

**CALIFORNIA  
DEPARTMENT OF FISH AND WILDLIFE**

**FINDINGS OF FACT**

under the  
CALIFORNIA ENVIRONMENTAL QUALITY ACT  
and the  
NATURAL COMMUNITY CONSERVATION PLANNING ACT

**AND**

**AMENDMENT TO**

**NATURAL COMMUNITY CONSERVATION PLAN**

**PERMIT  
(2835-2008-001-06-A1)**

for the

**Major Amendment  
Coachella Valley  
Natural Community Conservation Plan**

**August 2016**

# FINDINGS AND NCCP PERMIT

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# BACKGROUND

## 1.0 INTRODUCTION

In August 2008, the California Department of Fish and Wildlife (CDFW; formerly California Department of Fish and Game), completed the findings necessary for approval of the Coachella Valley Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan (2008 MSHCP/NCCP or Plan). The August 2008 Findings of Fact and Natural Community Conservation Plan Permit (2835-2008-001-06) for the Coachella Valley Natural Community Conservation Plan (2008 NCCP Permit) sets forth findings of fact and approval by the CDFW for the 2008 MSHCP/NCCP. The 2008 NCCP Permit, Implementing Agreement for the Coachella Valley MSHCP/NCCP (Implementing Agreement or IA), and the 2008 MSHCP/NCCP authorize Major Amendments by subsequent amendment to the IA and the 2008 NCCP Permit.

This Major Amendment would amend the Implementing Agreement (Second Amendment to the Implementing Agreement or Implementing Agreement of the Major Amendment) and the 2008 MSHCP/NCCP (Amended MSHCP/NCCP) to add the City of Desert Hot Springs and the Mission Springs Water District as Permittees<sup>1</sup> of the Plan (Major Amendment). The primary changes are an additional 770 acres would be added to the Plan's Conservation Areas and an additional approximately 200 acres would be contributed by the Local Permittees increasing the total Reserve Assembly to 746,100 acres. The amount of additional authorized disturbance is within the amount analyzed in CDFW's findings in the 2008 NCCP Permit. A significant benefit of the Major Amendment is that as full Permittees, the City of Desert Hot Springs and the Mission Springs Water District will be responsible for implementation of the 2008 MSHCP/NCCP within their boundaries. In approving the Major Amendment as provided for in the California Natural Community Conservation Planning Act (NCCPA), California Fish and Game Code (FGC) Sections 2800-2835, CDFW is acting as a responsible agency under the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq. Unless otherwise noted in this document, capitalized terms have the same definitions as in the 2008 MSHCP/NCCP. All table and section references in this document are to the Amended MSHCP/NCCP unless otherwise stated.

Except as specifically amended herein, in the Amended MSHCP/NCCP, or in the amendments to the Implementing Agreement, all terms and conditions of the 2008 NCCP Permit remain in full force and effect and must be implemented and adhered to by Permittees.

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<sup>1</sup> As defined in the Second Amendment to the IA, Permittees include CVAG, CVCC, County, County Flood Control, County Parks, County Waste, the Cities, CVWD, IID, Mission Springs Water District, Caltrans, CVMC, and State Parks. Cities include the cities of Cathedral City, Coachella, Desert Hot Springs, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs, and Rancho Mirage, collectively.

## **1.1 The Natural Community Conservation Planning Act**

The NCCPA provides for the preparation and implementation of large-scale natural resource conservation plans as an alternative to reviewing impacts of urban development on a project-by-project and species-by-species basis. A natural community conservation plan (NCCP) must provide for “the protection of habitat, natural communities, and species diversity on a landscape or ecosystem level” (§2820, subd. (a)(3)), while allowing “compatible and appropriate economic development, growth, and other human uses” (§2805, subd. (h)). When it approves an NCCP, CDFW may authorize the take of species whose conservation and management is provided for in the NCCP, including species listed as endangered, threatened, or candidate under the California Endangered Species Act, Sections 2050-2116 (CESA).

An NCCP must provide procedures for amendment of the plan and the implementation agreement ((FGC §2820, subd. (b)(4)). The process for a Major Amendment is described in Section 20.5 of the Implementing Agreement and Section 6.12.4 of the 2008 MSHCP/NCCP. A Major Amendment requires an amendment to the 2008 MSHCP/NCCP and the Implementing Agreement addressing the new circumstances, subsequent publication and public notification, CEQA/National Environmental Protection Act (NEPA) compliance and intra-Service Section 7 Consultation, if one is deemed necessary. Major Amendments shall be subject to review and approval by the Coachella Valley Conservation Commission (CVCC) and other Permittees as appropriate, at a noticed public hearing. The CVCC shall submit any proposed Major Amendments to the Wildlife Agencies.

The NCCPA was originally enacted in 1991,<sup>2</sup> and was amended in 1993,<sup>3</sup> 1994,<sup>4</sup> 1996<sup>5</sup> and 2000.<sup>6</sup> The NCCPA was repealed and replaced in 2002 by Senate Bill 107,<sup>7</sup> which codified a number of CDFW’s administrative standards and practices for NCCP development and implementation and added some new requirements. The 2003<sup>8</sup> amendment codified in FGC Section 2820 many of the substantive standards and mandatory elements for an NCCP formerly contained in guidelines prepared by CDFW. Further revisions in 2011<sup>9</sup> allow take of Fully Protected Species where conservation of the species is provided for pursuant to a NCCP. Amendments in 2012<sup>10</sup> and 2015<sup>11</sup>,

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<sup>2</sup> Statutes 1991, chapter 765, section 2, page 3424 (A.B. 2172)

<sup>3</sup> Statutes 1993, chapter 708, section 1, page 4034 (S.B. 755)

<sup>4</sup> Statutes 1994, chapter 220, section 1, page 1778 (S.B. 1352)

<sup>5</sup> Statutes 1996, chapter 593, sections 1 and 2, page 2702 (A.B. 3446)

<sup>6</sup> Statutes 2000, chapter 87, sections 1-3, page 1207 (S.B. 1679)

<sup>7</sup> Statutes 2002, chapter 4, sections 1 and 2, page 81 (S.B. 107). Minor housekeeping changes were subsequently enacted as part of S.B. 2052 (Stats. 2002, ch. 133, §§ 1 and 2, page 568)

<sup>8</sup> Statutes 2003, chapter 61, section 1, page 95 (S.B. 572)

<sup>9</sup> Statues 2011, chapter 596 (S.B. 618)

<sup>10</sup> Statues 2012, chapter 275 (S.B. 1169)

<sup>11</sup> Statutes 2015, chapter 154 (A.B. 1527)

added protection of open-space lands in San Diego and cited the unchanged definition of wildlife in a new section of the Fish and Game Code, respectively.

## **1.2 Major Amendment to the Coachella Valley Habitat Conservation Plan/Natural Community Conservation Plan**

The 2008 MSHCP/NCCP is a comprehensive, multi-jurisdictional plan that provides for regional habitat and species conservation at an ecosystem scale while allowing local land use authorities to better manage anticipated growth and development. The 2008 MSHCP/NCCP provides a coordinated process for permitting and mitigating the take of Covered Species as an alternative to the traditional project-by-project permitting approach. The 2008 MSHCP/NCCP was prepared as an NCCP pursuant to the NCCPA (signed September 9, 2008), and as an MSHCP pursuant to Section 10(a)(1)(B) of the Federal Endangered Species Act (FESA) (signed October 1, 2008). The approved 2008 MSHCP/NCCP allows the United States Fish and Wildlife Service (USFWS) and CDFW to authorize the take of certain listed species and other species of concern, subject to the terms of coverage under the 2008 MSHCP/NCCP.

The Amended MSHCP/NCCP was prepared by the CVCC, a joint powers authority that is responsible for implementation of the 2008 MSHCP/NCCP. The CVCC is comprised of 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 (County), the Coachella Valley Water District (CVWD), and Imperial Irrigation District (IID). The City of Desert Hot Springs and the Mission Springs Water District requested incidental take authorization under the NCCPA from CDFW for the four covered species (desert tortoise, Coachella Valley fringe-toed lizard, least Bell's vireo, and southwestern willow flycatcher) protected under the California Endangered Species Act (CESA), as well as for the remaining Covered Species set forth in the Major Amendment.

The external boundaries of the Plan Area encompass approximately 1.2 million acres, or approximately 1,850 square miles, encompassing the Coachella Valley and the surrounding mountains up to the ridgeline (Figure 1-2: 2008 MSHCP/NCCP). Indian Reservation lands within the Plan Area, however, are not covered by the 2008 MSHCP/NCCP; therefore, the actual area covered is approximately 1.1 million acres. The Plan Area extends westward to Cabazon where it is bounded by the range line common to Range 1 East and Range 2 East. This is approximately the limit of the Sonoran or Colorado Desert in the San Gorgonio Pass area. The easternmost extent of the Plan Area is the range line common to Range 13 East and Range 14 East. Either the ridgeline of the Little San Bernardino Mountains or the boundary line with San Bernardino County where the ridgeline extends north of the county line bound the Plan Area on the north. On the south, either the ridgeline of the San Jacinto and Santa Rosa Mountains or the boundary line with San Diego and Imperial Counties forms the southern Plan Area boundary (Figure 1-2: 2008 MSHCP/NCCP). The Major Amendment will add the City of Desert Hot Springs and Mission Springs Water District. Conservation will occur within the Desert Hot Springs city limits as a result of their MSHCP/NCCP obligations.

The joint Final Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) which included Desert Hot Springs, was previously prepared in February 2006 pursuant to CEQA and NEPA and provided a comprehensive assessment of the potential environmental impacts that could result from the adopted MSHCP/NCCP, and provided the appropriate decision makers with the required information upon which to base a decision to adopt an amendment (2006 EIR/EIS). In June 2006, the City of Desert Hot Springs voted not to approve the MSHCP/NCCP. The Coachella Valley Association of Governments (CVAG) Executive Committee then rescinded its approval of the MSHCP/NCCP and EIR/EIS certification and directed that the MSHCP/NCCP be revised to remove Desert Hot Springs as a Permittee. In September 2007, a Recirculated Draft EIR/Supplemental Final EIS was prepared and finalized that removed Desert Hot Springs as Permittee upon their request, and was certified in June 2008 (2008 EIR/EIS). A Supplemental EIR/EIS (2014 SEIR/SEIS) to the Final 2008 EIR/EIS was prepared in 2013 and certified in 2014 by CVCC in order to provide the additional information necessary to make the Final 2008 EIR/EIS adequate for the Major Amendment. This Major Amendment restores Desert Hot Springs as a Permittee and amends the 2008 MSHCP/NCCP to include all of the private lands within the city limits. The private lands to be included total approximately 770 acres that were removed from the Upper Mission Creek/Big Morongo Canyon Conservation Area when Desert Hot Springs chose not to participate in 2006. An increase in the total acres results in a proportional increase in authorized disturbance. The addition of 770 acres of land to the Upper Mission Creek/Big Morongo Canyon Conservation Area causes a proportional increase in the amount of authorized disturbance which is calculated as 10% of the total acres in the Plan Area. The city limits of Desert Hot Springs also include two parcels in the Whitewater Canyon Conservation Area that are both owned by Bureau of Land Management (BLM) and are currently managed consistent with the Plan, therefore no additional disturbances associated with the Major Amendment will occur in this Conservation Area.

In 2006, when the City of Desert Hot Springs opted out of the 2008 MSHCP/NCCP, an agreement was made with CVAG to establish most of the previously proposed Conservation Area adjacent to Morongo Wash floodplain area and Mission Creek flood control channel as a Special Provisions Area, which allows for the purchase and preservation of that area as conservation for a wildlife habitat corridor. The area also addressed the potential Morongo Wash flood control facility and its associated mitigation. The Major Amendment would incorporate the Morongo Wash Special Provisions Area into the Upper Mission Creek/Big Morongo Canyon Conservation Area.

As a result of the Major Amendment, the City of Desert Hot Springs will join the County, CVAG, the Cities of Cathedral City, Coachella, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs, and Rancho Mirage as a full Permittee under the Major Amendment and will be responsible for implementing the Major Amendment. Mission Springs Water District will join the Coachella Valley Water District (CVWD), Imperial Irrigation District (IID), Riverside County Flood Control and Water Conservation District (County Flood Control), Riverside County Regional Park and Open Space District (County Parks), Riverside County Waste Resources Management District (County Waste), and the Coachella Valley Conservation Commission (CVCC, known as the “Implementing Entity”) as a Permittee to cover their operations and maintenance of

facilities and other activities. California Department of Transportation (Caltrans), Coachella Valley Mountains Conservancy (CVMC), and California Department of Parks and Recreation (State Parks) are state agencies which are also Permittees under the Major Amendment. Although not Permittees under the Major Amendment, the Bureau of Land Management (BLM), U.S. Forest Service (USFS), and National Park Service (NPS) participate in development and implementation of the Major Amendment.

The amount of Take<sup>12</sup> authorized in the 2008 NCCP Permit included the acres subject to disturbance within the City of Desert Hot Springs because it was anticipated that development would still occur inside and outside of Conservation Areas in the City's boundaries. The City of Desert Hot Springs' covered projects that are road improvements in the Conservation Areas were already covered projects in the 2008 NCCP Permit under CVAG Regional Road Projects (Figure 7-4, Table 7-3:2008 MSHCP/NCCP). While the Take was authorized, the City did not have the authority to allocate the Take because it was not a Permittee to the 2008 MSHCP/NCCP. The Major Amendment will provide Take Authorization for Desert Hot Springs allowing disturbance that is consistent with the 2008 MSHCP/NCCP (SEIR/SEIS, p. 4.1-3).

The authorized disturbance resulting from the addition of Mission Springs Water District, as a result of the Major Amendment would not exceed the amount previously analyzed and approved in the original findings and 2008 NCCP Permit for the Conservation Area. Covered Activities include construction of wells, water storage facilities, water transmission lines, recycled water lines, and sewer lines (Figure 2-2: SEIR/SEIS, p. 2-10; Table 7-13). Most of these Covered Activities are within existing roads and do not result in additional authorized disturbance. Those facilities proposed within Conservation Areas are subject to the conservation objectives in the Plan. As a Permittee, Mission Springs Water District will be responsible for ensuring that their projects are consistent with the Major Amendment, providing conservation certainty for unlisted species that otherwise would not require conservation. In addition, as a Permittee, Mission Springs Water District will also ensure conservation of lands they own within Conservation Areas and participate in reserve management activities.

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<sup>12</sup> The amount of authorized disturbance or Take allowed under the 2008 MSHCP/NCCP Permit was determined based on analysis of the species distribution map for each covered species compared to the boundaries of each conservation area. The amount of conservation of modeled habitat and the authorized disturbance is reported in Table 4-114 of the 2008 MSHCP/NCCP. The 2008 NCCP Permit is based on analysis of these numbers for conservation and Take for covered species and disturbance for natural communities. During the consultation in the final days of permit review, USFWS required an analysis of the Take associated with the specifically listed, named Covered Activities in the Conservation Areas by Plan Permittees (listed in Section 7.0) so that this disturbance could be included in their Permit. These projects within Conservation Areas do not count toward the allocated Take in Section 4, though their impacts were analyzed as part of the 2007 EIR/EIS. The impacts associated with this disturbance, both direct and indirect, had been extensively analyzed during Plan preparation, but acreage numbers associated with that disturbance were not included in the final authorized Take in Table 4-114 (2008 MSHCP/NCCP). The additional acres of disturbance were included in the 2008 USFWS permit. As a result, Take numbers differ between the 2008 MSHCP/NCCP permits for the USFWS and CDFW.



