 4.7-61.) Approximately 168 acres (6%) of all breeding Habitat (11% on non-Federal lands) and 15,371 acres (27%) of migratory Habitat (42% on non-Federal lands) will be subject to Take under the MSHCP. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** Ninety-four percent of the modeled chat breeding Habitat and 71% of the modeled chat migratory Habitat is conserved under the Plan. (MSHCP, Table 4-116.) The Plan will ensure the protection and management of 1,160 acres of modeled breeding Habitat together with Existing Conservation Land for a total of 2,829 acres of breeding Habitat conserved. (*Ibid.*) The MSHCP will result in the Conservation of 19,414 acres of modeled migratory Habitat together with Existing Conservation Land for a total of 40,583 acres of migratory Habitat conserved. (*Ibid.*)

The Plan will provide permanent protection to riparian Habitat via acquisition and management in several Conservation Areas and by establishment of permanent riparian Habitat in the Whitewater Storm Channel and Delta Conservation Area. (Final Recirculated EIR/EIS, p. 4.7-61.) CVWD will establish 44 acres of permanent Sonoran cottonwood-willow riparian forest in the Coachella Valley Stormwater Channel and Delta Conservation area as described in Section 4.3.20 of the MSHCP. (MSHCP, Table 4-116.) In addition, the Plan requires that, where disturbance of a given number of acres of a riparian natural community is authorized, an equivalent number of acres will be replaced to ensure that no net loss occurs. (*Ibid.*)

Implementation of biological monitoring and Adaptive Management will also take place to ensure Conservation of the yellow-breasted chat. (*Ibid.*) Essential Ecological Processes will also be protected, including hydrological regimes necessary to maintain riparian Habitat. (*Ibid.*) In

addition, the Required Avoidance, Minimization, and Mitigation Measures of Section 4.4 of the MSHCP require that Covered Activities, including construction and O&M activities, in riparian Habitat of the Cabazon, Stubbe and Cottonwood Canyons, Whitewater Canyon, Upper Mission Creek/Big Morongo Canyon, Thousand Palms, Indio Hills Palms, Joshua Tree National Park, Mecca Hills and Orocopia Mountains, Dos Palmas, Coachella Valley Stormwater Channel and Delta, and Santa Rosa and San Jacinto Mountains Conservation Areas, will be conducted to the maximum extent Feasible outside of the May 1 – September 15 nesting season for yellow-breasted chat. (MSHCP, pp. 4-169 to -170.) If Covered Activities must occur during the nesting season, surveys shall be conducted to determine if any active nests are present. (*Ibid.*) If active nests are identified, the Covered Activity shall not be conducted within 200 feet of an active nest. (*Ibid.*) If surveys conducted during the nesting season document that Covered nesting riparian bird Species are not present, the Covered Activity may proceed. (*Ibid.*)

Based on the above, impacts to the yellow-breasted chat are less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

23. **Impacts to the summer tanager (*Piranga rubra*).** Individuals occurring outside the Conservation Areas will be subject to Take, including those in migratory Habitat east of the Coachella Canal and in a small portion of Dos Palmas. (Final Recirculated EIR/EIS, p. 4.7-56.) Approximately 168 acres of all breeding Habitat and 15,371 acres of migratory Habitat will be subject to Take under the Plan. (MSHCP, Table 4-114.)

**Features of the MSHCP that will reduce Project Impacts.** Ninety-four percent of the modeled summer tanager breeding Habitat and 71% of the modeled summer tanager migratory Habitat is conserved under the Plan. (MSHCP, Table 4-116.) The MSHCP will result in the Conservation of 1,037 acres of modeled breeding Habitat together with Existing Conservation Land for a total of 2,563 acres of breeding Habitat conserved. (*Ibid.*) Permittees will also protect and manage 19,534 acres of modeled migratory Habitat together with Existing Conservation Land for a total of 40,846 acres of migratory Habitat conserved. (*Ibid.*)

The Plan will provide permanent protection to riparian Habitat via acquisition and management in several Conservation Areas and by establishment of permanent riparian Habitat in the Coachella Valley Storm Channel and Delta Conservation Area. (Final Recirculated EIR/EIS, p. 4.7-57.) CVWD will establish 44 acres of permanent Sonoran cottonwood-willow riparian forest in the Coachella Valley Stormwater Channel and Delta Conservation area as described in Section 4.3.20 of the MSHCP. (MSHCP, Table 4-116.) In addition, the Plan requires that,

where disturbance of a given number of acres of a riparian natural community is authorized, an equivalent number of acres will be replaced to ensure that no net loss occurs. (*Ibid.*)

Implementation of biological monitoring and Adaptive Management will also take place to ensure Conservation of the summer tanager. (*Ibid.*) Essential Ecological Processes will also be protected, including hydrological regimes necessary to maintain riparian Habitat. In addition, the Required Avoidance, Minimization, and Mitigation Measures of Section 4.4 of the MSHCP require that Covered Activities, including construction and O&M activities, in riparian Habitat of the Cabazon, Stubbe and Cottonwood Canyons, Whitewater Canyon, Upper Mission Creek/Big Morongo Canyon, Thousand Palms, Indio Hills Palms, Joshua Tree National Park, Mecca Hills and Orocopia Mountains, Dos Palmas, Coachella Valley Stormwater Channel and Delta, and Santa Rosa and San Jacinto Mountains Conservation Areas, will be conducted to the maximum extent Feasible outside of the May 1 – September 15 nesting season for summer tanager. (MSHCP, pp. 4-169 to -170.) If Covered Activities must occur during the nesting season, surveys shall be conducted to determine if any active nests are present. (*Ibid.*) If active nests are identified, the Covered Activity shall not be conducted within 200 feet of an active nest. (*Ibid.*) If surveys conducted during the nesting season document that Covered nesting riparian bird Species are not present, the Covered Activity may proceed. (*Ibid.*)

Based on the above, impacts to the summer tanager are less than significant and the benefits conferred by the Plan will provide permanent protection to its riparian Habitat.

24. **Impacts to the Southern yellow bat (*Lasiurus xanthinus*).** Individuals occurring outside the Conservation Areas will be subject to Take, including those occurring in isolated palm oases scattered throughout the Plan Area. (Final Recirculated EIR/EIS, p. 4.7-75.) Approximately 78 acres (6%) of all Habitat and 9% of non-Federal lands will be subject to Take under the Plan. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** Ninety-four percent of the 1,329 acres of occupied or potential yellow bat Habitat is conserved under the Plan. (Final Recirculated MSHCP, Table 4-116.) The MSHCP will result in the Conservation of 590 acres of modeled Habitat together with Existing Conservation Land for a total of 1,250 acres conserved. (*Ibid.*)

The Plan will protect Essential Ecological processes including hydrological regimes necessary to maintain fan palm oases and implement biological monitoring and Adaptive Management to ensure Conservation

of yellow bat Habitat. (*Ibid.*) The Plan will also conserve occupied and potential Habitat in native fan palm oases. (*Ibid.*)

Finally, existing wetland laws and CEQA requirements that protect the fan palm oases could further reduce impacts to the southern yellow bat, if any are expected to be minor and insignificant. (Final Recirculated EIR/EIS, p. 4.7-75.)

Based on the above, impacts to the Southern yellow bat are less than significant.

25. **Impacts to Coachella Valley round-tailed ground squirrel (*Spermophilus tereticaudus chlorus*).** Individuals occurring outside the Conservation Areas will be subject to Take, including those occurring east of Desert Hot Springs, on the Big Dune and along the Coachella Canal south of I-10. (Final Recirculated EIR/EIS, p. 4.7-69.) Approximately 61,243 acres (60%) of all Habitat and 69% of non-Federal lands will be subject to Take under the MSHCP. (*Ibid.*) There will be approximately 1,319 acres (6%) of Core Habitat subject to Take under the Plan. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** Ninety-four percent of the Core Habitat for this ground squirrel will be conserved and 33% of the occupied or potential Habitat will be conserved under the Plan. (MSHCP, Table 4-116.) The MSHCP will result in the Conservation of 20,469 acres of modeled Habitat together with Existing Conservation Land for a total of 33,826 acres conserved. (*Ibid.*)

Using the criteria set forth by the Scientific Advisory Committee, the MSHCP has established Conservation Areas to protect this species. (Final Recirculated EIR/EIS, p. 4.7-70.) Four of these Conservation Areas contain Core Habitat and 16 protect Other Conserved Habitat. (MSHCP, Table 4-116.) The Conservation Areas are large enough to contain hundreds of animals and are adequately connected to each other to allow genetic exchange. (Final Recirculated EIR/EIS, p. 4.7-70.) The MSHCP ensures Conservation of Essential Ecological Processes including sand source/sand transport systems; maintains Linkages among all conserved populations; and implements biological monitoring and Adaptive Management to ensure long-term persistence (MSHCP, Table 4-116.)

Because occupancy rates for this ground squirrel are high in mesquite hummocks, it is therefore desirable to preserve the natural communities with a mesquite component for this squirrel. (Final Recirculated EIR/EIS p. 4.7-70.) Substantial stands of mesquite hummocks and dunes are conserved within the Willow Hole and Thousand Palms Conservation Areas. (*Ibid.*) As discussed in Section 8 of the Plan, the Monitoring Program will include the use of appropriate methods and technologies (which may change over time) to monitor groundwater levels in the

Willow Hole, East Indio Hills, and Thousand Palms Conservation Areas where a substantial lowering of the water table could have a significant adverse impact on mesquite hummocks. (*Ibid.*) Should monitoring detect a substantial lowering of the water table or a decline in mesquite health, the Plan specifies procedures to be taken to ameliorate potentially significant effects. (*Ibid.*)

Finally, Section 4.4 of the Plan requires that most Construction Activities in Cabazon, Willow Hole, Thousand Palms, Indio Hills Palms, East Indio Hills, Dos Palmas, Coachella Valley Stormwater Channel and Delta, and Santa Rosa and San Jacinto Mountains Conservation Areas avoid mesquite hummocks and mesquite bosque to the maximum extent Feasible. (MSHCP, p. 4-176).

Based on the above, impacts to the Coachella Valley round-tailed ground squirrel are less than significant and the benefits conferred by the Plan will protect adequate unfragmented Habitat, maintain Essential Ecological Processes to sustain the Habitat, and protect Biological Corridors and Linkages, as appropriate.

26. **Impacts to the Palm Springs pocket mouse (*Perognathus longimembris bangsi*).** Individuals occurring outside the Conservation Areas will be subject to Take, including those occurring east of Desert Hot Springs, on the Big Dune, between the southern Indio Hills and the Little San Bernardino Mountains, east of the Coachella Canal south of I-10 and in the North Shore area. (Final Recirculated EIR/EIS, p. 4.7-72.) Approximately 75,304 acres (53%) of all Habitat and 62% of non-Federal lands will be subject to Take under the MSHCP. (*Ibid.*) There will be approximately 1,993 acres (7%) of Core Habitat subject to Take under the Plan. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** Ninety-three percent of the Core Habitat for the pocket mouse will be conserved and 40% of the occupied or potential Habitat is conserved under the Plan. ((MSHCP, Table 4-116.) This includes protection of 77% of the known occurrences for the mouse. The MSHCP will result in the Conservation of 35,605 acres of modeled Habitat together with Existing Conservation Land for a total of 56,856 acres conserved. (MSHCP, Table 4-116.)

The Plan will ensure Conservation of Core Habitat within five Conservation Areas; Protect Other Conserved Habitat in 16 Conservation Areas through adherence to other Conservation Objectives; Ensure Conservation of Essential Ecological Processes including sand source/sand transport system; Maintain Linkages among all conserved populations; and Implement biological monitoring and Adaptive Management to ensure long-term persistence. (*Ibid.*) Implementation of the Plan will maintain and enhance population viability of the Palm

Springs pocket mouse which currently receives no protection outside of the existing Coachella Valley Fringe-Toed Lizard Preserve System. (*Ibid.*) Management and monitoring prescriptions will further enhance long-term Conservation of this species. (*Ibid.*)

In addition, the Required Avoidance, Minimization, and Mitigation Measures of Section 4.4 of the MSHCP require that Covered Activities, including Flood Control-related construction activities, avoid impacts to the Palm Springs pocket mouse and its habitat in the Upper Mission Creek/Big Morongo Canyon and Willow Hole Conservation Areas, related to clearing, translocation, revegetation, and trapping and holding. (MSHCP, pp. 4-177 to -178.)

