

APPENDIX 1

Report on Proposed Action to be Covered by the
Programmatic Biological Opinion (8-8-13-F-0279) on
California Department of Transportation's Small Projects and
Operational Improvement Activities in Desert Tortoise Habitat in
Imperial, Riverside, Inyo, Eastern Kern, Los Angeles,
and San Bernardino Counties, California

Name of Project: EA 1C910 EFIS ID: 0813000082

Type of Activity:

Caltrans proposes to install ground-in rumble strips along the centerline (passing and no passing) and along outside shoulders on the segment of State Route 95. This project is classified as Type 1 Highway Rehabilitation project. As a covered activity under the programmatic biological opinion for desert tortoise, Caltrans will seek concurrence from United States Fish and Wildlife Service (USFWS) for coverage of the project utilizing the programmatic biological opinion.

Location of Activity:

Roadway: State Route 95 (SR-95)

Begin Milepost: 57.2

End Milepost: PM 80.5

General Locality: North of Needles to the Nevada state line

Map Attached: Yes



Timing of project:

Start Date: March 2016

End Date: May 2016

Brief description of project:

Caltrans proposes to install ground-in rumble strips along the centerline (passing and no passing) and along outside shoulders on the segment of State Route 95.

Conservation measures to be implemented:

- Bio-1 Species Protection
 - An education program will be developed and presented by the authorized biologist prior to the onset of ground-disturbing activities to be conducted under the auspices of this consultation. All onsite personnel including surveyors, construction engineers, employees, contractors, contractor's employees, supervisors, inspectors, subcontractors, and delivery personnel employed for a project will be required to participate in an education program regarding the desert tortoise before performing on-site work. The program will consist of a class presented by an authorized biologist or a video, provided the authorized biologist

is present to answer questions. Wallet-sized cards or a one-page handout with important information for workers to carry are recommended as a future reference and a reminder of the program's content. The program will cover the following topics at a minimum:

- a. the distribution, general behavior, and ecology of the desert tortoise;
 - b. its sensitivity to human activities;
 - c. the protection it is afforded by the Endangered Species Act;
 - d. penalties for violations of State and Federal Laws;
 - e. notification procedures by workers or contractors if a tortoise is found in a construction area, and;
 - f. protective measures specific to each project.
- Bio-2 Species Protection
 - A contractor supplied biologist(s) will conduct on-site monitoring, if required. The biologist(s) will be present during all activities in which encounters with tortoises may occur. The biologist(s) will accompany any crew or person involved in that activity and shall have authority to direct movement to avoid harm to a tortoise or burrow.
 - Bio-3 Species Protection
 - No Asphalt (AC) grindings will be stored or left on the project site.
 - Bio-4 Water Pollution Control
 - All applicable Best Management Practices (BMPs) in the Caltrans Construction Site Best Management Practices Manual (2003) would be followed. The contractor would be required to submit a Storm Water Pollution Prevention Plan (SWPPP) to address water quality protection. Periodic monitoring by Caltrans Stormwater unit would assess the effectiveness of the BMPs.
 - No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or washings thereof, oil or petroleum products or other organic or earthen material from any construction or associated activity of whatever nature shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into washes or culverts that cross the project area.
 - Cement/concrete or washing thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic-life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering washes or culverts that cross the project area.
 - No equipment maintenance/parking or fueling shall be done within or near any stream, harbor or channel margin, including drainages and washes, where petroleum products or other pollutants from equipment shall enter these areas under any flow condition.
 - Excess materials, debris and trash shall be controlled on site and removed as soon as possible.
 - Caltrans Standard Specifications dust control measures shall be implemented. Attention is directed to "Water Pollution Control" of these special provisions. Grindings and asphaltic-concrete waste shall be stored only within previously disturbed areas, in accordance with the requirements of the Best Practices

Management (BMP) manual, except that Grindings and asphaltic-concrete waste shall not be stored within 76 meters of any culvert, wash, or stream crossing.

- Bio 5
 - Temporary Desert tortoise fencing will be installed at staging areas where the biologist deems necessary.
- Bio-6
 - Project personnel shall carefully check under parked vehicles or equipment for desert tortoises before moving them. Desert tortoises found within the staging and/or construction areas will be allowed to move away from such areas to a location away from danger, on their own accord. Project activities shall recommence only once the desert tortoise is safely outside the project areas.
- Bio-7
 - Litter control measures will be implemented. All litter should be contained in containers with secured lids to prevent attracting common ravens or other potential predators of the desert tortoise. Workers are prevented from feeding all wildlife.
- Bio-8
 - Any disturbance to native vegetation would be minimized to the greatest extent possible and must be approved by a Caltrans Supplied Biologist and/or Resident Engineer.
- Bio-9
 - Construction staging and storage areas shall be located away from undisturbed areas, including vacant fields, with minimal risk of discharge into drainages or other sensitive habitat types. Only previously disturbed areas, such as turnouts and paved areas may be used for these purposes. The Resident Engineer and/or Contractor supplied Biologist shall coordinate on such sites prior to their approval/use. All construction work zones, staging/parking and material storage areas will be identified prior to the initiation of proposed construction activities within the proposed Project site.
- Bio-10
 - If a desert tortoise happens to wander onto the road and is in immediate threat of mortality, workers will move the desert tortoise off the road.

Determination (provide rationale for your determination):

May Affect, Not Likely to Adversely Affect:

There is desert tortoise habitat close by adjacent to the project footprint but not within the actual project footprint. The project area is within the existing roadbed where the rumble strips will be placed. All work is to be confined to the pavement within Caltrans' existing paved right of way. The project area has been affected by previous highway maintenance activities. This project is classified as Type 1 Highway Rehabilitation project. As a covered activity under the programmatic biological opinion for desert tortoise, Caltrans will seek concurrence from United States Fish and Wildlife Service (USFWS) for coverage of the project utilizing the programmatic biological opinion.

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 you 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