

## EXECUTIVE SUMMARY

### INTRODUCTION

The Agua Caliente Indian Reservation (Reservation), home of the Agua Caliente Band of Cahuilla Indians (Tribe), consists of approximately 31,500 acres of land in Riverside County, California (see Figures 1 and 2). The Reservation lies within the geographical boundaries of three cities (Palm Springs, Cathedral City and Rancho Mirage) and the County of Riverside (County), and is composed of a checkerboard pattern of landholdings, including Tribal trust land, allotted trust land, and fee land. The Reservation contains a wealth of valuable natural resources and habitat, including mountains, foothills, canyons, wetlands, alluvial fans, and sandy areas that provide homes for many species of plants and animals deemed by the U.S. Fish and Wildlife Service (USFWS) as well as the Tribe to require protection. As a sovereign Indian nation, the Tribe has protected and managed the areas and resources within its jurisdictional territory for hundreds of years, and intends to continue to do so.

The Tribe's purposes in adopting this Tribal Habitat Conservation Plan (Tribal HCP or Plan) are to (1) continue to exercise its long-standing tradition as a land use manager and steward of the natural resources in and around the Reservation by assuming a role as the primary manager of such resources and the land uses that impact them, a role that is recognized as appropriate by the U.S. Department of the Interior in Joint Secretarial Order 3206 and the USFWS Native American Policy, among other authorities; and (2) to establish consistency and streamline permitting requirements with respect to protected species for itself, Tribal members, and third parties developing the Reservation and other Tribal Lands by establishing one process that the Tribe oversees and implements.

The Plan provides the means to protect and contribute to the conservation of Federally listed species or those deemed by the Tribe and USFWS to be sensitive and potentially in need of listing in the future (collectively Covered Species). It provides mechanisms to permit and guide development, and serves as an adaptive tool to allow the Tribe to update and/or revise baseline biological resource information, manage conservation goals and priorities, and complement other existing and planned conservation efforts in the region. The general approach and specific measures set forth in the Plan reflect the Tribe's demonstrated successful traditional strategies for managing land use and natural resources within its jurisdictional territory.

Incorporating and building upon the Tribe's existing conservation programs, the primary conservation mechanism provided by this Plan is the protection of significant areas of Covered Species' habitat through adoption of new development standards and creation of a Habitat Preserve to be managed by the Tribe or its designee(s). Habitat Preserve assembly will be accomplished through: (1) authorization of certain activities, including development, subject to land conservation requirements and other general and species-specific guidelines, standards, and mitigation measures; and (2) payment by project proponents of a mitigation fee that will be used to acquire and manage Habitat Preserve lands.

On the basis of the conservation program embodied in this Plan, the Tribe seeks to enter an Implementing Agreement with, and obtain a Section 10(a) Permit from, USFWS that will authorize the incidental take of Covered Species of wildlife in connection with certain activities undertaken by the Tribe, Tribal members, and in some cases, third parties (see discussion of Covered Activities below). This will enable the Tribe to assist the USFWS in its mission to conserve sensitive species and their habitats, while maintaining appropriate sovereign authority over activities taking place within the Tribe's jurisdiction and protecting unique Tribal values. The Plan provides significant advantages vis-à-vis piecemeal compliance with the Federal Endangered Species Act (ESA) on a project-by-project basis because it provides for comprehensive Reservation-wide conservation.