27. **Impacts to Peninsular Bighorn Sheep (*Ovis Canadensis nelsoni*).** Approximately 6,533 acres (3%) of all Habitat for the Peninsular Bighorn Sheep ("PBS") and 6% of non-Federal lands would be subject to Take under the MSHCP. (Final Recirculated EIR/EIS, p. 4.7-65.) Habitat impacts outside the Conservation Areas would occur primarily in the Pinyon Flats area under the MSHCP. (*Ibid.*)

**Features of the MSHCP that will reduce Project Impacts.** Ninety-six percent of the Essential Habitat for the PBS will be conserved under the Plan. (MSHCP, Table 4-116.) The MSHCP will result in the Conservation of 30,226 acres of modeled Habitat together with Existing Conservation Land for a total of 165,856 acres conserved. (*Ibid.*)

The Plan contains several management strategies designed to avoid Take of the PBS. First, the Plan will protect Essential Habitat for the PBS as delineated in the final Recovery Plan for PBS in the Peninsular Ranges, California (USFWS 2000). (*Ibid.*) Second, the Plan contains measures to control and manage activities that degrade PBS Essential Habitat within the Conservation area. (*Ibid.*) This could include human disturbance, Habitat fragmentation, and edge effects. (*Ibid.*) Third, the Plan provides mechanisms to reduce impacts from invasive species. (*Ibid.*) Fourth, fire management guidelines may be developed where necessary. (*Ibid.*) Fifth, restoration and enhancement of degraded Habitat are options that may be used. (*Ibid.*) And finally, Section 4.4 of the MSHCP (Required Avoidance, Minimization, and Mitigation Measures) contains further avoidance requirements. That section states that completion of Covered Activities in PBS Habitat in the Cabazon, Snow Creek/Windy Point, and Santa Rosa and San Jacinto Mountains Conservation Areas will be conducted outside of the January 1 - June 30 lambing season unless otherwise authorized through a Minor Amendment to the Plan with concurrence from the Wildlife Agencies. (MSHCP, Table 4-116.) O&M of Covered Activities, including but not limited to refinishing the inside of water storage tanks, shall be scheduled to avoid the lambing season, but may extend into the



January 1 – June 30 period if necessary to complete the activity, upon concurrence with the Wildlife Agencies. (MSHCP, p. 4-176.)

Section 4.4 further states that for new projects in the aforementioned Conservation Areas, no toxic or invasive plant species may be used for landscaping. (*Ibid.*) For existing public infrastructure facilities which have landscaping in PBS Habitat in the Cabazon, Snow Creek/Windy Point, and Santa Rosa and San Jacinto Mountains Conservation Areas, the Permittees who have such facilities will, with respect to those facilities, develop and implement a plan and schedule to remove or prevent access to oleander and any other plants known to be toxic to PBS. (MSHCP, pp. 4-176 to -177.) The plan and schedule will be prepared within one (1) year of Permit issuance. (MSHCP, p. 4-177.)

The majority of the Santa Rosa and San Jacinto Mountains Conservation Area, a Conservation Area listed by the Recovery Plan for the PBS as a recovery region, is subject to the Habitat Evaluation and Acquisition Negotiation Strategy (“HANS”) process described in Section 6.6.1.2 of the Plan. The HANS process is to be utilized to ensure that all Development complies with the Conservation Goals and Objectives of the MSHCP for conserving Essential Habitat and alleviating threats to the Plan Area population. (MSHCP, pp. 6-21 through 6-30; Table 4-116.)

In addition, Land Use Adjacency Guidelines set forth in Section 4.5 of the Plan establish parameters by which potential impacts to PBS and their Habitat will be judged. These include adverse alterations to natural drainages, introduction of toxic or hazardous materials, light and noise, and the introduction of toxic and invasive plants. (MSHCP, pp. 4-178 to -183.)

Finally, the Species Objectives for PBS (Section 9.8.4.1 of the MSHCP) include ensuring that implementation of the MSHCP is consistent with the recovery strategy in the Recovery Plan to the maximum extent feasible. (Final Recirculated EIR/EIS, p. 4.7-67.)

Based on the above, impacts to the PBS are less than significant and the benefits conferred by the Plan will provide permanent protection to its Habitat.

**Revised Trails Plan.** To ensure that recreational disturbance does not significantly affect Peninsula Bighorn Sheep (“PBS”), the Revised Trails Plan in the Santa Rosa and San Jacinto Mountains Conservation Area has adopted an Adaptive Management approach with an emphasis on research. (MSHCP, § 7.3.3.2) The Trails Plan will focus on multi-agency scientific data gathering to evaluate the effects of recreation trail use on PBS health, habitat selection, and long-term population dynamics. (*Ibid.*) The overarching goal of this research

program is to obtain empirical data from the Plan Area to guide future trails construction and management. (*Ibid.*)

Because there is no established causative link between recreational use and impacts to PBS at the time of Project adoption, the Monitoring Program will be used to further evaluate the effects of recreational trail use on PBS within essential PBS Habitat in the Santa Rosa and San Jacinto Mountains, and to propose standards to ensure that any potential future impacts are below a level of significance. (Final Recirculated EIR/EIS, pp. 5-16 through 5-25.)

The Monitoring Program will provide empirical data to inform decisions about future trails Management Program actions that complement PBS recovery and benefit or enhance PBS Conservation for the trail use as set forth in the Revised Trails Plan. (*Ibid.*) The components of the Monitoring Program will be designed to preclude potentially significant adverse effects on biological resources, as they will be constructed to serve as a mitigation strategy for any potentially adverse effects from trail use. (*Ibid.*)

The Monitoring Program will help provide detail on the levels and type of trail use in the study area, primarily by the development and implementation of a self-permit system. (*Ibid.*) The system will focus on evaluation of the use of recreational trails by hikers, equestrians, and mountain bikers as it relates to habitat use by PBS. (*Ibid.*) The Monitoring Program will increase the amount of currently available data regarding periodic documentation of trail use, provide ongoing population surveys of PBS on an annual basis, and provide other data for consideration by the Trails Management Subcommittee that could result in trails management actions to reduce any impacts to PBS or their Habitat. (*Ibid.*)

Hot season trail closures of designated trails between June 15th and September 30th will avoid significant impacts to PBS and their access to essential water sources during the hottest and driest times of the year. (*Ibid.*) These closures will be beneficial to biological resources, especially PBS, that might otherwise avoid important water sources during this period of greatest need. (*Ibid.*)

Proposals to construct perimeter trails and other new trails, including the Palm Desert to La Quinta Connector Trail, would be deferred until the research program has been completed and potential impacts, if any, can be analyzed and addressed. (Final Recirculated EIR/EIS, p. 2-31.) Unless research results show that recreational trail use would adversely impact PBS health, demography, population sustainability, and population connectivity, construction of the perimeter trails and other new trails, including the Palm Desert to La Quinta Connector Trail, could be initiated after appropriate CEQA/NEPA review. (*Ibid.*) This deferral will ensure that trail conditions (e.g., use levels) are consistent once the Monitoring Program is initiated. (*Ibid.*)

Existing trailhead facilities will be used whenever possible. (Final Recirculated EIR/EIS, p. 2-35.) Future proposals for new trails on Reserve Lands in the Santa

Rosa and San Jacinto Mountains Conservation Area, other than the identified trails described herein, would be addressed on a case-by-case basis, subject to existing regulations, policies, and land management plans. (Final Recirculated EIR/EIS, p. 2-32.) If approved for construction, perimeter trails would generally run parallel to and not rise more than 200 feet above the toe of slope, except where necessary to avoid residential or other developed areas or topographically inaccessible terrain. (*Ibid.*) No perimeter trails will be constructed within 1/4 mile of wildlife water sources and, where possible, will incorporate topographic variability. (Final Recirculated EIR/EIS, p. 2-33.)

The public awareness and education program will enhance cooperation and participation in the self-permitting program of the Revised Trails Plan through the monitoring and management of trail use. (Final Recirculated EIR/EIS, p. 5-22.)

Wildlife managers will consistently track trail use and impacts, if any, to PBS, and require immediate action to be undertaken if specified PBS population numbers are reduced to specified thresholds. (Final Recirculated EIR/EIS p. 2-37.) In the event a ewe group reaches 15 individuals or fewer, responsible parties shall meet and consult on whether to close, reduce use or otherwise regulate related trails. (*Ibid.*) In the event a ewe group reaches 5 individuals or fewer, responsible parties shall immediately close related trails, and shall meet and consult on future trail use and/or otherwise regulate related trails. (*Ibid.*) These actions will ensure that disturbance to PBS from recreational use, if any, will cease immediately.

Trail rerouting, including the Art Smith and Mirage Trails, will be designed to protect sensitive resource values (e.g., cultural resources, wildlife Habitat, soils) where feasible. (Final Recirculated EIR/EIS, pp. 5-45.) After coordination between the CVCC and federal and state wildlife agencies, redundant trails will be removed to reduce any current impacts in these areas. (*Ibid.*) Trails and trail segments on certain State lands will also be decommissioned and removed, thereby reducing trail use impacts in sensitive Habitat areas. (*Ibid.*) Rerouting and decommissioning of trails will occur following approval of a specific project by the appropriate project lead agency and these actions would have to meet NEPA and CEQA requirements. (*Ibid.*) Thus, impacts associated with deferring the rerouting, decommissioning, and removal of trails will be less than significant. (*Ibid.*)

Dogs may disturb PBS and its habitat through intimidation, trail usage and excrement. Therefore, dogs would be allowed in designated areas only. (Final Recirculated EIR/EIS, p. 5-46.) An educational kiosk at each designated dog walking area will inform dog owners about basic PBS ecology and behavior, as well as potential threats to PBS due to the presence of dogs. (Final Recirculated EIR/EIS, p. 5-46.)

The implementation of the Plan will therefore ensure that any potential impacts to PBS from the Revised Trails Plan are maintained below a level of significance.

## E. Cultural Resources

The MSHCP involves detailed Conservation planning, management and monitoring within Conservation Areas, which will enhance the Conservation of cultural resources by precluding Development that may impact those resources. (Final Recirculated EIR/EIS, p. 4.9-9.) All conditionally compatible uses, including future planning and development of trails, trailheads, and interpretive facilities (i.e. information kiosks) must follow guidelines specified in the Plan that will protect cultural resources. (*Ibid.*) In addition, certain Allowable Uses in the Reserve System, including activities associated with reserve management, monitoring and scientific research, will not result in any significant land disturbance. (*Ibid.*) Thus, the Plan will not generate adverse impacts on sensitive cultural resources. (*Ibid.*) Accordingly, there are no significant impacts to cultural resources from the MSHCP.

**Revised Trails Plan.** New trails proposed for construction under the Revised Trails Plan have the potential to affect cultural resources. (Final Recirculated EIR/EIS, p. 5-59.) Several proposed trails may pass through areas with varying potential to affect cultural resources. (Final Recirculated EIR/EIS, pp. 5-59 through 5-60.)

Implementation of the provisions of the MSHCP in conjunction with trails planning will avoid adverse impacts to sensitive cultural resources and ensure that such potential impacts are maintained below a level of significance. (Final Recirculated EIR/EIS, pp. 5-59 to -60.)

Rerouting trails to avoid areas identified as sensitive by Native Americans or that contain historic properties will avoid impacts and in fact have a positive effect on cultural resources. (Final Recirculated EIR/EIS, p. 5-59.) Prior to making recommendations for decommissioning and removing trails in the Santa Rosa and San Jacinto Mountains Conservation Area, an inventory of all trails in the Conservation Area will occur. (Final Recirculated EIR/EIS, p. 5-60.) The determination of which trails would be decommissioned or removed will be made following this inventory. (Final Recirculated EIR/EIS, pp. 5-60 through 5-61.) Thus, if an action under any of the public access and use alternatives has the potential to affect historic properties, cultural resources review will be needed before the action may be implemented. (Final Recirculated EIR/EIS, p. 5-56.) Literature reviews, field surveys and data recovery may be required where appropriate. (Final Recirculated EIR/EIS, p. 5-56.)

Public Education programs would help fully inform the public of the resource issues at risk, and would provide the public with useful information so as to maximize the effectiveness of the Revised Trails Plan. (Final Recirculated EIR/EIS, p. 5-22.)

The implementation of the Plan will thus ensure that potential impacts to PBS are maintained below a level of significance.

F. Environmental Justice

Since its inception, the MSHCP planning process has been open to the public in an effort to disseminate information, solicit comments, and provide opportunities for public input. (Final Recirculated EIR/EIS, pp. 4.9-27 through 4.9-28.) Three public scoping meetings, which were fully noticed in local newspapers and mailings to public interest groups and potentially affected landowners, were held in 2000 in the western, central, and eastern portions of the Coachella Valley. (*Ibid.*) More than a dozen meetings were held by the BLM to solicit input and feedback from special interest groups. (*Ibid.*) All meetings of the Project Advisory Group ("PAG"), which met approximately once a month from 1998 through 2005, have been open to the public. (*Ibid.*)

The primary objectives of the proposed Plan are: (1) to preserve undeveloped, uninhabited open space lands, which can be used to create large, interconnected preserves for sensitive species and their Habitats, and (2) to standardize mitigation/compensation measures for the Covered Species in a manner that satisfies applicable Federal and State laws pertaining to Endangered Species protection. (*Ibid.*; MSHCP, § 1.2.) The Plan Area includes City and County lands in Eastern Riverside County believed necessary to achieve these goals, and it does not target or exclude any community or parcel of land based on demographic or income characteristics. (Final Recirculated EIR/EIS p. 4.9-28.) No Indian Reservations are subject to the MSHCP. The MSHCP will not result in any adverse, direct or disproportionate impacts to minorities or minority populations, low income populations, concentrated Native American populations or children. (Final Recirculated EIR/EIS, pp. 4.9-24 through 4.9-28.)

