



FEDERAL FISH AND WILDLIFE PERMIT

1. PERMITTEE

COACHELLA VALLEY MSHCP PERMITTEES
(SEE ATTACHMENT A)
SACRAMENTO, CA
U.S.A.

2. AUTHORITY-STATUTES

16 USC 1539(a) -
16 USC 1533(d)

REGULATIONS (Attached)

50 CFR 17.22
50 CFR 17.32

50 CFR 13

3. NUMBER

TE104604-0

4. RENEWABLE

YES
 NO

5. MAY COPY

YES
 NO

6. EFFECTIVE

10/01/2008

7. EXPIRES

10/01/2083

8. NAME AND TITLE OF PRINCIPAL OFFICER (If #1 is a business)

9. TYPE OF PERMIT

THREATENED AND ENDANGERED SPECIES

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED

Riverside County, California: within the MSHCP Plan Area as depicted on maps and described in the MSHCP.

11. CONDITIONS AND AUTHORIZATIONS:

A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.

B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW.

C. VALID FOR USE BY PERMITTEE NAMED ABOVE.

- C.1.
 - a. California Department of Parks and Recreation
 - b. Riverside County Flood Control
 - c. Riverside County Waste Resources Management District
 - d. Riverside County Regional Park & Open-Space District
 - e. Coachella Valley Mountains Conservancy
 - f. California Department of Transportation
 - g. Coachella Valley Association of Governments
 - h. Coachella Valley Water District
 - i. Imperial Irrigation District
 - j. City of Palm Springs
 - k. County of Riverside
 - l. City of Rancho Mirage
 - m. City of La Quinta
 - n. City of Indian Wells
 - o. City of Indio
 - p. City of Palm Desert
 - q. City of Cathedral City
 - r. City of Coachella
 - s. Coachella Valley Conservation Commission

D. Further conditions of authorization are contained in the attached Special Terms and Conditions.

ADDITIONAL CONDITIONS AND AUTHORIZATIONS ALSO APPLY

12. REPORTING REQUIREMENTS

ISSUED BY

TITLE

DEPUTY DIRECTOR, CALIFORNIA NEVADA REGION

DATE

10-1-08

Attachment A

- A. Director
California Dept of Parks and Recreation
P.O. Box 942896
Sacramento, CA 94296-0001
- B. Warren D. Williams, General Manager
Riverside County Flood Control
1995 Market Street
Riverside, CA 92501
- C. Hans Kernkamp, General Manger
Riverside Co. Waste Resource Mgmt. Dist.
14310 Fredrick Street
Moreno Valley, CA 92553
- D. Paul Frandsen, General Manager
Riverside Co. Reg. Park & Open-Space Dist.
4600 Crestmore Road
Riverside, CA 92509-6858
- E. William D. Havert, Executive Director
Coachella Valley Mountains Conservancy
73-710 Fred Waring Drive, STE 205
Palm Desert, CA 92260
- F. Michael Perovish, District Director
California Dept. of Transportation
464 West 4th Street
San Bernardino, CA 92401
- G. John Wohlmuth, Executive Director
Coachella Valley Assn of Governments
73-710 Fred Waring Drive, STE 200
Palm Desert, CA 92260
- H. Steve Robbins, General Manager
Coachella Valley Water District
85-995 Avenue 52
Coachella, CA 92236
- I. Brian Brady, General Manager
Imperial Irrigation District
333 East Barioni Blvd.
Imperial, CA 92251
- J. City of Indian Wells
44950 El Dorado Drive
Indian Wells, CA 92210-7497
- K. Carolyn Syms Luna, Administrative Manager
County of Riverside
4080 Lemon Street
P.O. Box 1605
Riverside, CA 92502-1605
- L. Patrick M. Pratt, City Manager
City of Rancho Mirage
69-825 Highway 111
Rancho Mirage, CA 92270
- M. Thomas P. Genovese, City Manager
City of La Quinta
78-495 Calle Tampico
P.O. Box 1504
La Quinta, CA 92253
- N. David H. Ready, City Manager
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262
- O. Glenn Southard, City Manager
City of Indio
P.O. Drawer 1788
100 Civic Center Mall
Indio, CA 92201
- P. Carlos Ortega, City Manager
City of Palm Desert
73-510 Fred Waring Drive
Palm Desert, CA 92260
- Q. Don Bradley, City Manager
City of Cathedral City
68-700 Avenida Lalo Guerrero
Cathedral City, CA 92234
- R. Tim Brown, City Manager
City of Coachella
1515 Sixth Street
Coachella, CA 92236
- S. John Wohlmuth, Executive Director
Coachella Valley Conservation Commission
73710 Fred Waring Drive, STE 200
Palm Desert, CA 92260

**COACHELLA VALLEY MULTIPLE SPECIES HABITAT CONSERVATION PLAN
SPECIAL TERMS AND CONDITIONS FOR TE-104604-0
U.S. FISH AND WILDLIFE SERVICE, CALIFORNIA**