The mitigation for the additional disturbance to Covered Species and natural communities associated with Mission Springs Water District and Desert Hot Springs's Covered Activities will be the contribution of approximately 200 acres of Additional Local Permittee lands, increasing the total conservation to 746,100 from 745,900 acres to create a Reserve System that will be protected and managed in perpetuity. The conservation will be achieved through management of 557,100 acres of existing conservation lands consistent with the 2008 MSHCP/NCCP, acquisition of 166,580 acres, and protection of ecological processes through land use tools. Through the Major Amendment, an additional 770 acres would be added to the Plan's Conservation Areas. In addition to contribution of land, Mission Springs Water District will provide financial and other contributions to the Adaptive Management and Monitoring Program.

Funding for the 2008 MSHCP/NCCP is in part generated through payment of a Local Development Mitigation Fee by developers prior to issuance of development permits from the Cities and County. Funding also comes from other sources such as fees on the importation of waste into landfills in Riverside County, transportation project mitigation, new federal and state funding, mitigation for regional infrastructure projects and contributions from utility districts. As a result of the Major Amendment, Desert Hot Springs will have the authority to impose Local Development Mitigation Fees.

In addition to land acquisition, the conservation strategy includes measures to restore, enhance, and otherwise manage habitat for the Covered Species (Table 4-116:2008 MSHCP/NCCP). These measures are designed to carry out the biological goals and objectives developed for the 2008 MSHCP/NCCP (Section 4:2008 MSHCP/NCCP). The biological goals and objectives, as well as the 2008 MSHCP/NCCP implementation, are based on ecological function at three scales: landscape, natural community, and species. Avoidance and minimization measures and other development guidelines are also described in the 2008 MSHCP/NCCP (Table 4-116:2008 MSHCP/NCCP). These measures are required of project proponents seeking coverage through the local Permittees under the 2008 MSHCP/NCCP. Inclusion of Desert Hot Springs will allow them to use their land use authority to impose mitigation measures and conditions for Covered Activities within their jurisdiction of the Plan Area.

Natural Communities in the Plan Area are shown in Figure 3-3 and Table 4-115 lists the amount of each Natural Community in the Plan Area. Natural Communities within the Plan Area include, but are not limited to: chaparral, desert alkali scrub, desert scrub, riparian, dry wash woodland and mesquite, sand dunes and sand fields, woodland and forests, irrigated agriculture, and developed areas. Natural Communities affected by the amendment include Sonoran Creosote Bush Scrub, Sonoran Mixed Woody and Succulent Scrub, and Desert Dry Wash Woodland. Sonoran Creosote Bush Scrub conservation would increase by 65 acres and disturbance would decrease by 66 acres. Sonoran Mixed Woody and Succulent Scrub conservation would increase by 553 acres and disturbance would decrease by 553 acres. Desert Dry Wash Woodland conservation would increase by 18 acres and disturbance would increase by two acres.

The CVCC is lead agency for purposes of CEQA for this Major Amendment. CVCC found that all environmental impacts identified in the SEIR/SEIS are less than significant

and do not require mitigation. Conservation, management, and implementation responsibilities and guarantees for the Major Amendment are set forth in the Second Amendment to the Implementing Agreement to be signed by all the Permittees, and USFWS and CDFW (the “Wildlife Agencies”). All Permittees and the Wildlife Agencies will implement their respective responsibilities under the Major Amendment as described in the Second Amendment to the Implementing Agreement.

### **1.3 Implementing Agreement**

CDFW plans to execute the Second Amendment to the Implementing Agreement concurrently with this NCCP Permit. The Second Amendment to the Implementing Agreement is an agreement among CVAG, CVCC, County of Riverside, County Flood Control, County Parks, County Waste, City of Cathedral City, City of Coachella, City of Desert Hot Springs, City of Indian Wells, City of Indio, City of La Quinta, City of Palm Desert, City of Palm Springs, City of Rancho Mirage, CVWD, IID, Mission Springs Water District, CVMC, Caltrans, State Parks, USFWS, and CDFW. Signatories of the IA include all Permittees of the 2008 MSHCP/NCCP and the USFWS and CDFW. The First Amendment to the IA, entered into on August 13, 2010, was for the annexation of the “Desert Hot Springs I-10 Community Annexation Area” of approximately 4,000 acres from the County of Riverside’s jurisdictional boundaries into the City of Desert Hot Springs. Desert Hot Springs became a permittee for these lands only and assumed all the responsibilities for implementing the Plan for the annexed lands. The First Amendment to the IA was a Minor Amendment to the 2008 MSHCP/NCCP which provides for annexations in the Plan Area (Section 6. 12.3 of the 2008 MSHCP/NCCP and Section 20.4 of the IA). The IA is designed to ensure the implementation of the 2008 MSHCP/NCCP, to bind each party to the terms of the 2008 MSHCP/NCCP, and to provide remedies and recourse for failure to adhere to the terms of the 2008 MSHCP/NCCP. This NCCP Permit specifically applies to the 2008 MSHCP/NCCP as implemented pursuant to the IA, the 2008 MSHCP/NCCP, and their amendments.

CDFW finds that the Major Amendment will continue to provide the necessary assurances that the 2008 MSHCP/NCCP will be carried out by the Permittees. By accepting their NCCP Permit, the County, County Flood Control, County Waste, County Parks, CVAG, CVCC, CVWD, IID, Mission Springs Water District, CVMC, Caltrans, State Parks, and the Cities of Cathedral City, Coachella, Desert Hot Springs, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs, and Rancho Mirage are bound to fully implement the terms of this Permit and the provisions of the Major Amendment, which includes the requirements of the 2008 MSHCP/NCCP as amended by the Amended MSHCP/NCCP and the IA as amended by the First and Second Amendments to the IA.

# **ADMINISTRATIVE RECORD**

## **2.0 ADMINISTRATIVE RECORD OF PROCEEDINGS**

For purposes of these findings, the administrative record of proceedings for CDFW's discretionary issuance of this Major Amendment consists, at a minimum, of the following documents:

- Any MSHCP/NCCP related materials prepared by CVAG or CVCC and submitted to CDFW;
- Any staff reports and related non-privileged documents prepared by CDFW with respect to its compliance with CEQA and with respect to the issuance of an NCCP Permit for the 2008 MSHCP/NCCP and the Amended MSHCP/NCCP;
- Any written testimony or documents submitted by any person to CDFW relevant to these findings and CDFW's discretionary actions with respect to the 2008 MSHCP/NCCP and the Amended MSHCP/NCCP;
- Any notices issued to comply with CEQA, the NCCPA, or with any other law relevant to and governing the processing and approval of this NCCP Permit by CDFW;
- Any written comments received by CDFW in response to, or in connection with, environmental documents prepared for this project;
- All written evidence or correspondence submitted to, or transferred from, CDFW with respect to compliance with CEQA and with respect to the 2008 MSHCP/NCCP and the Amended MSHCP/NCCP;
- Any proposed decisions or findings related to the 2008 MSHCP/NCCP and the Amended MSHCP/NCCP submitted to CDFW by its staff, CVAG, CVCC, MSHCP/NCCP supporters and opponents, or other persons;
- The documentation of the final decision by CDFW, including all documents cited or relied on in these findings adopted pursuant to CEQA and the NCCPA;
- The documentation of the final decision by USFWS associated with Permit Number TE104604-1 including all documents adopted or approved pursuant to NEPA and the ESA;
- Any other written materials relevant to CDFW's compliance with CEQA or CDFW's decision on the merits with respect to the NCCP Permits for the 2008 MSHCP/NCCP and the Amended MSHCP/NCCP, including any draft environmental documents that were released for public review, and copies of studies or other documents relied upon in any environmental document prepared

for the project and either made available to the public during a public review period or included in CDFW's files on the 2008 MSHCP/NCCP and the Amended MSHCP/NCCP, and all non-privileged internal agency communications, including staff notes and memoranda related to the 2008 MSHCP/NCCP, the Amended MSHCP/NCCP, or compliance with CEQA;

- Matters of common knowledge to CDFW, including but not limited to federal, state, and local laws and regulations; and
- Any other materials required to be in CDFW's administrative record of proceedings by Public Resources Code Section 21167.6, subdivision (e).

The custodian of the documents comprising the administrative record of proceedings is the California Department of Fish and Wildlife, located at 1416 Ninth Street, Sacramento, California, 95814. All related inquiries should be directed to the Habitat Conservation Planning Branch at (916) 653-4875.

CDFW has relied on all of the documents listed in this section in exercising its independent judgment and reaching its decision with respect to the Major Amendment, even if every document was not formally presented to CDFW or its staff as part of the CDFW files generated in connection with the Major Amendment. Without exception, any documents set forth above not found in CDFW's files for the Major Amendment fall into one of two categories. Certain documents reflect prior planning or legislative decisions of which CDFW was aware in approving the Major Amendment. (See *City of Santa Cruz v. Local Agency Formation Comm.* (1978) 76 Cal.App.3d 381, 391-392; *Dominey v. Department of Personnel Administration* (1988) 205 Cal.App.3d 729, 738, fn. 6.). Other documents influenced the expert advice of CDFW staff, who then provided advice to the decision-makers at CDFW with respect to the NCCP Permits for the 2008 MSHCP/NCCP and the Major Amendment. For that reason, such documents form part of the underlying factual basis for CDFW's decision related to the Major Amendment. (See Pub. Resources Code, § 21167.6, subd. (e)(10); *Browning-Ferris Industries v. City Council of City of San Jose* (1986) 181 Cal.App.3d 852, 866; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 153, 155).

# FINDINGS OF FACT

## 3.0 FINDINGS UNDER CEQA

### 3.1 Environmental Documents

CVCC was the CEQA “lead agency” for purposes of the Major Amendment and completed environmental review and approval of the amendment to the MSHCP/NCCP in 2014. (See generally Pub. Resources Code, § 21067; CEQA Guidelines, Cal. Code Regs., tit. 14, § 15367.)

Pursuant to CEQA and the CEQA Guidelines, California Code California Regulations, Title 14, Section 15000 et seq., CVCC prepared a SEIR/SEIS for the Proposed Major Amendment consisting of a Draft SEIR/SEIS, a Final SEIR/SEIS, all appendices of the Draft and Final SEIR/SEIS, comments and recommendations received on the Draft and Final SEIR/SEIS, a list of commenters on the Draft and Final SEIR/SEIS, and the responses of CVCC to any significant points raised in the review and consultation process.

The SEIR/SEIS was prepared pursuant to CEQA Guidelines Section 15163 in order to provide the additional information necessary to make the previous EIR/EIS adopted in September 2007 adequate for the Major Amendment. Pursuant to the Initial Study/Environmental Assessment that was prepared in spring 2011, the SEIR/SEIS only addressed revisions to biological resources, land use and planning, socioeconomic and fiscal effects and transportation, traffic and circulation. The State Clearinghouse Number for the SEIR/SEIS is SCH #2000061079. The 2014 Final SEIR/SEIS also reflects responses to comments received on the September 2013 Draft SEIR/SEIS. In analyzing and approving the Major Amendment to the MSHCP/NCCP and certifying the SEIR/SEIS, CVCC, as the lead agency, “consider[ed] the effects, both individual and collective, of all activities involved in [the] project.” (Pub. Resources Code, § 21002.1, subdivision (d)).

#### **Approval dates (at each approval):**

<u>Agency</u>	<u>Action</u>	<u>Date</u>
Riverside County Board of Supervisors	Approve MSHCP/NCCP and IA, certified the EIR	October 2, 2007
	Approve Major Amendment and IA, certified the SEIR	July 29, 2014
City of Palm Springs	Approve MSHCP/NCCP and IA, certified the EIR	October 3, 2007
	Approve Major Amendment and IA, certified the	July 2, 2014

	SEIR	
City of Rancho Mirage	Approve MSHCP/NCCP and IA, certified the EIR	October 4, 2007
	Approve Major Amendment and IA, certified the SEIR	June 5, 2014
City of Indian Wells	Approve MSHCP/NCCP and IA, certified the EIR	October 4, 2007
	Approve Major Amendment and IA, certified the SEIR	June 19, 2014
Coachella Valley Water District	Approve MSHCP/NCCP and IA, certified the EIR	October 9, 2007
	Approve Major Amendment and IA, certified the SEIR	June 10, 2014
Imperial Irrigation District	Approve MSHCP/NCCP and IA, certified the EIR	October 9, 2007
	Approve Major Amendment and IA, certified the SEIR	June 24, 2014
City of Coachella	Approve MSHCP/NCCP and IA, certified the EIR	October 10, 2007
	Approve Major Amendment and IA, certified the SEIR	June 25, 2014
City of Cathedral City	Approve MSHCP/NCCP and IA, certified the EIR	October 10, 2007
	Approve Major Amendment and IA, certified the SEIR	July 9, 2014
City of Palm Desert	Approve MSHCP/NCCP and IA, certified the EIR	October 11, 2007
	Approve Major Amendment and IA, certified the SEIR	June 26, 2014
City of La Quinta	Approve MSHCP/NCCP and IA, certified the EIR	October 16, 2007

	Approve Major Amendment and IA, certified the SEIR	June 3, 2014
City of Indio	Approve MSHCP/NCCP and IA, certified the EIR	October 17, 2007
	Approve Major Amendment and IA, certified the SEIR	June 18, 2014
CVAG	Approve MSHCP/NCCP and IA, certified the EIR	September 11, 2007
	Approve Major Amendment and IA, certified the SEIR	June 30, 2014
CVCC	Approve MSHCP/NCCP and IA, certified the EIR	September 11, 2007
	Approve Major Amendment and IA, certified the SEIR	March 13, 2014
CVMC	Approve MSHCP/NCCP and IA, certified the EIR	November 5, 2007
	Approve Major Amendment and IA, certified the SEIR	May 12, 2014
Caltrans	Approve IA	March 28, 2008
	Approve Major Amendment and IA	July 8, 2015
State Parks	Approve IA	March 28, 2008
	Approve Major Amendment and IA	September 24, 2015

In October 2007, the City Council of Desert Hot Springs reconsidered their decision not to participate in the 2008 MSHCP/NCCP and unanimously approved a Memorandum of Understanding (MOU), stating the parties' mutual intent to enter into negotiations for the City to join the 2008 MSHCP/NCCP as a Permittee after the Plan was officially adopted. The MOU was subsequently approved by the CVCC, CVAG, and the County of Riverside as of February 2008. Subsequent to the Desert Hot Springs decision, the Mission Springs Water District also made the decision to become a Permittee of the Plan. In October 2010, a Planning Agreement for the Major Amendment was developed and

approved by CDFW, CVCC, Desert Hot Springs and Mission Springs Water District (NCCP Planning Agreement No. 2810-2008-002-06<sup>13</sup>).