### **TRIBAL GOVERNMENT AUTHORITY TO ADOPT AND IMPLEMENT THIS PLAN**

The Tribe's authority to enforce its obligations under the THCP on all lands of the Agua Caliente Indian Reservation, including non-Indian controlled fee land, flows from its inherent sovereign authority supplemented by delegated federal authority. The Agua Caliente Band of Cahuilla Indians' Constitution and by-laws, approved by the Commissioner of Indian Affairs on April 18, 1957, delegated to the Tribe specific federal powers and authority over all lands of the Reservation. Specifically, Article V. vests with the Tribal Council the power to "protect and preserve Tribal property, including wildlife and natural resources." The extent of the Tribe's territory over which the Tribe may exercise the above-described jurisdiction is designated in Article II of the Constitution, which "shall extend to the territory within the boundaries of the Agua Caliente Indian Reservation as heretofore designated and to any other lands which may hereafter be added." Accordingly, the approval of the Tribe's Constitution by the United States Department of the Interior's representative delegated to the Tribe a degree of federal authority to manage natural resources on all of the Agua Caliente Indian Reservation, which includes non-Indian controlled fee land. In addition to the above-described delegated authority over fee lands, the Tribe has inherent authority to exercise jurisdiction over non-Indians on fee land within the bounds of its Reservation when such non-Indian activity threatens the Tribe's interest in self-government. Further, this inherent sovereign authority is supplemented by the delegation of authority granted by the federal government under the ESA's Section 10(a) permit process. Granting a Tribe Section 10(a) permitting authority must necessarily include authority over all lands within the bounds of the reservation, including fee lands, to avoid a checkerboard enforcement system over a unitized resource.

The Tribe will work with USFWS in a coordinated fashion in the context of government-to-government consultation. This will ensure maximum protection of the trust resources of the Tribe and its members; and will allow for an approach that acknowledges the duty and authority of USFWS with respect to the ESA, while preserving Tribal sovereignty and honoring traditional Tribal land management practices. This approach is embodied in this Tribal HCP. Based on the Tribe's inherent sovereign authority to manage and regulate land use and resources within the Reservation, and pursuant to Joint Secretarial

Order No. 3206 and the USFWS Native American Policy, among other authorities described in section 1.6.3, USFWS must give deference to and support Tribal resource management policies and implementation activities such as those set forth in this Plan.

## **ENVIRONMENTAL SETTING**

The Action Area contains a wide variety of physical features, and is topographically diverse, ranging from the floor of the Coachella Valley to peaks in the San Jacinto and Santa Rosa mountains (Figure 3). The northeastern portions of the Action Area lie on the floor of the Coachella Valley, with a low elevation of approximately sea level. The southern and western portions of the Action Area contain foothills, canyons, slopes and peaks of the San Jacinto and Santa Rosa Mountains. The highest peak in the San Jacinto Mountains reaches 10,804 feet above mean sea level (AMSL); in the Plan Area, the highest elevation is approximately 6,600 feet AMSL. Changes in elevation and topography, with accompanying differences in temperature, precipitation, and other environmental variables, are significant factors underlying the Action Area's high biological diversity.

Contributing to the biological diversity of the Coachella Valley floor are the strong winds that funnel through the San Geronio Pass. Sand is carried by streams and rivers (fluvial transport) out of surrounding mountains by occasional storms and deposited in valley floodplains, later picked up by prevailing winds (aeolian transport) from the west and carried down the valley to deposition areas. Historically, this dune system occupied much of the valley center. Although most sand fields on the Reservation are shielded from receiving blowsand by structures associated with relatively recent human development, portions of the Action Area (including the northeastern corner of the Reservation) provide sufficient native habitats and are subject to intact ecological and physical processes such that, if protected from further degradation, they will continue to sustain these ecosystems, plant communities, and their associated wildlife species in the long term. Many of these plants and wildlife are unique to the valley floor and blowsand ecosystem, which is characteristic of the Coachella Valley. However, urbanization predominates, removing native vegetation and its inherent wildlife habitat value. Landscaping associated with development consists primarily of non-native species. Many of these plant species not only have little or no habitat value for native wildlife, but also are invasive species and compete with native plants for nutrients and water in undeveloped areas.

At the base of the San Jacinto and Santa Rosa mountains along the edges of the Coachella Valley are canyon and floodplain areas consisting of alluvial fans, bajadas, and canyon washes. Within the Reservation, these include the alluvial fans of Palm, Wentworth, Murray, Andreas, Tahquitz, and Chino canyons characterized by intermittent surface flows, with permanent pools, seeps, and other waters in their upper reaches. The alluvial fans of these canyons support riparian areas typical of a desert environment, including many palm oases. Where water drains into the sands, desert dry wash woodland results.