STANDARD CONDITIONS and ACCOUNTING

1. All sections of Title 50 C.F.R., parts 13, 17.22, and 17.32, and any future amendments thereto, are conditions of this Permit. The current version of these regulations is provided in Attachment 1.
2. The authorization granted by this Permit is subject to compliance with, and implementation of, the Final Recirculated Coachella Valley Multiple Species Habitat Conservation Plan/ Natural Community Conservation Plan (Plan/MSHCP), dated September 2007, and the executed Implementing Agreement (IA), all of which are hereby incorporated into this Permit. In the event of a discrepancy, the conditions and authorizations of this Permit are controlled by the Plan documents in the following order: (1) the Special Terms and Conditions of this Permit included herein; (2) the executed IA; and (3) the Plan, including its associated volumes (exclusive of the IA).
3. The Permittees, their authorized agents, Third Parties Granted Take Authorization under the direct control of the Permittees, and Participating Special Entities that have obtained a Certificate of Inclusion, are authorized to take the animal species in Attachment 2 to this Permit as Covered Species, subject to the conditions therein, to the extent that take of these species would otherwise be prohibited under section 9 of the Endangered Species Act of 1973, as amended (Act) and its implementing regulations, or pursuant to a special rule promulgated under section 4(d) of the Act. Take of Covered Species (animal) must be incidental to otherwise lawful Covered Activities within the Plan Area as defined in the IA and further described and depicted in the Plan. Per Attachment 2, twenty-seven (27) taxa are Covered Species subject to compliance with and implementation of the Permit Terms and Conditions described herein, the Plan, IA, and associated documents, and where appropriate, the species-specific Permit Terms and Conditions described herein.
4. Take authorization is effective at Permit issuance, subject to the other terms and conditions herein, for those animal species listed as “Covered” in Attachment 2 that are currently listed under the Act. For the 14 animal species in Attachment 2 that are not listed as threatened or endangered under the Act, this section 10(a)(1)(B) Permit will become effective with respect to such species concurrent with their listing under the Act, subject to the conditions herein, should they be listed during the Permit term, to the extent that their take is prohibited by the Act. Take must be incidental to otherwise lawful Covered Activities within the Plan Area as defined in the IA and described in the Plan, and as further conditioned herein. The amount of the take for these species is summarized in Attachment 2 and for the natural communities in Attachment 3.
5. Because take of plants is not prohibited under the Act, incidental take for plants cannot be authorized under this Permit. No take is authorized for the federally listed Coachella

Valley milk-vetch (*Astragalus lentiginosus* var. *coachellae*) and triple-ribbed milk-vetch (*Astragalus tricarinatus*). Plant species included in the Permit in Special Terms and Conditions and in Attachment 2 are named in recognition of the conservation benefits provided for such plants in the Plan and IA, and receive those assurances identified in the Plan and IA.

6. Fully Protected Species under California Fish and Game Code may not be taken (as that term is defined in the California Fish and Game Code) or possessed at any time except under limited circumstances, as provided in the Fish and Game Code. The following species are Fully Protected Species: California black rail (*Laterallus jamaicensis*), Yuma clapper rail (*Rallus longirostris yumanensis*), and Peninsular bighorn sheep (*Ovis canadensis cremnobates*).
7. This section 10(a)(1)(B) Permit shall constitute a Special Purpose Permit under 50 Code of Federal Regulations section 21.27, for the take of Covered Species listed under the Act and which are also listed under the Migratory Bird Treaty Act (MBTA; 16 U.S.C. §§ 703-712), in the amount and/or number specified in the Plan, subject to the terms and conditions specified in the Section 10(a) Permit. Any such Take will not be in violation of the MBTA. The MBTA Special Purpose Permit will extend to Covered Species listed under the Act and also under the MBTA after the Effective Date of the Section 10(a) Permit. This Special Purpose Permit shall be valid for a period of three (3) years from its effective date, provided the section 10(a) Permit remains in effect for such period. The Special Purpose Permit shall be renewed upon written request to the U.S. Fish and Wildlife Service (Service) or as otherwise applicable pursuant to the requirements of the MBTA, provided the Permittees remain in compliance with the terms of the Plan, the Implementing Agreement and the Section 10(a) Permit. Each such renewal shall be valid for a period of three (3) years, provided that the Section 10(a) Permit remains in effect for such period. Take, as defined by 50 C.F.R. 10.12, associated with habitat loss for bird species on the list of Covered Species is avoided or minimized within Conservation Areas by the restrictions provided in Section 4.4 of the Plan. For other birds protected by the Migratory Bird Treaty Act (MBTA) and not listed under the Act no take is authorized under the MBTA (including killing and wounding of any such birds, or take of eggs and active nests). Prior to authorized ground disturbing activities, Permittees shall provide information to affected landowners regarding their responsibilities under the Migratory Bird Treaty Act.
8. Permittees, as applicable, shall contact the Service's Carlsbad Fish and Wildlife Office (6010 Hidden Valley Road, Suite 101, Carlsbad, California 92011) within 1 business day after they become aware of any violations or potential violations of the Act or MBTA at (760) 431-9440.
9. Within one business day of finding dead, injured, or sick endangered or threatened wildlife species, the appropriate Permittee or its designated agent shall orally notify the Service's Carlsbad Fish and Wildlife Office at (760) 431-9440. Written notification to the Carlsbad Fish and Wildlife Office (6010 Hidden Valley Road Suite 101, Carlsbad, California 92011) and the Division of Law Enforcement (185 West F Street, Suite 440,

San Diego, California 92101-5063) shall be made within five business days and shall include the date, time, and location of the specimen and any other pertinent information.