In 2010, the First Amendment to the Implementing Agreement was approved to include 4,000 acres annexed by the City of Desert Hot Springs, the I-10 Community Annexation Area. This IA amendment was signed by CDFW, USFWS, Desert Hot Springs, Riverside County, and CVCC.

For the proposed Major Amendment, a Notice of Preparation (NOP) for the Draft SEIR/SEIS was prepared by the CVCC and sent to the State Clearinghouse on March 30, 2011, for distribution to responsible state agencies. The NOP was also posted in the Desert Sun newspaper on March 31, 2011, to inform the public of the proposed Major Amendment and that a SEIR/SEIS was being prepared. These actions initiated the 30-day public scoping period for the Project, which officially ended on May 2, 2011. The CVCC also held a public scoping meeting on April 4, 2011, at the Carl May Community Center in Desert Hot Springs, to further provide the public information on the CEQA and NEPA process and to give them opportunities to identify environmental issues and alternatives for consideration in the SEIR/SEIS. On March 30, 2011 USFWS posted a Notice of Intent (NOI) in the Federal Register.

On September 10, 2013 the CVCC filed a Notice of Availability (NOA) for the Draft SEIR/SEIS. The public review period to comment on the Draft SEIR/SEIS was from September 6, 2013 through October 21, 2013. On September 6, 2013 CVCC mailed notification letters to all property owners in proposed Conservation Areas regarding the Major Amendment and Draft SEIR/SEIS. On September 6, 2013, USFWS published a Notice of Availability of the Draft SEIR/SEIS in the Federal Register (78 FR 54906) with a public review period of 45 days. The Draft SEIR/SEIS was available at the CVCC office, City of Desert Hot Springs, and on the CVMSHCP website. In total, seven comment letters were received, and a response to each comment is included in the Final SEIR/SEIS.

On Thursday, March 13, 2014 the CVCC held a public hearing and approved the Major Amendment and Second Amendment to the IA, and certified the SEIR, including the response to comments. On March 13, 2014, a Notice of Determination was filed with Riverside County and the State Clearinghouse/Office of Planning and Research. The CDFW Environmental Filing Fee (\$3,079.75) was paid to Riverside County by CVCC. In April 2014, the City of Desert Hot Springs and Mission Springs Water District approved the Major Amendment. Subsequently all other local Permittees approved the Major Amendment as of July 29, 2014. The Major Amendment has been approved by the State Permittees as of September 2015. The Final SEIS was posted in the Federal Register on October 27, 2014.

CDFW has prepared these findings to comply with CEQA. CDFW is a “responsible agency” under CEQA with respect to the Major Amendment because of its authority

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<sup>13</sup> The NCCP Planning Agreement number is 2810-2008-002-06, however, on the document the number is shown as 2810.



under the NCCPA. (See generally Pub. Resources Code, §§ 21002.1, subd. (d) and 21069; CEQA Guidelines, § 15381; see also Cal. Code Regs., tit. 14, § 783.3, subd. (a).) CDFW accordingly makes the findings that appear in Section 3.5, below, under CEQA as part of its discretionary decision to approve the Major Amendment and authorize Take of species whose conservation and management is provided for in the Major Amendment.

These findings pertain to the Proposed Project and the SEIR/SEIS prepared for the Proposed Project (SCH #2000061079). The Draft SEIR/SEIS, the Final SEIR/SEIS, and all the appendices comprise the “SEIR/SEIS” referenced in these findings.

The purpose of the joint SEIR/SEIS is to evaluate the potential for environmental effects from the adoption and implementation of the Major Amendment and the issuance of Take permits for species pursuant to FGC Section 2800, et seq., of the NCCPA. It also evaluates the potential for environmental effects from the Major Amendment on the issuance of Take Authorizations pursuant to Section 10(a)(1)(B) of the ESA.

### **3.2 CEQA Findings Requirement**

CEQA requires public agencies to adopt certain findings before approving a project for which an EIR was prepared. The findings that appear below are intended to comply with the CEQA mandate that no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant effects thereof unless the agency makes one or more of the following findings with respect to each significant effect (Public Resources Code Section 21081, subdivision (a), CEQA Guidelines Section 15091, subdivision (a); see also CEQA Guidelines Section 15082, subdivision (b)(2)):

- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR;
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency; or
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

These findings are also intended to comply with the requirement that each finding made by CDFW be supported by substantial evidence in the administrative record and be accompanied by a brief explanation of the rationale for each finding. (CEQA Guidelines, § 15091, subds. (a) and (b); see also Discussion following CEQA Guidelines, § 15091.) To that end, these findings provide the written, specific reasons supporting CDFW’s decisions under CEQA as they relate to the approval of the Major Amendment under the NCCPA.

Because CDFW adopts these findings as a responsible agency, the scope of these findings and CDFW's analysis under CEQA are more limited than that of the lead agency. (Pub. Resources Code, §§ 21002.1, subd. (d) and 21167.2; CEQA Guidelines, § 15096, subds. (f)-(h); Cal. Code Regs., tit. 14, §§ 783.3, subd. (a) and 783.5, subd. (c)). In its capacity as a responsible agency, CDFW is also bound by the legal presumption that the EIR certified by the CVAG and the SEIR certified by the CVCC fully complies with CEQA. (Pub. Resources Code, §§ 21167.2 and 21167.3; CEQA Guidelines, § 15096, subd. (e)(1)-(2); *City of Redding v. Shasta County Local Agency Formation Comm.* (1989) 209 Cal.App.3d 1169, 1178-1181; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1130.) In fact, CDFW is bound by the presumption of adequacy, except in extremely narrow circumstances. (Pub. Resources Code, § 21167.2; CEQA Guidelines, § 15096, subds. (e) and (f).) CDFW concludes such circumstances do not exist in the present case based on substantial evidence in its administrative record for this NCCP Permit.

### **3.3 Scope of CEQA Findings**

CDFW is a responsible agency under CEQA for purposes of approving the Major Amendment because of its authority under NCCPA and the lead agency's prior actions with respect to the project. As a responsible agency, CDFW's CEQA obligations are "more limited" than those of the lead agency. (CEQA Guidelines, § 15096, subd. (g)(1).) CDFW, in particular, is "responsible for considering only the effects of those activities involved in [the] project which it is required by law to carry out or approve." (Pub. Resources Code, § 21002.1, subd. (d).) Thus, while CDFW must "consider the environmental effects" of the Major Amendment to the 2008 MSHCP/NCCP as disclosed in the environmental documents described above (CEQA Guidelines, § 15096, subd. (f)), CDFW "has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve." (CEQA Guidelines, § 15096, subd. (g)(1).) Accordingly, CDFW is responsible for considering and mitigating or avoiding only the environmental effects of the 2008 MSHCP/NCCP, the Major Amendment, and the 2008 and this NCCP Permit and associated Take Authorizations because those activities fall within its authority under the NCCPA.

CDFW's more limited obligations as a responsible agency affect the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required, in fact, by each "public agency" that approves a "project for which an environmental impact report has been certified which identifies one or more significant effects on the environment . . . ." (Pub. Resources Code, § 21081, subd. (a); CEQA Guidelines, § 15091, subd. (a); see also Pub. Resources Code, § 21068 ("significant effect on the environment defined"); CEQA Guidelines, § 15382 (same).) Because CVAG certified the 2008 EIR/EIS in approving the 2008 MSHCP/NCCP, and CVCC certified the SEIR/SEIS in approving the Major Amendment to the 2008 MSHCP/NCCP, the obligation to adopt findings under CEQA necessarily applies to CDFW as a responsible agency. (CEQA Guidelines, § 15096,

subd. (h); Resource Defense Fund v. Local Agency Formation Com. of Santa Cruz County (1987) 191 Cal.App.3d 886, 896-898.)

The specific provision of the CEQA Guidelines addressing the responsible agency findings obligation is Section 15096, subdivision (h). That section provides that a “responsible agency shall make the findings required by Section 15091 for each significant effect of the project and shall make the findings in Section 15093 if necessary.” (CEQA Guidelines, § 15096, subd. (h).). The scope of this charge in the guidelines is governed by statutory language concerning the extent of responsible agency decision making authority under CEQA. As noted above, the controlling statute provides that a “responsible agency shall be responsible for considering only the effects of those activities involved in a project which it is required by law to carry out or approve.” (Pub. Resources Code, § 21002.1, subd. (d).). The same section underscores that the more limited scope of review for responsible agencies necessarily “applies only to decisions by a public agency to carry out or approve a project . . . .” (Ibid.)

### **3.4 Legal Effect of the CEQA Findings**

These findings are not merely informational. To the extent CDFW relies on implementation of particular measures to make a necessary finding under NCCPA, those measures constitute a binding set of obligations that take effect when CDFW approves the Major Amendment. CDFW believes that all mitigation and conservation measures that it has relied on for purposes of its findings are separately required under the 2008 MSHCP/NCCP, the IA, the 2008 NCCP Permit, or the Major Amendment or are express conditions of this NCCP Permit. Consequently CDFW does not anticipate that as a practical matter these findings, in and of themselves, will increase obligations of those operating under authority of this NCCP Permit.

### **3.5 CEQA Findings Regarding Potentially Significant Environmental Effects**

The SEIR/SEIS was prepared to address changes to the 2008 EIR/EIS that did not include Desert Hot Springs or Mission Springs Water District as Permittees of the Plan. Per Section 15163 of the CEQA Guidelines the supplement to the EIR need contain only the information necessary to make the previous EIR adequate for the project as revised. As such, the SEIR/SEIS focuses only on changes to the Final Recirculated EIR/EIS and on those environmental topics most likely to be affected by the Plan revisions.

The 2008 EIR/EIS was incorporated by reference pursuant to Section 15150 of the CEQA Guidelines. CVCC’s Final SEIR/SEIS determined from the Initial Study Checklist and comments received that the SEIR/SEIS should analyze effects on biological resources, land use, socioeconomic and fiscal impacts, and traffic and circulation.

The Major Amendment will add Desert Hot Springs and Mission Springs Water District as Permittees under the existing Plan. Adding Desert Hot Springs and Mission Springs Water District as Permittees will obligate them to ensure compliance with all terms and

conditions of the Major Amendment including achievement of the Plan's Conservation Goals and Objectives and Required Measures in each of the 21 Conservation Areas. The net effects of adding their Covered Activities within conservation lands are insignificant within the context of the larger, existing Plan. CVCC evaluated the effects to the Covered Species from development and other Covered Activities that will result in the loss of up to 49 acres of additional native modeled habitat for four of the twenty-seven covered species (Table 4-114). Loss of native modeled habitat in the Plan Area will decrease by up to 608 acres for nine of the covered species and will not change for the remaining fourteen covered species. Conservation within the overall MSHCP Reserve System will increase from 745,900 acres to 746,100 acres, a 0.03 % or an approximately 200-acre increase in conservation specifically for the benefit of the Covered Species. These figures reflect the Desert Hot Springs' and Mission Springs Water District's contribution of approximately 200<sup>14</sup> additional acres of Additional Local Permittee lands for which there will be cooperation to conserve (Table 4-6; Pages 2-4, 2-5:SEIR/SEIS). With the Major Amendment, the Local Permittees' contribution of Additional Conservation Lands to Plan implementation will increase by approximately 200 acres for a total of 7,700 acres (Table 4-6). CVCC shall conserve the 7,700 acres through a recorded Legal Instrument. More importantly, Desert Hot Springs will be responsible for exercising its land use authority to ensure the Conservation Goals and Objectives identified for Conservation Areas within its jurisdiction are met. Thus, CDFW concludes that for the Covered Species affected by the Major Amendment there is a slight increase in the amount of conservation identified and analyzed in the 2008 NCCP Permit.

Mission Springs Water District has also agreed to implement measures that will be added to the Obligations of the Local Permittees Section 6.6.1 of the Major Amendment to the Plan (Pages 2-4:5 of the SEIR/SEIS; Section 6.6.1). They include conservation measures for the approximately 61 acres they own in the Conservation Areas and other measures for activities outside Conservation Areas. Additional Mission Springs Water District obligations include the contribution of funds to the endowment fund for the Monitoring Program, the Management Program, and Adaptive Management and providing funds, data, and other expertise to support monitoring and analysis of groundwater levels in the Willow Hole Conservation Area. Mission Springs Water District will contribute \$110,000 to the CVCC to provide for the monitoring and management of Mission Springs Water District lands in the Conservation Areas, including removal of invasive species and monitoring of mesquite hummocks. Mission Springs Water District will also provide \$120,000 to support monitoring and analysis of groundwater levels, provide \$100,000 to CVCC to be used for the removal of non-native tamarisk from the Willow Hole Conservation Area, and provide \$20,000 toward a study being conducted by CVCC on the feasibility of mesquite restoration and development of a mesquite restoration plan.

Thus, after considering the current condition of the lands within the Plan Area, the level of Take associated with the Major Amendment, and the conservation benefits associated

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<sup>14</sup> For purposes of accounting, all acreage numbers are rounded to the nearest 100 acres. Actual contributions are approximately 61 acres for Mission Springs Water District and 100 acres for Desert Hot Springs.

with the Plan and the Major Amendment, CDFW concludes that the avoidance, minimization, and mitigation measures included in the Major Amendment minimize and mitigate the impacts of the Take of Covered Species for the reasons described in this section of the Findings, and as discussed below for each of the 27 species affected by the Major Amendment.

CDFW finds that all potential environmental impacts identified in the SEIR/SEIS for the Major Amendment are less than significant impacts to Covered Species.

CDFW hereby makes the following findings under CEQA with respect to the effects of proposed Take on each species by the Major Amendment as authorized under the NCCPA.

### **CEQA Findings for Covered Species - Plants**

**Impact 3.5.1** Approval of the Major Amendment to the 2008 MSHCP/NCCP authorized under the 2008 NCCP Permit could result in potentially significant adverse impacts on Covered Plant Species. These species include: Coachella Valley milkvetch (*Astragalus lentiginosus var. coachellae*), Little San Bernardino Mountains linanthus (*Linanthus maculatus*), triple-ribbed milkvetch (*Astragalus tricarinatus*), Mecca aster (*Xylorhiza cognata*), and Orocopia sage (*Salvia greatae*).

**Finding 3.5.1** CDFW finds that conservation measures and additional conservation lands required in the Major Amendment to the 2008 MSHCP/NCCP will avoid or avoid or mitigate potential significant impacts of the Major Amendment on each of the five Covered Plant Species to below a level of significance. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)

#### **Explanation 3.5.1:**

##### **Coachella Valley milkvetch (*Astragalus lentiginosus var. coachellae*)**

There are approximately 36,398 acres of Coachella Valley milkvetch modeled habitat<sup>15</sup> within the Plan Area (Table 4-114<sup>16</sup>). The 2008 NCCP Permit authorizes impacts to

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<sup>15</sup> Modeled Habitat is the total acres of habitat modeled for a given species in the Plan Area and is based on species' distribution model which includes the occurrence and distribution of known locations, occupied Habitat, and potential Habitat for each covered species. This includes conservation areas and areas outside conservation areas.

<sup>16</sup> All table and section references in the CEQA Findings for Covered Species are for the Major Amendment to the MSHCP/NCCP unless otherwise stated.

