

**SECTION 7. CHANGED AND UNFORESEEN CIRCUMSTANCES AND MODIFICATIONS TO
THE PERMIT**

7.0	CHANGED AND UNFORESEEN CIRCUMSTANCES AND MODIFICATIONS TO THE PERMIT	7-1
7.1	Overview of Changed and Unforeseen Circumstances	7-1
7.1.1	Changed Circumstances	7-1
7.1.2	Unforeseen Circumstances.....	7-1
7.2	Changed and Unforeseen Circumstances Addressed by this Plan	7-2
7.2.1	Covered Species Listed.....	7-3
7.2.2	Non-Covered Species Listed	7-4
7.2.3	Vandalism.....	7-4
7.2.4	Floods.....	7-5
7.2.5	Fire.....	7-6
7.2.6	Undesirable Species.....	7-7
7.2.7	Drought and Climate Change.....	7-8
7.2.8	Earthquakes	7-8
7.2.9	Hazardous Materials Spills.....	7-8
7.2.10	Waterway Obstruction.....	7-9
7.3	Conservation Contributions by State and Federal Agencies.....	7-9
7.4	Modifications to the Plan.....	7-9
7.5	Administrative Changes	7-9
7.6	Minor Modification	7-10
7.6.1	Minor Modification Process for Section 10(a)(1)(B) Permit	7-11
7.7	Amendments	7-11
7.7.1	Amendment Process for the Section 10(a)(1)(B) Permits	7-12
7.8	Renewal	7-12
7.8.1	Renewal / Reissue of Existing Federal ITP without changes.....	7-12
7.8.2	Renewal / Reissue of Existing Federal ITP with changes	7-12

7.0 CHANGED AND UNFORESEEN CIRCUMSTANCES AND MODIFICATIONS TO THE PERMIT

This section discusses the assurances requested by LADWP that will accompany the ESA Section 10(a)(1)(B) permit issued by USFWS. It also discusses the process to modify and amend the permit.

7.1 Overview of Changed and Unforeseen Circumstances

Regulations for implementing Section 10 of the Federal ESA require that an HCP specify the procedures to be used for dealing with changed and unforeseen circumstances that may arise during the implementation of an HCP.

7.1.1 Changed Circumstances

Changed circumstances are defined in the Federal No Surprises Regulation (63 *Federal Register* 8859-8873, amending 50 Code of Federal Regulations (CFR) 17.22(b)(5) and 222.307(g)). Changed circumstances are “those circumstances affecting a species of geographic area covered by the HCP that can be reasonably anticipated by the applicant or USFWS and that can be planned for” (e.g., the listing of a new species, or a fire or other natural catastrophic event in areas prone to such events). This regulation requires that potential changed circumstances be identified in the HCP along with remedial measures that would be taken to address these changes. Accordingly, these regulations require that potential changed circumstances be identified in the HCP along with remedial measures that LADWP would implement to address these changes. Changed circumstances will be addressed through the Adaptive Management provisions of this HCP or as described below (see **Changed and Unforeseen Circumstances Addressed by this Plan**).

LADWP will modify its activities in the manner described below, to the extent necessary to address the effects of the changed circumstances on the Plan’s Conservation Strategy, and will report to the USFWS on its actions. LADWP will make such modifications without awaiting notice from the USFWS. Pursuant to the No Surprises Regulation, if such changed circumstances were addressed in the HCP and they occur during the permit term, implementation of their remedial measures is required. USFWS will not require any additional conservation or mitigation to address changed circumstances that are not identified in the Plan, without the consent of the Permittee, as long as the Plan is found to be properly implemented. *Properly implemented* means that the commitments and the provisions of the Plan and incidental take permit have been or are being fully implemented. In addition, USFWS will not require measures to address changed circumstances that are identified in the Plan beyond the remedial measures identified in the Plan.

7.1.2 Unforeseen Circumstances

Unforeseen circumstances are defined in the Federal No Surprises Regulation (63 *Federal Register* 8859-8873, 50 CFR 17.3) as “changes in circumstances affecting a species or geographic area covered by a conservation plan or agreement that could not reasonably have been anticipated by plan or agreement developers and the USFWS at the time of the conservation plan’s or agreement’s negotiation and development, and that result in a substantial and adverse change in the status of the Covered Species.”

