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6.2 AGRICULTURE

A. Definition of Agricultural Operations

“Agricultural Operations” means the production of all plants (horticulture), fish farms, animals and related production activities, including the planting, cultivation and tillage of the soil, dairying, and apiculture; and the production, plowing, seeding, cultivation, growing, harvesting, pasturing and fallowing for the purpose of crop rotation of any agricultural commodity, including viticulture, apiculture, horticulture, and the breeding, feeding and raising of livestock, horses, fur-bearing animals, fish, or poultry, the operation, management, conservation, improvement or maintenance of a farm or ranch and its buildings, tools and equipment; the construction, operation and maintenance of ditches, canals, reservoirs, wells and/or waterways used for farming or ranching purposes and all uses conducted as a normal part of such operations; provided such actions are in compliance with all applicable laws and regulations. Execution of the Implementing Agreement shall not constitute such compliance.

The use of pesticides is regulated by the state and federal Environmental Protection Agencies. The MSHCP will not be interpreted as imposing greater regulatory requirements than those existing prior to issuance of the Permits. The MSHCP will not impose new or additional restrictions on Agricultural Operations adjacent to the MSHCP Conservation Area, except as set forth in *Section 6.1.4* of this document. The definition of Agricultural Operations and therefore, Take Authorization, shall not extend to any activities on state and federal property.

B. Take Authorization for Existing Agricultural Operations

The Take Authorizations shall apply to those lands within MSHCP boundaries actively being used for ongoing Agricultural Operations for at least one of the last five years preceding the Effective Date of the Implementing Agreement ("Existing Agricultural Operations"). A time period of less than one year or growing season may be appropriate for certain crop types, at the RCA's sole discretion, if supported by adequate factual evidence. Existing Agricultural Operations shall be exempt from payment of impact mitigation fees or other mitigation measures, except as specifically set forth in Section E below. The Take Authorization shall become effective as to Existing Agricultural Operations upon their inclusion into the County database as set forth below and issuance and receipt by the RCA of a Certificate of Inclusion or other appropriate mechanism, which will occur solely for the purpose of documenting acknowledgment of Take Authorization and ensuring



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compliance with the Permits, the MSHCP and the Implementing Agreement. Existing Agricultural Operations may change agricultural crop type and continue to receive Take Authorization, provided all requirements of this Section have been met. Conversion from grazing or pasture land uses to a tilled crop shall not fall within the definition of Existing Agricultural Operations. Excluding the conversion of grazing or pasture land uses to a tilled crop from the definition of Existing Agricultural Operations shall not be interpreted as having any precedential effect.

C. Verification of Existing Agricultural Operations

In order to verify the location of the Existing Agricultural Operations, the County will establish a database identifying Existing Agricultural Operations on or before the Effective Date of the MSHCP ("Existing Agricultural Operations Database"). The Existing Agricultural Operations Database shall include parcel numbers, acreage, ownership/operation names and mailing addresses. The County shall submit the information contained in the Existing Agricultural Operations Database to the RCA and Wildlife Agencies on an annual basis and shall include a map or other representation identifying parcels containing Existing Agricultural Operations. A Certificate of Inclusion or other mechanism shall be completed to obtain Take Authorization, which will occur solely for the purpose of documenting acknowledgment of Take Authorization and ensuring compliance with the Permits, the MSHCP Plan, and the Implementing Agreement.

D. Addition of Existing Agricultural Operations Database

Upon written request by a property owner, operator or other appropriate party, property not included in the Existing Agricultural Operations Database will be added based upon a determination by the RCA that such land falls within the definition of Existing Agricultural Operations. The written request must be 1) submitted to the RCA within thirty-six (36) months of the Effective Date of this Agreement; and 2) supported by adequate factual evidence which may include, but is not limited to, the following information: a) agricultural permits obtained from, and/or registrations filed with the County, State of California or other appropriate public agency; b) an approved Agricultural Grading/Clearing Exception Form as defined in County Ordinance No. 457; c) business, tax and property records; d) Agricultural Preserve and Williamson Act contract information; or e) aerial photographs and other relevant business records and information. Parcels of forty (40) acres or less may be added to the Existing Agricultural Operations Database and, thus, receive Take Authorization within forty-eight (48) months of the Effective Date of this Agreement provided good cause can be shown why a written request was not submitted within the thirty-six (36) month period



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set forth in this section. The burden is solely upon the property owner, operator or other appropriate party to provide adequate information to the RCA in a timely manner to allow inclusion into the Database. Once the RCA has determined that property should be added to the database, the information submitted to the RCA pursuant to this Section in support thereof shall be considered conclusive proof of Existing Agricultural Operations. The County and the RCA will strictly maintain the confidentiality of documents and other information submitted in connection with verifying Existing Agricultural Operations to the maximum extent permitted under the California Public Records Act, or any other relevant statute or regulation. The RCA shall consider such requests to add land to the Existing Agricultural Operations Database and make a determination within thirty (30) days of receipt of the written request.