15,392 acres (42 %) of the plan-wide modeled habitat for Coachella Valley milkvetch. The Major Amendment will result in a decrease of two acres of impact to modeled habitat across the Plan Area, for a total of 15,390 acres (Table 4-114). The Major Amendment does not change the anticipated 1,306 acres of authorized disturbance for the Coachella Valley milkvetch within Conservation Areas (Table 9-4). A decrease in habitat loss will provide a benefit to the Coachella Valley milkvetch.

The Major Amendment will increase the conservation goal of Coachella Valley milkvetch modeled Habitat by two acres to 19,359 acres across the overall Plan Area (Table 4-114). To date, 1,884 of these acres have been conserved. An increase in habitat conserved will provide a net benefit to the Coachella Valley milkvetch.

Species conservation goals for the Coachella Valley milkvetch will continue to include protection of occupied Core Habitat<sup>17</sup> within four Conservation Areas where the essential ecological processes are not compromised. Each of the four Core Habitat areas conserved (including Existing Conservation Lands, Permittee mitigation, and other anticipated conservation) will be greater than 2,000 acres. The Major Amendment will also require that Desert Hot Springs and Mission Springs Water District work with existing Permittees to ensure the conservation of Coachella Valley milkvetch by maintaining the long-term persistence of self-sustaining populations and conserving habitat quality in these Core Habitat areas.

Based on the above analysis, the Major Amendment does not change the Findings made in 2008 NCCP Permit (Finding 3.5.1). Overall, disturbance allowed under this MSHCP/NCCP for the Coachella Valley milkvetch will be less than significant for CEQA analysis purposes and the benefits conferred by the 2008 MSHCP/NCCP will protect adequate unfragmented habitat, maintain Essential Ecological Processes to sustain the habitat, and protect Biological Corridors and Linkages. CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on Coachella Valley milkvetch to below a level of significance.

### **Triple-ribbed milkvetch (*Astragalus tricarinatus*)**

The Major Amendment does not change the anticipated Take or the conservation strategy under the Plan for triple-ribbed milkvetch. Conclusions in the Findings for triple-ribbed milkvetch from the 2008 NCCP Permit remain the same (Finding 3.5.1). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the

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<sup>17</sup> Core Habitat - The areas identified in the Plan for a given species that are composed of a Habitat patch or aggregation of Habitat patches that (1) are of sufficient size to support a self-sustaining population of that species, (2) are not fragmented in a way to cause separation into isolated populations, (3) have functional Essential Ecological Processes, and (4) have effective Biological Corridors and/or Linkages to other Habitats, where Feasible, to allow gene flow among populations and to promote movement of large predators.

potential significant impacts of the Major Amendment on triple-ribbed milkvetch to below a level of significance.

**Little San Bernardino Mountains linanthus (*Linanthus maculatus* (or *Gilia maculata*))**

There are approximately 3,389 acres of linanthus modeled habitat within the Plan Area (Table 4-114). The Major Amendment will increase the acres of authorized habitat loss inside Conservation Areas from 429 acres (13 %) to 478 acres (14%), a net increase of 49 acres (Tables 4-114 and 8-8). Outside the Conservation Areas, the 195 acres identified in the 2008 CDFW Findings as subject to loss does not change, and this habitat loss will include two known occurrences. Individuals occurring outside the Conservation Areas will be subject to habitat loss from Development and other proposed Covered Activities including those occurring west of Hwy. 62.

With the Major Amendment, the conservation of the linanthus modeled habitat within the overall Plan Area will decrease by 49 acres (from 2,955 to 2,906 acres), reducing the 2008 conservation goal by only one percent from 47 to 46 percent (Table 4-114). The Major Amendment does not change the conservation of 58 of the 60 known occurrences of linanthus, which includes the largest and most persistent population complexes known for this species (Table 4-116). Additionally, when the 2008 NCCP Permit was issued, 57 of the known occurrences for this plant were on private or public non-conservation land (e.g., utility land). As of 2014, over 47 percent of linanthus Core Habitat in the Upper Mission Creek/Big Morongo Canyon Conservation has been acquired for conservation in perpetuity, the conserved lands include 40 of the 60 known occurrences for linanthus, and the Upper Mission Creek/Big Morongo Canyon Conservation Area continues to be a priority acquisition area.

Many of the key complexes for linanthus are located within the City of Desert Hot Springs' jurisdiction, within the Upper Mission Creek/Big Morongo Canyon Conservation Area. The Upper Mission Creek/Big Morongo Canyon Conservation Area which totals 1,397 acres includes large blocks of unfragmented habitat for linanthus. This Conservation Area has been designed to preserve the braided streams and associated micro-topographic features to which this plant is adapted (Section 4.3.7). The reserve design incorporates large portions of the drainages of Mission Creek, Big Morongo and Dry Morongo Washes. Prior to Desert Hot Springs becoming a Permittee, the conservation analysis for linanthus was limited as Desert Hot Springs was not required to conserve linanthus habitat in Upper Mission Creek/Big Morongo Wash Conservation Area, or implement avoidance and minimization measures that, among other things, required the salvage of top soil and seeds. The Major Amendment, by adding Desert Hot Springs and Mission Springs Water District as Permittees, will provide assurances the conservation goals are met and the avoidance and minimization measures are complied with in this important Conservation Area for the species.

Additionally, the Major Amendment will require Desert Hot Springs and Mission Springs Water District to implement other measures to avoid and minimize impacts to this species that include maintenance of hydrological regimes, such as those associated with

meandering or braided washes, and ensure that development in fluvial sand transport areas will not obstruct natural watercourses or impede the rate of flow and sediment transport (Sections 4.4, 7, and 9.2.5). These essential ecological processes are necessary to support linanthus habitat and to help maintain Biological Corridors and Linkages among conserved populations.

As part of the Monitoring and Adaptive Management Programs, species monitoring will continue to be conducted to determine and address activities (e.g., OHV use) and conditions (e.g., invasive plant species) that degrade linanthus habitat (Section 8). These programs will also develop and test models to address the distribution, abundance, and ecological requirements (including the determination of the conditions that favor germination and growth in this species) of the Little San Bernardino Mountains linanthus to ensure optimal management of its habitat and that the necessary conditions persist (e.g., scouring by large floods).

Overall, the conservation goals and management and monitoring activities will help sustain linanthus in the Plan Area and support the long-term conservation of this species. Adding Desert Hot Springs and Mission Springs Water District as a Permittees will provide assurances the conservation goals and objectives for linanthus in the Upper Mission Creek/Big Morongo Wash Conservation Area are met.

Based on the above analysis, the Major Amendment does not change the findings made in 2008 NCCP Permit (Finding 3.5.1). Disturbance allowed under this Major Amendment will be less than significant for CEQA analysis purposes and the benefits conferred by the 2008 MSHCP/NCCP will protect adequate unfragmented habitat, maintain Essential Ecological Processes (flooding regime) to sustain the habitat, and protect Biological Corridors and Linkages (Section 9.2.5.1) for the Little San Bernardino Mountains linanthus. CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on Little San Bernardino Mountains linanthus to below a level of significance.

### **Mecca Aster**

The Major Amendment does not change the anticipated Take or the conservation strategy under the Plan for Mecca aster. Conclusions in the Findings for Mecca aster in the 2008 NCCP Permit remain the same (Finding 3.5.1). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on Mecca aster to below a level of significance.

### **Orocopia Sage**

The Major Amendment does not change the anticipated Take or the conservation strategy under the Plan for Orocopia sage. Conclusions in the Findings for Orocopia sage in the 2008 NCCP Permit remain the same (Finding 3.5.1). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential



significant impacts of the Major Amendment on Orocopia sage to below a level of significance.

### **Summary of CEQA Findings for Covered Plant Species**

CDFW finds that issuance of the Major Amendment to the 2008 MSHCP/NCCP permit will not result in significant impacts on these Covered Plant Species from development and other Covered Activities authorized by the 2008 MSHCP/NCCP. CDFW finds that all impacts on these species and their habitat associated with CDFW's issuance of the Major Amendment to the 2008 MSHCP/NCCP permit will be avoided or mitigated to below a level of significance under CEQA through adherence to and implementation of the Major Amendment. In so doing, CDFW's findings under CEQA with respect to these species are consistent with the findings of the lead agency on the same subject (Section 4.1: SEIR/SEIS). CDFW's findings are based on the overall conservation strategy, species-specific biological objectives, species-specific minimization and avoidance measures, and adaptive management and monitoring programs (Sections 4.3, 8, and 9).

### **CEQA Findings for Covered Species - Insects**

#### **Impact 3.5.2**

**Approval of the Major Amendment to the 2008 MSHCP/NCCP authorized under the 2008 NCCP Permit could result in potentially significant adverse impacts on Covered Insect Species. These species include: Coachella Valley giant sand-treader cricket (*Macrobaenetes valgum*) and Coachella Valley Jerusalem cricket (*Stenopelmatus cahuilaensis*).**

#### **Finding 3.5.2**

**CDFW finds that conservation measures and additional conservation lands required in the Major Amendment to the 2008 MSHCP/NCCP will avoid or mitigate significant impacts of the Major Amendment on each of the Covered Insect Species to below a level of significance. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)**

#### **Explanation 3.5.2:**

##### **Coachella Valley giant sand-treader cricket (*Macrobaenetes valgum*)**

The Major Amendment does not change the anticipated Take or the conservation strategy under the Plan for Coachella Valley giant sand-treader cricket. Therefore, conclusions in the Findings for Coachella Valley giant sand-treader cricket in the 2008 NCCP Permit remain the same (Finding 3.5.2). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on the Coachella Valley giant sand-treader cricket to below a level of significance.

##### **Coachella Valley Jerusalem cricket (*Stenopelmatus cahuilaensis*)**

The entire range of the endemic Coachella Valley Jerusalem cricket is in the Plan Area which encompasses all 22,811 acres of the modeled habitat (Table 4-114). The Major Amendment slightly increases the anticipated loss of Coachella Valley Jerusalem cricket habitat within the Plan Area by two acres from 9,899 to 9,991 acres (Table 4-114). The Major Amendment reduces the conserved habitat from 12,049 to 12,047 acres (Table 9-11).

The change in acres authorized for impacts in the MSHCP Reserve System is the net result of a two-acre increase of Other Conserved habitat<sup>18</sup> concurrent with a four-acre increase of disturbance to Other Conserved Habitat, resulting in a net decrease of two acres of Other Conserved Habitat in the Upper Mission Creek/Big Morongo Canyon Conservation Area. The modeled habitat likely overstates the number of acres occupied by this insect; hence, the Take figures are likely to represent the “worst case” scenario from a biological perspective.

The Major Amendment will have no significant impact on the Plan’s conservation goals and objectives for the Jerusalem cricket. The two additional acres authorized for impacts does not significantly change the percentage of conservation acreage necessary to meet the Plan conservation goals. The addition of the City of Desert Hot Springs and the Mission Springs Water District as Permittees to the Plan provides a more comprehensive and cohesive Plan because the new Permittees will be responsible for implementing the plan in the conservation areas which will benefit continued conservation of habitat, maintenance of ecological process, and implementation of Land Use Adjacency guidelines for the Jerusalem cricket. The Major Amendment does not change the required avoidance, minimization, and mitigation measures; land use adjacency guidelines; and comprehensive Monitoring and Management programs which are designed to mitigate potential adverse effects to the greatest extent possible.

Based on the above analysis, the Major Amendment does not change the Findings made in the 2008 NCCP Permit (Finding 3.5.2). Changes to Take allowed under the 2008 MSHCP/NCCP as a result of this Major Amendment will be less than significant for CEQA analysis purposes and the benefits conferred by the 2008 MSHCP/NCCP will protect adequate unfragmented habitat, maintain Essential Ecological Processes (sand replenishment) to sustain the habitat, and protect Biological Corridors and Linkages, as appropriate (Section 9.3.2). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on Coachella Valley Jerusalem cricket to below a level of significance.

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<sup>18</sup>Other Conserved Habitat: Part of a Conservation Area that does not contain Core Habitat for a given species, but which still has Conservation value. These values may include Essential Ecological Processes, Biological Corridors, Linkages, buffering from edge effects, enhanced species persistence probability in proximate Core Habitat, genetic diversity, recolonization potential, and flexibility in the event of long-term Habitat change

## **Summary of CEQA Findings for Covered Insect Species**

CDFW finds that issuance of the Major Amendment to the 2008 MSHCP/NCCP permit would not result in significant impacts on these Covered Insect Species. CDFW finds that all potentially significant impacts on these species and their habitat associated with CDFW's issuance of the Major Amendment to the 2008 MSHCP/NCCP permit will be avoided or mitigated to below a level of significance under CEQA through adherence to and implementation of the Major Amendment. In so doing, CDFW's findings under CEQA with respect to these species are consistent with the findings of the lead agency on the same subject (Section 4.7: SEIR/SEIS). CDFW's findings are based on the overall conservation strategy, species-specific biological objectives, species-specific minimization and avoidance measures, and adaptive management and monitoring programs (Sections 4.3.3, 8.4.1.3.2, and 9.3.2)

### **CEQA Findings for Desert Pupfish**

**Impact 3.5.3** Approval of the Major Amendment to the 2008 MSHCP/NCCP authorized under the 2008 NCCP Permit could result in potentially significant adverse impacts on the Desert pupfish (*Cyprinodon macularius*).

**Finding 3.5.3** CDFW finds that conservation measures and additional conservation lands required in the Major Amendment to the 2008 MSHCP/NCCP will avoid or mitigate significant impacts of the Major Amendment on the Desert Pupfish to below a level of significance. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)

### **Explanation 3.5.3:**

#### **Desert pupfish (*Cyprinodon macularius*)**

The Major Amendment does not change the anticipated Take or the conservation strategy under the Plan for desert pupfish. Conclusions in the Findings for desert pupfish in the 2008 NCCP Permit remain the same (Finding 3.5.3). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on desert pupfish to below a level of significance.

### **CEQA Findings for the Arroyo Toad**

**Impact 3.5.4** Approval of the Major Amendment to the 2008 MSHCP/NCCP authorized under the 2008 NCCP Permit could result in potentially significant adverse impacts on the Arroyo toad (*Bufo californicus*).

**Finding 3.5.4**

**CDFW finds that conservation measures and additional conservation lands required in the Major Amendment to the 2008 MSHCP/NCCP will avoid or mitigate significant impacts of the Major Amendment on the Arroyo toad to below a level of significance. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)**

**Explanation 3.5.4:**

**Arroyo toad (*Bufo californicus*)**

The Major Amendment does not change the anticipated Take or the conservation strategy under the Plan for arroyo toad. Conclusions in the Findings for arroyo toad in the 2008 NCCP Permit remain the same (Finding 3.5.4). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on arroyo toad to below a level of significance.