Therefore, no significant impacts to minority populations, low income populations, Native American populations, or children will result from implementation of the MSHCP.

G. Geology and Soils

While the Plan does provide for minimal building (i.e. information kiosks) and potentially provides for minimal soil disturbance (i.e. trail construction), the MSHCP does not allow Development that would otherwise not be permitted in areas where geologic hazards occur. (Final Recirculated EIR/EIS, p. 4.9-1.) In fact, the MSHCP will reduce the exposure to geologic hazards by acquiring lands for Conservation. (*Ibid.*) Existing General Plans, zoning ordinances, building codes, and environmental review policies, standards, and requirements will remain in effect under the MSHCP to ensure that any Development in Conservation Areas will assess potential hazards and impacts and enforce relevant laws and regulations. (*Ibid.*) Accordingly, impacts on soils and geology are less than significant.

H. Hazards and Hazardous Materials

The MSHCP does not require or promote the transport, use, or disposal of hazardous materials. (Final Recirculated EIR/EIS, pp. 4.9-28 through 4.9-29.) Nor will the Plan facilitate a hazardous release of materials, substances or waste. (Final Recirculated EIR/EIS p. 4.9-29.) Likewise, the Plan will not directly involve the building of any structure on a site which is included in the list of hazardous materials sites compiled pursuant to Government Code Section 65962.5, creating a significant hazard to the public or the environment. (*Ibid.*) In addition, as a Conservation Plan, the Plan does not facilitate the Development of residences or buildings related to an airport land use plan area or airstrip, nor does the Plan cater to any involvement of persons residing or working in such areas. (Final Recirculated EIR/EIS p. 4.9-30.) As such, the Plan will not result in a safety hazard for people residing or working within an airport land use plan area or within the vicinity of a private airstrip. (*Ibid.*) Nor does the Plan allow for or impair an adopted emergency response plan. (*Ibid.*) Finally, the Plan will not expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands. (*Ibid.*)

Management of the Reserve System will entail the limited use and storage of herbicides and pesticides to control exotic or invasive non-native plant and animal species. (Final Recirculated EIR/EIS 4.9-29.) This use and storage is an allowable use which would be overseen by the appropriate Reserve Management Unit Committee and would comply with all applicable laws and regulations. (*Ibid.*)

Because the implementation of the MSHCP will not pose or create a significant threat or hazard, nor expose the public to significant hazardous or toxic materials, no mitigation measures are required.

#### I. Hydrology and Water Quality

Existing alluvial fans and floodplains in the Coachella Valley have previously been selected and developed for large-scale groundwater recharge activities. (Final Recirculated EIR/EIS, p. 4.6-4.) The MSHCP ensures, rather than interferes with, the continued functioning of these activities in several ways. For example, the MSHCP provides Take Authorization for CVWD planned groundwater recharge facilities and the continued operation of its existing groundwater recharge facilities within the Plan Area. (*Ibid.*) CVWD must conserve the lands within the Whitewater Floodplain Preserve in perpetuity, and also cooperate with CVCC in the Conservation of other CVWD lands in the Conservation Areas. (Final Recirculated EIR/EIS, p. 4.6-4.)

In addition, the Plan provides Take Authorization for the Operation and Maintenance of levees and flood control channels within the Conservation Areas to ensure that Plan implementation does not expose people or structures to significant risk of loss, injury, or death from flooding, including flooding as a result of the failure of a levee or dam. (Final Recirculation EIR/EIS 4.6-5.) Further, the Plan will not in itself permit housing within a 100-year flood hazard

as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map. (*Ibid.*) Nor will the Plan itself permit structures which would impede or redirect flood flows within a 100-year flood hazard area, or create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. (*Ibid.*)

The Plan also will not contribute to inundation by seiche, tsunami, mud or debris flow since it will not create any physical changes that would cause or contribute to such inundation. (*Ibid.*) In contrast, the Plan will conserve many floodplain areas, thus reducing the potential for structures to be built in these areas. (*Ibid.*)

Also, through Reserve Assembly, the MSHCP will not substantially alter any existing drainage pattern in a manner that would result in substantial erosion or siltation on- or off-site, nor in a manner that would substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net-deficit in aquifer volume or a lowering of the local groundwater table level. (Final Recirculated EIR/EIS, p. 4.6-6.) Because the MSHCP will conserve many floodplain areas, it will reduce the potential for structures to be built in such areas. (Final Recirculated EIR/EIS, p. 4.6-5.)

The MSHCP also does not propose any significant change to existing or planned flood control projects or facilities. Nor will the MSHCP affect existing regulations for Development on mapped floodplains which are intended to reduce risk to lives or property. (Final Recirculated EIR/EIS, p. 4.6-6.)

For the above reasons, the MSHCP will not conflict with but rather facilitates the requirements of federal agencies to act to reduce risk of flood loss and minimize impacts to human safety, health and welfare, and to restore the natural and beneficial values of floodplains. (Final Recirculated EIR/EIS, p. 4.6-7.)

For the foregoing reasons, the MSHCP will not violate any water quality standards or waste discharge requirements, nor impede groundwater recharge. Therefore, no significant impacts to hydrology and water quality will result from implementation of the MSHCP.

#### J. Land Use and Planning

The general plan land use designation information utilized by the MSHCP is based in part on the GIS land use designation information for the Plan Area provided to CVAG from the Southern California Association of Governments ("SCAG"). SCAG based its map on the information largely provided it by member cities.

Utilizing this information provided by SCAG, the MSHCP was designed to avoid conflicts with any plans adopted for the purpose of avoiding or mitigating an environmental effect. (Final Recirculated EIR/EIS, p. 4.2-6.) The MSHCP also does not change existing general plan land use designations. In fact, several

components of the Plan ensure that the Plan is consistent with general land use designations and that neither the CVCC nor the Wildlife Agencies will have decision-making authority over land use decisions. The Wildlife Agencies may, but are not required to, submit comments on proposed projects in the Conservation Areas through the Joint Project Review process. (MSHCP, pp. 6-19 through 6-21.) The design of the Conservation Areas of the MSHCP took into account the General Plan land use designations of the Local Permittees, and approximately 91% of the land in the Conservation Areas has an Open Space designation to conserve open space resources. (Final Recirculated EIR/EIS, p. 4.2-6.)

The proposed Plan is also consistent and compatible with the objectives of local, State, regional and Federal agencies, and tribal land use plans, policies and controls for the Plan Area through ongoing consultation and coordination. (Final Recirculated EIR/EIS, p. 4.2-7.) Based upon the coordinated and integrated nature of the MSHCP, impacts to Federal, state, regional, local, or tribal land use plans, policies, or controls are considered to be less than significant for CEQA analysis purposes. (*Ibid.*)

Because the distribution of the Conservation Areas accommodates the physical integrity of the communities, the MSHCP does not contribute towards the physical separation of a community. (*Ibid.*) The one potential exception is due to the Upper Mission Creek/Big Morongo Canyon Conservation Area, which adjoins the existing urbanized portion of Desert Hot Springs and creates a separation between it and future planned Development. (*Ibid.*) The separation, however, ranges between 0.25 miles and 0.5 miles and follows the Morongo Wash floodplain area, which already constitutes a natural separation. (*Ibid.*) The proposed Plan also provides Take Authorization for major roads that connect the two portions of the city. (*Ibid.*) Additionally, a trail system is allowed in the Conservation Area and would serve as an amenity to help unite the two areas of the city. (*Ibid.*)

The MSHCP does not conflict with any applicable habitat conservation plan or natural community conservation plan. (*Ibid.*; Final Recirculated EIR/EIS § 4.8.)

Based on the above, no significant impacts to land use will result from implementation of the MSHCP.

**Revised Trails Plan.** Proposed new trails have been carefully sited to largely stay within public lands and/or rights of way. (Final Recirculated EIR/EIS, p. 5-12.) However, proposals to construct perimeter trails and other new trails will be deferred until the initial phase of the monitoring and research program has been completed. (Final Recirculated EIR/EIS, p. 5-13.) This approach will ensure that trail conditions (e.g., use levels) are consistent once the research and monitoring programs are initiated. (*Ibid.*) Thus the Revised Trails Plan does not conflict with any plans adopted for the purpose of avoiding or mitigating an environmental effect, and impacts are less than significant.



The development of the Revised Trails Plan has involved close coordination with local jurisdictions and state and federal agencies to assure that the Revised Trails Plan is consistent and compatible with the objectives of local, state, regional and federal agencies, and tribal land use plans, polices and controls for the Santa Rosa and San Jacinto Mountains. (Final Recirculated EIR/EIS, pp. 5-13.) Based upon the coordinated and integrated nature of the Revised Trails Plan, impacts to federal, state, regional, local, or tribal land use plans, policies, or controls are less than significant. (Final Recirculated EIR/EIS, p. 5-13.)

The Revised Trails Plan also does not result in the physical separation of a community. Most of the trail alignments within the Revised Trails Plan are outside currently developed areas and do not intrude into existing or planned urban Development. (*Ibid.*)

The Revised Trails Plan also does not conflict with any applicable habitat conservation plan or natural community conservation plan. (*Ibid.*)

The construction and use of new perimeter trails described in Element 5 of the Proposed Trail Plan will be a Covered Activity unless research results indicate that these trails would adversely affect bighorn sheep. Current analysis indicates that these perimeter trails would not substantially impact Peninsular bighorn sheep populations, nor result in Take. The element provides for additional research through Element 2 to further analyze impacts to Peninsular bighorn sheep from recreational trail use, thereby confirming and expanding upon previous impact assessments. Proposals to construct perimeter trails and other new trails, including the Palm Desert to La Quinta Connector Trail, would be deferred. This deferral would ensure that trail conditions (e.g., use levels) are as consistent as possible once the research and monitoring programs are initiated. Construction of these new trails could be initiated as soon as feasible, depending on funding availability and acquisition of easements or other authorizations, and completion of applicable NEPA and CEQA requirements and upon results of research and the effect upon PBS. (Final Recirculated EIR/EIS pp. 5-21 to 5-22.)

Future proposals for new trails on Reserve Lands in the Santa Rosa and San Jacinto Mountains Conservation Area, other than the identified trails described herein, would be addressed on a case-by-case basis, subject to existing regulations, policies, and land management plans. Such future trail proposals would require a Minor Amendment to the Plan with Wildlife Agency concurrence. Impacts associated with deferring the construction of new trails are expected to be less than significant for CEQA analysis purposes. (Final Recirculated EIR/EIS, p. 5-22.) Several proposed alternative alignments to the Palm Desert to La Quinta Connector Trail could have a significant adverse impact on land use. (Final EIR/EIS, pp. 5-19 through 5-21.) The Palm Desert to La Quinta Connector Trail will be deferred pending completion of a focused research program to evaluate the effects of recreational trail use on wild sheep in the Conservation Area and a subsequent research program evaluating the effects of this portion of the Connector Trail on captive sheep at the Bighorn Institute.

(Final EIR/EIS, p. 5-22.) If significant adverse impacts to native and/or captive breeding populations result as determined through the research program described in Element 2, and feasible mitigation measures cannot be implemented to reduce this impact, then all or a portion of this trail as originally proposed will not be constructed. (*Ibid.*) Subsequent CEQA and/or NEPA analysis of the connector trail will also be conducted. (*Ibid.*)

#### K. Mineral Resources

The MSHCP may result in the potential loss of a mineral resource (sand and gravel) within the Plan Area, or may result in the loss of availability of wind energy to the region.

However, impacts to mineral resources under the MSHCP will be less than significant. First, the Conservation Areas were designed to minimize inclusion of mining operations, thus allowing continued mineral extractions. (Final Recirculated EIR/EIS, p. 4.4-2.) In the Plan Area, there are 17,527 acres that have been designated as Mineral Resource Zone 2 ("MRZ-2"). (*Ibid.*) Of this acreage, ten thousand acres of Mineral Resource Zone 2 (lands containing significant mineral deposits) are included in the Conservation Areas, including 1,983 Federally owned acres, 921 acres of non-Federal Existing Conservation Land, and 1,051 acres which have been approved for mining and will receive Take Authorization under the MSHCP. (*Ibid.*) Thus, only 6,052 acres of MRZ-2 lands could be directly affected by the Plan. (*Ibid.*) Because Development will be limited in Conservation Areas, it is foreseeable that this resource may not be developed under the MSHCP. (*Ibid.*) However, this impact will not be significant because the Plan Area contains sufficient sand and gravel resources to meet the demand for approximately 130 years at the current rate of consumption and the consumption of land under the MSHCP does not physically affect the resource. (*Ibid.*)

Second, the Plan does not affect or modify existing Permits or require new Permits, and does not impose limits on the extraction of available resources. As such, existing mining operations, although not Covered Activities, will not be affected by the MSHCP. (*Ibid.*)

Third, existing mineral resources will not be physically affected by lands conserved under the Plan.