E. Expansion of Existing Agricultural Operations (Permit Required)

Expansion of Existing Agricultural Operations of similar use requiring a County or City discretionary permit or other discretionary authorization as defined in the County's agricultural zones set forth in Riverside County Ordinance No. 348 or relevant City land use regulation will receive Take Authorization under the Permits, provided the requirements set forth in this Section are met. If the expansion requires a County or City discretionary permit or other discretionary authorization and occurs within the Criteria Area, then the Criteria will be applied and appropriate mitigation imposed. Such projects will not be subject to the Criteria and mitigation requirements if construction and operation disturbance and impacts are confined solely to the existing building footprint, *i.e.*, limited to those areas that have been recently and consistently disturbed and have little or no Habitat value. If the expansion requires a County or City permit or other discretionary authorization and occurs outside the Criteria Area, then the Criteria will not be applied. However, the policies for the protection of Narrow Endemic Plant Species and Riparian/Riverine Areas and Vernal Pools, requirements as set forth in *Sections 6.1.2 and 6.1.3* of this document shall be applied and additional surveys required, as set forth in *Section 6.3.2* of this document, if appropriate. Such projects will not be subject to these requirements if construction and operation disturbance and impacts are confined solely to the existing building footprint. Expansion of Existing Agricultural Operations shall be subject to the HANS process or other applicable Implementation Mechanism.

F. New Agricultural Lands

As set forth in *Section 6.2(D)*, all Agricultural Operations on parcels included on the Agricultural Operations Database that do not require a County or City discretionary permit or other discretionary



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authorization will receive Take Authorization as Existing Agricultural Operations without the need to comply with the Criteria or MSHCP mitigation requirements. The Take Authorization will be applied to a limited number of new lands to be used for Agricultural Operations (including Expansion of Existing Agricultural Operations not requiring a discretionary permit or other discretionary authorization) after the Effective Date of the Implementing Agreement consistent with the goals of the MSHCP ("New Agricultural Lands"). The Take Authorization may be applied to up to 10,000 acres of New Agricultural Lands within the Criteria Area during the term of the MSHCP ("New Agricultural Lands Cap"). The Take Authorization shall apply to New Agricultural Lands that fall within the New Agricultural Lands Cap, as allowed to increase pursuant to the Amendment Process set forth in *Section 6.10* of this document, upon: (1) submission and approval of an Agricultural Grading/Clearing Exception Form as set forth in Riverside County Ordinance No. 457; and either (1) execution of a Williamson Act contract covering the New Agricultural Lands; or (2) County or City approval of any other mechanism providing equal or better assurance that the proposed New Agricultural Lands will be used for Agricultural Operations. In all instances, issuance of a Certificate of Inclusion must occur prior to Take Authorization. The County will process all Agricultural Grading/Clearing Exception Forms pursuant to the requirements of Riverside County Ordinance No. 457.

In the event that Development is subsequently proposed for property that has been designated as New Agricultural Lands, such Development will not be considered by the County or appropriate City for at least a five-year period following the inclusion of such property on the Agricultural Operations Database. In limited cases of documented severe economic hardship, beyond the control of the property owner or operator as determined by the appropriate Permittee, the five-year period may be waived upon completion of a Minor Amendment to the MSHCP. This requirement shall not be applicable to projects: 1) currently within an agricultural zone established by Ordinance No. 348, and 2) whose building footprint will be wholly within property previously tilled as part of the Existing Agricultural Operations. Take Authorization may be applied to unlimited new lands for Agricultural Operations outside the Criteria Area.

G. Increase in New Agricultural Lands Cap

The RCA shall monitor the acreage amount of New Agricultural Lands and the County shall add the parcel numbers, acreage and ownership information for the New Agricultural Lands to the Existing Agricultural Operations Database. An annual report containing this information shall be submitted to the Wildlife Agencies. In 2002, a map reflecting the location of New Agricultural Lands and their relationship to the Criteria Area shall be created and submitted to the Wildlife Agencies. This map

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will be updated in 2003 and 2006. After 2006, the Parties shall agree when the preparation of future updated maps is appropriate. When the RCA determines that approximately 70 percent (70%) of the New Agricultural Lands Cap within the Criteria Area has been converted to New Agricultural Lands, the RCA shall seek approval of a Amendment from the Wildlife Agencies to increase the New Agricultural Lands Cap. The Wildlife Agencies shall use reasonable efforts to expeditiously consider and, if appropriate, approve said request. A Minor Amendment may be appropriate to increase the New Agricultural Lands Cap if it meets the requirements for a Minor Amendment pursuant to *Section 6.10.2* of this document and the Implementing Agreement and if it can be demonstrated to the satisfaction of the Wildlife Agencies that such an increase does not: (1) preclude Reserve Assembly, (2) significantly increase the cost of MSHCP Conservation Area Management or Assembly, and (3) preclude achieving Covered Species Conservation and goals.

When the RCA determines that approximately 70% of the New Agricultural Lands Cap within the Criteria Area has been converted to New Agricultural Lands then the County Agricultural Commissioner will provide written notice mailed to each owner of parcels five acres or larger zoned for agricultural use of record with the County Assessor's Office and to each of the landowners on the Master Index and on the Index of the Agricultural Land Conversions, and will publish a full-page advertisement and a legal notice in the Press Enterprise and the Californian once per week for four consecutive weeks, that: (1) includes information that Take Authorizations for conversions of non-agricultural lands to agricultural lands are in jeopardy of being exceeded, (2) explains the potential legal consequences of taking a listed species without the necessary Take Authorization, and (3) describes the procedure that the RCA will follow for applying for an amendment to the MSHCP to cover agricultural land conversions in excess of the New Agricultural Lands Cap and opportunities for affected landowners to participate in the process.