At the lower elevations of the mountains above the top end of the alluvial fans are slopes composed of granitic boulders and talus. Although many annual plants grow here during “wet” years, few perennial plants occur, except for scattered creosote bush, brittlebush, and occasionally indigo bush and small barrel cacti. Higher elevations are characterized by steep slopes and narrow ridges, and contain areas of interior live oak chaparral, red shank chaparral and, to a lesser extent, black oak forest, Peninsular juniper woodland and scrub, and Sonoran cottonwood-willow riparian forest.

Although there is some overlap, sensitive species occurring in the Action Area are typically associated with either features on the valley floor (particularly sand habitats) or features of the mountains and canyons. For purposes of this Plan, therefore, the Action Area is divided into a Mountains and Canyons Conservation Area (MCCA) and a Valley Floor Planning Area (VFPA). The MCCA includes all portions of the San Jacinto and Santa Rosa Mountains within the Action Area, generally above the 800-foot elevation contour. The VFPA consists of the balance of the Plan Area, generally including the portions of the Plan Area lying below 800 feet AMSL and on the floor of the Coachella Valley. Finally, several off-Reservation Target Acquisition Areas are identified to the north and east of the VFPA. Together with the VFPA, these areas are referred to as the Valley Floor.

## PLAN AREA

The geographic region covered by the Plan (the Plan Area) includes (1) the non-federally owned portions of the Reservation and (2) off-Reservation lands owned by or held in trust for the Tribe. The Action Area for this Tribal HCP includes the Plan Area, along with certain other lands over which the Tribe may have authority during the permit period: (1) off-Reservation lands in Target Acquisition Areas on the valley floor that may be acquired by the Tribe for conservation purposes during the term of the Plan and (2) lands that may be acquired through exchange with the Bureau of Land Management (BLM). The acreage of the Plan Area and Action Area are summarized in Table ES-1 and illustrated on Figure 4.

**Table ES-1  
Summary of Plan Area and Action Area**

| <b>Land Type</b>                         | <b>Action Area</b> | <b>Current Plan Area</b> | <b>Potential Future Plan Area*</b> |
|--|--------------------|--------------------------|------------------------------------|
| Reservation†                             | 30,655             | 30,655                   | 30,655                             |
| Off-Reservation Tribal Lands             | 5,400              | 5,400                    | 3,930                              |
| Off-Reservation Target Acquisition Areas | 46,404             | 0                        | 931                                |
| Off-Reservation BLM Exchange Areas       | 5,799              | 0                        | 5,799                              |
| <b>TOTAL</b>                             | <b>88,258</b>      | <b>36,055</b>            | <b>41,315</b>                      |

\*The size of the potential future Plan Area assumes that the maximum amount of lands are acquired from off-Reservation Target Acquisition Areas, and that the maximum amount of potential BLM exchange occurs and is processed through the minor amendment process (see section 1.4 for details).

†Excludes federally owned lands within the boundaries of the Reservation.

## **COVERED SPECIES**

The Tribe has identified 19 sensitive wildlife species and 3 sensitive plant species that occur or have potential to occur within the Plan Area and are thus covered by this Tribal HCP. Eight of these species are listed as threatened or endangered under the ESA. The mitigation measures required by the Plan for the protection of Covered Species are summarized in Table ES-2.

## **COVERED ACTIVITIES**

The Tribal HCP provides conservation, minimization, and mitigation for impacts to Covered Species from several types of activities, provided that such activities are consistent with the provisions of the Plan, including (1) Covered Projects, including construction and development projects undertaken by the Tribe within the Plan Area or Third Party Participant within the Reservation (including on non-Indian fee land to the extent authorized by law or provided for in an agreement between the Tribe and landowner) under a development permit issued by or under Tribal discretion; (2) Covered Maintenance Activities undertaken by or at Tribal discretion in the Plan Area, including operation, use, and maintenance of existing public and private facilities within current disturbance footprints; operation, use, and maintenance of public and private facilities developed in the future approved subject to the requirements of the Plan, within the approved Development Envelope; and temporary maintenance activities outside of such areas that will allow recovery of native habitats in the near term; and (3) Covered Conservation Activities, including management and monitoring of the Habitat Preserve and management of Existing Tribal Conservation Programs, undertaken by agents or employees of the Tribe, or any person acting under Tribal direct guidance or authority.

