

# INFORMATION HANDOUT

**For Contract No. 08-0J9304  
At 08-SBd-15-147.6**

**Identified by  
Project ID 0800020192**

## **PERMITS**

California Department of Fish and Wildlife  
Water Quality Certification from State Water Resources Control Board

## **WATER QUALITY**

California Regional Water Quality Control Board  
Lahotan Region  
Board Order No. 2003-0017-DWG

## **AGREEMENTS**

United States Department of the Interior  
Fish and Wildlife Service

## **DESERT TORTOISE**

Information Brochure for Protection of Desert Tortoise



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Inland Deserts Region  
3602 Inland Empire Blvd, Suite C-220  
Ontario, CA 91764  
www.wildlife.ca.gov

EDMUND G. BROWN, Jr., Governor  
CHARLTON H. BONHAM, Director



March 10, 2014

Scott Quinnell  
California Department of Transportation  
464 West 4<sup>th</sup> Street, Mailstop 822  
San Bernardino, CA 92401

Subject: Notification of Streambed Alteration No. 1600-2013-0181-R6  
Interstate 15 – Halloran Wash Rehabilitation Project

Dear Mr. Quinnell,

The California Department of Fish and Wildlife (Department) had until February 28, 2014 to submit a draft Streambed Alteration Agreement (Agreement) to you or inform you that an Agreement is not required. The Department did not meet that date. As a result, by law, you may now complete the project described in your notification without an Agreement.

Please note that pursuant to Fish and Game Code section 1602(a)(4)(D), if you proceed with this project, it must be the same as described and conducted in the same manner as specified in the notification and any modifications to that notification received by the Department in writing prior to December 30, 2013. This includes completing the project within the proposed term and seasonal work period and implementing all avoidance and mitigation measures to protect fish and wildlife resources specified in the notification. If the term proposed in your notification has expired, you will need to re-notify the Department before you may begin your project. Beginning or completing a project that differs in any way from the one described in the notification may constitute a violation of Fish and Game Code section 1602.

Also note that while you are entitled to complete the project without an Agreement, you are still responsible for complying with other applicable local, state, and federal laws. These include, but are not limited to, the state and federal Endangered Species Acts and Fish and Game Code sections 5650 (water pollution) and 5901 (fish passage).

Finally, if you decide to proceed with your project without an Agreement, you must have a copy of this letter and your notification with all attachments available at all times at the work site. If you have any questions regarding this matter, please contact Rebecca Jones at 661- 285-5867 or [Rebecca.Jones@wildlife.ca.gov](mailto:Rebecca.Jones@wildlife.ca.gov).

Sincerely,

Heidi A. Sickler  
Senior Environmental Scientist

cc: Rebecca Jones  
Chron

## STATE WATER RESOURCES CONTROL BOARD

### WATER QUALITY ORDER NO. 2003 - 0017 - DWQ

#### STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS FOR DREDGED OR FILL DISCHARGES THAT HAVE RECEIVED STATE WATER QUALITY CERTIFICATION (GENERAL WDRs)

The State Water Resources Control Board (SWRCB) finds that:

1. Discharges eligible for coverage under these General WDRs are discharges of dredged or fill material that have received State Water Quality Certification (Certification) pursuant to federal Clean Water Act (CWA) section 401.
2. Discharges of dredged or fill material are commonly associated with port development, stream channelization, utility crossing land development, transportation water resource, and flood control projects. Other activities, such as land clearing, may also involve discharges of dredged or fill materials (e.g., soil) into waters of the United States.
3. CWA section 404 establishes a permit program under which the U.S. Army Corps of Engineers (ACOE) regulates the discharge of dredged or fill material into waters of the United States.
4. CWA section 401 requires every applicant for a federal permit or license for an activity that may result in a discharge of pollutants to a water of the United States (including permits under section 404) to obtain Certification that the proposed activity will comply with State water quality standards. In California, Certifications are issued by the Regional Water Quality Control Boards (RWQCB) or for multi-Region discharges, the SWRCB, in accordance with the requirements of California Code of Regulations (CCR) section 3830 et seq. The SWRCB's water quality regulations do not authorize the SWRCB or RWQCBs to waive certification, and therefore, these General WDRs do not apply to any discharge authorized by federal license or permit that was issued based on a determination by the issuing agency that certification has been waived. Certifications are issued by the RWQCB or SWRCB before the ACOE may issue CWA section 404 permits. Any conditions set forth in a Certification become conditions of the federal permit or license if and when it is ultimately issued.
5. Article 4, of Chapter 4 of Division 7 of the California Water Code (CWC), commencing with section 13260(a), requires that any person discharging or proposing to discharge waste, other than to a community sewer system, that could affect the quality of the waters of the State,<sup>1</sup> file a report of waste discharge (ROWD). Pursuant to Article 4, the RWQCBs are required to prescribe waste discharge requirements (WDRs) for any proposed or existing discharge unless WDRs are waived pursuant to CWC section 13269. These General WDRs fulfill the requirements of Article 4 for proposed dredge or fill discharges to waters of the United States that are regulated under the State's CWA section 401 authority.