10. Where Covered Activities result in the incidental take of Covered Species within the U.S. Army Corps of Engineers' (Corps) jurisdictional wetlands or other waters of the United States, or where Covered Activities are federally funded or require a Federal permit or authorization, such incidental take is authorized by this Permit provided that appropriate authorization is first secured from the Corps or any other applicable Federal agency with jurisdiction. Pursuant to and consistent with Section 14.8 of the IA, where Covered Activities require section 7 consultation under the Act, exemption for any associated incidental take by the applicable Federal agency shall be provided through future consultation, while authorization for any associated incidental take of Covered Species by the Permittees, Third Parties Granted Take Authorization, and/or Participating Species Entities shall be provided through this Permit.
11. A copy of this Permit must be on file with each of the Permittees. Please refer to the Permit number in all correspondence and reports concerning Permit activities. Any questions you may have about this Permit should be directed to the Field Supervisor, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Suite 101, Carlsbad, California 92011, telephone (760) 431-9440.
12. Notwithstanding anything to the contrary in the Plan and IA, the Service retains statutory authority, under both sections 7 and 10 of the Act, to revoke incidental take Permits that are found likely to jeopardize the continued existence of a listed species.
13. In order for Covered Activities carried out by third parties to receive take coverage under the Permit, the regulatory requirements for extending incidental take to third parties must be met (see 50 C.F.R. § 13.25(d) and (e)). Specifically, the third party must be under the direct control of a Permittee, such that the Permittee has the ability to enforce the terms and conditions of the Permit against the third party. A third party is under the direct control of a Permittee if 1) the third party is employed by or under contract to a Permittee for purposes authorized by the Permit; or 2) the third party Covered Activity is under the jurisdiction of a Permittee through an ordinance, or equivalent; or 3) the third party has been issued a permit by, or has executed a Certificate of Inclusion with, a Permittee. Vested projects within the Plan Area may receive take authorization under the Permit as follows: any proponent that has received all necessary approvals from a Permittee for a project within the Plan Area, such that the project is considered vested under appropriate California law, may request Third Party Take Authorization for its activities pursuant to the Permit as a Vested Project Developer. Such activities must comply with all applicable Plan, IA and Permit requirements. A project with legal vested rights (as of the date of Permit issuance) may obtain take coverage provided that the project applicant executes a Certificate of Inclusion with the applicable Permittee that requires compliance with all applicable Plan, IA, and Permit requirements, and that expressly confirms the consent of the third party to enforcement of the Plan, IA, and Permit against the Vested Project Developer by the Permittee.

14. New development that requires a discretionary permit from a Permittee which expands an Existing Use and results in new disturbance shall be subject to MSHCP requirements. Any authorized disturbance of Natural Communities and Covered Species modeled habitat shall count toward the amount of disturbance authorized under the Plan since the Covered Species habitat and Natural Communities on these lands were not addressed or included in the amount of anticipated disturbance authorized under the Plan.
15. CVCC shall conduct an accounting of authorized disturbance approved by the Permittees since November 1996. As may be determined by said accounting, any authorized disturbance acreage shall be deducted from the anticipated 10 percent disturbance allowed within the Conservation Areas as part of the Year 1 Annual Report under the Plan.
16. When a project is analyzed under the Joint Project Review Process, the authorized disturbance shall be calculated upon completion of the Joint Project Review Process and shall be deducted from the acreage of disturbance authorized for each Permittee at the time the Permittee issues a grading or building permit. Disturbance associated with public projects identified in Section 7 of the Plan shall not be counted against the disturbance authorization of the affected Permittee. Undeveloped portions of parcels in Conservation Areas on which development is approved shall count towards meeting the Conservation Objectives only when the undeveloped portion of the parcel is legally described and is permanently protected through an appropriate Legal Instrument that allows long-term monitoring and management in perpetuity. When these requirements are met, the conserved part of the parcel shall be counted in the rough-step calculations. Review of development projects and accounting shall occur in accordance with the Joint Project Review Process and the Implementation Manual and shall be included in the Annual Report.
17. If any Federal lands within the MSHCP Plan Area are transferred to private entities or Permittees otherwise covered under the MSHCP, any Covered Activities proposed on those lands shall be subject to all pertinent conservation requirements under the MSHCP. Within Conservation Areas there shall be no net loss of conservation.
18. CVCC and/or Coachella Valley Association of Governments shall ensure that a Final MSHCP document that incorporates the Special Permit Terms and Conditions and clerical changes consistent with Section 6.12.1 is printed within 12 months of Permit issuance.
19. Development proposed by non-profit organizations within Conservation Areas is subject to the take authorization and conservation requirements through the rough step calculation identified for each Conservation Area in the Plan.
20. A Conservation to Development ratio of 9:1 within the Willow Hole Conservation Area shall be maintained within each of the following areas: 1) the east half of the southwest quarter, and the east half of the east half of the west half of the southwest quarter, and east half of the west half of the southwest quarter, of Section 12, T3S R4E; 2) the east

half of the east half of the southeast quarter, and the west half of the west half of the southeast quarter, and the west half of the east half of the west half of the southeast quarter of Section 12, T3S R4E as shown in Figure 4-13f of the Plan; 3) the northwest quarter of Section 19, T3S R5E; 4) the portion of the northeast quarter of Section 19, T3S R5E that is in the Conservation Area; 5) the portion of the northern half of Section 20, T3S R5E as depicted in Figure 4-13f of the Plan; 6) the portion of the north half of Section 24, T3S R4E that is in the Willow Hole Conservation Area; 7) the portion of the southern quarter of Section 28, T3S R5E as depicted in Figure 4-13f; and 8) the east half of the northwest quarter within the Willow Hole Conservation Area, and the west half of the west half of the northeast quarter, and the east half of the west half of the northeast quarter (except those portions north of Varner road) of Section 29, T3S R5E. (See Figure PC-1.)

21. Certain measures are identified in the Plan as obligations to be performed to the “maximum extent Feasible.” If the applicable Permittee determines that performing an obligation to the fullest extent is not Feasible, the Permittee and the Wildlife Agencies shall meet and confer using the conflict resolution procedures and policies of the Agencies as appropriate.

CVCC MONITORING AND MANAGEMENT

22. Prioritization of the Monitoring Program shall include a focus on the development of scientifically valid, repeatable survey techniques that will support population estimation and determination of distribution for the Coachella Valley giant sand-treader cricket, Coachella Valley Jerusalem cricket, desert pupfish, Coachella Valley fringe-toed lizard, flat-tailed horned lizard, Coachella Valley round-tailed ground squirrel, and Palm Springs pocket mouse in the Plan Area (particularly in the Core Habitats) over the term of the Permit. These techniques shall be developed in coordination with the Wildlife Agencies prior to their implementation. The CVCC shall ensure that any monitoring and management of these species that are implemented through joint funding by multiple Permittees are coordinated to allow for comparison across the Plan Area and through time in support of the effectiveness monitoring and adaptive management requirements of the Plan.
23. Use of the Management Contingency Fund under Section 8 of the Plan shall include addressing the following sand-dependent species priorities: 1) funding of activities addressed in Special Permit Term and Condition #26; 2) development and implementation of an invasive species management plan that assesses the status of and threats from invasive species, identifies knowledge gaps, and addresses control of invasive plant species (e.g, Saharan mustard) in Snow Creek/Windy Point, Thousand Palms, Whitewater Floodplain, and Willow Hole Conservation Areas; and, 3) funding of other sand-dependent species/habitat related Special Permit Terms and Conditions. The invasive species management plan shall be developed within 3 years of Permit issuance in coordination with the Wildlife Agencies; this management plan shall be implemented beginning in year 4 post-Permit issuance. The Management Contingency Fund may supplement, but not replace, the Monitoring and Management Program budget.