Finally, certain mining areas, such as certain Indio Quarry lands, will actually benefit by implementation of the MSHCP because they will receive Take Authorization. (Final Recirculated EIR/EIS, pp. 4.4-3 to -5.)

Impacts to energy resources, specifically wind energy conservation systems (turbines) within the Plan Area would be less than significant. (Final Recirculated EIR/EIS, p. 4.4-5.) Given the substantial windfarm development that has already occurred and the continuing retrofit of turbines on existing sites, as well as the

continued relatively low impact of windfarm Development, existing and future Development of regional wind resources are not significantly in conflict with or constrained by adoption and implementation of the proposed Plan.. (Final Recirculated EIR/EIS, p. 4.4-5.) The Plan provides Take Authorization for ground disturbance associated with windfarm Development in Conservation Areas that is consistent with applicable Conservation Goals and Objectives. Ground disturbances include roads and staging areas, foundation pads and storage areas, with further disturbance limited once constructed. The retrofitting of wind turbines is a proposed Covered Activity only with respect to impacts from ground disturbance. (Final Recirculated EIR/EIS, p. 4.4-5.)

In addition, the Plan will not constrain future solar or thermal energy facilities that may be built. (*Ibid.*)

There are no existing or planned timber harvesting areas in the Plan Area; thus there are no impacts. (Final Recirculated EIR/EIS, p. 4.4-6.) Additionally, the Plan would have no effect on any commercially viable timber resource in any area outside but adjacent to the Plan Area. (*Ibid.*)

L. Noise

The MSHCP will not result in the generation of significant noise levels as defined by CEQA. (Final Recirculated EIR/EIS, pp. 4.9-16 to -17.) The MSHCP will result in very little construction or maintenance activities that will generate significant noise impacts. (Final Recirculated EIR/EIS, p. 4.9-17.) Construction activities under the Plan will be limited to minor construction projects associated with installation of fencing, and the construction of trails and trailhead facilities. (*Ibid.*) All of these activities will be very limited in extent and short in duration and will be less than significant. (*Ibid.*)

M. Population and Housing

Since 1980, population in the Coachella Valley has grown rapidly, and is expected to increase to 440,301 by 2010 and 540,901 by 2020. (Final Recirculated EIR/EIS, p. 4.8-1.) If the trend continues, the Coachella Valley and its jurisdictions will require additional housing to support the increase in population. Because a goal of the MSHCP is to conserve a significant amount of acreage for the benefit of species' preservation within the Plan Area, affected jurisdictions could have less acreage with which to consider the placement of proposed Developments, resulting in a potential impact from implementation of the MSHCP. Relevant impact areas are analyzed below.

**County and City Budgets.** The MSHCP has developed a fiscal impact analysis to calculate the potential costs and revenues of each jurisdiction if buildout of lands actually occurred. (Final Recirculated EIR/EIS, p. 4.8-6.) The analysis concluded that in most jurisdictions, the potential buildout of the lands proposed for inclusion in Conservation Areas would result in residential Development at

low or very low densities, and would result in a negative cash flow to the jurisdiction at buildout. (Final Recirculated EIR/EIS, p. 4.8-7.) In fact, only Palm Springs (+\$706,868) and Riverside County (+\$22,100,100) would generate positive annual cash flow by building out developable Conservation Lands. (*Ibid.*) The net loss to Palm Springs would represent 0.6% of the City's annual operating revenue, while the County would lose approximately 2% of its General Fund Revenues. (Final Recirculated EIR/EIS, at pp. 4.8-6 through 4.8-7.) Thus, because buildout in most jurisdictions would create a negative funding stream, and in Riverside County and Palm Springs the loss of such potential funds would not create a substantial adverse economic impact on each jurisdiction's economy, such impacts to each jurisdiction are less than significant.

**Development Potential.** The analysis also compared potentially developable lands within and outside of the Conservation Areas for each jurisdiction. (Final Recirculated EIR/EIS, pp. 4.8-7 through 4.8-21.) For the nine cities within the Plan Area, a combined 43,262.22 acres of Development potential lie outside the proposed Conservation Areas, and approximately 9,181.7 acres with at least some (and often constrained) Development potential lie within the Conservation Areas. (Final Recirculated EIR/EIS, pp. 4.8-7 through 4.8-21.) Regarding Riverside County, 153,270.79 acres of developable lands are within the Conservation Areas and 90,512.63 acres are outside. (Final Recirculated EIR/EIS, p. 4.8-19.) However, most of the lands within the Conservation Areas are designated as low-density, very-low density, or urban, whereas the lands outside Conservation Areas represent more suburban and urban densities. (Final Recirculated EIR/EIS, pp. 4.8-7 through 4.8-21.) Therefore, the number of development units that may be constructed in Conservation Areas is low even without the Plan, and given the fact that the MSHCP allows Development on 10% of the land within the Conservation Areas, a substantial portion of these lands could be used for construction even with the Plan. Thus, the impacts of the Plan associated with residential, commercial, and industrial Development potential on lands within Conservation Areas are less than significant. (Final Recirculated EIR/EIS, p. 4.8-29.)

**Growth Constraints.** Future residential Development will be minimally impacted in Coachella, Indian Wells, Indio, and La Quinta. (Final Recirculated EIR/EIS, pp. 4.8-7 to -22.) In the remaining cities and in the unincorporated portions of the Plan Area, impacts will be primarily on lands within Conservation Areas but, as discussed above, these lands have been designated for low or very low density designations. (*Ibid.*) Thus, based on the above analysis, impacts to future residential growth will be less than significant.

For the entire Plan Area, approximately 8,300 acres of lands with potential for commercial Development are located outside the Conservation Areas, and less than 80 acres lie within Conservation Areas. (Final Recirculated EIR/EIS, p. 4.8-24.) Given the fact that the Plan Area encompasses over 1.1 million acres, impacts to future commercial Development are less than significant.

Approximately 14,000 of the 15,000 acres of land currently designated for industrial use are located outside the Conservation Areas. (Final Recirculated EIR/EIS, p. 4.8-24.) Thus, the Plan will not constitute a significant constraint to industrial Development in the Plan Area.

Based on the above analysis, the MSHCP will not significantly constrain Development potential within the Plan Area. Thus, impacts are overall less than significant.

**Affordable Housing.** In most jurisdictions, there will be minimal or no impact on affordable housing, since lands designated for medium to high density residential Development (where affordable housing is most likely to occur) occur outside the Conservation Areas. (Final Recirculated EIR/EIS, pp. 4.8-22 to -24.) Exceptions occur in Palm Desert, and the unincorporated areas of the Plan Area. (*Ibid.*) In Palm Desert, lands designated for medium density Development could yield up to 170 dwelling units, whereas the 100 acres outside Conservation Areas could yield 706 dwelling units. (Final Recirculated EIR/EIS, Table 4-16.) In the unincorporated areas, the ratio is 1,159:14,398. (Final Recirculated EIR/EIS, Table 4-19.) Because such a small amount of potentially affordable land will be conserved in comparison to affordable available land outside the Conservation Areas, overall impacts will be less than significant.

**Employment.** Potentially developable lands most impacted are designated for low to very low density residential Development, which has limited potential to generate jobs. (Final Recirculated EIR/EIS, p. 4.8-24.) Commercial and industrial lands have more potential for sustainable employment. However, commercial lands within Conservation Areas represent less than one percent of the total lands. (Final Recirculated EIR/EIS, 4.8-24.) This loss in potential employment is expected to be equivalent to the loss in leasable retail space, and represents a less than significant impact. (*Ibid.*) In addition, industrial lands within Conservation Areas represent 6.9% of the developable lands, also representing a less than significant impact.

#### N. Utilities and Service Systems

The MSHCP will provide Take Authorization for public facilities operated by CVWD, IID, County Flood Control, County Parks, and County Waste, as well as by the nine city Permittees in the Coachella Valley. (Final Recirculated EIR/EIS, p. 4.9-19.) This will facilitate the O&M of public facilities and the delivery of services by these Permittees. (*Ibid.*) The MSHCP will provide the basis for the issuance of Take Authorization for Emergency access and Emergency response within the MSHCP Reserve System. (*Ibid.*) The MSHCP also allows limited Development in these Areas, so that additional new public facilities are not precluded in the Conservation Areas. (*Ibid.*) Non-permittees that provide public services requiring Take Authorization could seek such Authorization under the Permits through the Participating Special Entity provisions. (*Ibid.*) The Plan will have a beneficial impact on electric power facilities as IID's Covered Activities

can proceed and be maintained. (Final Recirculated EIR/EIS, p. 4.9-20.) Southern California Edison ("SCE") is not a Permittee under the MSHCP. (*Ibid.*) However, under the provisions set forth in Section 7.5 of the MSHCP, SCE may request Take Authorization for its activities from the CVCC pursuant to the Permits as a Participating Special Entity, consistent with the terms and requirements of the Permits, the Plan, and the IA. (*Ibid.*)

Based upon an assessment of the potential impacts of the MSHCP on electric power facilities, natural gas transmission facilities, telephone and cable facilities, and the provisions of Sections 7.0 and 7.4 of the MSHCP, the MSHCP will not conflict with or obstruct construction of new public utilities or facilities, including above ground and subsurface energy, fuel or telecommunication transmission facilities. (Final Recirculated EIR/EIS, pp. 4.9-20 to -21.) Nor will it conflict with or obstruct the Operation and Maintenance of existing public utilities or facilities, including above ground and subsurface energy, fuel or telecommunication transmission facilities. (*Ibid.*)

In addition, the Plan will not generate additional solid waste, with the exception of the waste discussed below. (Final Recirculated EIR/EIS, p. 4.9-22.) Moreover, landfill related activities will be Covered Activities under the Plan, thereby creating a beneficial impact. (Final Recirculated EIR/EIS, p. 4.9-22.) Therefore, the MSHCP will not conflict with or obstruct continued operation of existing landfill facilities. (*Ibid.*)

The Plan will not exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board, or require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects. (Final Recirculated EIR/EIS, p. 4.9-23.) Further, it does not require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects. (*Ibid.*)

The Plan will not involve any deficiency in sufficient water supplies available to serve the project from existing entitlements and resources, and no new or expanded entitlements are needed. (*Ibid.*) The Plan could generate minor amounts of waste when trash is cleaned up from properties or exotic plant species are removed. (*Ibid.*) Adequate landfill capacity exists to accommodate the project's minimal solid waste disposal needs, and the Plan complies with federal, state, and local statutes and regulations related to solid waste. (*Ibid.*)

Based on the above, no significant impacts to utilities and service systems will result from implementation of the MSHCP.

O. Recreation

The MSHCP provides the basis for the development of a system of local, County, state and federal wildlife and Habitat preserves of local and national importance. (Final Recirculated EIR/EIS, p. 4.9-10.) The MSHCP provides guidelines for public access and recreation that will be implemented over time within the Reserve System. (*Ibid.*) Thus, implementation of this measure would have a less than significant effect on cross-country travel and camping.

The potential for expanded hiking, equestrian and other "passive" recreation in the MSHCP Reserve System is a significant benefit of the Plan. (Final Recirculated EIR/EIS, p. 4.9-10.) In addition to trails, the Plan envisions interpretive centers, information kiosks and other facilities to enhance the open space experience the Reserve System would provide to the public. (*Ibid.*)

Thus, the MSHCP will result in significant beneficial impacts for public use, trails and recreation in the Plan Area by increasing access to open space, restoring and protecting the underlying environmental resource. (Final Recirculated EIR/EIS, pp. 4.9-10 to -11.) No significant impacts to recreation will result from implementation of the MSHCP.

**Revised Trails Plan.** The Revised Trails Plan will provide year-round use of 38 of the 40 trails covered by the Plan, or about 95 of 115 miles (83%) of trails that spread across the lower elevations of the Santa Rosa and San Jacinto Mountains. (Final Recirculated EIR/EIS, p. 5-67.) These trails extend from the Snow Creek area west of Palm Springs to Martinez Canyon south of La Quinta, and would assure the availability of a wide range of mountain hiking, biking, and horseback riding experiences. (*Ibid.*) Eighty-eight percent of trails addressed by the Revised Trails Plan, or 83% of total trail mileage, will be available for year-round use. (Final Recirculated EIR/EIS, p. 5-68.) Thirty-eight of the 40 trails (or 105 of 115 miles of trails) addressed by the Revised Trails Plan are available for recreation during the maximum-usage months (January through April). (*Ibid.*) Only three trails totaling about 10 miles will be closed during the "hot season" from June 15 through September 30. (*Ibid.*) Data exists indicating that as the weather gets hotter, human trail use decreases. (Final Recirculated EIR/EIS, p. 5-68.) Thus, considering the extent of available trails in combination with the lower levels of use, the effects of summer trail closures on recreational opportunities will be minor. (Final Recirculated EIR/EIS, p. 5-69.)