**Table ES-2  
Summary of Mitigation Measures for Covered Species**

| Species  | Habitat conservation primarily in the Plan Area | Habitat conservation primarily in Target Acquisition Areas | Use Area and linkage area protection | Avoidance of occupied habitat to the maximum extent practicable | Minimization of indirect impacts | Relocation of individuals | Planning avoidance and minimization measures | Construction avoidance and minimization measures | Habitat enhancement/restoration | Habitat management |
|--|---|--|--------------------------------------|---|----------------------------------|---------------------------|--|--|---------------------------------|--------------------|
| <b>MOUNTAINS AND CANYONS SPECIES</b>                         |   |  |                                      |   |                                  |                           |  |  |                                 |                    |
| Peninsular bighorn sheep                                     | X   |  | X                                    |   | X                                |                           | X  | X  | X                               | X                  |
| Least Bell's vireo   |   |  |                                      | X   | X                                |                           | X  | X  | X                               | X                  |
| Southwestern willow flycatcher                               | X   |  |                                      | X   | X                                |                           | X  | X  | X                               | X                  |
| Summer tanager   | X   |  |                                      |   | X                                |                           | X  | X  | X                               | X                  |
| Yellow-breasted chat   | X   |  |                                      |   | X                                |                           | X  | X  | X                               | X                  |
| Yellow warbler   | X   |  |                                      |   | X                                |                           | X  | X  | X                               | X                  |
| Mountain yellow-legged frog                                  | X   |  |                                      | X   | X                                |                           | X  | X  | X                               | X                  |
| Southern yellow bat  | X   |  |                                      |   | X                                |                           | X  | X  | X                               | X                  |
| Triple-ribbed milk-vetch                                     | X   |  |                                      | X   | X                                | X                         | X  | X  | X                               | X                  |
| Desert tortoise  | X   |  |                                      | X*  | X                                | X                         | X  | X  |                                 | X                  |
| Burrowing owl  |   | X  |                                      | X*  | X                                | X                         | X  | X  |                                 | X                  |
| Gray vireo   | X   |  |                                      |   | X                                |                           | X  | X  |                                 | X                  |
| <b>VALLEY FLOOR SPECIES</b>                                  |   |  |                                      |   |                                  |                           |  |  |                                 |                    |
| Coachella Valley fringe-toed lizard                          |   | X  |                                      |   | X                                |                           | X*   | X*   |                                 | X                  |
| Coachella giant sand-treader cricket                         |   | X  |                                      |   | X                                |                           | X*   | X*   |                                 | X                  |
| Flat-tailed horned lizard                                    |   | X  |                                      |   | X                                |                           | X*   | X*   |                                 | X                  |
| Palm Springs pocket mouse                                    |   | X  |                                      |   | X                                |                           | X*   | X*   |                                 | X                  |
| Palm Springs (Coachella Valley round-tailed) ground squirrel |   | X  |                                      |   | X                                |                           | X*   | X*   |                                 | X                  |
| Coachella Valley Jerusalem cricket                           |   | X  |                                      |   | X                                |                           | X*   | X*   |                                 | X                  |
| Coachella Valley milk-vetch                                  |   | X  |                                      | X*  | X                                |                           | X*   | X*   |                                 | X                  |
| Crissal thrasher   |   | X  |                                      |   | X                                |                           | X  | X*   | X                               | X                  |
| Le Conte's thrasher  |   | X  |                                      |   | X                                |                           | X*   | X*   |                                 | X                  |
| Little San Bernardino Mountains gilia                        |   | X  |                                      | X   | X                                | X                         | X  | X*   | X                               | X                  |

\*Requirement applies only within the Section 6 Target Acquisition Area.