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<sup>1</sup> "Waters of the State" as defined in CWC Section 13050(e)

6. These General WDRs require compliance with all conditions of Certification orders to ensure that water quality standards are met.
7. The U.S. Supreme Court decision of *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001) (the SWANCC decision) called into question the extent to which certain “isolated” waters are subject to federal jurisdiction. The SWRCB believes that a Certification is a valid and enforceable order of the SWRCB or RWQCBs irrespective of whether the water body in question is subsequently determined not to be federally jurisdictional. Nonetheless, it is the intent of the SWRCB that all Certification conditions be incorporated into these General WDRs and enforceable hereunder even if the federal permit is subsequently deemed invalid because the water is not deemed subject to federal jurisdiction.
8. The beneficial uses for the waters of the State include, but are not limited to, domestic and municipal supply, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation, and preservation and enhancement of fish, wildlife, and other aquatic resources.
9. Projects covered by these General WDRs shall be assessed a fee pursuant to Title 23, CCR section 3833.
10. These General WDRs are exempt from the California Environmental Quality Act (CEQA) because (a) they are not a “project” within the meaning of CEQA, since a “project” results in a direct or indirect physical change in the environment (Title 14, CCR section 15378); and (b) the term “project” does not mean each separate governmental approval (Title 14, CCR section 15378(c)). These WDRs do not authorize any specific project. They recognize that dredge and fill discharges that need a federal license or permit must be regulated under CWA section 401 Certification, pursuant to CWA section 401 and Title 23, CCR section 3855, et seq. Certification and issuance of waste discharge requirements are overlapping regulatory processes, which are both administered by the SWRCB and RWQCBs. Each project subject to Certification requires independent compliance with CEQA and is regulated through the Certification process in the context of its specific characteristics. Any effects on the environment will therefore be as a result of the certification process, not from these General WDRs. (Title 14, CCR section 15061(b)(3)).
11. Potential dischargers and other known interested parties have been notified of the intent to adopt these General WDRs by public hearing notice.
12. All comments pertaining to the proposed discharges have been heard and considered at the November 4, 2003 SWRCB Workshop Session.
13. The RWQCBs retain discretion to impose individual or General WDRs or waivers of WDRs in lieu of these General WDRs whenever they deem it appropriate. Furthermore, these General WDRs are not intended to supersede any existing WDRs or waivers of WDRs issued by a RWQCB.

IT IS HEREBY ORDERED that WDRs are issued to all persons proposing to discharge dredged or fill material to waters of the United States where such discharge is also subject to the water quality certification requirements of CWA section 401 of the federal Clean Water Act (Title 33 United States Code section 1341), and such certification has been issued by the applicable RWQCB or the SWRCB, unless the applicable RWQCB notifies the applicant that its discharge will be regulated through WDRs or waivers of WDRs issued by the RWQCB. In order to meet the provisions contained in Division 7 of CWC and regulations adopted thereunder, dischargers shall comply with the following:

1. Dischargers shall implement all the terms and conditions of the applicable CWA section 401 Certification issued for the discharge. This provision shall apply irrespective of whether the federal license or permit for which the Certification was obtained is subsequently deemed invalid because the water body subject to the discharge has been deemed outside of federal jurisdiction.
2. Dischargers are prohibited from discharging dredged or fill material to waters of the United States without first obtaining Certification from the applicable RWQCB or SWRCB.

#### CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 19, 2003.

AYE: Arthur G. Baggett, Jr.  
Peter S. Silva  
Richard Katz  
Gary M. Carlton  
Nancy H. Sutley

NO: None.

ABSENT: None.

ABSTAIN: None.

  
Debbie Irvin  
Clerk to the Board

Lahontan Regional Water Quality Control Board

MEMORANDUM

**TO:** Scott Quinnell  
California Department of Transportation, District 8  
464 W. 4<sup>th</sup> Street, 6<sup>th</sup> Floor, MS 822  
San Bernardino, CA 92401-1400  
Email: [scott\\_quinnell@dot.ca.gov](mailto:scott_quinnell@dot.ca.gov)

**FROM:**   
PATTY Z. KOUYOUMDJIAN, EXECUTIVE OFFICER  
LAHONTAN REGIONAL WATER QUALITY CONTROL BOARD

**DATE:** March 12, 2014

**SUBJECT: ORDER NO. R6V-2014-0020, FOR CLEAN WATER ACT SECTION 401  
WATER QUALITY CERTIFICATION, HALLORAN WASH BRIDGE  
REHABILITATION PROJECT, SAN BERNARDINO COUNTY,  
WDID NO. 6B361401002**

The California Regional Water Quality Control Board, Lahontan Region (Water Board) has received project information from the California Department of Transportation (Applicant) and an application filing fee to complete an application for Clean Water Act (CWA) Section 401 Water Quality Certification (WQC) for the Halloran Wash Bridge Rehabilitation Project (Project). This Order for WQC is based upon the information provided in the application and subsequent correspondence received in support of the application.

Any person aggrieved by this action of the Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with California Water Code (CWC), section 13320, and California Code of Regulations (CCR), title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the internet at [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality), or will be provided upon request.

**PROJECT DESCRIPTION**

This WQC is based upon the information you provided. Project details are summarized in the following table.

**Table of Project Information:**

WDID Number	6B361401002						
Applicant	Scott Quinnell California Department of Transportation, District 8 464 West 4 <sup>th</sup> Street, 6 <sup>th</sup> Floor, MS 822 San Bernardino, CA 92401-1400 Email: scott.quinnell@dot.ca.gov						
Agent	Josh Jaffery, California Department of Transportation email: josh.jaffery@dot.ca.gov						
Project Name	Halloran Wash Bridge Rehabilitation Project						
Project Purpose and Description	The Project is to provide structural support to the existing Halloran Wash bridges along Interstate 15 (northbound and southbound). A temporary access road will be constructed on the west side of the southbound traffic lanes for equipment ingress and egress into the Project area.						
Project Type	Transportation, Bridges, Overpasses and Crossings						
Project Address or other Locating Information	Interstate 15, approximately 10 miles northeast of Baker, San Bernardino County						
Latitude/Longitude	Latitude: 35.36199 Longitude: -115.92198 (center)						
Hydrologic Unit(s)	Mojave Hydrologic Unit 628.00, Baker Hydrologic Area 628.80, Soda Lake Subhydrologic Area 628.82						
Project Area	0.81 acres						
Receiving Water(s) Name	Halloran Wash						
Water Body Type(s)	Minor surface waters						
Designated Beneficial Uses	MUN, AGR, GWR, REC-1, REC-2, WARM, COLD, WILD						
Potential Water Quality Impacts to Waters of the United States (WOUS)	Hydrogeomorphic changes in the flow regime on the Project site may result in downstream erosion, sedimentation, and/or siltation.						
Project Impacts (Fill) to WOUS	<b>Waterbody Type</b>	<b>Permanent</b>			<b>Temporary</b>		
		Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards
	<i>Stream</i>	0.000 2	5	-	0.486	266	-
Federal Permit(s)	The Applicant has applied for coverage under a U.S. Army Corps of Engineers (USACOE) Nationwide Permit 14 (Linear Transportation Projects) pursuant to section 404 of the CWA.						
Non-Compensatory Mitigation	During construction, the Applicant will follow Best Management Practices (BMPs) including construction storm water controls designed to minimize the short-term degradation of water quality.						