Remedial measures are proposed for changed circumstances and these measures differ from adaptive management in that remedial measures are predetermined and defined actions that must be taken in the event of a changed circumstance. Adaptive management, by definition,

does not include predetermined actions, but rather identifies new responses based on the outcome of management actions (see Section 6). Remedial measures may, however, be modified based on the adaptive management procedure.

LADWP has made a concerted effort to anticipate and include in this HCP the avoidance, minimization, and habitat enhancement/restoration measures necessary to conserve the Covered Species and their habitats. LADWP has relied on the best information available concerning the Covered Species and their habitats. This HCP is intended to reduce the potential for changed circumstances to adversely impact Covered Species and their habitats within the mission and management ability of LADWP. However, notwithstanding the provisions of the HCP, should adverse changes or unforeseen circumstances result in or threaten a substantial change in the population of any Covered Species or the overall quality of any habitat of that species, as determined pursuant to the procedures outlined below, LADWP and the USFWS will cooperate to resolve the adverse impacts in accordance with this section.

In the event of unforeseen circumstances during the permit term, amendments to the Plan may be proposed by either LADWP or the USFWS to address these circumstances. The USFWS and LADWP would work together to identify opportunities to redirect resources to address unforeseen circumstances. However, LADWP's request for assurances consistent with the federal No Surprises Regulation ensures that the USFWS will not:

- require the commitment of additional land, water, or financial compensation, or restoration of lost habitat by LADWP in response to unforeseen circumstances other than those agreed to elsewhere in the Plan; or
- impose additional restrictions on the use of land, water, or natural resources otherwise available for use by LADWP under the original terms of the Plan to mitigate the effects of the Covered Activities or in response to unforeseen circumstances.

As described in the No Surprises Regulation, it is the USFWS's responsibility to demonstrate the existence of unforeseen circumstances using the best scientific and commercial data available. For the purpose of this Plan, "unforeseen" circumstances are circumstances that are highly unlikely and not reasonably foreseeable to occur and thus will not be funded by this Plan.

The federal No Surprises Regulation does not limit or constrain the USFWS or any federal, state, local, or tribal government agency, or private entity, from taking additional actions at its own expense to protect or conserve Covered Species. The federal No Surprises Regulation also does not prevent USFWS from asking LADWP to voluntarily undertake additional mitigation on behalf of the affected species.

7.2 Changed and Unforeseen Circumstances Addressed by this Plan

The changed and unforeseen circumstances listed below are recognized by this Plan. Remedial actions to address changed circumstances are funded by the Plan and are also described below. LADWP will provide sufficient funds to implement all remedial actions described below, as they arise.

- Covered Species Listed
- Non-Covered Species Listed
- Vandalism

- Floods
- Fire
- Undesirable Species
- Disease
- Drought and Climate Change
- Earthquakes
- Hazardous Materials Spills.
- Waterway Obstruction
- Structure Failures including LADWP or SCE Dams
- Major Wind Events
- Terrorist Acts

Unforeseen circumstances include large scale occurrences of: vandalism, flood, fire, species invasion, earthquake, drought, climate change, waterway obstruction, hazardous spill, structure failure or major wind event. In addition disease and terrorist acts that may adversely affect Covered Species are considered unforeseen Circumstances. This HCP does not specify a response from LADWP in light of any unforeseen circumstances.

In response to changed circumstances, LADWP, with the concurrence of the USFWS, will determine the extent of damage to Covered Species' habitat or movement and identify and implement an appropriate response. This response will be described in the HCP Annual Report.

To maintain aquatic and riparian habitat, LADWP's response to any of these events may be by removing obstructions such as sediment from waterway facilities. Response activities may occur outside the specified work window.

Additional remediation measures are discussed for several of the changed circumstances below.

7.2.1 Covered Species Listed

LADWP has treated each Covered Species in the Plan as though it is listed under ESA. The LADWP requests that all listed and non-listed Covered Species be included on the federal ITP. If currently unlisted species that are addressed in the HCP as Covered Species are listed subsequent to issuance of the HCP's associated Section 10(a)(1)(B) permit, no action is required of LADWP under ESA. Because all Covered Species are named on the ITP and, under the terms of this ITP, permit coverage for any unlisted Covered Species will become effective upon the final listing of any such species under the ESA. No changes to the conservation measures (Section 5) are required. In this case, LADWP would not be required to do remediation activities because the Covered Species that were listed during the permit term are already included in the HCP.