24. For Coachella Valley Fringe-toed Lizard, Coachella Valley Round-tailed Ground Squirrel, Palm Springs Pocket Mouse, and Coachella Valley Milkvetch, to ensure that a minimum of three (3) viable populations (long-term persistence of self-sustaining populations) within Core Habitat for these species is maintained, or if necessary re-established and maintained, the following measures shall be implemented:
- a. The CVCC shall manage and enhance modeled Core Habitats for these species to provide for persistent and sustainable populations and essential ecological processes, including broader patterns of sand transport and deposition in the Whitewater Floodplain and maintenance of sand transport and deposition in all Core Habitats to the maximum extent practicable (e.g., sand fencing as appropriate in any of the Conservation Areas and restoring mesquite in Thousand Palms Conservation Area) to achieve the Conservation Objectives for these species in the Plan.
 - b. The CVCC shall assess the animal species identified above to determine the presence of persistent and sustainable populations and essential ecological processes within the Core Habitats. This assessment shall be completed within three years of Permit issuance using methods developed jointly by the CVCC and Wildlife Agencies.
 - c. Specific studies shall be conducted as part of the baseline monitoring for the Coachella Valley milkvetch to assess: viability of seed bank, substrate affinities, micro-habitat requirements, seed dispersal, pollination ecology, and impacts of invasive species within the Core Habitat areas to ensure that the appropriate measures to support long-term conservation of this species are identified. These studies shall be completed within 5 years of Permit issuance using methods developed jointly by the CVCC and Wildlife Agencies.
 - d. The CVCC shall develop long-term management strategies for each of these species that identify specific monitoring approaches (e.g., the use of probabilistic population estimates, relativistic population indices, and/or assessments of effective population size) and management actions (including actions to address habitat as described in a) above) that will be implemented and a specific time line for implementation to ensure a minimum of 3 viable populations including adequate distribution to support long-term viability of the populations within Core Habitat areas. These management strategies shall be completed and provided to the Wildlife Agencies for their concurrence within 5 years of Permit issuance for the animal species and 7 years for the CV milkvetch.
 - e. Within 6 months of their completion, implementation of the measures associated with the management strategies shall begin through incorporation into the applicable Reserve Management Unit Plan(s) and Adaptive Management Program. Any changes to the Covered Species and Natural Communities Conservation Goals and Objectives and Required Measures for the Conservation Areas that include Core Habitat for each of the species identified above shall be submitted to the Wildlife Agencies for review and approval within 8 years of permit issuance and incorporated into the Joint Project Review process as appropriate.

25. Within 3 years of permit issuance a translocation policy for sand dependent species shall be developed by the CVCC that complies with State and Federal laws, policies and regulations. This policy will address the potential need for translocation (e.g. to maintain genetic diversity). Known areas of high concentrations of species that are disturbed or developed could be targeted for possible salvage or for use in scientific studies.
26. CVCC and the Land Manager, through the land management program, shall identify and document implementation compliance with the Land Use Adjacency Guidelines and work with the landowners and appropriate jurisdictions to address these concerns. This information shall be included in the Annual Report to the Wildlife Agencies and the Permittees.
27. The CVCC shall ensure that the mesquite hummocks Natural Community will be subject to a “no net loss” requirement within Conservation Areas as described in Section 8.2.4.1 of the Plan. The CVCC shall ensure that all no net loss requirements are implemented within 10 years of impacts, including providing suitable or potential habitat for Covered Species if such habitat is affected or lost due to Covered Activities.
28. CVCC shall conduct a Joint Project Review for proposed single family homes in the 9:1 areas to identify applicable measures needed to meet Conservation Area and Covered Species Goals and Objectives of the Plan. If a Conservation Easement is offered over a parcel or a portion of a parcel in the 9:1 areas identified in Condition number 22, CVCC shall condition the acceptance of any easement to meet the Site Planning Standards described under Required Measure 3 in Section 4.3.11 of the Plan (with the exception of the first four sentences of Site Planning Standard 2).
29. The CVCC, after coordination with its Implementation Manual Subcommittee, shall provide the Implementation Manual for review and concurrence by the Wildlife Agencies prior to its finalization and distribution to the Permittees.
30. Should CDFG, Service, or BLM be unable to provide funds or personnel to the bighorn sheep monitoring program as described in the Plan, the CVCC shall ensure that the population level monitoring identified as necessary in Section 7.3.3.2.1 Element 3, including the hiring of qualified personnel, is conducted and is consistent with the budget as described in Section 8.8.3 of the Plan. Any changes in the scope, extent, or frequency of this monitoring shall be developed jointly among the CVCC and the Wildlife Agencies.
31. In coordination with the Wildlife Agencies, all capture and handling of bighorn sheep shall be conducted in accordance with State of California regulations and applicable Federal permit requirements. This Permit does not authorize the Permittees or their agents to capture or handle bighorn sheep.
32. Consistent with section 7.3.3.2, if a ewe group or subgroup of bighorn sheep (as identified in Tables 7-12 and 7-13 of the Plan), drops below 15, the CVCC shall convene a meeting of the Trails Management Subcommittee, RMUC, and appropriate researchers

within 30 days of notification by CDFG or Service of the population estimate. The group shall review data and develop management actions to address further declines in adult female abundance. The RMOC shall forward a recommendation within 30 days of the initial meeting to the CVCC for a decision so that implementation of appropriate management actions can commence within the following 30 days consistent with State and Federal regulations. If the population estimate indicates that a ewe group has 5 or fewer adult females, immediate management action (including but not limited to trail rerouting, adjustments in use levels, enforcement actions, and/or trail closures) to address the decline and/or reduce potential stress to the sheep population as described in Section 7.3.3.2 of the Plan shall be taken within 3 days. Concurrent with any action taken, CVCC shall initiate the process described above to identify long-term management action to address this condition.