Closures of certain trails or trail segments to bicycles will be limited to those that complement existing closures by precluding access where continuation of use along a trail would result in a violation. (*Ibid.*) Therefore, these new restrictions will have a minor effect on trail use by mountain bicyclists. (*Ibid.*)

Upon completion of the focused research program, study results and management recommendations will be integrated into a revised public use and trails Management Program, using best available science, professional judgment, and

wildlife management principles where study results may be less than definitive. (*Ibid.*) Depending on study results, future restrictions on recreational use of existing trails may or may not be imposed. (*Ibid.*)

Construction of perimeter trails will be deferred under the Revised Trails Plan pending completion of focused research program. (Final Recirculated EIR/EIS, p. 5-69.) Deferring the construction of new trails will not have a substantial effect on recreation. (*Ibid.*)

Decommissioning of trails will occur only after completion of a focused research program, and no trails would be decommissioned coincident with approval of the Revised Trails Plan. (Final Recirculated EIR/EIS, p. 5-70.) Therefore, impacts to recreational opportunities resulting from the Revised Trails Plan as it relates to trail rerouting, decommission, and removal are not anticipated at this time. (*Ibid.*)

Cross-country travel and camping in essential PBS habitat from January 1 through September 30 would be prohibited due to potentially affecting recreational access to certain parts of the Santa Rosa and San Jacinto Mountains. (Final Recirculated EIR/EIS, pp. 5-71 through 5-72.) Thus, opportunities for this activity would not be precluded, but access would be limited to a 106-day period each year. (*Ibid.*)

In summary, implementation of the Revised Trails Plan will not substantially affect trail use opportunities on existing trails in the Santa Rosa and San Jacinto Mountains Conservation Area.

#### P. Public Services

Police, fire and other Emergency services operate under the direct authority of or through a service agreement with Permittees. (Final Recirculated EIR/EIS, p. 4.9-22.) Section 7.3.2 of the MSHCP provides that local, state, and federal law enforcement entities will be allowed access to the Reserve Land as necessary to enforce the law. Medical, rescue, fire fighting operations, and other Emergency service providers will be allowed access to Reserve Lands to carry out operations necessary for the health, safety, and welfare of the public. (Final Recirculated EIR/EIS, p. 4.9-22; MSHCP, § 7.3.2.1.) Local law enforcement agencies and other entities such as the National Guard or Immigration and Naturalization Service operating on Reserve Lands are subject to existing state and federal laws. (*Ibid.*) The MSHCP will not create additional Permit requirements for these entities beyond those of existing state and federal laws. (*Ibid.*) Based upon an assessment of the potential impacts of the MSHCP, and the provisions listed above in Section 7.3 of the MSHCP, the Plan will not conflict with or obstruct police and fire protection services.

The Plan will also not have significant impacts on schools as it will not result in student increases nor the need to construct new school facilities. (Final Recirculated EIR/EIS, p. 4.9-22.) Because the Plan focuses on Conservation of species and natural communities and the provision of recreational opportunities, it



would not have adverse impacts on parks but instead will have a positive impact on recreation. (See Section O above.) Thus, no significant impacts to recreation will result from implementation of the MSHCP.

Q. Transportation

The MSHCP provides Take Authorization for both construction of planned roadways and improvements to certain existing roadways, both in and out of the Conservation Areas, listed in Section 3 and Sections 7.2 and 7.3 of the Plan. (Final Recirculated EIR/EIS, p. 4.3-7.) The MSHCP includes design and siting guidelines for planned roadways. (*Ibid.*) The implementation of these guidelines will ensure that planned roadways are designed and constructed in a manner consistent with the objectives of the MSHCP, while providing for the efficient passage of persons and goods through the Coachella Valley, the alleviation of traffic congestion, the maintenance of level of service standards, and continuation of adequate Emergency access/evacuation routes. (Final Recirculated EIR/EIS, pp. 4.3-6 through 4.3-9.) Since the operation, maintenance and construction of existing and planned roadways are covered activities within the MSHCP Conservation Area, potential transportation-related impacts resulting from implementation of the MSHCP will be less than significant.

However, other roads are not Covered Activities under the Plan and will not receive Take Authorization. (Final Recirculated EIR/EIS, pp. 4.3-7.) The Plan does not preclude Permittees from seeking approval of these roadway segments through the MSHCP Plan amendment process. (Final Recirculated EIR/EIS, p. 4.3-7.) The City of Desert Hot Springs would be required to seek Take Authorization for non-Covered Activities by separate consultations with the Wildlife Agencies.. (*Ibid.*)

The MSHCP will indirectly affect the circulation system by limiting Development within the Conservation Areas, thus limiting the traffic generation in these areas. (Final Recirculated EIR/EIS, p. 4.3-9.) This indirect effect will reduce traffic volumes on the overall circulation network. (*Ibid.*) As a practical matter, the trips that would have been generated in the Conservation Areas would have been relatively limited given the underlying land uses. (*Ibid.*)

Some of the Development in the Conservation Areas may be reduced or shifted to other areas in the Coachella Valley due to acquisition of lands for Conservation from willing sellers. (*Ibid.*) This potential shifting of Development will not have significant impacts because the anticipated trips that would have been generated from the Conservation Areas would have been relatively low given the land use designations. (*Ibid.*) With a shift in the location of Development, the MSHCP could have the result of a net reduction in regional trip generation. (*Ibid.*)

No levels of service on any designated major roadway will be affected. (*Ibid.*) Emergency access will not be constrained because the Plan will provide Take

Authorization for Emergency access and activities in the MSHCP Reserve System. (*Ibid.*)

The MSHCP will not place any lands in Conservation which would conflict with or hinder the operation of local or regional roadways or associated facilities. (*Ibid.*) Neither will it result in a substantial increase in traffic volumes, volume to capacity ratios or applicable policies plans or programs supporting alternative transportation systems on or serving roadway segments or intersections. (*Ibid.*) Emergency access will not be significantly affected nor will the Plan affect design features of any roadway that resulted in the creation of a hazardous condition. (*Ibid.*) Neither railroads nor airports in the Plan Area will be affected by the MSHCP. (*Ibid.*)

Based on the above discussed features of the MSHCP, impacts to Transportation and Circulation are less than significant and no mitigation measures are required.

**BE IT FURTHER RESOLVED** by the CVAG Executive Committee that the Final Recirculated EIR/EIS and the evidence in the administrative record before it confirms that implementation of the MSHCP will result in no significant cumulative adverse environmental impacts with regard to: Land Use Compatibility (Final Recirculated EIR/EIS, pp. 9-11; 9-13); Transportation, Traffic, and Circulation (Final Recirculated EIR/EIS, pp. 9-14 to -15; 9-17); Mineral, Energy, and Timber Resources (Final Recirculated EIR/EIS, pp. 9-17 to -19); Agricultural Lands and Activities (Final Recirculated EIR/EIS, pp. 9-19 to -21); Hydrology and Water Quality (Final Recirculated EIR/EIS, pp. 9-21 to -22; 9-25); Flooding and Hydrology (Final Recirculated EIR/EIS, pp. 9-21 to -22; 9-25); Water Resources/Quality (Final Recirculated EIR/EIS, pp. 9-25 to -29); Biological Resources (Final Recirculated EIR/EIS, pp. 9-29 to -33; 9-36 to -44); Cultural Resources and Native American Concerns (Final Recirculated EIR/EIS, pp. 9-44 to -45); Parks Trails and Recreation (Final Recirculated EIR/EIS, pp. 9-45 to -48); Air Quality (Final Recirculated EIR/EIS, p. 9-48); Noise (Final Recirculated EIR/EIS, pp. 9-48 to -49); Visual/Scenic Resources (Final Recirculated EIR/EIS, p. 9-49); Utilities/Public Services and Facilities (Final Recirculated EIR/EIS, pp. 9-49 to -50); Socioeconomic Resources: Population, Housing, and Employment (Final Recirculated EIR/EIS, pp. 9-50 to -51.); Environmental Justice and Children (Final Recirculated EIR/EIS, pp. 9-51 to -52); and Growth-Inducing Impacts (Final Recirculated EIR/EIS, p. 9-52).

**BE IT FURTHER RESOLVED** by the CVAG Executive Committee that it has considered and rejected as infeasible the alternatives identified in the EIR and described below. CEQA requires that an EIR evaluate a reasonable range of alternatives to a project, or to the location of the project, which: (1) offer substantial environmental advantages over the project proposal, and (2) may be feasibly accomplished in a successful manner within a reasonable period of time considering the economic, environmental, social and technological factors involved. (*Citizens of Goleta Valley v. Board of Supervisors*, (1990) 52 Cal.3d 553, 566.) An EIR must only evaluate reasonable alternatives to a project which could feasibly attain most of the basic project objectives, and evaluate the comparative merits of the alternatives. (State CEQA Guidelines § 15126.6.) In all cases, the consideration of alternatives is to be judged against a "rule of reason." (*Ibid.*) The lead agency is not required to choose an alternative identified in an EIR if the alternative (1) does not substantially reduce significant environmental

impacts; (2) does not meet project objectives; or (3) there are social, economic, technological or other considerations which make the alternative infeasible. (*Ibid.*)

The primary goals and objectives of the MSHCP are to:

1. Obtain Permits from the Wildlife Agencies to authorize Take for the Covered Activities. (Final Recirculated EIR/EIS, p. 1-6.)
2. Protect Core and Other Conserved Habitat for 27 proposed Covered Species and 27 natural communities, maintain the Essential Ecological Processes to keep the Core Habitat viable and link Core Habitat to maximize the conservation value of the land within the Coachella Valley. (Final Recirculated EIR/EIS, p. 1-6.)
3. Improve the future economic development in the Plan Area by providing an efficient, streamlined regulatory process through which Development can proceed in an efficient way. The proposed Plan is intended to provide a means to standardize mitigation/compensation measures for the Covered Species so that, with respect to public and private Development actions, mitigation/compensation measures established by the Plan will concurrently satisfy applicable provisions of Federal and State laws pertaining to species protection. (Final Recirculated EIR/EIS, p. 1-6.)
4. Provide for permanent open space, community edges and recreational opportunities, which contribute to maintaining the community character of the Coachella Valley. (Final Recirculated EIR/EIS, p. 1-6.)

A. The Preferred Alternative

In 1994, a Scientific Advisory Committee ("SAC") was established, composed of members which included biologists from BLM, the National Park Service, United States Forest Service, the University of California Natural Reserve System, the Center for Natural Lands Management, CVWD, and representatives of CDFG and USFWS. (Final Recirculated EIR/EIS, p. 2-2.) The Plan was developed in consultation with SAC using best available science. (Final Recirculated EIR/EIS, p. 2-3.)

The Preferred Alternative will conserve 27 species ("Covered Species") and 27 natural communities. (Final Recirculated EIR/EIS, pp. 2-4 through 2-6.) The Reserve System proposed by the Preferred Alternative contains 21 Conservation Areas totaling 723,480 acres of land, and provides Core Habitat and Other Conserved Habitat for the proposed Covered Species. (Final Recirculated EIR/EIS, p. 2-8.) Based upon the analysis in the Final Recirculated EIR, and in particular the comparison of the impacts of the various alternatives analyzed, the Preferred Alternative is determined to be the environmental superior alternative. (Final Recirculated EIR/EIS, Table E-1.)

In addition to the Preferred Alternative, several additional alternatives were considered. These are the Public Lands Alternative, the Core Habitat with Ecological Processes Alternative, the Enhanced Conservation Alternative and the No Action/No

Project Alternative. (Final Recirculated EIR/EIS, pp. 2-51 through 2-64.) These alternatives are discussed below. One other alternative considered would have fully protected the Habitat of the Covered Species in the Plan Area. (Final Recirculated EIR/EIS, p. 2-64.) Because all Habitat would have been conserved under this alternative, no Take coverage would have been required, eliminating the need for a habitat conservation plan. (*Ibid.*) This alternative could not meet Plan objectives, was determined to be infeasible and did not meet the purposes and needs of the USFWS. (*Ibid.*) Thus, that alternative was initially considered but eliminated from further review. (*Ibid.*)

## B. Public Lands Alternative

### 1. Description

This alternative includes all local, State, and Federal agency land, and Private Conservation Land, in the Plan Area with Conservation management levels 1, 2, and 3. (Final Recirculated EIR/EIS, p. 2-51.) Level 1 lands are lands consisting of state and federal Wilderness Areas. (MSHCP, pp. 2-7.) Level 2 lands contain some Existing Uses, but the overall management objective is maintenance of natural values. (*Ibid.*) Level 3 lands are designated for multiple use while providing significant Conservation value. (MSHCP, p. 2-8.)