7.2.2 Non-Covered Species Listed

Currently unlisted species that are not addressed as Covered Species in the HCP will not be included in the ITP. During the term of the ITP (10 years), the USFWS may list as threatened or endangered under ESA species that are not covered under the Plan. If a non-covered species is listed, it will not be considered a Covered Species and LADWP will not receive incidental take coverage under the previously issued ITP that include this HCP. USFWS will notify LADWP of potential listings of species not covered by the HCP that could be affected by LADWP's activities described in **Section 2 Project Description and Covered Activities**.

In determining whether additional conservation or mitigation measures are required to revise or amend the ITP to authorize incidental take of such uncovered species, USFWS will take into account the conservation and mitigation measures already provided in the HCP. LADWP may enter into negotiations with USFWS regarding necessary modifications, if any, to the HCP to revise or amend the ITP to cover the newly listed species. USFWS will provide technical assistance to LADWP in identifying modifications to the HCP that may be necessary to revise or amend the ITP.

Once a species is proposed for listing or a petition for listing is found to be warranted, USFWS will identify necessary measures to avoid the likelihood of jeopardy to or take of the uncovered species (*no take/no jeopardy* measures). If USFWS or LADWP determines that any such species would likely be taken or jeopardized, or the critical habitat, if any, of such species would likely be adversely modified or destroyed, from LADWP's activities, the remediation activity would be that LADWP will implement "no take/no jeopardy/no adverse modification" measures. LADWP's would amend or obtain a new incidental take permit to include coverage for those species, or until USFWS notifies LADWP that such measures are no longer needed. The actions are needed so that LADWP remains in compliance with the already issued ITP.

At any time during the permit term, LADWP may request that the USFWS add a species to their ITP. In determining whether to seek incidental take coverage for the additional species, LADWP will consider, among other things, whether the species is present in the Plan Area and if their otherwise lawful activities could result in incidental take of the species. If incidental take coverage is desired, the Plan and ITP may be amended or LADWP could apply for new ITP. Procedures for modifications and amendments to the Plan are outlined in *Modifications to the Plan* below.

Recall that LADWP decided not to include some species listed under ESA in the Plan Area when developing the list of Covered Species for this HCP.

7.2.3 Vandalism

Vandalism or other intentional, destructive, illegal human activities are considered changed circumstances. For example, destruction of fences used to enhance Covered Species' habitat or movement and illegal dumping are considered vandalism. Arson is considered under the Fire subheading.

Remedial Measures for Vandalism

LADWP will repair vandalism that occurs on structures or facilities.

7.2.4 Floods

Floods are natural events that can result in beneficial and adverse effects to Covered Species and their habitats. Floods include high runoff, rain on snow events, and flash floods. The likelihood of adverse effects depends on the magnitude and duration of the flood, the location and history of such events in the Plan Area, and the habitat affected.

During the Permit Term, floods are expected to occur on waterways in the Plan Area. Native riparian forest habitats depend on periodic low to moderate flooding to establish new trees such as willows, cottonwoods, and sycamores. Severe floods, including floods that result in streams leaving their banks or widening historical floodplains are less frequent. Looking at historical occurrences of floods in the Plan Area, severe floods are expected in the Owens River, its tributaries, and tributaries of Mono Lake to the response to powerful thunderstorms, heavy rainfall in recently burned areas, or rapid snowmelt in or adjacent to (e.g., eastern Sierra Nevada) the Plan Area. When low to moderate floods occur in the range of Covered Species, they would adversely impact Covered Fish Species' habitats used for foraging, breeding, and cover; and Riparian Bird Species' habitats used for foraging and nesting. However, these flood events are part of the dynamic process needed to regenerate these habitats.

In the past, severe floods have been infrequent. These events result in large-scale loss of riparian forested habitat needed by riparian Covered Species, and erosion and severe degradation of water quality for aquatic Covered Species and injury or death from high water velocities.