**CEQA Findings for Covered Species - Reptiles**

**Impact 3.5.5**

**Approval of the Major Amendment to the 2008 MSHCP/NCCP authorized under the 2008 NCCP Permit could result in potentially significant adverse impacts on Covered Reptile Species. These species include: Coachella Valley fringe-toed lizard (*Uma inornata*), desert tortoise (*Gopherus agassizii*), and flat-tailed horned lizard (*Phrynosoma mcallii*).**

**Finding 3.5.5**

**CDFW finds that conservation measures and additional conservation lands required in the Major Amendment to the 2008 MSHCP/NCCP will avoid or mitigate significant impacts to each of the Covered Reptile Species to below a level of significance. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)**

**Explanation 3.5.5:**

**Coachella Valley fringe-toed lizard (*Uma inornata*)**

The Major Amendment does not change the anticipated Take or the conservation strategy under the Plan for Coachella Valley fringe-toed lizard. Therefore, conclusions in the Findings for Coachella Valley fringe-toed lizard in the 2008 NCCP Permit remain the same (Finding 3.5.5). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on the Coachella Valley fringe-toed lizard to below a level of significance.

**Desert tortoise (*Gopherus agassizii*)**

The Plan Area represents a small but biologically significant portion of the Desert Tortoise's overall range because the Plan Area is at the western limits of the species' range. There are 571,098 acres of modeled desert tortoise habitat within the Plan Area (Table 4-114). The Major Amendment results in an increase of approximately 771 acres of Core Habitat conserved in the Upper Mission Creek/Big Morongo Canyon Conservation Area, totaling 377,898 acres in the Plan Area (up from 377,127 acres) (Table 9-15). The total acres of modeled habitat to be conserved in the entire Plan Area would increase by 608 acres from 491,810 acres to 492,418 acres (Table 4-114).

Outside of the Conservation Areas, the Major Amendment decreases the modeled Habitat authorized for Take by 771 acres from 50,272 to 49,501 acres (Table 4-114) because under the Major Amendment those acres become Core Habitat within the Upper Mission Creek/Big Morongo Canyon Conservation Area. Inside the Conservation Areas, Take of modeled Habitat would increase by 163 acres from 16,957 (3%) acres to 17,120 acres (3%) (Table 9-15); however, any potential impact due to increase in take of 163 acres of modeled habitat is more than offset by the increase of 771 acres in Core Habitat in the Conservation Areas. The result is a net increase of 608 acres of conserved habitat from 491,810 to 492,418 acres (Table 4-114).

The Major Amendment maintains the species conservation objectives of conservation of Core Habitat in seven Conservation Areas, conservation of potential and occupied Habitat for desert tortoise in seven Conservation Areas, and maintaining Biological Corridors and Linkages to ensure connectivity for desert tortoise movement between Conservation Areas. The required measures for management and monitoring (Section 8); and measures to avoid, minimize and mitigate take (Section 9.6) remain the same under the Major Amendment.

Based on the above analysis, the Major Amendment does not change the conclusions made in CDFW 2008 Permit document (Finding 3.5.5). Take allowed under this Major Amendment will be less than significant for CEQA analysis purposes and the benefits conferred by the 2008 MSHCP/NCCP will protect adequate unfragmented habitat, maintain Essential Ecological Processes to sustain the habitat, and protect Biological Corridors and Linkages, as appropriate (Section 9.6.1). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on the desert tortoise to below a level of significance.

#### **Flat-tailed horned lizard (*Phrynosoma mcallii*)**

The species distribution model for the flat-tailed horned lizard includes Predicted Habitat and also Potential Habitat. Predicted Habitat includes areas where presence of this species is known or expected based on recent observations. Potential Habitat includes areas where there are historical observations of this species but no recent observations are recorded. See Section 9.6.3.3 of the Major Amendment for additional information. Habitat for the flat-tailed horned lizard in the area covered by the Major Amendment is

limited to Potential Habitat where no recent observations are recorded but historical observations of this lizard are in the database. The entire Plan Area includes approximately 32,426 acres of Predicted Habitat, where presence of the flat-tailed horned lizard was expected based on recent observations, and 5,161 acres of Potential Habitat (Tables 4-114 and 9-17 of the 2008 MSHCP/NCCP). The Major Amendment will authorize disturbance of 13 additional acres of flat-tailed horned lizard modeled habitat (3 acres Predicted and 10 acres Potential). The authorized impacts increase from 19,282 acres (51%) to 19,295 acres (Table 4-114), which does not change the six percent of modeled habitat that could be impacted (Table 4-114).

The Major Amendment does not change the conservation goal of 17,111 acres of flat-tailed horned lizard habitat within the overall Plan Area. Species conservation goals for this species will continue to include protection of occupied Core Habitat areas primarily in the Thousand Palms and Dos Palmas Conservation Areas. The Core Habitat areas conserved (including Existing Conservation Lands, Permittee mitigation, and other anticipated conservation) will be at least 4,000 acres. The Major Amendment will also require that Desert Hot Springs and Mission Springs Water District work with existing Permittees to ensure the conservation of flat-tailed horned lizard by maintaining the long-term persistence of self-sustaining populations and conserving habitat quality in these Core Habitat areas. The Coachella Valley region could become important in the future if climate change results in changes to the lizard's local distribution.

Based on the above analysis, the Major Amendment does not significantly change the Findings made in the 2008 NCCP Permit (Finding 3.5.5). Overall authorized disturbance allowed under this Major Amendment will be less than significant for CEQA analysis purposes, and the benefits conferred by the 2008 MSHCP/NCCP will protect adequate unfragmented habitat, maintain Essential Ecological Processes to sustain the habitat, and protect Biological Corridors and Linkages, as appropriate (Section 9.6.3). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on the flat-tailed horned lizard to below a level of significance.

### **Summary of CEQA Findings for Covered Species - Reptiles**

CDFW finds that issuance of the Major Amendment to the 2008 MSHCP/NCCP permit would not result in significant impacts on these Covered Reptile Species. CDFW finds that all impacts on these species and their habitat associated with CDFW's issuance of the Major Amendment to the 2008 MSHCP/NCCP permit will be avoided or mitigated to below a level of significance under CEQA through adherence to and implementation of the Major Amendment. In so doing, CDFW's findings under CEQA with respect to these species are consistent with the findings of the lead agency on the same subject (Section 4.7: SEIR/SEIS). CDFW's findings are based on the overall conservation strategy, species-specific biological objectives, species-specific minimization and avoidance measures, and adaptive management and monitoring programs (Sections 4.3, 4.4, 8.4.1, 8.4.6, 9.6.1, 9.6.2, 9.6.3).

## CEQA Findings for Covered Species - Birds

### **Impact 3.5.6**

Approval of the Major Amendment to the 2008 MSHCP/NCCP authorized under the 2008 NCCP Permit could result in potentially significant adverse impacts on Covered Bird Species. These species include: Burrowing owl (*Athene cunicularia*), California black rail (*Laterallus jamaicensis coturniculus*), Le Conte's thrasher (*Toxostoma lecontei*), Crissal thrasher (*Toxostoma crissale*), Gray vireo (*Vireo vicinior*), Least Bell's vireo (*Vireo bellii pusillus*), Southwestern willow flycatcher (*Empidonax traillii extimus*), Summer tanager (*Piranga rubra*), Yellow warbler (*Dendroica petechia brewsteri*), Yellow-breasted chat (*Icteria virens*), and Yuma clapper rail (*Rallus longirostris yumanensis*).

### **Finding 3.5.6**

CDFW finds that conservation measures and additional conservation lands required in the Major Amendment to the 2008 MSHCP/NCCP will avoid or mitigate significant impacts to each of the Covered Bird Species to below a level of significance. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)

### **Explanation 3.5.6:**

#### **Burrowing owl (*Athene cunicularia*)**

Within the Plan Area, burrowing owls are scattered in low numbers on natural desert terrain throughout the lowlands. Because of the sparse and widespread distribution of the burrowing owl, a species habitat distribution model was not developed for the burrowing owl. There are 74 known locations for this species within the Plan Area (Section 9.7.3). The Plan ensures conservation of 41 of these known locations (55%) within the Reserve System (Table 9-20), and the Major Amendment does not change this conservation goal. The landscape-level considerations, with additional species-specific conservation measures (management) and monitoring in an adaptive management framework, identified for implementation in the Findings for burrowing owl in the 2008 NCCP Permit remain the same with the Major Amendment. Therefore, conclusions in the Findings for burrowing owl in the 2008 NCCP Permit remain the same (Finding 3.5.6). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on the burrowing owl to below a level of significance.

#### **California black rail (*Laterallus jamaicensis coturniculus*)**

The Major Amendment does not change the anticipated take or the conservation strategy under the Plan for California black rail (Section 9.7.2). Therefore, conclusions in the Findings for California black rail in the 2008 NCCP Permit remain the same (Finding

3.5.6). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on the California black rail to below a level of significance.

#### **Le Conte's thrasher (*Toxostoma lecontei*)**

With so little data on the occurrence of Le Conte's thrashers in the Conservation Areas, the 2008 MSHCP/NCCP takes a conservative approach and provides for conservation of areas where suitable habitat for this species is present (Section 9.7.6). There are 243,242 acres of modeled habitat for Le Conte's thrasher within the Plan Area. The Major Amendment increases the conservation of approximately 132,456 acres to 132,715 acres of this modeled habitat (Table 4-114).

Within the Upper Mission Creek/Big Morongo Canyon Conservation Area the acres of authorized disturbance to modeled Le Conte's thrasher habitat decreases by 88 acres, down from 8,727 acres to 8,639 acres (Table 9-23). Outside of the Conservation Areas, the acres of authorized disturbance to habitat decreases by 171 acres, down from 87,406 acres to 87,235 acres (Table 4-114). The Conservation objectives do not change under the Major Amendment (Section 9.7.6.1).

Based on the above information that acres of authorized disturbance will decrease for Le Conte's thrasher, the Major Amendment does not change the Findings made in 2008 NCCP Permit (Finding 3.5.6). Overall authorized disturbance allowed under this Major Amendment for the Le Conte's thrasher will be less than significant for CEQA analysis purposes and the benefits conferred by the Major Amendment will protect adequate unfragmented habitat, maintain Essential Ecological Processes to sustain the habitat, and protect Biological Corridors and Linkages, as appropriate (Section 4.3, Table 9-23). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on the Le Conte's thrasher to below a level of significance.

#### **Crissal thrasher (*Toxostoma crissale*)**

The Major Amendment does not change the anticipated take or the conservation strategy under the Plan for Crissal thrasher (Section 9.7.5). Therefore, conclusions in the Findings for Crissal thrasher in the 2008 NCCP Permit remain the same (Finding 3.5.6). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on the Crissal thrasher to below a level of significance.

#### **Gray Vireo (*Vireo vicinior*)**

The Major Amendment does not change the anticipated take or the conservation strategy under the Plan for gray vireo (Section 9.7.8). Therefore, conclusions in the Findings for gray vireo in the 2008 NCCP Permit remain the same (Finding 3.5.6). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the



potential significant impacts of the Major Amendment on the gray vireo to below a level of significance.

**Least Bell's vireo (*Vireo bellii pusillus*)**

The presence of least Bell's vireo in the Major Amendment area is limited to migratory habitat associated with mesquite hummocks and desert dry wash woodland. The Major Amendment increases the modeled least Bell's vireo migratory habitat in Conservation Areas by 20 acres from 42,815 acres to 42,835 acres (Table 9-24b). The net modeled migratory habitat to be conserved in the Plan Area increases by 18 acres to 40,528 acres from 40,510 acres (Table 4-114). Within the Upper Mission Creek/Big Morongo Canyon Conservation Area the acres of authorized disturbance increases from 15 to 17 acres of modeled least Bell's vireo migratory habitat. Outside of the Conservation Areas, the acres of authorized disturbance decreases by 20 acres, down from 12,470 acres to 12,450 acres of modeled migratory habitat for this species. The Conservation objectives do not change under the Major Amendment (Section 9.7.7.1). The inclusion of Desert Hot Springs and the Mission Springs Water District to the Plan supports Management and Monitoring activities that enhance habitat in the Conservation Areas through implementation of management prescriptions to remove non-native tamarisk and other invasive species. This includes Adaptive Management activities to control brown-headed cowbirds impacts to the least Bell's vireo and other riparian birds.

Based on the above information that acres of authorized disturbance will decrease for least Bell's vireo, the Major Amendment does not change the Findings made in the 2008 NCCP Permit. Overall, disturbance allowed under this Major Amendment for the least Bell's vireo will be less than significant for CEQA analysis purposes and the benefits conferred by the Major Amendment will protect adequate unfragmented habitat, maintain Essential Ecological Processes to sustain the habitat, and protect Biological Corridors and Linkages, as appropriate (Section 4.3.7, Table 9-24b). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on the Least Bell's vireo to below a level of significance.

**Southwestern willow flycatcher (*Empidonax traillii extimus*)**

In the Major Amendment area, the southwestern willow flycatcher habitat is limited to areas used in migration associated with mesquite hummocks and desert dry wash woodland. With the Major Amendment the modeled southwestern willow flycatcher migratory habitat in Conservation Areas stays the same at 43,177 acres (Table 9-21b). Within the Upper Mission Creek/Big Morongo Canyon Conservation Area the acres of authorized disturbance of modeled southwestern willow flycatcher migratory habitat does not change. Outside of the Conservation Areas, the acres of authorized disturbance decreases from 13,020 acres to 13,000 acres. The Conservation objectives do not change under the Major Amendment (Section 9.7.4.1). The 2008 MSHCP/NCCP provides Management and Monitoring Programs to ensure the Conservation of this species, including control of activities that degrade southwestern willow flycatcher

habitat, control of invasive species such as tamarisk and brown-headed cowbirds where necessary, and restoration and enhancement of degraded Habitat as necessary according to monitoring results (Section 8.4.3.3.3).

Based on the above information that total acres of authorized disturbance will decrease in the Plan Area for southwestern willow flycatcher, the Major Amendment does not change the Findings in the 2008 NCCP Permit. Overall, disturbance allowed under this Major Amendment for the southwestern willow flycatcher will be less than significant for CEQA analysis purposes and the benefits conferred by the Major Amendment will protect adequate unfragmented habitat, maintain Essential Ecological Processes to sustain the habitat, and protect Biological Corridors and Linkages, as appropriate (Section 4.3.7, Table 9-21b). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on the southwestern willow flycatcher to below a level of significance.

### **Summer tanager (*Piranga rubra*)**

Habitat for the summer tanager in the Major Amendment area is limited to areas used in migration, associated with mesquite hummocks and desert dry wash woodland. The Major Amendment increases the migratory habitat in Conservation Areas by 20 acres from 43,177 acres to 43,197 acres (Table 9-28b). Within the Upper Mission Creek/Big Morongo Canyon Conservation Area the acres of authorized disturbance of summer tanager migratory habitat increases slightly from 15 to 17 acres. Outside of the Conservation Areas, the acres of authorized disturbance decreases from 13,040 acres to 13,020 acres modeled migratory habitat for this species. The net modeled migratory habitat to be conserved in the Plan Area increases by 18 acres to 40,864 acres from 40,846 acres (Table 4-114). The Conservation objectives do not change under the Major Amendment (Section 9.7.11.1). The Major Amendment continues to provides Management and Monitoring Programs to ensure the Conservation of this species, including control of activities that degrade summer tanager habitat, control of invasive species such as tamarisk and brown-headed cowbirds where necessary, and restoration and enhancement of degraded habitat as necessary according to monitoring results (Section 8.4.3.3.3).

