

Notice of Exemption**- 1 -****To:**

Office of Planning and Research
 U.S. Mail
 P.O. Box 3044
 Sacramento, CA 95812-3044

From:

California Department of Fish and Wildlife
 Central Region
 1234 East Shaw Avenue
 Fresno, CA 93710

Street Address:

1400 Tenth Street
 Sacramento, CA 95814

Project Title: Western Joshua Tree Conservation Act Incidental Take Permit No. 1927-ITP-2024-041-04 for the Carbon Black Soil Removal Project.

Project Location: The Carbon Black Soil Removal Project (Project) is located at 12741 United Street, three miles south of Mojave, Kern County, California. The Project is located at approximately 35.0006384, -118.150103, Assessor's Parcel Number: 427-400-12-00-2 (Project Site).

Project Description: This Western Joshua Tree Conservation Act (WJTCA) Incidental Take Permit (Permit) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 1927.3. The WJTCA prohibits the take of any western Joshua tree, (*Yucca brevifolia*, WJT), or any part or product thereof, except as authorized. CDFW may authorize, by permit, incidental take of WJT subject to the requirements of the WJTCA. This Permit authorizes incidental take of WJT by Permittee as specifically described herein, pursuant to the WJTCA.

The proposed carbon black removal project (Project) involves excavation and off-site disposal of carbon black intermixed with soil, and backfilling and re-grading with clean earthen fill excavated from the on-site borrow area. The carbon black intermixed with soil will be removed from an approximately 18-acre area located on the western portion of the Project Site, where the carbon black manufacturing facility was located. The on-site borrow area for clean soil backfill is an approximately 10-acre area located on the eastern portion of the Project Site where no manufacturing or processing was located. Both the removal area and the borrow area are located within the 58-acre parcel owned by MSS Properties.

This WJTCA ITP authorizes incidental take of WJT for activities associated with the Project which are necessary to negate the impacts of contaminated carbon black soil mixture located on the Project Site. The Project is expected to take a total of 32 WJT, as determined by CDFW. The Project will remove 0 WJT, encroach upon 32 WJT, and trim 0 WJT (i.e., collectively "take"). Of the 32 WJT authorized for take, 21 WJT are size class A (<1m) and 11 WJT are size class B (1m>5m).

Public Agency Approving Project: CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

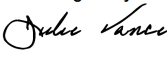
Person or Public Agency Carrying Out Project: MSS Properties, LLC 333 North Central Avenue, Pheonix, Arizona 85004

Exempt Status:

- Statutory Exemption. California Code of Regulations, Title 14, section 15269, subdivision (b); Public Resources Code, section 21080, subdivision (b)(4)
- Categorical Exemption.

Reasons why project is exempt: See Attachment

CDFW Contact Person: Shaelyn Latronica (Environmental Scientist), shaelyn.latronica@wildlife.ca.gov

DocuSigned by:

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Signature: _____

Date: 9/9/2024

Julie A. Vance
 Regional Manager, Central Region

Date received for filing at OPR: _____

Attachment to Notice of Exemption

Western Joshua Tree Conservation Act Incidental Take Permit No. 1927-ITP-2024-041-04 Carbon Black Soil Removal Project

Approval of this Project is subject to the statutory exemption for “Specific actions necessary to prevent or mitigate an emergency” (Emergency Project; Pub. Resources Code, §21080, subd. (b)(4)) under the California Environmental Quality Act (CEQA; Pub. Resources Code, §21000 et seq.). “Emergency” is defined as “A sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services” (Pub. Resources Code, §21060.3).

The purpose of the Project is to negate the potential impacts of dispersed contaminated carbon black soil mixture located on the Project Site. MSS Properties, LLC, provided the following information regarding the urgent nature of this Project:

- The Kern County Public Health Services Department, Environmental Health Division as the Local Enforcement Agency (LEA) for the California Department of Resources Recycling and Recovery (CalRecycle) required work plan to address the carbon black at the Site.
- “Black carbon is a global environmental problem that has negative implications for both human health and our climate. Inhalation of black carbon is associated with health problems including respiratory and cardiovascular disease, cancer, and even birth defects.” *Black Carbon Research and Future Strategies* (2011). In EPA.gov. Retrieved August 20, 2024, from [Black Carbon Research and Future Strategies: Reducing emissions, improving human health, and taking action on climate change \(epa.gov\)](#)

The Project will include the excavation and off-site disposal of carbon black intermixed with soil, then backfilling and re-grading of excavated areas with clean earthen fill excavated from the on-site borrow area. The carbon black intermixed with soil will be removed from an approximately 18-acre area located on the western portion of the Site, where the carbon black manufacturing facility was located. The on-site borrow area for clean soil backfill is an approximately 10-acre area located on the eastern portion of the Site where no manufacturing or processing was located. Both the removal area and the borrow area are located within the 58-acre parcel owned by MSS Properties.

Impacts will be minimized and mitigated through the implementation of measures required by Western Joshua Tree Conservation Act Incidental Take Permit No. 1927-ITP-2024-041-04. Measures include: 1) Monthly Reports; 2) establishment of no-work buffers; 3) worker education; 4) Designated Biologist on-site daily; and 5) Permittee shall satisfy its mitigation obligations under this Permit by paying \$5,350.00 pursuant to the fee schedule set forth in Fish and Game Code section 1927.3 subdivision (d), as adjusted annually, for deposit into the Western Joshua Tree Conservation Fund.