Low to moderate floods are considered normal events in dynamic aquatic and riparian habitats. Severe floods have been infrequent in the past, but under climate change models, the magnitude of these severe floods is predicted to increase. Floods that damage up to 10 percent of the riparian forested habitats in the Plan Area or affect natural waterways but remain within their banks/floodplains are considered changed circumstances. When a changed circumstance occurs, LADWP will assess the specific event and site condition and determine, in coordination with USFWS, whether a response is needed. In most instances, a flood will have a localized effect on Covered Species, and management tools to help the species and habitats recover from a specific event on a given site are limited.

Remedial Measures for Floods

Overall, the effects from low to moderate floods are expected to be minor because the Covered Species and associated habitats that occur in/along natural waterways have evolved under these conditions. If damage occurs from low or moderate floods to Covered Species or their habitats, LADWP will notify USFWS of the damage within 14 days of the flood event. LADWP will discuss with USFWS the impacts of the low to moderate flood event to Covered Species and habitats, and whether corrective action is necessary to restore the Covered Species or habitat(s) to the site. The action includes but is not limited to replanting native vegetation. After coordination, LADWP will allow USFWS, or their agents, to implement the correction action and may participate.

Severe floods are infrequent and unpredictable; therefore, one or more severe flood events may occur in the Plan Area during the Permit Term. If a severe flood occurs, LADWP will notify

USFWS of the damage within 14 days of the flood event. LADWP will discuss with USFWS the impacts of the severe flood event to Covered Species and habitats, and whether corrective action is necessary to restore the Covered Species or habitat(s) to the site. For example, if a waterway left its streambank/floodplain, LADWP may force a waterway to return to its previous channel to comply with its mission. This action would ensure that the aquatic/riparian habitats in that portion of the channel and downstream and water gathering and distribution system are maintained.

A high flow event (low to severe flood) may damage important water gathering and distribution systems and diminish or destroy important habitat for both fish and avian Covered Species. This would be a changed circumstance that may require immediate action to return the waterway to full operation. Failure to act quickly could adversely affect aquatic/riparian habitats further. The funding obligation for changed circumstances by LADWP would be at the discretion of LADWP and depend upon the magnitude of the circumstance. LADWP is committed to fund modifications or repairs to structures or facilities in response to floods that adversely affect water gathering and distribution systems and adversely affect Covered Species and their habitats.

Because aquatic and riparian habitats have evolved with periodic flooding and because there are few management actions that can be implemented to aid in recovery from a specific flood event, especially a severe flood exacerbated by climate change; floods other than those circumstances mention above, are considered unforeseen circumstances.

7.2.5 Fire

Fire is a natural component of some ecosystems and natural community types in the Plan Area. However, much of the vegetation in the Plan Area, including sagebrush, riparian forest, and creosote, is not adapted to fire (Fenstermaker 2012). Large, intense, or frequent fires in the future would likely have a negative impact on maintaining natural vegetation communities and habitat enhancement projects in the Plan Area. For example, frequent or large fires could cause type conversion in native sagebrush communities, increasing the extent of undesirable annual grassland communities at the expense of sagebrush and adversely affecting the GRSG through the loss of habitat. Fire in riparian woodland vegetation may destroy native trees and allow undesirable species such as saltcedar to become established, inhibiting the return of willow and cottonwood species.

Most of the Plan Area has been characterized by California Department of Fire and Forestry Protection as having moderate to high fire severity zones (CalFire 2007 http://frap.fire.ca.gov/webdata/maps/inyo/fhszs_map.14.pdf and http://frap.fire.ca.gov/webdata/maps/mono/fhszl06_1_map.26.pdf). These classifications were developed by the State of California, Department of Forestry and Fire Protection (CDF) and are derived from a combination of fire frequency (how often an area burns) and expected fire behavior under severe weather conditions. Using this information, we anticipate that fire is likely to occur in and adjacent to the Plan Area during the Permit Term. However, the probability of the fire threat is dependent in part on the source of ignition: human mechanisms (vehicles, cigarettes, etc.) and natural mechanisms (lightning strike). For example, recent fires on City land along the Owens River and tributaries were cause by improper use of fire.

In the Plan Area, fires from natural or human-caused events can result in minor to substantial adverse consequences to Covered Species and their habitats. The likelihood of fires in the Plan

Area depends on the location and history of such events; the magnitude of the effects depends on the severity and duration of the event, and habitat affected.