## **CONSERVATION PROGRAM**

Among other things, the conservation program includes avoidance, minimization, and mitigation measures; assurances for establishment of the Habitat Preserve, adaptive management, monitoring, implementation, and funding; and conditions for and responses to Changed Circumstances and Unforeseen Circumstances.

### **Habitat Preserve**

A key component of the Tribal HCP is creation of a Habitat Preserve. Habitat Preserve assembly will primarily occur through land dedications, payment of the mitigation fee, restrictions, or conditions on Covered Projects. Should the Plan Area become developed to the full extent allowed by this Plan, the Habitat Preserve will include all lands dedicated for conservation in perpetuity as a result of mitigation measures implemented by this Tribal HCP and all lands acquired by the Tribe from funds generated through the fee applied to Covered Activities. In such event, the Habitat Preserve would include an estimated 18,870 total acres comprising approximately one half of the entire Reservation, including 16,367 acres of upland habitat in the MCCA and 1,048 acres of riparian habitat, as well as up to 1,455 acres of valley floor species habitat on and off the Reservation.

The Habitat Preserve will provide protection in perpetuity for Covered Species, enabling the Tribe to obtain a Section 10(a) Permit and authorize or undertake Covered Activities that satisfy the criteria required by the Plan. Management of the Habitat Preserve will be the responsibility of the Department under the guidance of the Tribal Council. While day-to-day management activities may be carried out by other parties through a contractual arrangement, the Tribe would provide funding and oversight and would retain the ultimate responsibility for implementation of the management program.

### **Mountains and Canyons Conservation Area**

The MCCA is located in the western and southern regions of the Action Area and includes portions of the San Jacinto and Santa Rosa mountain ranges. The Tribe has already established conservation programs for Indian Canyons Heritage Park and Tahquitz Canyon within the MCCA. Under the Tribal HCP, a maximum of 15 percent (subject to additional requirements) of the habitat of Covered Species found in the MCCA may be subject to ground disturbance associated with Covered Projects, resulting in an overall minimum of 85 percent (a 5.67:1 ratio) of such habitat being conserved and dedicated to the Habitat Preserve. No disturbance shall be allowed within a use area or defined linkage for Peninsular bighorn sheep (*Ovis canadensis nelsoni*) and certain lands adjacent to those areas would require specified levels of conservation. Covered Projects must be sited to avoid to the Maximum Extent Practicable impacts to wetlands or riparian areas, mesquite hummocks and thickets associated with riparian habitat, and habitat determined to be occupied by least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Epidonax traillii extimus*), mountain yellow-legged frog (*Rana muscosa*), triple-ribbed milk-vetch

(*Astragalus tricarinatus*); must comply with the conditions of any required Clean Water Act permits; and may collectively be allowed to disturb a maximum of 10 percent of existing riparian habitat (including a maximum of 10 percent of naturally occurring palm oases) in the Plan Area. The Tribe will require mitigation measures for a Covered Project to ensure no net loss of habitat suitable to support riparian Covered Species within the Plan Area and provide for a net gain in functions of the riparian habitat by non-native species removal. Unavoidable impacts to mesquite hummocks and thickets associated with riparian habitat would require mitigation at a minimum 2:1 ratio. Any unavoidable impacts to triple-ribbed milk vetch would require mitigation at a 3:1 ratio. Impacts to burrowing owl (*Speotyto cunicularia*) and desert tortoise (*Xerobates* or *Gopherus agassizii*) individuals must be minimized through the use of appropriate relocation techniques. If the entire MCCA should maximize development potential to the extent allowed by this Plan and therefore contribute as much to the Habitat Preserve as possible, the Habitat Preserve in the MCCA will include up to approximately 17,403 acres, including 14,070 acres of the total estimated 16,269 acres of Peninsular bighorn sheep habitat and 1,036 acres of currently extant riparian habitat.