**Table of Project Information:**

Compensatory Mitigation	All temporary impact areas will be restored (re-graded and re-contoured) to match pre-Project conditions.
Applicable Fees	\$4,457 (\$1,097 base fee + [\$10.97 per linear foot x 271 linear feet of permanent and temporary impact for channel discharges] + \$387 ambient surcharge) <sup>1</sup> ; fees are calculated based on channel discharges to federal waters
Fees Received	\$7,592
Refund Due	\$3,135 (a refund of overpayment will be processed concurrently with issuance of the WQC)

<sup>1</sup>The ambient surcharge is 9.5% of the sum of the base fee plus the discharge fee.

**CEQA COMPLIANCE**

The Water Board finds that the Project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to CCR, title 14, section 15301, Existing Facilities, for the maintenance of and minor alteration to an existing structure with negligible to no expansion of use. The Water Board will file a Notice of Exemption with the State Clearinghouse concurrently with this Order.

**SECTION 401 WATER QUALITY CERTIFICATION****Authority**

CWA, section 401 (33 U.S.C., paragraph 1341), requires that any applicant for a CWA, section 404 permit, who plans to conduct any activity that may result in discharge of dredged or fill materials to WOUS, shall provide to the permitting agency a certification that the discharge will be in compliance with applicable water quality standards of the state in which the discharge will originate. No section 404 permit may be granted (or valid) until such certification is obtained. The Applicant submitted a complete application and the fees required for WQC under section 401 of the CWA for the Project. The USACOE will regulate the Project under Nationwide Permit 14 (Linear Transportation Projects) pursuant to section 404 of the CWA. CCR, title 23, section 3831(e) grants the Executive Officer the authority to grant or deny WQC for projects in accordance with CWA section 401. The proposed Project qualifies for such WQC.

**Standard Conditions**

Pursuant to CCR, title 23, section 3860, the following standard conditions are requirements of this certification:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to CWC, section 13330 and CCR, title 23, section 3867.
2. This certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license unless the pertinent

certification application was filed pursuant to CCR, title 23, section 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. The validity of any non-denial certification action must be conditioned upon total payment of the full fee required under CCR, title 23, section 3833, unless otherwise stated in writing by the certifying agency.
4. Neither Project construction activities nor operation of the Project may cause a violation of the *Water Quality Control Plan for the Lahontan Region* (Basin Plan), may cause a condition or threatened condition of pollution or nuisance, or cause any other violation of the CWC.
5. The Project must be constructed and operated in accordance with the Project described in the application for WQC that was submitted to the Water Board. Deviation from the Project description constitutes a violation of the conditions upon which the certification was granted. Any significant changes to this Project that would have a significant or material effect on the findings, conclusions, or conditions of this certification, including Project operation, must be submitted to the Executive Officer for prior review and written approval.
6. This WQC is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any conditions contained in any other permit or approval issued by the state of California or any subdivision thereof may result in the revocation of this WQC and civil or criminal liability.
7. The Water Board may add to or modify the conditions of this certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the CWC or section 303 of the CWA, or as appropriate to coordinate the operations of this Project with other projects where coordination of operations is reasonably necessary to achieve water quality standards or to protect the beneficial uses of water. Notwithstanding any more specific conditions in this certification, the Project must be constructed and operated in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the CWC or section 303 of the CWA.
8. This certification does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under the California Endangered Species Act (Fish and Wildlife Code, section 2050 et seq.) or the federal Endangered Species Act (16 USC, section 1531 et seq.). If a "take" will result from any act authorized under this certification, the Applicant must obtain authorization for the take prior to construction or operation of the Project. The Applicant is responsible for meeting all requirements of the applicable Endangered Species Act for the Project authorized under this certification.