Remedial Measures for Fires

In response to fire, LADWP will, as appropriate, implement fire line rehabilitation and use pulse flows to encourage the restoration and regeneration of riparian habitat in the Owens River floodplain. LADWP may do more intensive restoration but this is determined by LADWP on a case by case basis. LADWP may also allow interested parties to revegetate or restore habitat if their actions do not conflict with water gathering and distribution activities and if the parties coordinate with LADWP, which may include LADWP supervision.

The Inyo Complex wildfire in 2007 caused substantial flooding in Oak Creek the following spring because the vegetation that would typically retain the soil had been removed by the wildfire. Oak Creek jumped its banks flooding U.S. Highway 395 resulting in substantial work for LADWP to return the creek to its previous channel. In this case, LADWP responded to this as a flood event and would do so in any future similar scenarios.

7.2.6 Undesirable Species

The Conservation Strategy includes measures to reduce existing and prevent future infestations of undesirable species (Section 5). The monitoring program will identify and map existing undesirable species in the Plan Area so that new ones can be identified quickly and a control or eradication plan can be put into place.

It is difficult to set a threshold for when a changed circumstance would become an unforeseen circumstance because of the changes that have occurred in the past in regard to undesirable species (e.g. New Zealand mud snails, quagga mussels, etc.). Differentiating changed circumstances from unforeseen circumstances will have to be evaluated on a case by case basis.

However, it is possible that the changed circumstance of an undesirable species could become much larger scale and become an unforeseen circumstance despite implementation of the Conservation Strategy and Monitoring program.

- New and aggressive undesirable species could invade the Plan Area.
- Existing undesirable species could expand to unprecedented levels in the Plan Area, perhaps due to changing climate.

When a new undesirable species is detected or an undesirable species begins to spread aggressively, LADWP will contact the USFWS to collaboratively determine the best method of measuring, monitoring, and eradicating or controlling the undesirable species before it spreads.

Remedial Measures for Undesirable Species

Remedial measures that address the invasion of undesirable species may include the following steps:

- Determine the best method for measurement and tracking extent within three months of detection.
- Prepare a damage-assessment report within six months of detection.

- Recommend and plan actions to address the threat within six months of detection.
- Respond through adaptive management in ways consistent with Permit obligations and with the consent of the USFWS within one year of detection.

LADWP may do more intensive restoration but this is determined by LADWP on a case-by-case basis. LADWP may also allow interested parties to remove undesirable species if their actions do not conflict with water gathering and distribution activities and if the parties coordinate with LADWP, which may include LADWP supervision.

7.2.7 Drought and Climate Change

Should damage or losses (individuals or habitat) due to drought or climate change occur, LADWP will assess the damage and initiate the following remedial measures within one year of damage or loss.

- Prepare damage assessment report.
- Identify actions to improve effects on Covered Species.
- Identify actions to improve effects on enhanced, restored, or created habitats that have not achieved their success criteria.
- Implement measures through the Adaptive Management Program (Section 6) in ways consistent with Permit obligations and with the consent of LADWP.

7.2.8 Earthquakes

Earthquakes of less than 4.0 on the Richter scale (defined as “micro” or “minor” earthquakes by the USGS) occur frequently in the study area and their effects on habitat and Covered Species are expected to be very small or undetectable. While less common, earthquakes defined as “light” (magnitude 4.0 to 4.9) or “moderate” (5.0 to 5.9) are expected to have little to no effect on Covered Species. Larger earthquakes may cause moderate ground shaking which may trigger small to moderate-sized landslides. These landslides are a natural part of the ecosystems in the study area. The negative effects of earthquakes are likely to manifest mostly as damage to infrastructure (i.e., fencing, bridges, buildings, temporary irrigation) rather than Covered Species. Should any earthquake occur, LADWP will likely repair or rebuild infrastructure and conduct post hoc monitoring of species, populations, or habitats that are identified as being potentially negatively affected by the incident. Infrastructure will be repaired or rebuilt within two years, when possible. Remediation of enhancement, creation, and restoration sites within the Plan Area affected by earthquakes during the permit term would be remediated within two years of the earthquake when possible. Site-specific Covered Species and habitat monitoring will be conducted for three years after the event if Covered Species or their habitats are adversely affected.

7.2.9 Hazardous Materials Spills

Hazardous materials spills may be caused by air, water, or land craft accidents or wastewater treatment spills. LADWP is only responsible for hazardous materials spills caused by their own actions or infrastructure. Remedial activities include implementing appropriate response methods for hazardous materials spills. The USFWS has a separate process for quantifying damage and seeking remediation from the responsible party for hazardous materials spills. The responsible party may be LADWP or a different entity.