### **Valley Floor Conservation Area**

Portions of the VFPA currently provide habitat for sand-dependent species; however, with the exception of Section 6 (Township 4 South, Range 5 East), which contains active and ephemeral sand fields, the VFPA generally is determined not to be viable habitat for these species over the long term due to their isolation and fragmentation. In particular, the viability of the sand dune habitats immediately adjacent to both sides of Interstate 10 has been severely reduced because of habitat fragmentation caused by roads and development and the loss of a permanent sand source. Most other portions of the valley floor still supporting native vegetation are fragmented and largely surrounded by existing development, and no longer receive a consistent natural source of sand. Therefore, with the exception of the viable habitat remaining in the Section 6 Target Acquisition Area, in which on-site avoidance, minimization, and mitigation measures will be imposed, on-site mitigation measures will not be required of Covered Projects in the VFPA for the benefit of sand-dependent species; instead, Covered Project Proponents will be required to pay a mitigation fee that will fund Tribal acquisition and management of replacement habitat. Certain areas, both within and outside the Reservation, have been identified by the Tribe, in consultation with USFWS and the Coachella Valley Association of Governments (CVAG), as either core habitat for the valley floor Covered Species (i.e., desert sand field habitats), areas that support ecological processes necessary to sustain these areas (i.e., sand source areas), or areas that provide linkage between core habitat areas. These areas are defined in this Plan as Target Acquisition Areas, from which up to 1,455 acres of valley floor species habitat will be acquired and dedicated to the Habitat Preserve.

In addition to the Target Acquisition Areas intended to benefit primarily sand-dependent species, some limited portions of the VFPA near the base of the mountains would be conserved. Indian Canyons Heritage Park would be authorized for a maximum of 5 percent development, consisting only of park-related uses. The remaining 95 percent of this area would be required for conservation.

Within portions of the VFPA that are within 500 feet of Peninsular bighorn sheep habitat, Covered Activities would be subject to conservation restrictions for the benefit of this species. Impacts to habitats occupied (as determined by surveys conducted and/or required by the Tribe) by crissal thrasher (*Toxostoma crissali*) and Little San Bernardino Mountains gilia (*Linanthus maculatus*) must be avoided to the Maximum Extent Practicable, with any impacts to habitat occupied by these species mitigated at a 2:1 or 3:1 ratio, respectively.

Similar to the requirements in the MCCA, impacts to riparian areas shall be avoided to the Maximum Extent Practicable. Any unavoidable impacts shall be mitigated such that no net loss of habitats suitable to support riparian Covered Species occurs in the Plan Area, and provide for a net gain in functions of the riparian habitat by removal of non-native species. In addition, Covered Activities must avoid impacts to habitat occupied by burrowing owl and desert tortoise in the Section 6 Target Acquisition Area to the Maximum Extent Practicable, as well as minimize impacts to individuals throughout the VFPA through use of appropriate relocation techniques.

### **Minimization and Mitigation Requirements for Covered Activities**

Minimization and mitigation requirements shall be imposed upon Covered Activities by the Tribal HCP and Tribal implementing regulations to facilitate assembly of the Habitat Preserve and to assure minimization of and mitigation for impacts to Covered Species. These measures include:

- Existing land use restrictions;
- Dedication requirements;
- Species-specific avoidance and minimization measures;
- Planning avoidance and minimization measures;
- Disturbance period avoidance and minimization measures; and
- Funding for acquisition, management, and monitoring of the Habitat Preserve.

Table ES-2 summarizes the mitigation requirements required by the Tribal HCP for the protection of Covered Species. Because Covered Conservation Activities will be designed with the specific purpose of creating a net biological benefit relative to any associated impacts, such activities would not be subject to acreage limits or mitigation requirements, but would be required to comply with applicable minimization requirements. Similarly, because they would be limited to the areas that have been disturbed prior to adoption of this Plan or are approved for disturbance pursuant to the provisions of the Plan, Covered Maintenance Activities would not be subject to take authorization acreage limits, dedication requirements, or siting criteria. They would, however, be subject to construction and operation avoidance/minimization requirements.