**Additional Conditions**

Pursuant to CCR, title 23, section 3859, subdivision (a), the following additional conditions are required with this certification:

1. To document the completion of the Project, the Applicant must submit a **Project Completion Report** to the Water Board by **February 13, 2015**. The Project Completion Report should include the following, at minimum: a summary of the Project activities, including the date(s) those activities were performed, the total volume of material excavated and replaced, and the total area of permanent and temporary disturbance; a summary of the activities related to water diversion, including dates, methods used, and BMPs used; photo documentation of the completed Project; and a summary of any activities that deviated from those described in the original application and supporting documents.
2. All temporary impact areas will be restored to pre-Project conditions.
3. All surface waters must be diverted away from areas undergoing grading, construction, filling, vegetation removal, and/or any other similar construction activity. If surface water diversions are anticipated, the Applicant must develop and implement a **Surface Water Diversion Plan**. The plan must include the proposed method and duration of diversion activities, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. Diversion activities must not result in the degradation of beneficial uses or exceedance of water quality objectives for the receiving waters as defined and described in the Basin Plan. The Basin Plan can be accessed online at [http://www.waterboards.ca.gov/lahtontan/water\\_issues/programs/basin\\_plan/index.shtml](http://www.waterboards.ca.gov/lahtontan/water_issues/programs/basin_plan/index.shtml). A copy of the Surface Water Diversion Plan must be submitted to the Water Board prior to any water diversion activities.
4. Work within the channel is authorized only during dry weather conditions. Should inclement weather occur, all work within the channel must stop and all equipment and materials must be removed from the channel.
5. No debris, cement, concrete (or wash water there from), oil, or petroleum products must be allowed to enter into or be placed where it may be washed from the Project site by rainfall or runoff into surface waters. When operations are completed, any excess material and/or soil must be removed from the Project work area and any areas adjacent to the work area where such material may be transported into surface waters.
6. An emergency spill kit must be at the Project site at all times during Project construction.

7. Construction vehicles and equipment must be monitored for leaks and proper BMPs must be implemented should leaks be detected or the vehicles/equipment must be removed from service, if necessary, to protect water quality.
8. The Applicant must permit Water Board staff or their authorized representative(s) upon presentation of credentials:
  - a. Entry onto Project premises, including all areas on which fill, excavation or mitigation is located or in which records are kept;
  - b. Access to copy any record required to be kept under the terms and conditions of this WQC;
  - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this WQC; and
  - d. Sampling of any discharge or surface water covered by this WQC.
9. The Applicant must maintain at the Project site a copy of this Order and a copy of the complete WQC application provided to the Water Board so as to be available at all times to site operating personnel and agencies.
10. The Applicant is responsible for informing any contractors of the specific conditions contained in this WQC Order.

### **Enforcement**

1. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation will be subject to any remedies, penalties, processes or sanctions, as provided for under state law. For purposes of CWA, section 401(d), the applicability of any state law authorizing remedies, penalties, processes or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this WQC.
2. In response to a suspected violation of any condition of this certification, the State Water Board or the Water Board may require the holder of any permit or license subject to this WQC to furnish, under penalty of perjury, any technical or monitoring report that the State Water Board or Water Board deems appropriate, provided that the burden, including costs, of the reports must be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
3. In response to any violation of the conditions of this certification, the Water Board may add to or modify the conditions of this certification, as appropriate, to ensure compliance.

**Section 401 Water Quality Certification Requirements Granted**

I hereby issue this Order certifying that any discharge from the referenced Project will comply with the applicable provisions of CWA, sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards), and with other applicable requirements of state law. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification," which requires compliance with all conditions of this WQC. A copy of State Water Board Order No. 2003-0017-DWQ is enclosed for your reference (Enclosure 2).

Except insofar as may be modified by any preceding conditions, all WQC actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the Applicant's Project description and the terms specified in this WQC Order, and (b) compliance with all applicable requirements of the Basin Plan.

We look forward to working with you in your efforts to protect water quality. If you have questions, please contact Jan Zimmerman, Engineering Geologist, at (760) 241-7376 ([jan.zimmerman@waterboards.ca.gov](mailto:jan.zimmerman@waterboards.ca.gov)), or Patrice Copeland, Senior Engineering Geologist, at (760) 241-7404 ([patrice.copeland@waterboards.ca.gov](mailto:patrice.copeland@waterboards.ca.gov)). Please use the WDID referenced in the subject line of this WQC for future correspondence regarding this Project.

