

FOR CONTRACT NO.: 08-0K6814

INFORMATION HANDOUT

AGREEMENT

UNITED STATES DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE, ECOLOGICAL SERVICES
No. FWS-ERIV-08130407/08I0436

BIOLOGICAL PROGRAMMATIC OPINION FOR PROTECTION OF THE DESERT TORTOISE (*Gopherus agassizii*)

ROUTE: 08-Riv-10-94.7/99.0



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road
Carlsbad, California 92011

In Reply Refer To:
FWS-ERIV-08B0407/08I0436

MAR 3 12008

Craig Wentworth
Office Chief, Biological Studies and Permits
California Department of Transportation District 8
464 West Fourth Street, 6th Floor
San Bernardino, California 92401-1400

Subject: Request for Section 7 Consultation for Bridge Rehabilitation, Highway Rehabilitation, and Drainage Improvement Projects along Interstate 10 in Riverside County, California tiered to the Biological Programmatic Opinion for the Highway Operational Improvement Activities in Imperial, Los Angeles, Riverside, Kern, Inyo, and San Bernardino Counties, California (1-6-05-P-3595)

Dear Mr. Wentworth:

This letter acknowledges the U.S. Fish and Wildlife Service's (Service) receipt on February 7, 2008, of your letter dated February 4, 2008, requesting informal consultation in accordance with section 7 consultation of the Endangered Species Act of 1973 (Act), as amended, regarding a proposal for bridge and road rehabilitation and drainage improvement projects along Interstate 10 Freeway (I-10) in Riverside County, and their effects on the federally threatened desert tortoise (*Gopherus agassizii*).

Activities of the three proposed projects consist of conducting bridge and road rehabilitation and drainage improvement activities on 32 bridge sites as described in the following paragraphs and Table 1. All three projects are located within desert tortoise critical habitat. The first project is located between Postmile (PM) R74.5 and R77.4 (2.9 miles in length) within the Cottonwood Basin USGS Quadrangle. This project is approximately 15.6 miles east of Dillon Road. The second project is located between PM R78.2 and R90.5 (12.3 miles in length) within the Cottonwood Spring and Hayfield USGS Quadrangles. This project is approximately 14.6 miles west of Star Route (SR) 177, near Desert Center, California. The third project is located between PM R90.6 and R98.7 (8.1 miles in length) within the Hayfield, Hayfield Spring, and Desert Center USGS Quadrangles. This project is approximately 6.4 miles west of SR-177.

Caltrans has determined that the three proposed projects would be classified as "covered activities" under the Programmatic Biological Opinion (1-6-05-P-3595; PBO) because the habitat disturbance totals less than three acres at each bridge and the proposed project descriptions

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correspond to the description of the project categories identified in the PBO. The Service finds the three proposed projects consistent with a review of covered activities described in the PBO. The proposed project activities are discussed in more detail in the following paragraphs.

Pursuant to the PBO, Caltrans classified the project categories of the proposed action as Type 1, Type 2, and Type 4. PBO Type 1 projects (Highway Rehabilitation) are associated with highway rehabilitation consisting of grinding existing road pavement and overlaying the prepared surface with new asphaltic concrete (AC). Actions include grading of shoulders and road embankments, placement of shoulder backing, striping or widening of existing shoulders, replacing or installing guardrails, trimming or removing vegetation at intersections, installing traffic signals or left/right turn lanes, re-striping, and instituting traffic control measures. Drainage standardization consists of grading existing roadside channels, installing new roadside channels or drainage devices, and extending culverts (Table 1).

Type 2 projects (Drainage Improvement) consist of constructing new erosion control devices adjacent to existing culverts or bridges, repairing existing facilities, replacing culverts, and armouring including upgrading to larger sized culverts. Check dams and stilling basins require excavating soil within the wash or channel and its bank, and placing concrete or rock slope protection. Sediment catch basins require excavating areas on the inlet side of culverts or ditches, and constructing dikes to direct the flow of water (Table 1).

Type 4 projects (Bridge Rehabilitation) consist of removing the AC deck or replacing decks, reconstructing approaches, applying a seal coat, and sand blasting the underside of the bridge to inspect for damage. Bridge replacement consists of removing and replacing the entire bridge structure and its pillars with a new bridge; pillar removal requires excavation. Temporary access roads may be needed to access the area underneath the bridges. Some bridge rehabilitation work may require installing temporary traffic detour crossovers across the highway median; crossovers would include construction of drainage structures to channel run-off from the construction site (Table 1).

If applicable, all conservation measures, reasonable and prudent measures, and terms and conditions of the PBO would be implemented. The measures listed below are consistent with the project categories and their associated measures identified in the PBO and shall be implemented for the proposed projects.