Based on the above information that acres of authorized disturbance will decrease for summer tanager, the Major Amendment does not change the Findings made in 2008 NCCP Permit. Overall, disturbance allowed under this Major Amendment for the summer tanager will be less than significant for CEQA analysis purposes and the benefits conferred by the Major Amendment will protect adequate unfragmented habitat, maintain Essential Ecological Processes to sustain the habitat, and protect Biological Corridors and Linkages, as appropriate (Section 4.3.7, Table 9-28b). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on the summer tanager to below a level of significance.

### **Yellow warbler (*Dendroica petechia brewsteri*)**

The Major Amendment area includes habitat limited to areas used in migration for the yellow warbler, associated with mesquite hummocks and desert dry wash woodland. The Major Amendment increases the migratory habitat in Conservation Areas by 20 acres from 43,177 acres to 43,197 acres (Table 9-26b). Within the Upper Mission Creek/Big Morongo Canyon Conservation Area the acres of authorized disturbance of yellow warbler migratory habitat increases slightly from 15 to 17 acres. Outside of the Conservation Areas, the acres of authorized disturbance decreases by 20 acres, from 13,040 acres to 13,020 acres. The net modeled migratory habitat to be conserved in the Plan Area increases by 18 acres to 40,864 acres from 40,846 acres (Table 4-114). The Conservation objectives do not change under the Major Amendment (Section 9.7.9.1). The 2008 MSHCP/NCCP provides Management and Monitoring Programs to ensure the Conservation of yellow warblers, including control of activities that degrade their habitat, control of invasive species such as tamarisk and brown-headed cowbirds where necessary, and restoration and enhancement of degraded habitat as necessary according to monitoring results (Section 8.4.3.3.3).

Based on the above information that acres of authorized disturbance will decrease for yellow warbler, the Major Amendment does not change the Findings made in 2008 NCCP Permit. Overall, disturbance allowed under this Major Amendment for the yellow warbler will be less than significant for CEQA analysis purposes and the benefits conferred by the Major Amendment will protect adequate unfragmented habitat, maintain Essential Ecological Processes to sustain the habitat, and protect Biological Corridors and Linkages, as appropriate (Section 4.3.7, Table 9-26b). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on the yellow warbler to below a level of significance.

### **Yellow-breasted chat (*Icteria virens*)**

The Major Amendment area includes habitat limited to areas used in migration for the yellow-breasted chat, associated with mesquite hummocks and desert dry wash woodland. The Major Amendment increases the migratory habitat in Conservation Areas by 20 acres from 42,901 acres to 42,921 acres (Table 9-27b). Within the Upper Mission Creek/Big Morongo Canyon Conservation Area the acres of authorized disturbance of yellow-breasted chat migratory habitat increases slightly from 15 to 17 acres. Outside of the Conservation Areas, the acres of authorized disturbance decreases from 13,040 acres to 13,020 acres modeled migratory habitat for this species. The net modeled migratory habitat to be conserved in the Plan Area increases by 18 acres to 40,601 acres from 40,583 acres (Table 4-114). The Conservation objectives do not change under the Major Amendment (Section 9.7.10.1). The 2008 MSHCP/NCCP provides Management and Monitoring Programs to ensure the Conservation of yellow-breasted chat, including control of activities that degrade their habitat, control of invasive species such as tamarisk and brown-headed cowbirds where necessary, and restoration and enhancement of degraded habitat as necessary according to monitoring results (Section 8.4.3.3.3).

Based on the above information that acres of authorized disturbance will decrease for yellow-breasted chat, the Major Amendment does not change the Findings made in 2008 NCCP Permit. Overall, disturbance allowed under this Major Amendment for the yellow-breasted chat will be less than significant for CEQA analysis purposes and the benefits conferred by the Major Amendment will protect adequate unfragmented habitat, maintain Essential Ecological Processes to sustain the habitat, and protect Biological Corridors and Linkages, as appropriate (Section 4.3.7, Table 9-27b). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on the yellow-breasted chat to below a level of significance.

### **Yuma clapper rail (*Rallus longirostris yumanensis*)**

The Major Amendment does not change the anticipated Take or the conservation strategy under the Plan for Yuma clapper rail (Section 9.7.1). Therefore, conclusions from Findings for Yuma clapper rail in the 2008 NCCP Permit remain the same (Finding 3.5.6). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on the Yuma clapper rail to below a level of significance.

### **Summary of CEQA Findings for Covered Species - Birds**

CDFW finds that issuance of the Major Amendment to the 2008 MSHCP/NCCP permit would not result in significant impacts on these Covered Bird Species. CDFW finds that all potentially significant impacts on these species and their habitat associated with CDFW's issuance of the Major Amendment to the 2008 MSHCP/NCCP permit will be avoided or mitigated to below a level of significance under CEQA through adherence to and implementation of the Major Amendment. In so doing, CDFW's findings under CEQA with respect to these species are consistent with the findings of the lead agency on the same subject (Section 4.7: EIR/EIS; Section 4.1: SEIR/SEIS). CDFW's findings are based on the overall conservation strategy, species-specific biological objectives, species-specific minimization and avoidance measures, and adaptive management and monitoring programs (Sections 4.3, 4.4, 8.4.2, 8.4.3, 8.4.4, 8.4.5, 8.4.6, 9.7)

### **CEQA Findings for Covered Species - Mammals**

#### **Impact 3.5.7**

**Approval of the Major Amendment to the 2008 MSHCP/NCCP authorized under the 2008 NCCP Permit could result in potentially significant adverse impacts on Covered Mammal Species. These species include: Peninsular bighorn sheep (*Ovis canadensis nelsoni*), Coachella Valley round-tailed ground squirrel (*Spermophilus tereticaudus chlorus*), Palm Springs pocket mouse (*Perognathus longimembris bangsi*), and Southern yellow bat (*Lasiurus xanthinus*).**

**Finding 3.5.7**

**CDFW finds that conservation measures and additional conservation lands required in the Major Amendment to the 2008 MSHCP/NCCP will avoid or mitigate significant impacts to each of the Covered Mammal Species to below a level of significance. (Pub. Resources Code, § 21081, subd. (a)(1); CEQA Guidelines, § 15091, subd. (a)(1).)**

**Explanation 3.5.7:****Peninsular bighorn sheep (*Ovis canadensis nelsoni*)**

The Major Amendment does not change the anticipated Take or the conservation strategy under the Plan for Peninsular bighorn sheep. Therefore, findings from 2008 NCCP Permit for Peninsular bighorn sheep remain the same (Finding 3.5.7). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on the Peninsular bighorn sheep to below a level of significance.

**Coachella Valley round-tailed ground squirrel (*Spermophilus tereticaudus chlorus*)**

The primary importance of the 2008 MSHCP/NCCP to Coachella Valley round-tailed ground squirrel is that it provides Conservation (including habitat protection, management and monitoring) of the species across its entire range. The 2008 MSHCP/NCCP ensures the long-term conservation of Core Habitat (94%), the associated Essential Ecological Processes, and connectivity between these habitat areas (Section 9.8.2.1h). In addition, the Conservation Areas provide protection across an array of habitat variables, including moisture, soil character, elevation, vegetation, within the entire range of this subspecies. The Conservation Areas are large enough to contain hundreds of animals and are adequately connected to each other to allow genetic exchange.

The Major Amendment will increase by 124 acres the total acres to be conserved in the Reserve System from 33,826 acres to 33,950 acres (Table 4-114). Within the Upper Mission Springs/Big Morongo Canyon Conservation Area, the total acres of modeled habitat will increase by 137 acres from 2,636 to 2,773 acres, however, the area authorized for disturbance will increase by 13 acres from 248 to 261 acres resulting in a net increase in conservation of 124 acres of modeled habitat (Table 9-30). The authorized disturbance area increases because the numbers are based on a percentage of the total conservation area, so as the conservation area increases the authorized disturbance of habitat increases proportionally.

Changes to authorized disturbance allowed under the 2008 MSHCP/NCCP as a result of this Major Amendment will be less than significant for CEQA analysis purposes and the benefits conferred by the Major Amendment will protect adequate unfragmented habitat, maintain Essential Ecological Processes (sand replenishment) to sustain the habitat, and protect Biological Corridors and Linkages, as appropriate (Section 9.8.2). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the

potential significant impacts of the Major Amendment on the Coachella Valley round-tailed ground squirrel to below a level of significance.

### **Palm Springs pocket mouse (*Perognathus longimembris bangsi*)**

The primary importance of the 2008 MSHCP/NCCP to Palm Springs pocket mouse is that it provides Conservation (including habitat protection, management and monitoring) of the species across nearly all of its range. The 2008 MSHCP/NCCP ensures the long-term conservation of Core Habitat (93%), the associated Essential Ecological Processes, and connectivity between these habitat areas (Section 9.8.3.1h). In addition, the Conservation Areas provide protection of lands across an array of habitat variables, including moisture, soil character, elevation, and vegetation, from the northern, eastern, and western limits for this subspecies. The Conservation Areas are large enough to provide for persistence of this species and are adequately connected to each other to allow genetic exchange.

Across the Plan Area the total acres authorized for impact would decrease 248 acres from 75,304 to 75,056 acres with the Major Amendment (Table 4-114). Within the Conservation Areas, the Major Amendment would decrease the Take of modeled Habitat by 80 acres from 4,336 to 4,256 acres (Table 9-32). The Major Amendment will increase the total conservation of modeled habitat with Conservation Area by 157 acres, from 56,856 acres to 57,013 acres (Table 9-32). It should also be noted that significant acquisition by the Coachella Valley Conservation Commission and other conservation partners has occurred since the Permits were issued along Morongo Wash in the Upper Mission Creek/Big Morongo Canyon Conservation Area, including Palm Springs pocket mouse habitat.

Changes to authorized disturbance allowed under the 2008 MSHCP/NCCP as a result of this Major Amendment will be less than significant for CEQA analysis purposes, and the benefits conferred by the 2008 MSHCP/NCCP will protect adequate unfragmented habitat, maintain Essential Ecological Processes (sand replenishment) to sustain the habitat, and protect Biological Corridors and Linkages, as appropriate (Section 9.8.3). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on the Palm Springs pocket mouse to below a level of significance.

### **Southern yellow bat (*Lasiurus xanthinus*)**

The Major Amendment does not change the anticipated Take or the conservation strategy under the Plan for the southern yellow bat. Therefore, findings from the 2008 NCCP Permit for southern yellow bat remain the same (Finding 3.5.7). CDFW finds that conservation measures required by the Major Amendment will avoid or mitigate the potential significant impacts of the Major Amendment on the southern yellow bat to below a level of significance.

## **Summary of CEQA Findings for Covered Species - Mammals**

CDFW finds that issuance of the Major Amendment to the 2008 MSHCP/NCCP permit would not result in significant impacts on these Covered Mammal Species. CDFW finds that all impacts on these species and their habitat associated with CDFW's issuance of the Major Amendment to the 2008 MSHCP/NCCP permit will be avoided or mitigated to below a level of significance under CEQA through adherence to and implementation of the Major Amendment. In so doing, CDFW's findings under CEQA with respect to these species are consistent with the findings of the lead agency on the same subject (Section 4.7: SEIR/SEIS). CDFW's findings are based on the overall conservation strategy, species-specific biological objectives, species-specific minimization and avoidance measures, and adaptive management and monitoring programs (Sections 4.3, 4.4, 8.4.1, 8.4.2, 8.4.3, 9.8.2, 9.8.3, 9.8.4).

### **3.6 Mitigation Monitoring and Reporting Program**

Every agency that makes CEQA findings pursuant to CEQA Guidelines 15091, subd. (a)(1), must adopt a Mitigation Monitoring and Reporting Program (MMRP) to ensure mitigation measures that have been required as conditions of approval are carried out (CEQA Guidelines, §§ 15091, subd. (d) and 15097, subd. (d)). The 2008 CDFW findings adopted the monitoring and reporting elements of the 2008 MSHCP/NCCP as its own MMRP. The Major Amendment does not change the monitoring and reporting elements of the 2008 MSHCP/NCCP or CDFW's adoption of the MMRP. Therefore, findings from Section 3.6 of the 2008 NCCP Permit remain the same for the Major Amendment.

### **3.7 Alternatives**

The lead agency determined that the Major Amendment would not result in any significant environmental effects. No significant environmental impacts of the Major Amendment were identified in the SEIR/SEIS prepared by CVCC as lead agency. All potentially significant adverse impacts of the Major Amendment that fall within the responsibility and jurisdiction of CDFW are mitigated or avoided as described in Section 3.5 above. That is to say, all potentially significant impacts associated with CDFW's authorization of the Major Amendment are mitigated to below a level of significance under CEQA. (See, e.g., *Laurel Hills Homeowners Assoc. v. City Council* (1978) 83 Cal. App. 3d 515, 520-521] (In adopting findings under CEQA, agencies need not consider the feasibility of project alternatives if they adopt mitigation measures that "substantially lessen or avoid" a project's significant adverse impacts); *Laurel Heights Improvement Assoc. v. Regents of the University of California* (1988) 47 Cal.3d 376, 400-403) (an EIR must contain meaningful discussion of both project alternatives and mitigation measures.) Therefore, no further alternatives were considered in the SEIR/SEIS for this Major Amendment (pg. 2-11: SEIR/SEIS).

### **3.8 Statement of Overriding Considerations**

Because CDFW's approval of the Major Amendment to the 2008 MSHCP/NCCP will not result in any adverse environmental impacts that remain significant and unavoidable, CDFW need not adopt a Statement of Overriding Considerations under CEQA.

### **4.0 FINDINGS UNDER NCCPA**

All NCCPs must contain certain substantive elements identified in current or former sections of the NCCPA.

#### **4.1 NCCPA and NCCP Findings**

The Coachella Valley NCCP has been completed and will be implemented pursuant to the NCCPA, and CDFW will evaluate the adequacy of the Major Amendment to the 2008 MSHCP/NCCP by reference to that statute.

**Finding 4.1.1** CDFW finds that the Major Amendment has been developed consistent with the process identified in the Planning Agreement as per FGC Section 2820(a)(1).

FGC Section 2820(a)(1) requires that the Major Amendment be developed consistent with the Planning Agreement. CDFW finds for the reasons described below that as per FGC Section 2820(a)(1), the Major Amendment has been developed consistent with the process identified in the Planning Agreement.

A Planning Agreement (NCCP Planning Agreement No. 2810) for the Preparation of a Major Amendment to the Coachella Valley Multiple Species Habitat Conservation Plan was approved by the CVCC on November 4, 2010, by the City of Desert Hot Springs on October 19, 2010, by Mission Springs Water District on October 19, 2010, and signed by the Deputy Director of the California Department of Fish and Game in November 2010.