Enclosure: SWRCB Order No. 2003-0017-DWQ

cc: Josh Jaffery, California Department of Transportation  
(via email, [josh.jaffery@dot.ca.gov](mailto:josh.jaffery@dot.ca.gov))  
Veronica Chan, USACE  
(via email, [Veronica.C.Chan@usace.army.mil](mailto:Veronica.C.Chan@usace.army.mil))  
Heather Weiche, California Department of Fish and Wildlife  
(via email, [heather.weiche@wildlife.ca.gov](mailto:heather.weiche@wildlife.ca.gov))  
SWRCB, Division of Water Quality  
(via email, [stateboard401@waterboards.ca.gov](mailto:stateboard401@waterboards.ca.gov))



# United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Ventura Fish and Wildlife Office  
2493 Portola Road, Suite B  
Ventura, California 93003

IN REPLY REFER TO:  
08EVEN00-2013-I-0143

March 13, 2013

Scott Quinnell, Office Chief  
Biological Studies and Permits Branch  
District 8, California Department of Transportation  
464 W. Fourth Street, 6<sup>th</sup> Floor, MS-822  
San Bernardino, CA 92401-1400

Subject: Route 15, Halloran Wash Bridge Rehabilitation, San Bernardino County,  
California (08-SBD-15-PM 147.6)

Dear Mr. Quinnell:

We are responding to your request, dated February 13, 2013, and received in our office on February 19, 2013, requesting our concurrence with your determination that the proposed project is not likely to adversely affect the federally threatened desert tortoise (*Gopherus agassizii*). The California Department of Transportation (Caltrans) proposes to rehabilitate the Halloran Wash Bridge. The Federal Highway Administration has delegated authority for consultation to Caltrans; consequently, your request and our response are made pursuant to section 7(a)(2) of the Endangered Species Act of 1973, as amended.

The proposed project involves constructing continuous footings at each bent (part of a bridge substructure), building infill walls between the existing columns, and constructing upstream nose protection. A temporary dirt road on the west side of the southbound Interstate 15 will be provided to access the wash. All work will be confined to within Caltrans' existing right of way.

Caltrans has determined that the project impacts to desert tortoise are minimal and would be covered under the *Programmatic Endangered Species Consultation for California Department of Transportation's Small Projects and Highways Operational Improvement Activities in Imperial, Los Angeles, Riverside, Kern, Inyo, and San Bernardino Counties* (1-6-05-P-3595) dated January 12, 2006. This project is classified as a Type 4 bridge rehabilitation project (as defined in the 2006 biological opinion) and the impacts associated with this project are less than three acres.

The habitat within the project site is disturbed; however, it is surrounded by suitable habitat for the desert tortoise. Therefore, Caltrans has proposed to implement several measures to ensure impacts on the desert tortoise are avoided. These include, but are not limited to, conducting a pre-construction survey, installing temporary desert tortoise exclusion fence around the project site, monitoring initial brushing and grading activities by a qualified biologist, educating workers regarding the protection and avoidance of desert tortoises, and litter control. Furthermore, if a

desert tortoise is sighted within the project action area, construction activity will be halted until the desert tortoise leaves on its own accord. The Natural Environment Study included with your request for concurrence contains a list of the protective measures.

Because desert tortoises are highly unlikely to occur in the work area, the habitat that would be lost as a result of the rehabilitation efforts has been highly disturbed, and Caltrans has proposed to implement numerous measures to ensure desert tortoises are not killed or injured during construction, we concur that the activities to rehabilitate the Halloran Wash Bridge are not likely to adversely affect the desert tortoise. Consequently, further consultation, pursuant to section 7(a)(2) of the Endangered Species Act, is not required. If the proposed action changes such that desert tortoises may be affected in a manner that we have not considered, you should contact us as soon as possible to determine whether further consultation would be appropriate.

If you have any questions regarding this letter, please contact Ray Vizgirdas of my staff in the San Bernardino sub-office at (909) 382-2959.

Sincerely,

A handwritten signature in black ink, appearing to read 'Carl T. Benz', with a stylized flourish at the end.

Carl T. Benz  
Assistant Field Supervisor

# ***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**