This alternative entails no land acquisition; only Core Habitat, Essential Ecological Processes, and Linkages that happen to be on existing public conservation lands or Private Conservation Lands would be protected. (Final Recirculated EIR/EIS, p. 2-51.) The local jurisdictions would contribute to the management of the existing Conservation Areas as mitigation for the Habitat loss allowed under the Plan. (Final Recirculated EIR/EIS, p. 2-51.) In total, this alternative would result in the Conservation of 19.5% less acreage than under the Preferred Alternative. (Final EIR/EIS, p. 4.8-25.)

### 2. Finding

This alternative fails to meet the basic Project objectives, would not substantially reduce significant environmental impacts and would result in increased impacts.

### 3. Supporting Explanation

This alternative conserves far less Habitat acreage than the Preferred Alternative, and would result in Habitat fragmentation where considerable private lands exist. (Final Recirculated EIR/EIS, p. 2-51 through 2-54.) The only significant reserve areas on the valley floor would be the three existing Coachella Valley fringe-toed lizard preserves and Dos Palmas ACEC. (Final Recirculated EIR/EIS, p. 2-51.) Within mountainous areas, some conserved land would be well preserved, but habitat fragmentation is a problem in other areas where considerable private lands still exist.

*(Ibid.)* This lack of conservation lands would fail to provide maximum possible certainty that the viability of Core and Other Conserved Habitat for several of the 27 Covered Species and 27 natural communities would be maintained, and would potentially impact wetlands and riparian habitats.

This alternative entails no land acquisition; only Core Habitat, Essential Ecological Processes, and Linkages that happen to be on existing public conservation lands or Private Conservation Lands would be protected. (MSHCP, p. 3-13.) As a result, sand transport, watershed, and other ecological processes would not be adequately protected; Biological Corridors would not be conserved; and Core Habitat areas would be fragmented in many instances. *(Ibid.)* For these reasons, basic Project objective 2 would not be met.

For the same reasons, it is less likely that the Wildlife Agencies would authorize a Take Permit for the Covered Species, thus frustrating basic Project objective 1.

Failure to achieve basic Project objective 1 would, in turn, prohibit achievement of basic Project objective 3. No Take Authorization would exist (or would be issued for fewer Covered Species), nor would this alternative achieve an efficient, streamlined regulatory process for project Development.

Finally, the benefits derived from achievement of basic Project objective 4 would be far less substantial under this alternative than they would be under the Preferred Alternative. Recreational opportunities and open space preservation would be reduced, as this objective is best achieved by additional land conservation.

In addition, the Public Lands Alternative could adversely affect existing and planned groundwater recharge facilities in the Plan Area. (Final Recirculated EIR/EIS, p. 4.6-7.) This alternative could result in the need for individual permits for the development of certain projects, which will be substantially more difficult to obtain in the absence of a comprehensive conservation plan such as the Preferred Alternative. *(Ibid.)* These uncertainties and the biological resource conservation issues that would remain unresolved under this alternative mean that the potential for adverse impacts to existing and planned groundwater recharge facilities could be significant. *(Ibid.)*

Therefore, the CVAG Executive Committee finds that the Public Lands Alternative does not substantially reduce environmental impacts, could result in increased impacts as compared with the Preferred Alternative, fails to meet the basic Project objectives and therefore rejects it.

C. Core Habitat with Ecological Processes Alternative

1. Description

This alternative would result in the conservation of 4.2% less acreage than under the Preferred Alternative. (Final Recirculated EIR/EIS, p. 4.8-25.) It would establish Conservation Areas intended to protect Core Habitat for the Covered Species and natural communities included in the Plan, and Essential Ecological Processes necessary to sustain these Habitats and some Biological Corridors. (Final Recirculated EIR/EIS, p. 2-54.) The Conservation Areas include most of the Public Lands Alternative lands as well as the acquisition of additional private lands for Core Habitat, Essential Ecological Processes, and Biological Corridors. (*Ibid.*)

2. Finding

This alternative fails to meet basic Project objectives 1 and 3. In addition, this alternative fails to fully realize basic Project objective 4.

3. Supporting Explanation

Under this alternative, only 697,280 acres of Conservation Area would be conserved for Habitat, which is approximately 50,000 acres less than the Preferred Alternative. (Final Recirculated EIR/EIS, pp. 2-9 and 2-57.) An additional 47,000 acres of Complementary Conservation and Additional Conservation Lands would be conserved through the Preferred Alternative. (*Ibid.*) Due to this dearth of conservation lands, there is a greater likelihood that the Wildlife Agencies would not issue a Take Permit as compared to the Preferred Alternative if the Core Habitat with Ecological Processes Alternative was adopted by the Permittees. In that instance, basic Project objective 1 would not be met.

If basic Project objective 1 was not met, then basic Project objective 3 would not be met. If no Take Permit was issued (or issued for fewer species), then no streamlined regulatory process would exist to assist the processing of Development projects. This, in turn, would fail to improve the future economic Development in the Plan Area.

This alternative would conserve far less permanent open space and community edges, and provide fewer recreational opportunities than the Preferred Alternative. Therefore, this alternative frustrates the purposes of basic Project objective 4.

Therefore, the CVAG Executive Committee finds that the Core Habitat with Ecological Processes Alternative fails to meet basic Project objectives 1 and 3, and fails to fully realize basic Project objective 4, and therefore rejects it.

D. Enhanced Conservation Alternative

1. Description

This alternative would expand upon the MSHCP by adding Conservation Lands to the Plan as listed in the EIR/EIS. (Final Recirculated EIR/EIS, pp. 2-58 through 2-63.)

2. Finding

The Enhanced Conservation Alternative would result in minimal additional biological value, significant land use conflicts, high acquisition and management costs, severe edge effects and the possibility of creating an unmanageable reserve configuration. (MSHCP, pp. 3-14.) This alternative fails to meet basic Project objectives 1 and 3, would not substantially reduce significant environmental impacts, would result in increased impacts, and would be infeasible.

3. Supporting Explanation

Based on field visits with the SAC and representatives from various jurisdictions, it was determined that not all areas included in this alternative were biologically viable or Feasible to conserve. (MSHCP, p. 3-14.) Additionally, much of the area anticipated for Conservation under this alternative would cause significant land use conflicts and increased costs without significantly increasing Habitat value. (*Ibid.*) Significant conflicts with local, county, State or Federal land use plans, policies or controls would result, and the alternative would physically divide established communities. (Final Recirculated EIR/EIS, pp. 4.2-8 through 4.2-13.) Some of the proposed conservation acreage already contains approved Development, which would significantly increase the acquisition costs. (*Ibid.*) Existing Development adjacent to these areas would also create Habitat fragmentation and severe edge effects. (*Ibid.*)

This alternative would also result in significant adverse impacts to transportation, and could result in significant impacts to agriculture. (Final Recirculated EIR/EIS, pp. 4.3-10 through 4.3-15.)

The additional Conservation measures proposed under this Alternative would include existing groundwater recharge basins operated by CVWD, which could require realigning the recharge basins at great cost. (MSHCP, p. 3-14.) It would also conflict with certain adopted local or regional flood control plans or projects. (Final Recirculated EIR/EIS, pp. 4.6-8 through 4.6-9.)

This Alternative would increase the number of acres to be conserved by approximately 10,200 acres over the Preferred Alternative, even though the amount of Habitat included in the Preferred Alternative is sufficient to

adequately conserve all of the Covered Species. (MSHCP, p. 3-14.) Thus, the Enhanced Conservation Alternative would significantly increase the cost of the Project without significantly increasing the Habitat value of the Reserve. (*Ibid.*)

This Alternative would also conflict with basic Project objectives 1 and 3. Because more land is conserved, less Take coverage would be issued by the Wildlife Agencies. This would decrease the future economic development, which would severely reduce the amount of fees collected. Because fewer fees would be collected, it would make infeasible the ability to develop a larger reserve.

Therefore, the CVAG Executive Committee finds that the Public Lands Alternative does not substantially reduce environmental impacts, results in increased impacts as compared with the Preferred Alternative, fails to meet Project objective 3, and therefore rejects it.

E. No Action/No Project Alternative

1. Description

With the No Action/No Project Alternative, land use changes and policies that are being contemplated to implement the MSHCP would not occur, and no Permits would be issued. Individual project proponents would continue to obtain their own Take Authorizations or avoid Take. (Final Recirculated EIR/EIS, p. 2-63.)

2. Finding

This Alternative fails to meet all four basic Project objectives, would not substantially reduce environmental impacts and would result in increased impacts.

3. Supporting Explanation

Under this alternative, none of the objectives of the Project would be met. Under the No Project Alternative, the MSHCP would not be approved or implemented. (MSHCP, pp. 3-14 through 3-15; Final Recirculated EIR/EIS, p. 2-63.) Therefore, there would be no process in place to provide Take Authorization for Covered Species and no Core Habitat to protect. (Final Recirculated EIR/EIS, pp. 2-63 through 2-64.) Taking no action in the Plan Area would also fail to improve the future economic development in the Plan Area as no efficient, streamlined regulatory process would be in place. In addition, no permanent open space, community edges or recreational opportunities would be provided.

In addition, the Project's goal to improve the future economic development of the Plan Area would not be met as no streamlined



regulatory approach would be implemented. Instead, environmental impacts, especially impacts to biological resources, resulting from Development activities in the Plan Area would continue to be subject to a variety of local, state and federal regulatory processes. (Final Recirculated EIR/EIS, p. 2-63.) Private parties would also be required to mitigate biological impacts on a project-by-project basis resulting in inconsistent Conservation and management.

In addition, no comprehensive, long-term process would exist for protecting Core Habitat for 27 proposed Covered Species and 27 natural communities that occur within the Plan Area. (MSHCP, p. 3-15; Final Recirculated EIR/EIS, p. 2-63.) Habitat would be conserved on an ad hoc basis – if at all – rather than in functional blocks. (*Ibid.*) There would also be no fee-based funding plan that would generate funds necessary to support Conservation.

The No Action/No Project Alternative would also fail to substantially reduce significant environmental impacts and would result in increased impacts. Because there would not be a coordinated system of Linkages provided to connect Conservation Areas, impacts to natural communities and species that would have been covered under the MSHCP would be exacerbated under this alternative. (MSHCP, p. 3-15.) Edge effects would also be intensified due to the loss of Biological Corridors and Linkages, increased interaction with humans, and an increase in Development.

Therefore, the CVAG Executive Committee finds that the No Action/No Project Alternative does not substantially reduce environmental impacts, results in increased impacts as compared with the Preferred Alternative, fails to meet Project objectives, and therefore rejects it.

**BE IT FURTHER RESOLVED** by the CVAG Executive Committee that it has reviewed and considered the Final Recirculated EIR/EIS, and all other applicable documents in the record, in evaluating the Project, that the Final Recirculated EIR/EIS is an accurate and objective statement that complies with CEQA and reflects CVAG's independent judgment, and that the Final Recirculated EIR/EIS and all other volumes of the MSHCP are incorporated herein by this reference.

**BE IT FURTHER RESOLVED** by the CVAG Executive Committee that the documents and other materials that constitute the record of proceedings/administrative record for the County's approval of the Project are located at 73710 Fred Waring Drive, Suite 200, Palm Desert, California 92260, and the custodian of these records is the Executive Director of CVAG.

**BE IT FURTHER RESOLVED** by the CVAG Executive Committee that it hereby **CERTIFIES** the Final Recirculated EIR/EIS, adopts the MSHCP, approves the IA, and authorizes the Chairman of the Executive Committee to execute the IA.

**BE IT FURTHER RESOLVED** by the CVAG Executive Committee that staff shall file a Notice of Determination with the Riverside County Clerk of the Board of Supervisors within five (5) working days of final Project approval.

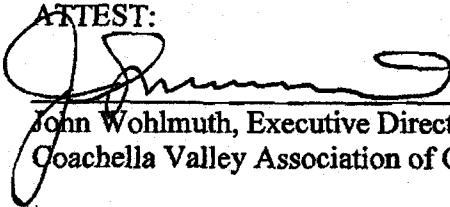
**PASSED, APPROVED AND ADOPTED** this 10th day of September, 2007.

AYES: 10  
NOES: 0  
ABSTAIN: 2



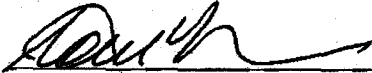
Richard Kite, Chair  
Coachella Valley Association of Governments

ATTEST:

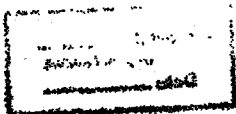


John Wohlmuth, Executive Director  
Coachella Valley Association of Governments

APPROVED AS TO FORM:



Toni Eggebraaten, CVAG Counsel



**EXHIBIT - D**

CVCC ATTACHMENT 2

RESOLUTION NO. 14-004

RESOLUTION OF THE COACHELLA VALLEY CONSERVATION COMMISSION ADOPTING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND CERTIFYING THE SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR THE MAJOR AMENDMENT TO THE COACHELLA VALLEY MULTIPLE SPECIES HABITAT CONSERVATION PLAN AND THE COACHELLA VALLEY MULTIPLE SPECIES HABITAT CONSERVATION PLAN / NATURAL COMMUNITY CONSERVATION PLAN, AND IMPLEMENTING AGREEMENT (SCH # 200006179).