- If desert tortoises were observed within the project area, the resident engineer would cease operations immediately and contact the authorized biologist. Desert tortoises shall be allowed to move through the project area (PBO Conservation Measure #12 and #13).
- Omit (PBO Conservation Measures # 2 and #11).

Table 1. List of 32 bridge locations, Types, bridge's identification, and bridge rehabilitation and maintenance site description.

PROJECT LOCATION	TYPE	BRIDGE INFORMATION	PROJECT DESCRIPTION
Between Postmile 74.5 and 77.4/ East of Coachella	1; 4	Seven bridges: East Cactus City Undercrossing (#56-0511L); Aqueduct Wash (#56-0579R and #56-0579L); Happy Gulch (#56-0209L); Sad Gulch (#56-0580R and #56-0580L), Desperation Arroyo (#56-0464L).	Rehabilitate and maintain seven bridges: the proposed work would consist of removing existing asphalt concrete (AC) overlay on the bridge deck, installing barrier rails, removing all loose concrete, and repairing the cracks with quick set concrete.
Between Postmile 78.2 and 90.5/ Cottonwood Spring and Hayfield Quadrangles.	1; 2; and 4	Thirteen bridges: including rehabilitation and maintenance of the Chiriaco Overcrossing, Hayfield Road Overcrossing.	Rehabilitate and maintain eleven bridges: the proposed work would consist of replacing metal beam guardrails and posts; replacing missing G-11 signs and bridge stencilling; removing existing AC overlay on the bridge deck; removing all loose concrete and repairing the cracks with quick set concrete; sandblasting/cleaning and applying methacrylate seal on the entire deck surface; chipping/removing unsound concrete and epoxy injecting the soffit cracks; repairing the bridge deck surface drainage; sealing AC transverse cracks and repairing the bridge approaches; constructing AC curbs; patching concrete barrier rails; and repairing failed AC dikes at the ends of the bridge concrete barriers. Rehabilitate two additional bridges, the Chiriaco Overcrossing and Hayfield Road Overcrossing: the proposed work requires backfilling and compacting of the eroded side slopes under each of the overcrossings. These two projects would impact less than three acres of already disturbed habitat under the bridges.
Between Postmile 90.6 and 98.7/Hayfield, Hayfield Spring, and Desert Center Quadrangles.	4	Twelve bridges.	Rehabilitate and maintain twelve bridges: the proposed work would consist of removing existing AC overlay on the bridge deck; removing and patching all deck/joint concrete spalls; placing a coat of methacrylate seal on the entire deck surface; replacing damaged/failed and missing joint seals; placing ¾ inch polyester concrete overlay on the entire deck; and replacing missing G-11 signs and bridge stencilling.

- Designate a Construction/Mitigation/Maintenance Monitor (CM3) who would be an authorized biologist to ensure that the conservation measures are implemented (PBO Conservation Measures #3, #4, and #15).
- Desert tortoises encountered within a Project area may be captured, but only if necessary to move the desert tortoise from harm's way during operational improvement activities and small projects. Please note only a CM3 is allowed to handle tortoises.
- Conduct a pre-construction survey (PBO Conservation Measures #5, #9, and #29).

- If the project requires ground disturbing activities, construct desert tortoise fencing around the contractor's storage sites to ensure that no tortoise inhabit the storage sites (PBO Conservation Measure #10).
- Conduct worker training (PBO Conservation Measure #6).
- Remove invasive plant species and plant no exotic plant species (PBO Conservation Measures #16, #21, and #22).
- Require the contractor to use appropriate methods for project to avoid and minimize take of desert tortoise (PBO Conservation Measure #7, #8, #15, #16, #17, #19, #20, #23, #27, #28, #30, and #31).
- Implement PBO Terms and Conditions #1 and #4.
- Implement Reasonable and Prudent Measures #1 and #2.

To date, Caltrans has reported no incidental take associated with the PBO. According to the PBO, incidental take is expected to be in the form of killing, wounding, harming, harassing, or capturing of desert tortoise. Under the PBO, up to two (2) desert tortoises could potentially be wounded or killed during covered activities. If one desert tortoise is injured or killed, the CM3 would immediately contact the Service and California Department of Fish and Game. The Service and Caltrans would discuss the situation in which the desert tortoise was killed or injured and develop any appropriate avoidance and minimization measures to ensure that no further injuries or deaths of desert tortoises occur from Project construction.