## **Tribal Funding and Assurances for Plan Implementation**

The Tribe is providing assurances that adequate funding will be made available for implementation of the Tribal HCP and that the conservation, mitigation, and management measures will be carried out as proposed. The Tribe would be responsible for providing adequate funding to implement the Tribal HCP for the duration of the Section 10(a) Permit. The Tribe shall provide administrative support to accomplish the management responsibilities of the Tribal Council and Department, as well as funding to support the Tribe's baseline assessment, inventory, and monitoring efforts defined in the Plan. Acquisition and management of the Habitat Preserve shall be funded primarily through obligations of Covered Projects. An endowment fund would be established to provide funding for the Tribe's ongoing costs to administer, manage, and monitor the Habitat Preserve in perpetuity.

## **ALTERNATIVES**

The Tribe considered three alternative courses of action prior to adopting this Tribal HCP: (1) a "no project" alternative; (2) other incidental take authorization alternatives (including participation in the Coachella Valley MSHCP and completion of a programmatic section 7 consultation); and (3) "increased conservation" alternatives (including increased MCCA conservation, increased on-Reservation VFPA conservation, and increased THCP Mitigation Fee). These categories and specific alternatives cover the full spectrum of alternatives that are practical or feasible. The Tribe determined that adoption of this Tribal HCP represented the best course of action to achieve the Tribe's purposes and goals described above.

Specifically, the "no project" alternative would have resulted in (1) the absence of comprehensive biological assessment that is being conducted in connection with this Tribal HCP; (2) continued case-by-case permitting by a variety of jurisdictional authorities resulting in the lack of comprehensive planning and potentially isolated and fragmented preserve areas with lower benefit to species than the comprehensive Habitat Preserve system to be created under this Plan; (3) minimal, if any, protection of unlisted species and listed plant species, and habitats not occupied by listed species, rather than the heightened level of protection the Plan provides to such species and habitats; and (4) lack of assurances that Tribal governance objectives would be taken into account in conservation planning and regulation on the Reservation.

Alternative means, including participation in the proposed Coachella Valley MSHCP and completion of a programmatic Section 7 consultation, are available to the Tribe to seek incidental take authorization. Tribal participation in the proposed CVAG MSHCP would have provided a comprehensive approach to habitat conservation planning within and beyond the Reservation; however, it is unlikely that levels of take authorized under that plan would have been appreciably different from those authorized under implementation of the Tribal HCP. In any event, the CVAG MSHCP's implementing parties do not have jurisdiction over many aspects of the Reservation and other Tribal Lands, do not hold the position of trust and government-to-government relationship that the Federal Government has with the Tribe, and are not in a position to address important Tribal governance requirements and uniquely Tribal values. Therefore, the Tribe determined that this alternative would not serve important Tribal purposes and goals in the way

this Tribal HCP will. The benefits of comprehensive planning that would be achieved by this alternative would be largely or entirely realized through the provisions regarding coordination contained in the Tribal HCP.

Another approach under the “other incidental take permit alternatives” would consist of the Tribe requesting a programmatic Section 7 consultation between USFWS and Bureau of Indian Affairs (BIA) to establish the standards, guidelines, and governing criteria for further actions. Species that are not Federally listed, proposed, or candidate species could not be addressed through the Section 7 programmatic consultation process. In addition, this approach would not meet other Tribal purposes in preparing the Tribal HCP because it would not streamline compliance with the ESA to the extent of an HCP.

Finally, the Tribe considered increasing certain conservation measures within the Plan under the “increased conservation” alternative. The Tribe would reduce the allowable upland habitats impact limit and riparian habitats impact limit to below the 15 percent and 10 percent, respectively, that the Plan currently provides for the MCCA; and/or it could have increased the mitigation fee and/or on-Reservation conservation requirements beyond those identified in the Plan for impacts in the VFPA. However, the Tribe believes that any of these contemplated increases in conservation measures would have placed a disproportionate conservation burden on the Tribe and its members, in violation of the mandates and policies set forth in Joint Secretarial Order 3206, among other authorities. Additionally, the Tribe believes that conservation as proposed under the current draft Tribal HCP meets the Tribe’s conservation obligations under the ESA.

THIS PAGE INTENTIONALLY LEFT BLANK