33. Development of the Request for Proposals (RFP) for trails research and selection of contractors shall be by qualified representatives from the Wildlife Agencies, CVCC, BLM, and outside objective reviewers. The Service, CDFG, CVCC, and BLM shall be limited to one member each, and three outside reviewers shall be chosen by the consensus of the agency representatives. The seven-member group must reach agreement on the selection of the research design and contractor(s) to conduct research on the effects of recreational trail use on bighorn sheep. The above group shall (1) oversee implementation of the research program in coordination with the RMUC for the Santa Rosa and San Jacinto Mountains Conservation Area and the Trails Management Subcommittee, (2) provide advice and guidance on issues that arise during the field phase of the research, and (3) provide review of draft reports and articles. The selected researcher shall provide the review panel with semi-annual oral/written reports.
34. If the portion of the proposed Palm Desert to La Quinta Connector Trail between the Visitor Center and the Living Desert is pursued, it shall be reviewed jointly by the CVCC and Wildlife Agencies after the trails research program on the effects of recreational trail use on wild sheep and additional research evaluating the effects of the Connector Trail on captive sheep located at the Bighorn Institute are completed. Research evaluating the effects of the Connector Trail on captive sheep located at the Bighorn Institute is required for construction of the Connector Trail to be considered a Covered Activity. The research program evaluating the effects of the Connector Trail on captive bighorn sheep shall be conducted subsequent to the research program involving wild sheep. Research on the captive sheep is contingent upon obtaining the full cooperation of the Bighorn Institute.
35. Following completion of the trails research program, construction of the proposed perimeter trails listed under the Trails Plan could occur if research results demonstrate that expected future recreational use of these proposed trails is not likely to adversely impact the health, demography, population sustainability, and population connectivity of Peninsular bighorn sheep.
36. Any new trail within the perimeter trail corridor running along the east side of the Santa Rosa Wilderness from Coral Mountain Regional Park to Martinez Canyon shall be

limited to the identified trail corridor. Any new trail branching from this identified corridor that would enter bighorn sheep habitat would require a Minor Amendment requiring Wildlife Agency concurrence as described in Section 6.12.3 of the Plan.

37. The Trails Management Subcommittee shall evaluate and prioritize for decommissioning, all trails, paths, routes, or ways on Reserve Lands within the Santa Rosa and San Jacinto Mountains Conservation Area not specifically authorized in the Trails Plan within 5 years of Permit issuance. State and Federal regulatory processes must be completed and a final decision about trails to be decommissioned will be made by year 10 as part of the Trails Plan. Trails not currently authorized that are being considered for inclusion in the Trails Plan shall be treated the same as proposed new trails requiring the Minor Amendment process for authorization. All trails, paths, routes, or ways not given authorization under the Minor Amendment process shall be decommissioned and removed by the CVCC or appropriate Permittee in coordination with the land owner and the affected state and federal land management agencies no later than Plan Year 15. All unauthorized trails, routes, paths, or ways on lands acquired post Permit issuance shall be decommissioned within 3 years of parcel acquisition or detection of any unauthorized trails/paths/routes/ways. Should these timeframes not be met, the CVCC and the Wildlife Agencies shall meet to determine appropriate actions. Should any trails be illegally created between permit issuance and the decommissioning of trails, the CVCC shall coordinate with the Permittees and the appropriate state and federal land management agencies to assure removal of the trail.
38. Upon completion of the trails research program described in Element 2 of the proposed Trails Plan (Section 7.3.3.2), the Trails Management Subcommittee, RMUC, and RMOC shall develop a trails management plan to be implemented by Plan Year 10. Should these timeframes not be met, the CVCC and the Wildlife Agencies shall meet to determine appropriate actions. The revised public use and trails management plan shall be based on results from the research program (Element 2 of the Trails Plan), abundance levels of bighorn sheep, and the best available science, in addition to professional judgment and wildlife conservation principles where study results are less than definitive. Implementation of the public use and trails management plan for the portions of trails on non-federal land, shall be subject to the review and approval by the RMOC, of which the Wildlife Agencies are members. The resolution process related to the development and implementation of the Trails Plan through the RMOC shall not limit the Wildlife Agencies ability to ensure the Trails Management Plan is in compliance with the Plan, IA, and Permits.
39. For the parcels shown in Figure 4-26e (1, 2, 3, and 4) of the Plan, the HANS process shall be applied prior to Joint Project Review Process. Criteria for the HANS Process shall be developed by the Wildlife Agencies and CVCC in consultations with the affected Permittees within 6 months of Permit issuance incorporating an analysis regarding known core use areas, home ranges, water sources, escape terrain, lambing and rearing habitat, seasonally important foraging areas, or movement/dispersal zones that shall be completed to minimize adverse effects to these resources. These criteria shall be included in the

Implementation Manual. In the interim, prior to the adoption of these criteria, CVCC shall jointly analyze projects with the affected Permittees and the Wildlife Agencies.

