

## Background

The Applicants seek an incidental take permit and assurances for 83 animal species (9 endangered, 5 threatened, and 69 unlisted), and assurances for 63 plant species (8 endangered, 3 threatened, and 52 unlisted). The animal species include 3 crustacean species (1 endangered, 1 threatened and 1 unlisted); 2 insect species (both endangered); 2 fish species (1 threatened and 1 unlisted); 5 amphibian species (2 endangered, 1 threatened, 2 unlisted); 12 reptile species (all unlisted); 45 bird species (2 endangered, 2 threatened, and 41 unlisted); and 14 mammal species (2 endangered and 12 unlisted). Collectively the 146 listed and unlisted species are referred to as Covered Species by the MSHCP. Twenty-eight of the Covered Species are identified as Covered Species for which adequate conservation has not been assured. These species would not be provided with incidental take under the permit until adequate conservation has been assured.

A permit is needed because section 9 of the Act and Federal regulations prohibit the "take" of animal species listed as endangered or threatened. Take of listed animal species is defined under the Act to include kill, harm, or harass. Harm includes significant habitat modification or degradation that actually kills or injures listed animals by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering [50 CFR 17.3(c)]. Under limited circumstances, the Service may issue permits to authorize incidental take; *i.e.* take that is incidental to, and not the purpose of, otherwise lawful activity. Although take of plant species is not prohibited under the Act, and therefore cannot be authorized under an incidental take permit, plant species are proposed to be included on the permit in recognition of the conservation benefits provided to them under the MSHCP. Assurances of no additional mitigation requirements provided under the No Surprises Rule at 50 CFR 17.3, 17.22(b)(5), and 17.32(b)(5) would extend to all species named on the permit. Regulations governing incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22.

The MSHCP is intended to protect viable populations of native plant and animal species and their habitats in perpetuity through the creation of a preserve system, while accommodating continued economic development and quality of life for residents of western Riverside County. In the year 2020, the

Southern California Association of Governments estimates that Riverside County will be home to approximately 2.8 million people, who will occupy approximately 918,000 dwelling units. This represents a doubling of the County's present population and housing stock. Another study by the California Department of Finance estimates that the County will continue to grow to 3.5 million people by 2030 and 4.5 million people by 2040. These residents will be located within 24 incorporated cities, as well as within unincorporated areas.

The MSHCP is one part of Riverside County's Integrated Project, the purpose of which is to integrate and provide for future land use, transportation, and conservation needs in Riverside County. The MSHCP Plan Area encompasses 1.2 million acres in western Riverside County and includes the following 14 incorporated cities: Banning, Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, and Temecula. The MSHCP is one of two large, multiple-jurisdictional habitat planning efforts in Riverside County, both of which are "subregional" plans under the State of California's Natural Community Conservation Planning Act of 1991.

In the MSHCP, the Applicants have proposed the conversion of approximately 800,000 acres from open space to non-open space uses during the 75-year permit, primarily by activities already planned for by the cities and County. These activities include residential, commercial, and industrial development; construction and maintenance of transportation facilities; construction and maintenance of flood control facilities, public utilities, and parks and trails; agricultural conversion of vegetation communities; management of reserves; and other anticipated projects.

Proposed covered activities which require discretionary action by a permittee, subject to consistency with MSHCP policies, include: two internal regional transportation facilities, maintenance of and safety improvements on existing roads, circulation element roads, single family homes on existing legal parcels, compatible uses in the reserve, and up to 10,000 new acres of agricultural activity within the Criteria Area (an area to be evaluated for inclusion in the reserve in accordance with the criteria guidelines). The MSHCP makes a provision for the inclusion of special districts and other non-permittee entities in the permit.

As described in Volumes I and II of the Public Review Draft MSHCP (November 2002) and the Draft EIS/EIR, the applicants propose to create a preserve system that protects and manages 153,000 acres of habitat for the Covered Species in addition to the identified existing 347,000 acres of Covered Species habitat in the Plan Area with conservation value in public or quasi-public ownership. The existing 347,000 acres would be monitored and managed in coordination with the 153,000 acres to achieve a conservation area of 500,000 acres. The County and cities are in the process of adopting a mitigation fee to acquire 97,000 acres as mitigation for private development in the Plan Area. The funding plan assumes that of the 97,000 acres, 41,000 acres would be conserved through the land use approval process. An additional 6,000 acres would be conserved as mitigation for State (California Department of Transportation and California Department of Recreation) projects. It is anticipated that the Service and the California Department of Fish and Game would provide an additional 50,000 acres to complement the 103,000 acres of mitigation identified in the MSHCP. The 153,000 acres of conservation area lie within a larger Criteria Area. The Criteria Area is divided into a grid consisting of 160-acre cells. Each cell or cell group has associated criteria that describe the conservation expected in that cell.

The MSHCP includes measures to avoid and minimize incidental take of the Covered Species, emphasizing project design modifications to protect both habitats and species' individuals. A monitoring and reporting plan would gauge the Plan's success based on achievement of biological species objectives and reserve design criteria, and would ensure that conservation keeps pace with open space conversion. The MSHCP also includes adaptive management which allows for changes in the conservation program if the biological species objectives are not met, or new information becomes available to improve the efficacy of the MSHCP's conservation strategy.

The MSHCP would be implemented by the permittees and the Regional Conservation Authority (RCA), a Joint Powers Authority. The RCA would be formed prior to our Record of Decision and permit decision. After the RCA is formed, it would apply to the Service for an incidental take permit to implement the MSHCP. We do not intend to notice the RCA's incidental take permit application in the **Federal Register** because the role of the RCA