**WHEREAS**, the Coachella Valley Conservation Commission ("CVCC") has prepared, in cooperation and coordination with the California Department of Fish and Wildlife ("CDFW"), United States Fish and Wildlife Service ("USFWS"), the Cities of Cathedral City, Coachella, Desert Hot Springs, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs and Rancho Mirage, the County of Riverside, Riverside County Flood Control, Riverside County Parks, Riverside County Waste Resources Management District, the Imperial Irrigation District ("IID"), Coachella Valley Water District ("CVWD"), Mission Springs Water District ("MSWD"), California Department of Transportation, California Department of Parks and Recreation, the Coachella Valley Mountains Conservancy, and other governmental agencies, property owners, Development interests, environmental interest groups and other members of the public, a comprehensive Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan for the Coachella Valley in Riverside County ("CVMSHCP" or "Plan"); and

**WHEREAS**, the Coachella Valley CVMSHCP is a regional, comprehensive, multi-jurisdictional Habitat Conservation Plan focusing on Conservation of Federal and State-Listed Species, other rare and sensitive species, and their Habitats, while maintaining opportunities for recreation and a strong and sustainable environment for economic Development in the region; and

**WHEREAS**, the CVMSHCP boundary ("CVMSHCP Plan Area") encompasses approximately 1,850 square miles, consisting of approximately 1.1 million acres, extending eastward from the Western Riverside County Multiple Species Habitat Conservation Plan boundary line in Cabazon where it is bounded by the range line common to Range 1 East and Range 2 East, bounded by the San Bernardino County line and the Little San Bernardino Mountains on the north and northeast; the ridgeline of the San Jacinto and Santa Rosa Mountains on the west and southwest; the boundary line with San Diego and Imperial Counties to the south; and bounded by the Chocolate Mountains Aerial Gunnery Range and the range line common to Range 13 East and Range 14 East on the east; and containing the cities of: Cathedral City, Coachella, Desert Hot Springs, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs, and Rancho Mirage; and

**WHEREAS**, the CVMSHCP establishes a framework for compliance with State and Federal Endangered Species regulations while accommodating future growth in the CVMSHCP Plan Area, including issuance of "Take" Permits for certain species pursuant to Section

10(a)(1)(B) of the Federal Endangered Species Act ("ESA") and Section 2800, et seq. of the California Fish and Game Code (otherwise known as the "Natural Community Conservation Planning Act" or "NCCP Act of 2002"); and

**WHEREAS**, the CVMSHCP provides Take Authorization for Covered Activities for the Covered Species. The CVMSHCP is "self-mitigating," meaning that most Project impacts are reduced to below a level of significance as a result of implementation of CVMSHCP components. Additionally, implementation of the Management and Monitoring Programs outlined in the CVMSHCP further reduce all the potential impacts/consequences of the CVMSHCP; and

**WHEREAS**, CVCC is the lead agency pursuant to Section 21067 of the California Environmental Quality Act ("CEQA") (Public Res. Code, § 21000 et seq.) and Section 15367 of the State CEQA Guidelines (14 CCR § 15000 et seq.), and the USFWS is the Federal lead agency under the National Environmental Policy Act ("NEPA") (40 C.F.R. 1508.16, 1508.17) (CVCC and USFWS will collectively be referred to hereinafter as "Lead Agencies"); and

**WHEREAS**, a joint Final Recirculated Environmental Impact Report/Statement ("EIR/EIS") was previously prepared in February 2006 pursuant to CEQA and NEPA ("2006 Final CVMSHCP"), which provides a comprehensive assessment of the potential environmental impacts that could result from the adopted CVMSHCP, and provides the appropriate decision-makers with the required information upon which to base a decision to adopt the amendment to the CVMSHCP; and

**WHEREAS**, thereafter the Plan was revised to remove Desert Hot Springs as a Permittee and to reflect other project description modifications and, as a result, the Coachella Valley Association of Governments ("CVAG") prepared a Recirculated Draft EIR/Supplemental Final EIS in September 2007, which it certified in June 2008 (the "September 2007 Recirculated EIR/EIS"); and

**WHEREAS**, because the Lead Agencies now wish to add in the City of Desert Hot Springs ("City") and Mission Springs Water District as Permittees (the "Plan Amendment" or "Project"), the Lead Agencies have prepared a Major Amendment to the CVMSHCP and a Supplemental Environmental Impact Report/Supplemental Final Environmental Impact Statement (the "SEIR/SEIS" or the "Supplemental EIR/EIS") pursuant to State CEQA Guidelines Section 15162 and CEQ NEPA Regulations, 40 C.F.R. 1502.9(c); and

**WHEREAS**, the proposed Project would include the issuance of Take Authorization associated with the Major Amendment for Covered Activities that are not currently included under the existing federal Section 10(a) Permit and state NCCP Permit ("Permits"). This Major Amendment will restore the boundaries from the 2006 Final CVMSHCP for the Upper Mission Creek/Big Morongo Canyon Conservation Area that would be amended to include all of the private lands within the city limits of Desert Hot Springs. The private lands to be included total approximately 770 acres that were removed from this Conservation Area when Desert Hot Springs chose not to participate in 2006. The city limits of Desert Hot Springs also include two parcels in the Whitewater Canyon Conservation Area that are both owned by BLM and are currently managed consistent with the Plan, therefore no additional disturbance associated with the Major Amendment will occur in this area; and

**WHEREAS**, CVCC filed a Notice of Preparation ("NOP") of a Draft Supplemental SEIR/SEIS with the State Clearinghouse on March 30, 2011. The NOP was also distributed to

each responsible and trustee agency (and any federal agency involved in approving or funding the project) pursuant to State CEQA Guidelines Sections 15082(a) and 15373, and was circulated for a period of 30 days, pursuant to State CEQA Guidelines Sections 15082(b) and 15103; and

**WHEREAS**, pursuant to State CEQA Guidelines Section 15082, the Lead Agencies solicited comments from potential responsible agencies, including details about the scope and content of the environmental information related to the responsible agency's area of statutory responsibility, as well as the significant environmental issues, reasonable alternatives and mitigation measures that the responsible agency would need to have analyzed in the Supplemental EIR/EIS; and

**WHEREAS**, pursuant to State CEQA Guidelines Sections 15085 and 15372, the Supplemental EIR/EIS was completed and released for public review, and a Notice of Completion ("NOC") was filed at the State Clearinghouse on or about September 6, 2013, and a Notice of Availability ("NOA") was filed with the Riverside County Clerk on or about September 5, 2013 with a request for a 30-day posting. A copy of the NOA was published in the *Desert Sun* on or about September 6, 2013. The NOC and NOA provided a summary of the Major Amendment and a deadline for submittal of comments, and contact information for obtaining or reviewing the Plan and the Supplemental EIR/EIS; and

**WHEREAS**, CVCC, the lead agency under CEQA, released the Supplemental EIR component of the Supplemental EIR/EIS for public review and comment on September 6, 2013 to October 21, 2013; and

**WHEREAS**, the USFWS, the Federal lead agency, released the Supplemental EIS component of the Supplemental EIR/EIS for public review and comment on September 6, 2013, which review period ended October 21, 2013; and

**WHEREAS**, in September 2013, CVCC sent a letter to each property owner of record ("Property Owner Letter") within the Conservation Areas of the Plan within the City of Desert Hot Springs notifying them that the Major Amendment to the CVMSHCP, Implementing Agreement ("IA"), and Supplemental EIR/EIS were available for review. As a result of the issuance of the Property Owner Letter, CVCC has responded to 5 telephone calls; and

**WHEREAS**, during the official public review period for the Supplemental EIR/EIS, the Lead Agencies received seven written comments on the Supplemental EIR/EIS; and

**WHEREAS**, pursuant to California Public Resources Code Section 21092.5, CVCC provided written responses to comments from all commenting agencies; and

**WHEREAS**, the Lead Agencies prepared the Final Supplemental EIR/EIS and, pursuant to Public Resources Code Section 21092.5, CVCC provided copies of the Supplemental EIR to all commenting agencies; and

**WHEREAS**, notice of a public hearing to be held on March 13, 2014, was published in the *Desert Sun*; and

**WHEREAS**, notices to all landowners in the Conservation Areas notifying them of the March 13, 2014 public hearing and informing them that they may make a public comment of up to three minutes were mailed on February 28, 2014; and

**WHEREAS**, CVCC, at a public meeting on March 13, 2014, reviewed the Final Supplemental EIR/EIS, CVMSHCP/Natural Communities Conservation Plan ("NCCP"), IA, and other related documents in the record before it; and

**WHEREAS**, CVCC finds that all environmental impacts identified in the EIR are less than significant and do not require mitigation as described in Section 2 hereof; and

**WHEREAS**, the cumulative impacts of the Project identified in the SEIR/SEIS and set forth herein, are described in Section 3 hereof; and

**WHEREAS**, the potential significant and irreversible environmental changes that would result from the proposed Project identified in the SEIR/SEIS and set forth herein, are described in Section 4 hereof; and

**WHEREAS**, the existence of any growth-inducing impacts resulting from the proposed Project identified in the SEIR/SEIS and set forth herein, are described in Section 5 hereof; and

**WHEREAS**, although no significant and unavoidable impacts were disclosed, alternatives to the proposed Project are set forth herein, as described in Section 6 hereof; and

**WHEREAS**, prior to taking action, CVCC has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including the Final Supplemental EIR/EIS, and all oral and written evidence presented to it during all meetings and hearings; and

**WHEREAS**, the Supplemental EIR/EIS reflects the independent judgment of the CVCC and is deemed adequate for purposes of making decisions on the merits of the Project; and

**WHEREAS**, no comments made in the public hearings conducted by the Lead Agencies or any additional information submitted have produced substantial new information requiring recirculation or additional environmental review under State CEQA Guidelines Section 15088.5; and

**WHEREAS**, as contained herein, CVCC has endeavored in good faith to set forth the basis for its decision on the Project; and

**WHEREAS**, all of the findings and conclusions made by CVCC pursuant to this Resolution are based upon the oral and written evidence presented to it as a whole; and

**WHEREAS**, all the procedures of CEQA and the State CEQA Guidelines have been met, and the Supplemental EIR/EIS, prepared in connection with the Project, is sufficiently detailed so that all potentially significant effects of the Project on the environment and measures necessary to avoid or substantially lessen such effects have been evaluated in accordance with the above-referenced Act and its Guidelines; and

**WHEREAS**, at a special meeting assembled on March 13, 2014, the CVCC determined that, based on all of the evidence presented, including but not limited to the SEIR/SEIS, written and oral testimony given at meetings and hearings, the submission of testimony from the public, organizations and regulatory agencies, and the whole of the administrative record, which is incorporated by reference herein, that all environmental impacts associated with the Project are less than significant and do not require mitigation; and

**WHEREAS**, all other legal prerequisites to the adoption of this Resolution have occurred.

**NOW THEREFORE, THE COACHELLA VALLEY CONSERVATION COMMISSION DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1: FINDINGS**

- A. Certain plant and animal species and Habitat exist, or may exist, within the CVMSHCP Plan Area, which are: 1) state or federally listed as threatened or endangered; 2) proposed for listing as threatened or endangered; or 3) identified as a CDFW Species of Special Concern, a California Fully Protected Species, a California Specially Protected Species, a sensitive plant species as determined by the California Native Plant Society, or other unlisted wildlife considered to be sensitive.
- B. Future growth and land Development within the CVMSHCP Plan Area, including both public and private projects, may result in impacts to 27 species ("Covered Species") identified in the Plan and its associated documents, eleven of which are listed under the ESA or the California Endangered Species Act ("CESA"). Thus, Take Authorization is required prior to the carrying out of otherwise lawful activities that may "Take" one or more of these Covered Species.
- C. The CVMSHCP establishes the conditions under which entities defined under the Plan and its associated documents as "Permittees" will receive certain long-term Take Authorizations and other assurances that will allow the taking of Covered Species incidental to lawful uses authorized by the Permittees; and
- D. The CVMSHCP provides for the assembly and management of a reserve for the Conservation of natural Habitat and its constituent wildlife populations, and establishes an overall Conservation Strategy for the CVMSHCP Plan Area that will guarantee the protection of the Covered Species. The Conservation Strategy includes the Conservation of the Covered Species, existing Habitat, the restoration of degraded Habitat, managing a Reserve System, and conducting biological monitoring in perpetuity.
- E. The CVMSHCP provides for the creation of a Reserve System that will conserve and manage approximately 723,680 acres of Habitat for the 27 Covered Species which includes approximately 557,100 acres of Existing Reserves (as of 2006) and 166,580 acres of Complementary Conservation and Additional Conservation Lands. (CVMSHCP, Table 4-1.)
- F. The CVMSHCP serves as a Habitat Conservation Plan ("HCP") pursuant to Section 10(a)(1)(B) of the ESA, as well as an NCCP pursuant to the NCCP Act of 2002, as amended. The approval of the CVMSHCP and execution of the IA allows the CDFW and USFWS (collectively, the "Wildlife Agencies") to issue Take Authorizations for Covered Species in the CVMSHCP Plan Area to the signatories of the IA.
- G. The CVMSHCP provides Take Authorization for Covered Activities for the Covered Species. The CVMSHCP is "self-mitigating," meaning that most Project



impacts are reduced to below a level of significance as a result of implementation of CVMSHCP components. Additionally, implementation of the Management and Monitoring Programs outlined in the CVMSHCP will further reduce all the potential impacts/consequences of the CVMSHCP.