40. In Peninsular bighorn sheep habitat, the CVCC shall assist Permittees to identify adopted policies or other options to locate and/or consolidate future development within Conservation Areas adjacent to existing development areas. Options identified shall be considered during the HANS and Joint Project Review Process. These options may include but are not limited to Transfers of Development Rights, Purchases of Development Rights, and Conservation Easements in order to provide for consolidation of development to ensure large intact blocks of bighorn sheep habitat. CVCC shall facilitate efforts across jurisdictions to maximize conservation of sheep habitat. This shall be an ongoing effort by the CVCC and the affected Permittees to meet the species conservation goals and objectives for bighorn sheep. Analysis to be used for these options shall include the following: bighorn sheep home ranges, core use areas, movement and dispersal zones, changing environmental conditions, and essential resources, including escape terrain, foraging areas, lambing and rearing habitat, habitat connectivity, water sources, and space for population expansion.
41. The Service shall participate fully in the RMUC for the Santa Rosa and San Jacinto Mountains, Snow Creek/Windy Point, and Cabazon Conservation Areas regarding discussions and recommendations that could affect bighorn sheep.
42. All monitoring and reporting for this Permit shall be in compliance with the Plan, IA, and the Special Permit Terms and Conditions. Annual reports are due no later than March 30, beginning in 2009 and ending in 2084. Copies of all reports shall be submitted to the Service's Field Supervisor, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Suite 101, Carlsbad, California 92011, and to the Regional Director, Region 8, 2800 Cottage Way, Room W2606, Sacramento, California 95825-1846.
43. In T4S R6E Section 8 in the Thousand Palms Conservation Area, the Site Planning Standards described under Required Measure 3 of the Plan, also shall apply to lands with a Light Industrial general plan land use designation (with the exception of the first two sentences of Site Planning Standard 2).
44. Any future project that occurs in the Palm Hills Special Provisions area, including access from East Palm Canyon Drive and internal circulation, shall comply with the Plan, IA, Permit and Special Permit Terms and Conditions and will be considered a Covered Activity. All mitigation identified in the Plan regarding the Palm Hills project is retained as part of the conservation commitment in the Plan. The applicable Permittee shall ensure that all portions of the project, including any golf course or portions of the golf course will be located north of Eagle Canyon and no closer than one quarter mile to the water source located in Eagle Canyon (Section 31 T4S R4E). The extension of any road across or south of Eagle Canyon and any improvements to and/or the maintenance of the Dunn Road are not Covered Activities under the Plan and shall not be considered as a Minor Amendment.

45. For projects outside of the proposed Conservation Areas within the 50,272 acres of naturally occurring desert tortoise habitat anticipated to be impacted, the Permittee shall either: 1) notify the Service 45 days prior to the issuance of a grading permit to allow for the potential salvage of adult tortoises within this notification time period; or 2) condition such projects to conduct desert tortoise clearance surveys per the Service's protocol.
46. To be a Covered Activity under the Plan, development in Chino Canyon [Special Provision 2 (g)] shall include the following measures:
 - a. The overall footprint of the Project shall not exceed 288 acres and shall conform to the "development area" depicted in Figure 4-26(e)(1)(A) including all on-site and off-site utility and street infrastructure improvements necessary to serve the Project.
 - b. Establish conservation easements in form substantially similar to the Model Conservation Easement, (as that form may be amended) over specific lands identified on Figure PBS-4 to create a PBS wildlife corridor across Chino Canyon. Corridor will include constructed escape terrain to facilitate PBS movement as described in [s] below. Easements must be implemented before grading permits may be issued for the Project. If easements not obtained in time, line demarcating take authorization will revert to original reasonable and prudent alternative location from the 1998 Conference Biological Opinion.
 - c. Prior to issuance of grading permits for the Project, all land in Sections 5, 8, and 9 owned by the City of Palm Springs and/or the City of Palm Springs' Parks, Open Space, and Trails (POST) fund as of October 22, 2005, including the land in the Mountain Falls area lease, must be permanently protected for PBS conservation purposes through a conservation easement to the CVCC, in a form substantially similar to the Model Conservation Easement, as that form may be amended, that guarantees conservation in perpetuity and precludes the possibility of constructing golf courses, new trails, or other facilities.
 - d. At the north and south ends of the wildlife corridor, the Permittee shall ensure that the Project Proponent installs artificial water sources for the PBS, with the design to be reviewed and approved by the Permittee who shall provide the Wildlife Agencies an opportunity to comment.
 - e. The Permittee shall ensure that the Project proponent works with the appropriate entities to design and implement a transportation plan that establishes a shuttle service for the Tramway. The transportation plan shall be reviewed and approved by the Permittee, who shall provide the Service an opportunity to comment. The Project shall have the ongoing obligation to minimize traffic on Tramway Road for the life of the Project.
 - f. The security gates for the proposed Project on Tramway Road shall be installed outside and downslope of the Wildlife Corridor. Currently, the Winter Park Authority closes the existing security gate to the Palm Springs Aerial Tramway facility (tram) near Highway 111 at 10 p.m. each night to prevent unauthorized use of Tramway Road. The Project proponent has agreed with the Winter Park Authority that the guard at the Project site entry gate shall move down to the tram

gate at 10 p.m. to control road access. The guard shall return to the Project gate when the Tramway Road reopens at 6 a.m. daily. The Project proponent shall build a gatehouse to provide shelter for the guard at that location. No other gates are contemplated.