7.2.10 Waterway Obstruction

Waterways may be obstructed by many things, including but not limited to other changed or unforeseen circumstances described above or dewatering creeks due to anchor ice, unusual ice formations or other plugs/obstructions that impact flow/dewater creeks.

There is no unforeseen circumstance for waterway obstruction. LADWP will remediate waterway obstruction by removing or reducing the size of the obstruction, using Conservation Actions to minimize any adverse impacts whenever possible. This may occur on small scales such as a fallen tree blocking a small creek or at larger scales such as a beaver dam on the Owens River.

7.3 Conservation Contributions by State and Federal Agencies

LADWP acknowledges that other entities including federal and state agencies (e.g. USFWS) may contribute to the Conservation Strategy in this HCP. LADWP recognizes that state and federal funds cannot be guaranteed in advance of the approval of yearly budgets, nor can they be guaranteed by agency staff that does not have the authority to commit these funds. LADWP will consider other entities assisting in the implementation of the Conservation Strategy, provided this does not prevent LADWP from its mission.

Successful implementation of this HCP relies on the continued participation and feedback of representatives of the USFWS. USFWS staff are expected to participate in LADWP meetings as needed to evaluate and provide advice and applicable consent on HCP implementation. In particular, USFWS staff participation is critical to the success of the adaptive management and monitoring program. LADWP requests that the USFWS make every effort, given budget and workload constraints, to provide staff to participate in discussions and meetings to ensure that the implementation of this HCP is consistent with any findings upon which the Permit is based.

7.4 Modifications to the Plan

LADWP agrees to meet annually or more frequently if necessary and agreed upon, with the USFWS to review needs for project modifications due to changing circumstances. This obligation is in addition to the annual monitoring and adaptive management reporting requirements to the USFWS.

The HCP or incidental take permit can be modified in accordance with USFWS regulations. HCP or Permit modifications are not anticipated on a regular basis. Modifications can be requested by LADWP or by the USFWS. The categories of modification that are recognized, in order of significance, are administrative changes, minor modifications, and amendments, each of which is described below.

7.5 Administrative Changes

Administrative changes are internal changes or corrections to the HCP that do not require preauthorization from the USFWS. Administrative changes do not result in any changes to the impacts analysis, conservation strategy, or decision documents. Administrative changes will be made in writing and documented by LADWP. The USFWS will be provided a summary of administrative changes in each annual report from LADWP. Examples of administrative changes are listed below.

- Corrections of errors in the HCP that do not change the intended meaning or obligations.
- Conducting additional monitoring surveys.
- Modifying monitoring protocols to align with USFWS monitoring protocols as they may be modified in the future.
- Adopting new monitoring protocols that may be promulgated by the USFWS in the future.

7.6 Minor Modification

Minor modifications to the HCP are changes that do not adversely affect the impact assessment or Conservation Strategy described in the HCP and do not adversely affect the ability of LADWP to achieve the Conservation Strategy commitments of the HCP. Minor modifications do not require an amendment to the Permits, but they do require pre-approval by the USFWS before being implemented. In addition, minor modifications do not change the scope or nature of the Covered Activities and do not trigger a new NEPA analysis. Examples of minor modifications are listed below.

- Updates to the land cover map or to species occurrence data that are consistent with the predictions and expectations of the HCP.
- Modifying the design of directed studies or implementing new studies.
- Minor changes to the biological goals or objectives in response to adaptive management.
- Minor changes to survey or monitoring protocols that are not proposed in response to adaptive management.
- Modification of monitoring protocols for HCP effectiveness not in response to changes in standardized monitoring protocols from the USFWS.
- Modification of existing or adoption of additional conservation measures that improve the likelihood of achieving Covered Species objectives.
- Discontinuation of ineffective conservation measures and adoption of new conservation measures that improve the likelihood of achieving the Conservation Strategy.
- Modification of existing or adoption of new performance indicators or standards if results of monitoring and research or new information, indicate that the initial performance indicators or standards need revision.
- Modification of existing or adoption of additional Covered Species, habitat or landscape objectives where such changes more effectively achieve Covered Species, habitat, and overall HCP goals.
- Modification of the conditions on Covered Activities in response to adaptive management.
- Minor changes to the reporting protocol.
- Other changes that do not result in adverse effects on Covered Species beyond those analyzed in the HCP and the associated biological opinion,

and do not limit the ability of LADWP to achieve the Biological Goals and Objectives of the HCP.