## **SECTION 2: FINDINGS REGARDING ENVIRONMENTAL IMPACTS NOT REQUIRING MITIGATION**

**BE IT FURTHER RESOLVED** by CVCC that the Supplemental EIR/EIS and the evidence in the administrative record before it confirms that implementation of the CVMSHCP will result in no significant and unavoidable adverse environmental impacts.

### **A. Biological Resources**

Finding: The proposed Project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service; would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service; would not have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption or other means; would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites; would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; and would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or state habitat conservation plan. (SEIR/SEIS at 4.1-3-19.)

Supporting Explanation: When Desert Hot Springs opted not to participate in the CVMSHCP in 2006, it was anticipated that development would still occur inside and outside the Conservation Areas. Therefore, the amount of disturbance, or Take, authorized in the 2008 Permit included the acres subject to disturbance within the city of Desert Hot Springs. The City of Desert Hot Springs covered projects in the Conservation Areas are road improvements that are already covered as CVAG's covered projects. Although this Take was authorized by the state and federal permits, as a non-Permittee, the City does not have the authority to allocate this Take. The Major Amendment will include Take authorization for Desert Hot Springs in the CVMSHCP Permits, allowing the disturbance to occur consistent with the Plan Conservation Goals and Objectives. (SEIR/SEIS at 4.1-3.)

The additional disturbance to Covered Species and natural communities associated with MSWD Covered Activities will be mitigated through the Plan by permanent protection of habitat within Conservation Areas and contributions to the Adaptive Management and Monitoring Program. MSWD projects will be

subject to the Joint Project Review process to minimize the potential impacts and ensure consistency with Conservation Goals and Objectives. (SEIR/SEIS at 4.1-4.)

The Major Amendment benefits would include the expansion of conserved, unfragmented Habitat and natural communities, continued maintenance of Essential Ecological Processes to sustain the Covered Species and their Habitat, and further protection of Biological Corridors and Linkages. Most of the disturbance associated with the city of Desert Hot Springs is already covered under the existing Permit. As shown in Table 4.1-1 of the Supplemental EIR/EIS, the potential additional disturbance authorized by the Major Amendment is limited (less than three acres) for a majority of the Covered Species and would not exceed approximately 29 acres of Habitat (e.g., desert tortoise). The disturbance allowed under the Preferred Alternative would be less than significant because additional loss of Habitat within Conservation Areas would be offset by approximately 770 acres of additional conservation within the Conservation Area, including desert tortoise Habitat. (SEIR/SEIS at 4.1-4.)

The establishment and management of Conservation Areas, including additional conserved lands within the City, would help further reduce Habitat fragmentation, promote maintenance of Essential Ecological Processes including sand transport that supports sensitive Habitat, and enhance connectivity along corridors and linkages by limiting development in this area. Consequently, implementation of the proposed Major Amendment will not result in significant impacts to any sensitive species. Figure 4-1 of the Supplemental EIR/EIS shows Natural Communities in the Conservation Area with the proposed additions. As shown, the additional areas to be conserved consist of Sonoran creosote bush scrub and Sonoran mixed woody and succulent scrub. Figure 4-2 of the Supplemental EIR/EIS shows Covered Species in the Conservation Area with the proposed additions. As shown, two Covered Species occur in the additional areas to be conserved, the Palm Springs pocket mouse and desert tortoise. The limited impact identified in Tables 4.1-1 and 4.1-2 of the Supplemental EIR/EIS will be offset by additional conservation of 770 acres; with a maximum of 10% development allowed in Conservation Areas, 693 of these acres will be permanently conserved. (SEIR/SEIS at 4.1-4-10.)

The existing CVMSHCP provides Take Authorization for Covered Activities as long as such activities comply with required Avoidance, Minimization, and Mitigation Measures as specified in Section 4.4 of the Plan and Land Use Adjacency Guidelines as specified in Section 4.5 of the Plan, and Obligations of Permittees as described in Section 6.6 of the Plan. Details of the general requirements for all Local Permittees are described in Section 2.1 of the SEIR/SEIS. Specific obligations that MSWD has committed to are discussed on Pages 4.1-13 through 4.1-17 of the SEIR/SEIS. The required measures are designed and implemented as part of the Plan to assure future development within and adjacent to established Conservation Areas would result in less than significant impacts to Covered Species, Habitats, natural communities, and Essential Ecological Processes. The development and operation of any Covered Activities proposed by the City and MSWD within the Major Amendment areas will be required to comply with the applicable measures in the Plan designed to mitigate potential effects on the Covered Species. (SEIR/SEIS at 4.1-12.)

Covered Activities for MSWD would not include groundwater extraction and therefore, no direct impacts to sensitive species or associated Habitats related to such activity would occur as a result of the Major Amendment. However, because MSWD will be added as a Permittee and in light of comments received during the NOP review period (Letter from Worden-Williams, Appendix A), MSWD has committed to a number of obligations in addition to the current Monitoring Program outlined in Section 8.4.1 of the Plan as it pertains to the relationship between groundwater extraction and the continued viability of mesquite hummocks as a conserved natural community. (SEIR/SEIS at 4.1-13.)

As discussed in Section 8.4.1 of the Plan, the Monitoring and Adaptive Management Program will include the use of appropriate methods and technologies (which may change over time) to monitor groundwater levels in the Willow Hole, East Indio Hills, and Thousand Palms Conservation Areas where a substantial lowering of the water table could have a significant adverse impact on mesquite hummocks and associated Covered Species. Should monitoring detect a substantial lowering of the water table or a decline in mesquite health, the following actions will be taken: 1) evaluate the results of the monitoring, 2) prepare a damage assessment report, 3) develop effective measures to ameliorate the effects of substantial lowering of the water table on mesquite hummocks and associated Covered Species, and 4) implement effective measures through Adaptive Management. (SEIR/SEIS at 4.1-14.)

In addition to the required Avoidance, Minimization, Mitigation Measures and Land Use Adjacency Guidelines, MSWD has also agreed to implement measures that will be added to Section 6.6.1 of the Plan should this Major Amendment be adopted. They include conservation measures for the approximately 61 acres they own in the Conservation Areas and other measures for activities outside Conservation Areas. (SEIR/SEIS at 4.1-14–16.) All of these measures will ensure the ongoing health of mesquite hummocks in the affected Conservation Areas of the Mission Creek Subbasin.

#### *Riparian Habitat*

The addition of approximately 770 acres to the Upper Mission Creek/Big Morongo Canyon Conservation Area would result in an overall beneficial effect to natural communities within the Plan area. There are no riparian communities currently located within either the existing or the additional lands in the Conservation Areas to be addressed under the Major Amendment; therefore, no impacts would occur as a result of the Major Amendment. (SEIR/SEIS at 4.1-17.)

#### *Federally Protected Wetlands*

There are no wetlands, defined by Section 404 of the Clean Water Act or other sensitive natural communities such as wetlands, marshes, or vernal pools within the existing or the additional areas to be addressed under the Major Amendment. Therefore, no impacts to federally protected wetlands would occur. (SEIR/SEIS at 4.1-17.)

### *Wildlife Movement*

The additional areas to be included within the Upper Mission Creek/Big Morongo Canyon Conservation Area would result in a beneficial effect to the movement of wildlife species by expanding the limits of the established Conservation Area. The establishment of Conservation Areas within the City would reduce the potential for urban development in the affected area, and would preserve it as open-space and natural desert areas, allowing the continued use by wildlife species. Therefore, no significant adverse impacts to wildlife movement would occur as a result of implementing the Major Amendment. (SEIR/SEIS at 4.1-17.)

### *Local Policies*

There are currently no local policies protecting biological resources within the areas to be included in the Conservation Area. However, due to two recent annexations of approximately 4,000 acres of County lands into the City (together known as the Desert Hot Springs I-10 Annexation) all provisions of the approved CVMSHCP were adopted by the City for that area. The Major Amendment would provide for adoption of CVMSHCP policies throughout the remaining parts of the City not currently covered by the Plan, resulting in a more cohesive biological planning policy throughout the City. (SEIR/SEIS at 4.1-18.)

### *Adopted Habitat Conservation Plan*

The proposed Major Amendment will result in the City of Desert Hot Springs being included as a Permittee to the CVMSHCP that will allow for expansion and continuity of the established Conservation Areas. Conservation Areas within the MSWD service area outside Desert Hot Springs City limits will remain unchanged. As indicated in the preceding discussions, adding the City and MSWD as Permittees of the Plan, and establishing Conservation Areas within the City, would result in an overall beneficial effect to the Covered Species and natural communities currently protected by the Plan. (SEIR/SEIS at 4.1-18.)

### *Climate Change*

The changing climate has the potential to affect wildlife throughout North America, either directly or indirectly through responses to changing habitat conditions (Hinkley et al. 2004). (Final SEIR/SEIS at 4.1-18.)

Because specific effects of climate change on CVMSHCP Covered Species and Natural Communities are speculative and could change over time, both the State of California (California Natural Resources Agency 2009) and the USFWS (2012) emphasize flexible, adaptive strategies for coping with climate change. Hulme (2005) states that adaptation strategies should focus on increasing the flexibility of managing vulnerable ecosystems and increasing the adaptability of vulnerable ecosystems and species. Management also needs to address interacting species and ecosystems. Additionally, large reserves, especially those spanning broad elevational gradients, are critical to encompassing a broad range of present and future climates (Ackerly 2012). Halpin (1997) recommended the following management prescriptions to address climate changes (Final SEIR/SEIS at 4.1-19.):

1. Selection of redundant reserves and selection of reserves that protect habitat diversity;
2. Management for buffer zone flexibility;
3. Management for landscape connectivity;
4. Management for habitat maintenance;

The CVMSHCP incorporates all four elements identified by Halpin (1997) to address climate change; builds a large, interconnected reserve system that spans temperature and elevational gradients; incorporates adaptation strategies to increasing the flexibility of Reserve managers; provides adaptive monitoring to address interacting species and ecosystems. (Final SEIR/SEIS at 4.1-19.)

The external boundaries of the Plan Area encompass approximately 1.1 million acres and the Plan preserves the majority of land from the toe of slope to the ridgeline of mountains surrounding the Coachella Valley and, as such, includes a redundant reserve system that protects habitat diversity in the Coachella Valley. Additionally, the Plan includes adjacency guidelines to manage for buffer zone effects; conservation goals to maintain biological corridors and linkages; and an adaptive management and monitoring strategy to ensure Covered Species and Natural Communities persist in the Plan Area. (Final SEIR/SEIS at 4.1-19.)

The CVMSHCP provides for the long-term conservation of ecological diversity by creating a 210,000 acre integrated Reserve system that maintains physical linkages over a range of existing temperature-moisture regimes and elevations. This climate envelope approach includes the current range of climatic and environmental conditions occupied by each Covered Species and Natural Community. By including geographically distinct sites, the multiple sites criterion will include the range of conditions a given species inhabits today. As the climate changes in the future, there is a possibility that the habitat at one or more sites will become unsuitable for a target species. But preserving multiple sites will increase the likelihood that some refuge for each of the Covered Species will be maintained if climatic conditions change over time, which may provide Covered Species and Natural Community resiliency to even the most extreme predicted effects of climate change (Barrows et. al. 2010). (Final SEIR/SEIS at 4.1-19-20.)

The Plan uses adaptive management and monitoring to ensure Covered Species and Natural Community persistence and support a landscape-scale, ecosystem-based management strategy. The Plan incorporates flexibility into management of vulnerable ecosystems by coordinating the necessary management to achieve the conservation goals and objectives through Resource Management Unit Plans ("RMUP"). The premise of the RMUP is that maximizing cooperation and coordination will result in enhanced, flexible management of all Reserve lands and facilitate management actions. Additionally, RMUP's include components for monitoring and managing natural communities; ecological processes; and biological corridors and linkages to address interacting species and ecosystems.

The Major Amendment would enhance the Plan's ability to ensure Covered Species and Natural Communities persist in the face of accelerated climate change because it will expand an existing conservation area and improve the coordination of management and monitoring by adding Desert Hot Springs and