- g. A vegetation management plan for the riparian area in the wildlife movement corridor, depicted in Figure PBS-4 on project site land and on the land described in (1)c must be developed by the Project proponent, in cooperation with the City of Palm Springs, and approved by the Wildlife Agencies prior to issuance of grading permits. The vegetation management plan shall include the modification of riparian habitat necessary to facilitate the wildlife corridor, off-setting measures to ensure no-net loss as described in the Plan, and any modifications to the small cliff along the edge of the riparian area to facilitate sheep movement across the corridor.
- h. The planting of toxic plants, such as oleander, nightshade species, and various *Prunus* sp., shall be prohibited within the proposed Project boundaries in perpetuity. Landscaping crews shall be trained in identifying these plants and shall remove them upon sighting.
- i. Any artificial water features associated with the proposed Project shall be designed to preclude shallow, vegetated edges that provide breeding habitat for *Culicoides* midges, an invertebrate disease vector for the bluetongue virus, a disease of bighorn sheep. This requirement applies for the life of the Project.
- j. The entire developed portion of the Project site shall be fenced and maintained in perpetuity to preclude PBS access to the development area. The fence shall be 8 feet high from its footings and shall not contain gaps larger than 4 inches to prevent entanglement of bighorn sheep. In addition, berms, vegetative hedges, or such other design features as the Permittee may require shall be established along the entire length of the Wildlife Corridor to preclude the visibility of activities on the project site to PBS and to encourage the PBS use of the wildlife corridor. The final fence plan, and any exceptions to the specified installation or location, shall be reviewed by the Service.
- k. The Permittee shall ensure that the Project proponent deposits into a fund of a 501 (c)(3) as designated by the Service in the amount of \$500,000 at the commencement of project vertical construction to be used for listed species conservation purposes to be determined by the Service.
- l. The Permittee shall ensure that the Project proponent ensures that 1 percent of the gross proceeds from the sale of all retail goods within the hotel stores at the Project be deposited annually into an interest-bearing account, with an entity to be determined by the Service, for the life of the Project; these funds shall be used for listed species conservation purposes at the sole discretion of the Service. The Service will have sole discretion over these funds and a written legal instrument shall be provided to assure this. In the event a hotel is not built, one percent of the total building valuation (computed using the latest building valuation determined in the manner provided in PSMC Sec. 3.37.070(d) as may be amended from time to time) of the Project shall be deposited in an interest bearing account for the purposes described above prior to the issuance of occupancy for each phase of the Project as approved by the Permittee.

- m. The Permittee shall ensure that the Project Proponent collects and deposits into an escrow fund of a 501 (c)(3) as designated by the Service and shall disperse at the direction of the Service all funds generated from all project-related sources from the Project for listed species conservation purposes. The contract shall require that the Project Proponent, and any successors and assigns, provide the specified services herein in perpetuity. The Permittee shall ensure that Project Proponent bears any of the administrative costs of this condition.
- n. No mass grading shall occur within 100 feet of the Chino Creek riparian area from March 15 through September 15 within the Project site. For any construction work performed within the area specified in this paragraph during the period of March 15 through September 15 of a given year, the Project proponent shall install sound attenuation devices or implement measures, to minimize noise impacts on the LBV by reducing sound levels below 60 dBA.
- o. Any Project fill material to be imported shall only come from off-site borrow areas permitted by local, State and Federal governmental agencies. The Permittee shall ensure that the Project proponent notify the Service as to where and when fill material will be obtained prior to importation, so that the Service can determine whether listed species could be adversely affected and any incidental take has been properly authorized.
- p. If new water wells are developed by the Project proponent on the site, they shall comply with the restrictions established by the Permittee. The restrictions require that wells, if any, be located at least 5,000 feet downhill from the cienega west of the Project site.
- q. No vertical construction activities or facilities shall occur within a minimum 100-foot setback from the Chino Creek riparian corridor within the Project site.
- r. No rock crushing shall take place within 500 feet of the Chino Creek riparian area on the Project site.
- s. A biological resources monitor shall be onsite during construction of the Project. The duties of the biological resources monitor shall include, but are not limited to: conducting desert tortoise clearance surveys per the Service's protocol; directing where to install temporary fencing that avoids sensitive areas such as the riparian habitat; and conducting an education program for the construction crew regarding sensitive habitat and listed species. The monitor shall have the authority to stop construction activities, if necessary, to ensure compliance with any of the conservation measures discussed herein.
- t. A special lighting system shall be installed within the Project site to ensure to the extent feasible, that light does not "spill over" into the Chino Creek riparian area, PBS habitat, and other natural habitats surrounding the site. The lighting system shall include low-set lighting and shields that prevent artificial light sources from shining directly into natural habitat areas to minimize disturbance to and vulnerability of listed species to increased predation. Any golf driving range shall be limited to use during daytime hours only with no lights installed for night-time usage.
- u. No construction-related activities, involving blasting and/or use of equipment that produces noises or sounds louder than 90 dbA at the source shall occur between

January 1 through June 30 of any year, to address, in part, the adverse impacts of construction during the PBS lambing season.

- v. The Permittee shall work with the Mt. San Jacinto Winter Park Authority and the Service to reduce potential sheep mortality due to collisions with vehicles along Tramway Road and to enhance the currently reduced movement corridor for PBS across Chino Canyon, which is restricted due to current and Project-related traffic levels. To the extent that a hotel is constructed on site, the Project proponent shall establish a shuttle service that ferries people from the Project site to the tram for the life of the Project. The speed of the traffic on the road shall be limited to 25 miles per hour and signs shall be posted reminding drivers of the presence of PBS in the area for the life of the Project. Within the wildlife corridor, traffic speeds shall be limited to 5 mph for the life of the Project.

In addition, the area where people are picked up and dropped off shall be consolidated in the immediate vicinity of the tram. The Permittee shall ensure that the Project proponent enters into a legally enforceable agreement with the Desert Water Agency, Mount San Jacinto Winter Park Authority, Service, and any other necessary parties, which includes construction and operation of a gate system that effectively prohibits all human access along Tramway Road within the designated movement corridor, other than for operation and maintenance of the Palm Springs Aerial Tramway and Tramway Road, and for access to all landowners within and uphill of the designated movement corridor that require access to their properties, including the California Department of Parks and Recreation, California Department of Fish and Game, U.S. Forest Service, and BLM. The Project proponent shall also enter into an agreement with the Tram Authority, and any other affected parties to establish a coordinated shuttle system for all recreational visitors to the tramway that minimizes traffic through the wildlife corridor.