The Planning Agreement for the Major Amendment identifies the addition of the City of Desert Hot Springs and Mission Springs Water District as parties involved in the 2008 MSHCP/NCCP. The Major Amendment requires all Permittees to approve the addition of Desert Hot Springs and Mission Springs Water District. The participating parties for the 2010 Planning Agreement include: USFWS, CDFW, CVAG, CVCC, the County of Riverside, and the cities of Cathedral City, Coachella, Desert Hot Springs, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs, and Rancho Mirage, Caltrans, Coachella Valley Water District (CVWD), Imperial Irrigation District (IID), Mission Springs Water District, Riverside County Flood Control and Water Conservation District (County Flood Control), Riverside County Regional Park and Open Space District (County Parks), Riverside County Waste Resources Management District (County Waste), California Department of Parks and Recreation (State Parks), and the Coachella Valley Mountains Conservancy (CVMC). The 2008 MSHCP/NCCP, through the IA, identifies the



Permittees. As a result of the Major Amendment, Desert Hot Springs and Mission Springs Water District are also added as Permittees in the IA.

The terms of the Planning Agreement were implemented as per the roles and responsibilities assigned to the respective parties.

**The Planning Agreement Identifies the Geographic Scope of the Major Amendment Conservation Planning Area (FGC Section 2810, subd. (b)(2))**

The Planning Agreement defines the geographic scope of the planning area for the Major Amendment in Section 4.1 of the Planning Agreement. The scope of the planning area from the original MSHCP/NCCP is amended to include all of the private lands within the city limits of the City of Desert Hot Springs in addition to those areas already identified as part of the Upper Mission Creek/Big Morongo Canyon Conservation Area. To include Mission Springs Water District does not require any additional boundary amendment as the portions of Mission Springs Water District's service area not in Desert Hot Springs are in Palm Springs or unincorporated Riverside County; these areas are already subject to the Plan due to Palm Springs' and Riverside County's status as existing Permittees.

Therefore, the Major Amendment to the 2008 MSHCP/NCCP was developed consistent with the Planning Agreement process regarding the geographic scope of the Major Amendment to the 2008 MSHCP/NCCP and participating parties.

**The Planning Agreement Identifies the Natural Communities and Species (FGC Section 2810, subd. (b)(3))**

The natural communities and the endangered, threatened, candidate, or other sensitive species known, or reasonably expected to be found in the Planning Area, that are covered by the Major Amendment to the 2008 MSHCP/NCCP are described in Section 3.2 of the 2008 MSHCP/NCCP and are attached as Exhibits A and B to the Planning Agreement. This list identifies the species and natural communities that the Parties will evaluate for inclusion in the Major Amendment to the 2008 MSHCP/NCCP. The Planning Agreement identifies 27 such species in 27 natural communities, including Desert Sink Scrub, Desert Dry Wash Woodland, Active Desert Dunes and sand source areas, Stabilized and Partially-Stabilized Desert Dunes Stabilized and Partially-Stabilized Desert Sand Fields, Mesquite Bosque, Sonoran Creosote Bush Scrub, Sonoran Mixed Woody and Succulent Scrub, Desert Fan Palms Oasis Woodland, Southern Sycamore Alder Riparian Forest, Semi-Desert Chaparral, Redshank Chaparral, Peninsular Juniper Woodland and Scrub.

The Major Amendment to the 2008 MSHCP/NCCP includes the 27 natural community types identified in the Planning Agreement, which provide habitat for the Covered Species and are the focal point for the establishment of Conservation Areas. The Major Amendment also addresses and covers the 27 endangered, threatened, proposed, candidate, or other species identified in the Planning Agreement known or reasonably expected to be found in those natural communities.

Therefore, the Major Amendment to the 2008 MSHCP/NCCP has been developed consistent with the Planning Agreement process to identify natural communities and species in those communities, including endangered, threatened, proposed, candidate plants and animals.

**The Planning Agreement Identifies Preliminary Conservation Objectives for the Planning Area (FGC Section 2810, subd. (b)(4))**

The preliminary Conservation Objectives identified in the Planning Agreement Section 5 are : 1) Provide for the protection of species, natural communities, and ecosystems on a landscape level; 2) Preserve the diversity of plant and animal communities throughout the Planning Area; 3) Protect threatened, endangered or other special status plant and animal species, and minimize and mitigate the take or loss of proposed Covered Species; 4) Identify and designate biologically sensitive habitat areas; 5) Preserve habitat and contribute to the recovery of Covered Species; 6) Represent native ecosystem types or natural communities across their natural range of variation in a system of conserved areas; 7) Maintain or restore viable populations of the species included in the Plan so that Take Permits can be obtained for currently Listed animal species and non-listed animal species can be covered in case they are listed in the future; 8) Sustain ecological and evolutionary processes necessary to maintain the viability of the natural communities and habitats for the species included in the Plan; 9) Maximize connectivity among populations and avoid habitat fragmentation within Conservation Areas to conserve biological diversity, ecological balance, and connected populations of Covered Species; 10) Minimize adverse impacts from off road vehicle use, illegal dumping, edge effects, exotic species, and other disturbances in accordance with the Management and Monitoring Programs; 11) Manage the Conservation Areas adaptively to be responsive to short-term and long-term environmental change, including climate change; 12) Reduce the need to list additional species; 13) Set forth species-specific goals and objectives; and 14) Set forth specific habitat-based goals and objectives expressed in terms of amount, quality, and connectivity of habitat.

Section 4.3 of the Major Amendment to the 2008 MSHCP/NCCP identifies Conservation Goals and Objectives to ensure the Conservation of the Covered Species and conserved natural communities in the Planning Area. The conservation goals and specific conservation objectives were developed for each Covered Species, natural community, Essential Ecological Process, Biological Corridor, and Linkage in the Conservation Areas to ensure that Conservation would be accomplished and that the tools for compliance monitoring were in place. The Conservation Objectives in the Major Amendment are consistent with the preliminary objectives in the Planning Agreement

Therefore, the Major Amendment to the 2008 MSHCP/NCCP has been developed consistent with the Planning Agreement process to identify preliminary conservation objectives intended to be achieved throughout the Plan.

**The Planning Agreement Establishes a Process for the Collection of Data, Information, and Independent Guidance to Meet Scientifically Sound Principles for the Conservation of Species (FGC Section 2810, subd. (b)(5))**

The Planning Agreement Sections 6.2 and 6.3 establishes a process for the collection of data, information, and independent guidance to meet scientifically sound principles for the conservation of species. The Planning Agreement identified a process for the inclusion of independent scientific input to assist CDFW and plan participants, which involved using the Independent Science Advisors report prepared for the 2008 MSHCP/NCCP. The independent scientists were asked to, at a minimum: 1) recommend scientifically sound conservation strategies for species and natural communities proposed to be covered by the plan; 2) recommend a set of reserve design principles that address the needs of species, landscapes, ecosystems, and ecological processes in the planning area proposed to be addressed by the plan; 3) recommend management principles and conservation goals that can be used in developing a framework for the monitoring and adaptive management component of the plan; and 4) identify data gaps and uncertainties so that risk factors can be evaluated. The process included the opportunity for the independent scientists to provide additional feedback on key issues during preparation of the Plan, and prepare reports regarding specific scientific issues throughout the process, as deemed necessary by the Local Agencies and DFG. This includes using the best available science.

The 2008 MSHCP/NCCP utilized an extensive data collection process and received input from scientific experts in various fields of biology and conservation biology. During development of the 2008 MSHCP/NCCP, the planning team assembled a detailed and comprehensive land cover map of the entire Plan Area. They also assembled an array of other data layers valuable for conservation planning, including information on topography, hydrology, species sightings locations and soils. Using these raw data layers, research on the habitat needs of Covered Species, and their own expertise, the planning team developed habitat suitability models for 26 of the Covered Species. These models reflected the best available scientific information on the needs of Covered Species and were used extensively during MSHCP/NCCP development to guide critical tasks such as identifying biological goals and objectives and designing the Conservation Areas. During the review of the Major Amendment, a similar process was used to ensure adequacy of conservation goals and objectives for the Covered Species and natural communities.

The NCCPA also requires that MSHCP/NCCP development is guided by independent scientific input and analysis. During development of the 2008 MSHCP/NCCP, independent scientific input was provided by the Science Advisory Committee, agency biologists and Independent Science Advisors (ISA). The City of Desert Hot Springs and lands within their city boundaries were included in the 2008 MSHCP/NCCP throughout the planning process; their decision to drop out of the Plan occurred in June 2006 after release of the Final MSHCP/NCCP and EIR/EIS in February 2006. Thus, throughout the planning process conservation issues in the Desert Hot Springs area were presented to the independent scientists for their guidance and input. Workshops convened to bring in

experts, including the ISA, to provide review and recommendations for various elements of the 2008 MSHCP/NCCP included lands within the jurisdiction of Desert Hot Springs and Mission Springs Water District. These workshops are described in Appendix I: MSHCP/NCCP). Individual members of the ISA were consulted at each of these workshops and convened to address several questions posed by the planning team. Given the importance of the Desert Hot Springs area to the reserve design, issues related to species conservation needs, sand transport, and connectivity were a focus of the planning process. The Major Amendment essentially returns to the reserve design that was intended before Desert Hot Springs withdrew from the 2008 MSHCP/NCCP. Therefore, formal input from an ISA was not deemed necessary. The original ISA consisted of Dr. Reed Noss, Conservation Biology Institute; Dr. Edith Allen, University of California, Riverside; Dr. Greg Ballmer, University of California, Riverside; Dr. Michael Soulé; Dr. Richard Tracy, University of Nevada, Reno; and Dr. Robert Webb, U.S. Geologic Survey.

Section 3.1 and 3.2 of Appendix 1 of the Major Amendment implements the process established by the Planning Agreement for the collection of data, information, and independent guidance to meet scientifically sound principles for the conservation of species consistent with the NCCPA. Therefore, the Major Amendment has been developed consistent with the Planning Agreement process for the collection of data, information and independent guidance to meet scientifically sound principles for the conservation of species.

**The Planning Agreement Requires Coordination with Federal Wildlife Agencies with Respect to the Federal Endangered Species Act (FGC Section 2810, subd. (b)(6))**

The Planning Agreement Section 2.1 identifies the intent of the Planning Agreement to ensure coordination among the Wildlife Agencies, particularly with respect to FESA, 16 U.S.C. Section 1531 et seq. The Planning agreement identifies opportunities for coordination with Federal Wildlife Agencies throughout the planning process and specifically with respect to FESA in: (a) Section 2.3 which identifies compliance with CESA and FESA; (b) Section 3 which identifies the planning goal of providing a comprehensive means to coordinate and standardize mitigation and compensation requirements of FESA, CEQA, NEPA, and NCCPA within the Planning Area; and (c) Section 4.4 which states that the NCCPA requires coordination with USFWS with respect to FESA.

The Major Amendment implements the process established by the Planning Agreement to provide opportunities for coordination with Federal Wildlife Agencies regarding mitigation, compensation, and compliance with FESA within the Planning Area consistent with the NCCPA. Therefore, the Major Amendment has been developed consistent with the Planning Agreement requirement for coordination with Federal Wildlife Agencies with respect to FESA.

**The Planning Agreement Encourages Concurrent Planning for Wetlands and Waters of the United States (FGC Section 2810, subd. (b)(7))**

The Planning Agreement Section 2.5., pursuant to the Fish and Game Code Section 2810, subdivision (b)(7), provides for the Local Agencies to address impacts to wetlands and waters of the United States and changes to the bed, bank or channel of rivers, streams and lakes resulting from Covered Activities in the Planning Area. The Local Agencies may seek future programmatic permits or authorizations under the Clean Water Act and Section 1600 et seq. of the Fish and Game Code as necessary for Covered Activities. The Planning Agreement provided opportunity for the Parties to work together to explore the feasibility of undertaking concurrent but separate planning regarding these permits. However, such programmatic permits or authorizations were not necessary for approval of the Major Amendment or for issuances of take permits.

The Major Amendment supports the process established by the Planning Agreement to address impacts to wetlands and waters of the United States through the Joint Project Review process and ongoing, regular coordination with CVCC, Permittees, and USFWS consistent with the NCCPA. Therefore, the Major Amendment has been developed consistent with the Planning Agreement process for the encouraging concurrent planning for wetlands and waters of the United States.

**The Planning Agreement Establishes a Process for Interim Project Review (Section 2810, subd. (b)(8))**

Section 6.6 of the Planning Agreement described an interim process for the review of projects prior to approval of the Major Amendment. The Desert Hot Springs City Council passed Resolution 2008-15 on March 18, 2008, to formalize an interim procedure for development applications in any area within or adjacent to the 2008 MSHCP/NCCP Conservation Areas. This procedure requires that any such development application must provide written evidence from USFWS and CDFW that the project is consistent with the protection measures for threatened and endangered species and is consistent with the 2008 MSHCP/NCCP. The resolution also provides for projects within the City limits that are within Conservation Areas to be reviewed through the Joint Project Review process. The Joint Project Review Process provides for consistent Plan implementation and oversight through CVCC's review of project applications from the Local Permittees. CVCC provides analysis of and prepares comments for how the proposed project would impact the Conservation Objectives and Required Measures for each Conservation Area (Section 4.3), Covered Species' Goals and Objectives (Section 9), and how the project would affect the maintenance of Rough Step (Section 6.5) in the affected Conservation Area. The Wildlife Agencies receive a copy of the project application and CVCC's analysis and have 30 days to comment.

The Major Amendment provides opportunity for project review through the Joint Project Review process consistent with the NCCPA. Therefore, the Major Amendment was developed consistent with the Planning Agreement requirement for an interim review process.

**The Planning Agreement Establishes a Process for Public Participation (Section 2810, subd. (b)(9))**

Section 6.4 of the Planning Agreement for the Major Amendment provides for a public participation program to involve affected stakeholders and the public during the development of the Major Amendment. This included workshops, forums, meetings and written materials being made available to the public. The Major Amendment also builds upon the public participation process used during development of the 2008 MSHCP/NCCP.

During the development of the Major Amendment, public input was obtained at several steps along the way. Numerous meetings were held and presentations made to the City of Desert Hot Springs City Council and Missions Springs Water District board to inform them of progress. The CVCC also held a public scoping meeting on April 4, 2011, at the Carl May Community Center in Desert Hot Springs to obtain input on issues to be addressed in preparation of the SEIR/SEIS. Public notices, including publication in the federal register, kept the public informed as the Major Amendment was being prepared. On Thursday, March 13, 2014 the CVCC held a public hearing and approved the Major Amendment and IA, and certified the SEIR, including the response to comments.

The Major Amendment implements the public involvement process through annual report meetings, public participation in monthly CVCC board meetings, public meetings as needed, and CVCC's website which serves as an information portal for the public to learn about the status of the plan, upcoming meetings, and obtain Plan documents consistent with the NCCPA. Therefore, this Major Amendment was developed consistent with the Planning Agreement with regard to public participation.

**The Planning Agreement Requires That Draft Documents Associated with the Major Amendment That Are Being Considered for Adoption Be Available for Review and Comment 60 Days Prior to Adoption (Section 2815)**

The Planning Agreement Section 6.4.5., pursuant to the FGC Section 2815, subdivision (a), states that the CVCC, Desert Hot Springs, and MSWD will make the draft Major Amendment and Implementing Agreement available for public review and comment at least 60 days before adoption and anticipated the agencies meeting this obligation by distributing the draft MSHCP/NCCP and Implementing Agreement with the Draft SEIR/SEIS.