We have assigned log number FWS-ERIV-08B0407/08I0436 to this consultation. Please refer to that number in future correspondence on this consultation. This letter finds the three proposed projects for 32 bridge and highway rehabilitation and drainage improvement activities along I-10 consistent with the covered activities identified in the PBO. We appreciate your coordination on this project. Should you have any questions regarding this letter, please contact Peggy Bartels of my staff at (760) 431-9440 extension 310.

Sincerely,



Therese O'Rourke
Assistant Field Supervisor

cc Tami Nakahara, Environmental Planner, Caltrans District 8
Craig Weightman, California Department of Fish and Game

Enclosures

Caltrans
Information Brochure

Protection
Of the
DESERT TORTOISE
(Gopherus agassizii)
During
LIMITED SCOPE
PROJECTS

THE
DESERT TORTOISE
(A THREATENED SPECIES)

“IS PROTECTED BY LAW”

**ANY UNAUTHORIZED PERSON
WHO COLLECTS, HANDLES
OR DELIBERATELY MOLESTS A
TORTOISE
CAN
BE
PROSECUTED**

VIOLATIONS CAN RESULT IN

- 1) FINES UP TO \$50,000
AND/OR**
- 2) IMPRISONMENT UP TO 1 YEAR**

APPLICABLE LAWS INCLUDE:

The Federal Endangered Species Act of 1973
(16 U.S.C. 1531-1543)

and

The California Endangered Species Act

THIS BROCHURE IS INTENDED TO PROVIDE YOU WITH INFORMATION AND GUIDANCE
TO AVOID VIOLATION OF THE ENDANGERED SPECIES ACTS

RESOURCE AGENCY FORMAL CONSULTATION

Limited scope projects normally have a low risk of encountering or harming a tortoise and no “TAKE” is anticipated. Therefore, Formal Consultation between Caltrans and the U.S. Fish and Wildlife Service under Section 7 of the federal Endangered Species Act has not been undertaken for this project to authorize “TAKE” during the conduct of this project.

“TAKE” is defined as:

Harassing, Harming, Pursuing, Hunting, Shooting, Wounding, Killing, Capturing, Collecting, or attempting to engage in any such conduct. Engaging in any of these activities can place you in violation of the law.

Tortoises found within Caltrans Right of Way are not exempt from this protection.

WHAT TO DO AND NOT DO.

CHECK UNDER MOTORIZED EQUIPMENT & VEHICLES – that have been parked over night or stationary for some length of time before moving the vehicle.

CHECK AROUND MATERIAL STACKS & UNITS - that have been stored in the open before moving them.

VISUALLY CHECK AROUND THE WORK AREA – for the presence of live tortoise that may have wandered into the disturbance zone. It is not intended to divert your attention from your work tasks and create a hazard for your or others on the job, but it is good practice to utilize a few seconds and visually scan the area around you when it is safe to do so.

IF A TORTOISE IS PRESENT – stop all work activities that could harm the tortoise and contact the Resident Engineer or designated contact person, or on-site biologist to have the tortoise removed to safety. Contact your supervisor (contractor’s) for direction on proceeding with work activities.

DO NOT HANDLE OR MOVE A TORTOISE – yourself. Only a qualified biologist is authorized to do so.

DO NOT RETURN A TORTOISE – to the wild that has been held in captivity. They may have been infected with a pneumonia type virus that is the cause of pneumonia infections in humans. The tortoise is highly susceptible to this virus which attacks the lungs and the tortoise has no means to cure itself. More tortoises die from pneumonia than any other cause. Symptoms of infection include runny or bubbly nose, loss of appetite and gasping for breath. Returning them to the wild increases the potential for exposure of the virus into an otherwise healthy tortoise population.

HELP MAKE THE LITTER CONTROL REQUIREMENTS ON THIS PROJECT – work by using the closeable trash containers to dispose of left over food scraps, wrappers, cans bottles, etc., or secure and remove them from the project with you when you leave the job site. The purpose of litter control is to avoid attracting Ravens which are highly efficient hunters and killers of baby tortoises.

DO NOT NEEDLESSLY VENTURE OUT OF THE DESIGNATED WORK AREA – into adjoining habitat areas unless directed to do so after the area has been approved for such activity. Doing so, disturbs habitat which is also protected under the Endangered Species Acts.

ASK YOUR SUPERVISOR - if any other environmentally related special provisions have been placed in the contract exist that you should know about. We do recommend that environmental protection measures be reiterated and discussed at on-site “tail gate” meetings with safety and other project related issues brought up by your supervisor(s).

**WE THANK YOU FOR YOUR COOPERATION
AND CARE**

IN KEEPING WITH AMERICA’S DESIRE TO PROTECT THE ENVIRONMENT