- w. An education program, to be reviewed and approved by the Service, shall be developed and implemented for clients and residents of the Project for the life of the Project that provides information on the status, sensitivity, and conservation needs of the bighorn sheep.
- x. The Permittee shall ensure that the Project proponent does not object to actions that the Permittee or CVCC may require to facilitate the use of the wildlife corridor. Such actions may include the construction of road improvements to avoid and minimize adverse effects on PBS caused by traffic, a crossing for sheep usage, or sheep augmentation within the San Jacinto Mountain range.
- y. The need for escape terrain will be evaluated in conjunction with the environmental analysis to be conducted with any project entitlement. If improvements to facilitate escape terrain are identified as needed pursuant to the environmental analysis, the Project proponent shall be responsible for such improvements.
- z. In the event the Permittee or CVCC determine that sheep do not use the designated wildlife corridor, the Permittee may require Project Proponent to implement additional measures to facilitate sheep movement through or around the project to ensure continued connectivity.

- aa. The development of the Project shall be located solely within the Development Area depicted on Figure 4-26e(1)(A) (excluding required access and off-site infrastructure improvements) or such smaller area therein as the Permittee requires pursuant to the Permittee's adopted plans and policies or as the Permittee determines is necessary or appropriate to accommodate sheep movement as provided in Item z above. The construction of off-site utility and street infrastructure improvements below and east of the Project site necessary to serve the Project shall be consistent with the other requirements of this condition and of the CV MSHCP.

ATTACHMENT 1

50 C.F.R., parts 13, 17.22, and 17.32

**Attachment 2. Covered Species and Take Authorized for Each Species
Under the Coachella Valley MSHCP**

Species Name (27 Species)	Listing Status Federal/State	Extent of Take Authorized
*LISTED PLANTS		
Coachella Valley milk-vetch (<i>Astragalus lentiginosus</i> var. <i>coachellae</i>)	FE/-	15,706 acres
Triple-ribbed milkvetch (<i>Astragalus tricarinatus</i>)	FE/-	278 acres
*UNLISTED PLANTS		
Mecca aster (<i>Xylorhiza cognata</i>)	-/-	6,459 acres
Orocopia sage (<i>Salvia greatae</i>)	-/-	6,960 acres
Little San Bernardino Mountains linanthus (<i>Linanthus maculatus</i>) or (<i>Gilia maculata</i>)	-/-	695 acres
UNLISTED INVERTEBRATES		
Coachella Valley giant sand-treader cricket (<i>Macrobaenetes valgum</i>)	-/-	13,802 acres
Coachella Valley Jerusalem cricket (<i>Stenopelmatus caluilaensis</i>)	-/-	10,236 acres
LISTED FISH		
Desert pupfish (<i>Cyprinodon macularius</i>)	FE/SE	Take of individuals from ongoing operations
LISTED AMPHIBIANS		
Arroyo toad (<i>Bufo californicus</i>)	FE/CSC	89 acres
LISTED REPTILES		
Desert tortoise (<i>Gopherus agassizii</i>)	FT/ST	68,453 acres
Coachella Valley fringe-toed lizard (<i>Uma inornata</i>)	FT/SE	13,801 acres
UNLISTED REPTILES		
Flat-tailed horned lizard (<i>Phrynosoma mcalli</i>)	-/CSC	19,520 acres
LISTED BIRDS		
Yuma clapper rail (<i>Rallus longirostris yumanensis</i>)	FE & MBTA/ ST & SFP	71 acres
Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>)	FE & MBTA/SE	180 acres of breeding habitat 15,600 acres of migratory habitat
Least Bell's vireo (<i>Vireo bellii pusillus</i>)	FE & MBTA/SE	778 acres of breeding habitat 15,021 acres of migratory habitat
UNLISTED BIRDS		
California black rail (<i>Laterallus jamaicensis coturniculus</i>)	MBTA/ST & SFP	66 acres
Burrowing owl (<i>Athene cunicularia</i>)	MBTA/CSC	55 occurrences
Crissal thrasher (<i>Toxostoma crissale</i>)	MBTA/CSC	5,231 acres

**Attachment 3. Extent of Take Authorized for the
Coachella Valley MSHCP Natural Communities**

Natural Community	Total Acres Subject to Impact
ACTIVE DESERT DUNES	25
STABILIZED & PARTIALLY STABILIZED DESERT SAND DUNES	79
ACTIVE DESERT SAND FIELDS	1,519
EPHEMERAL DESERT SAND FIELDS	860
STABILIZED & PARTIALLY STABILIZED DESERT SAND FIELDS	296
STABILIZED SHIELDED DESERT SAND FIELDS	10,928
MESQUITE HUMMOCKS	549
SONORAN CREOSOTE BUSH SCRUB	55,662
SONORAN MIXED WOODY & SUCCULENT SCRUB	24,837
MOJAVE MIXED WOODY SCRUB	5,902
DESERT SALTBUSH SCRUB	4,544
DESERT SINK SCRUB	1,682
CHAMISE CHAPARRAL	52
REDSHANK CHAPARRAL	979
SEMI-DESERT CHAPARRAL	305
INTERIOR LIVE OAK CHAPARRAL	3,858
CISMONTANE ALKALI MARSH	23
COASTAL & VALLEY FRESHWATER MARSH	27
SO. ARROYO WILLOW RIPARIAN FOREST	4
SONORAN COTTONWOOD-WILLOW RIPARIAN FOREST	65
SOUTHERN SYCAMORE-ALDER RIPARIAN WOODLAND	27
ARROWWEED SCRUB	14
DESERT FAN PALM OASIS WOODLAND	79
MESQUITE BOSQUE	36
DESERT DRY WASH WOODLAND	8,711
MOJAVEAN PINYON-JUNIPER WOODLAND	134
PENINSULAR JUNIPER WOODLAND AND SCRUB	1,108
SUBTOTAL	122,305
Agriculture – conversion to development of up to this amount	84,900
TOTAL	207,205