7.6.1 Minor Modification Process for Section 10(a)(1)(B) Permit

Minor modifications to the federal permit may be proposed by LADWP or the USFWS. While the USFWS does not have the right to amend its own permit unilaterally, they may propose minor modifications to LADWP for consideration. Minor modifications shall take the form of a proposal that includes the following elements:

- Description of proposed minor modification.
- Rationale for proposed minor modification.
- Analysis of the environmental effects of the proposed minor modification, including impacts to Covered Species and implications for the Conservation Strategy.
- Description and declaration of how the proposed minor modification conforms to the conditions disclosed above (i.e., compatible with conservation goals) and the terms of the HCP as it was originally adopted.

All minor modifications must first be approved by the USFWS. To modify the HCP without amending the permits, LADWP will submit to the USFWS a written description of the proposed change and an explanation of why its effects are not believed to be significantly different from those described in the original HCP.

Upon receiving the proposal for a minor modification, the USFWS may authorize the modification, request additional information, or deny the modification. If the USFWS concurs with the proposal, they will authorize the modification in writing, and the modification shall be considered effective on the date of the USFWS's written authorization. If the USFWS feels that the proposal lacks specific information, the USFWS may request additional information in order to authorize or deny the modification. If the USFWS denies the modification, they will provide explanation for the denial.

The USFWS will not approve minor modifications to the Plan if they determine that the modifications would result in adverse effects on Covered Species or habitat that is significantly different from those analyzed in the HCP. If any Wildlife Agency denies a proposed modification, it may be proposed as an amendment as described below.

7.7 Amendments

An amendment is a change in the HCP that may affect the impact analysis or Conservation Strategy in the HCP. Amendments to the HCP and the incidental take permits follow the same formal review process as the original HCP and Permit, including NEPA/CEQA review, Federal Register notices, an internal Section 7 consultation with USFWS. LADWP will submit a proposed amendment to the USFWS in a report that includes a description of the need for the amendment, an assessment of its impacts, and any alternatives by which the objectives of the proposal might be achieved.

Examples of changes that would require an amendment include but are not limited to those listed below.

- Revisions of the Plan Area boundary.
- Addition of species to the Covered Species list.
- Increasing the allowable take limit of existing Covered Activities or adding new Covered Activities to the HCP.
- A major change to a Conservation Strategy.
- A major change in Biological Goals and Objectives or Conservation Actions if monitoring or research indicates that they are not attainable because technologies to attain them are either unavailable or infeasible.
- Extending the Permit Term beyond 10 years.

7.7.1 Amendment Process for the Section 10(a)(1)(B) Permit

To amend the Section 10(a)(1)(B) permits, LADWP will submit a formal application to USFWS. This application must include a revised HCP and the required compliance document under NEPA (Federal Fish and Wildlife Permit Application Form Incidental Take Permit with a Habitat Conservation Plan 3-200-56). The appropriate NEPA compliance process and USFWS document will depend on the nature of the amendment being proposed. A new scoping process may be required, dependent upon the nature of the amendment. If additional scoping is deemed appropriate and necessary, USFWS will publish a Notice of Intent in the Federal Register to initiate the scoping process. Upon submission of a completed application package, USFWS will publish a notice of the proposed application in the Federal Register, initiating the NEPA and HCP amendment review process. After public comment, USFWS may approve or deny the permit amendment application.

7.8 Renewal

7.8.1 Renewal/Reissue of Existing Federal ITP without changes

LADWP must submit a request to renew/reissue a federal ITP at least 30 days prior to expiration of the Permit (Federal Fish and Wildlife Permit Application Form Incidental Take Permit with a Habitat Conservation Plan 3-200-56). LADWP may use the application on file. Reporting obligations must be met before an ITP will be considered for renewal or reissuance.

7.8.2 Renewal/Reissue of Existing Federal ITP with changes

In order to renew or reissue an existing federal ITP with changes, LADWP must revise and resubmit their ITP application package (includes application and HCP).