A Notice of Preparation for an SEIR/SEIS was circulated in March 2011. A Notice of Intent was published on March 30, 2011, in the Federal Register. A public scoping meeting was held on May 2, 2011, in Desert Hot Springs. The Notice of Availability of the Draft SEIR/SEIS was posted on September 5, 2013, and published in the Federal Register on September 6, 2013 for a 45-day review period through October 21, 2013. The proposed Major Amendment was published in three volumes: Volume 1 was the draft Major Amendment, Volume 2 was the draft Implementing Agreement for the proposed

Major Amendment, and Volume 3 was the Draft SEIR/SEIS. CVCC distributed the proposed Major Amendment and Implementing Agreement with the Draft SEIR/SEIS by making these documents available to the public on the website <http://www.cvmshcp.org> in early September 2013. The CVCC in September 2013 sent letters to each property owner of record within the Conservation Areas of the proposed Major Amendment letting each know that the proposed Major Amendment documents were available for review. CVCC accepted any comment related to the Major Amendment that was received beyond the deadline stated in the Notice of Availability and letter to property owners received prior to the public hearing to approve the 2008 MSHCP/NCCP and certify the SEIR/SEIS. The proposed Major Amendment and Implementing Agreement were available on the website <http://www.cvmshcp.org> more than 60 days prior to the public hearings at which the CVCC, City of Desert Hot Springs, and MSWD approved the 2008 MSHCP/NCCP.

The CVCC, City of Desert Hot Springs, and MSWD notified the public of the website and physical location that the proposed Major Amendment documents were available for review prior to the public meeting each agency held at which each adopted the Major Amendment. Notice was published on March 1, 2014, that the CVCC would hold a public hearing on March 13, 2014, to consider approval of the Major Amendment and Implementing Agreement and certification of the SEIR/SEIS. The CVCC approved the Major Amendment and certified the SEIR/SEIS, including the response to comments, at its March 13, 2014, public meeting. The City of Desert Hot Springs held a public hearing on April 1, 2014, to consider the proposed Major Amendment. The MSWD held a public hearing on April 21, 2014, to consider the proposed Major Amendment. The City of Desert Hot Springs and the MSWD each approved the Major Amendment at their respective April 2014 public meeting. All other local Permittees approved the Major Amendment as of July 29, 2014. All State Permittees approved the Major Amendment as of September 2015.

The Final SEIR/SEIS was posted in the Federal Register on October 27, 2014. Based on the above information, CDFW finds that the draft documents associated with the Major Amendment were available for review and comment at least 60 days prior to their adoption by the local Permittees.

**Finding 4.1.2**

CDFW finds that issuance of this Major Amendment does not affect CDFW's previous determinations that issuance of the 2008 NCCP Permit meets and is otherwise consistent with the permitting criteria set forth in Section 2820, subd. (a)(2)-(10).

Findings 4.1.2 through 4.1.10 from the 2008 NCCP Permit remain unchanged, and in some cases are strengthened by the Major Amendment.

Finding 4.1.2 remains unchanged as the Plan's adaptive management strategies have not changed. The primary change is an additional 770 acres to be added to the Plan's Conservation Areas in the City of Desert Hot Springs; the rest of the conservation

strategy from the original Plan remains unchanged. As such, Findings 4.1.3 through 4.1.6 of the 2008 NCCP Permit remain unchanged for the Major Amendment.

- Finding 4.1.3 remains unchanged as the Major Amendment continues to provide for, and actually increases the amount of protected habitat, natural communities, and species diversity on a landscape or ecosystem level through the creation and long-term management of habitat reserves or other measures that provide equivalent conservation of covered species.
- Finding 4.1.4.A remains unchanged as the Major Amendment continues the development of the reserve system from the 2008 MSHCP/NCCP, which includes conservation, restoration and management of representative natural and seminatural landscapes to maintain the ecological integrity of large habitat blocks, ecosystem function, and biological diversity. In fact, the Major Amendment increases ecological integrity and ecosystem function, as the additional 770 acres would connect two large areas of the Plan's Conservation Area, and would conserve a key sand transport corridor critical to maintaining sand dune habitat in the Plan Area.
- Finding 4.1.4.B remains unchanged as the Major Amendment continues the development of the reserve system from the 2008 MSHCP/NCCP, which includes establishing reserves and linkages between them and adjacent habitat outside the Plan Area. In fact, the Major Amendment increases the number of linkages between reserves, as the additional 770 acres consists of a corridor that will connect the Upper Mission Creek/Big Morongo Canyon conservation area to the Willow Hole conservation area.
- Finding 4.1.4.C remains unchanged as the Major Amendment continues the development of the reserve system from the 2008 MSHCP/NCCP, which includes protection and maintenance of habitat areas large enough to support sustainable populations of covered species. In fact, the Major Amendment increases the size of habitat area that will be conserved for certain covered species, particularly desert tortoise, Coachella Valley round-tailed ground squirrel, and Palm Springs pocket mouse.
- Finding 4.1.4.D remains unchanged as the Major Amendment continues the development of the reserve system from the 2008 MSHCP/NCCP, which includes incorporating a range of environmental gradients and high habitat diversity to provide for shifting species distributions due to changed circumstances.
- Finding 4.1.4.E remains unchanged as the Major Amendment continues the development of the reserve system from the 2008 MSHCP/NCCP, which includes sustaining the effective movement and interchange of organisms between habitat areas in a manner that maintains the ecological integrity of the habitat areas within the Plan Area. In fact, the additional 770 acres increases the effective movement and interchange of organisms as it will protect a corridor between two conservation areas.
- Finding 4.1.5 remains unchanged as the Major Amendment does not change the identified activities, and restrictions on those activities, allowed within reserve areas.



- Finding 4.1.6 remains unchanged as the Major Amendment does not change the specific conservation measures that meet the biological needs of covered species and still reflects the best available science used regarding the status of the covered species and the impacts of permitted activities on those species.

Findings 4.1.7 through 4.1.10 remain unchanged as the monitoring and adaptive management programs, the timeframe and process for implementing reserves and conservation measures, and the provisions ensuring adequate funding have not changed. In fact, the Major Amendment includes additional provisions for preserve management and monitoring from the City of Desert Hot Springs and the Mission Springs Water District including, but not limited to, adherence to Plan requirements, cooperation towards conservation of 61 acres of Mission Springs Water District property, contribution of \$350,000 to the endowment for the Monitoring and Adaptive Management Program, and other non-monetary contributions (SERI/SEIS, p. 2-4).

Issuance of the Major Amendment does not affect CDFW's previous determinations that the issuance of the 2008 NCCP Permit meets and is otherwise consistent with the permitting criteria in 2820(a)(2) through 2820(a)(10).

**Finding 4.2**

CDFW finds that the Second Amendment to the IA contains provisions required by FGC Section 2820 (b)(1)-2820(b)(9).

The Second Amendment to the IA adds the City of Desert Hot Springs and the Mission Springs Water District as Permittees to the 2008 NCCP Permit and details the responsibilities of the Mission Springs Water District during Plan implementation. The City of Desert Hot Springs' responsibilities are the same as those for the County and Cities already described in the IA. No other substantive changes have been made to the IA as a result of this Second Amendment. Issuance of the Major Amendment does not affect CDFW's previous determinations that the issuance of the 2008 NCCP Permit meets and is otherwise consistent with the permitting criteria in Section 2820(b)(1) through 2820(b)(9).

CDFW previously determined that the Implementing Agreement met the standards for issuance of an NCCP under the NCCPA. The Implementing Agreement for the Major Amendment incorporates the provisions required by Section 2820, subd. (b) as identified in the 2008 NCCP Permit. The Second Amendment to the IA is designed to ensure the implementation of the 2008 MSHCP/NCCP, to bind each party to the terms of the 2008 MSHCP/NCCP, and to provide remedies and recourse for failure to adhere to the terms of the 2008 MSHCP/NCCP. This NCCP Permit specifically applies to the 2008 MSHCP/NCCP as implemented pursuant to the IA, the 2008 MSHCP/NCCP, and their amendments.

Issuance of the Major Amendment does not affect CDFW's previous determinations that the issuance of the 2008 NCCP Permit meets and is otherwise consistent with the

permitting criteria in Section 2820, subd. (b)(1) through (b)(9). CDFW adopts Findings 4.2.1 through 4.2.9 of the 2008 NCCP Permit for the reasons stated in that permit and finds that the Second Amendment to the Implementing Agreement satisfies the requirements of Section 2820, subd. (b).

**Finding 4.3**

CDFW finds that any data and reports associated with the monitoring program required by Section 2820 are available for public review and that the Implementing Entity shall also conduct public workshops annually to provide information and evaluate progress toward attaining the conservation objectives of the Major Amendment (Section 2820(d)).

The Major Amendment incorporates the data and reporting requirements of the 2008 NCCP Permit. The Second Amendment to the IA is designed to ensure the implementation of the 2008 MSHCP/NCCP, to bind each party to the terms of the 2008 MSHCP/NCCP, and to provide remedies and recourse for failure to adhere to the terms of the 2008 MSHCP/NCCP. This NCCP Permit specifically applies to the 2008 MSHCP/NCCP as implemented pursuant to the IA, the 2008 MSHCP/NCCP, and their amendments. Issuance of the Major Amendment does not affect CDFW's previous determinations that the issuance of the 2008 NCCP Permit meets and is otherwise consistent with the permitting criteria in 2820(d).

**Finding 4.4**

CDFW finds that the level of assurances provided to the Major Amendment participants is commensurate with long-term conservation assurances and associated implementation measures pursuant to the approved Major Amendment (Section 2820(f)).

The Major Amendment incorporates the long-term conservation assurances and associated implementation measures of the 2008 CDFW findings. Issuance of the Major Amendment does not affect CDFW's previous determinations that the issuance of the 2008 NCCP Permit meets and is otherwise consistent with the permitting criteria in FGC Section 2820(f). CDFW adopts Finding 4.4, inclusive of Findings 4.4.1A through 4.4.1H, of the 2008 NCCP Permit and, based on those findings and the prior findings in this Permit, finds that the Major Amendment satisfies the requirements of FGC Section 2820, subd. (f).

**Finding 4.5**

CDFW finds that the authorization of take and coverage of species in the Plan remains unchanged as a result of the Major Amendment (FGC Section 2821(a)(1-3)).

The amount of take as a result of the Major Amendment does not differ significantly from the original Plan, and the amount of Conservation Areas increases by 770 acres. See the analysis of impacts and conservation between the original Plan and the Major Amendment given in the CEQA Finding 3.5 above. CDFW incorporates by reference Findings 4.5.1 through 4.5.3 of the 2008 NCCP Permit and, based on those findings and

the prior findings in this Permit, finds that the Major Amendment satisfies the requirements of FGC Section 2821, subd. (a)(1-3).

**Finding 4.6**

CDFW finds that the mitigation measures specified in the plan and imposed by the plan participants are consistent with subdivision (d) of FGC Section 2801 (Section 2821(b)).

The Major Amendment incorporates the mitigation measures specified in the 2008 CDFW findings. Issuance of the Major Amendment does not affect CDFW's previous determinations that the issuance of the 2008 NCCP Permit meets and is otherwise consistent with the permitting criteria in FGC Section 2821(b). CDFW adopts Finding 4.6 of the 2008 NCCP Permit for the reasons stated in that permit and finds that the Major Amendment satisfies the requirements of FGC Section 2821, subd. (b).

## **NCCP PERMIT**

### **5.0 APPROVAL OF THE MAJOR AMENDMENT TO THE NCCP**

Based on the foregoing findings, CDFW concludes that this Major Amendment meets all necessary requirements for approval as a major amendment to an NCCP. CDFW hereby approves the Major Amendment for implementation as an NCCP and authorizes the Permittees to Take the Covered Species in accordance with Section 6.2 of the 2008 NCCP Permit and this Permit. This amendment to the 2008 NCCP Permit is specifically conditioned on the Permittees' compliance with requirements of the Major Amendment, the 2008 MSHCP/NCCP and the IA, including the First and Second Amendments to the IA.

### **5.1 COVERED ACTIVITIES**

This amendment to the 2008 NCCP Permit covers Take of Covered Species resulting from Covered Activities that are subject to and covered by the 2008 MSHCP/NCCP and the IA. Covered Activities consist of the activities defined and listed in Section 7 of the Major Amendment and described in Section 6.1 of the 2008 NCCP Permit. City of Desert Hot Springs' Covered Activities are roadway improvement projects (Table 7-12) and Mission Springs Water District's Covered Activities include construction of wells, water storage facilities, water transmission lines, recycled water lines, and sewer lines (Table 7-13).

### **5.2 COVERED SPECIES**

The language of the 2008 NCCP Permit Section 6.2 regarding Covered Species is fully incorporated into this NCCP Permit.

### **5.3 LIMITATIONS**

This Take Authorization does not constitute or imply compliance with, or entitlement to proceed with, any project under laws and regulations beyond the authority and jurisdiction of CDFW. The Permittees have independent responsibility for compliance with any and all applicable laws and regulations.

### **6.0 AMENDMENTS**

This NCCP Permit may be amended in a manner consistent with provisions in the Major Amendment. For example, an amendment will be considered in the event a species not identified in this NCCP Permit is listed as endangered or threatened pursuant to FGC Section 2070 or becomes a candidate for such listing pursuant to FGC Section 2074.2, provided the Permittees provide for the conservation and management of the species.

## **7.0 SUSPENSION AND TERMINATION**

This Permit will be in effect for a period of 75 years from the date of the original agreement in 2008. This Permit is subject to suspension or termination by action of the Director of CDFW in accordance with the terms of Section 23.5 of the Second Amendment to the IA.


Under Section 22 of Second Amendment to the IA, should any or all of the Permittees request early termination of this Permit, the Permittee or Permittees will be required to fulfill their mitigation obligations for all authorized development approved, authorized, or carried out prior to termination. Mitigation obligations will be in accordance with the Major Amendment for any permitted activities that have been approved, authorized, or carried out.

Withdrawal by a Permittee shall not diminish or otherwise affect the obligations of the remaining Permittees under the Major Amendment, or the Permits. In the event of termination by any Permittee, the CVCC shall meet and confer with the Wildlife Agencies to determine to what extent, if any, Take Authorization may continue to be provided to the remaining Permittees. In making this determination, the Wildlife Agencies shall evaluate the benefits to Covered Species resulting from the participation of the remaining Permittees, the extent to which the withdrawing Permittee has outstanding obligations for compliance with Take minimization and mitigation measures, an evaluation of whether the Permits continue to meet issuance criteria pursuant to the NCCPA, and any other relevant information. Such evaluation shall include an analysis of the viability of the Reserve System without the participation of the Permittee, including whether adequate funding will be available to implement the terms of the Major Amendment (Section 22.4:Second Amendment to the IA).

## **8.0 DURATION**

Notwithstanding anything to the contrary in Section 19.3 of the Second Amendment to the IA, this NCCP Permit shall remain effective for 75 (seventy-five) years from the effective date of the 2008 NCCP Permit, unless suspended, terminated or extended by earlier action of the Director of CDFW.

**Approved by:**

  
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**Sandra Morey, Deputy Director  
Ecosystem Conservation Division  
California Department of Fish and Wildlife**

**Date:** 8.22.16