

FOR CONTRACT NO: 08-438904

PROJECT ID: 0800000676

INFORMATION HANDOUT

WATER QUALITY

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

PERMITS

STATE OF CALIFORNIA DEPARTMENT OF FISH AND GAME

INFORMATION BROCHURE

PROTECTION OF THE DESERT TORTOISE (*GOPHERUS AGASSIZII*)
DURING LIMITED SCOPE PROJECTS

ROUTE: 08-SBd-178-PM5.0/14.3



Matthew Rodriguez
Secretary for
Environmental Protection

California Regional Water Quality Control Board Lahontan Region



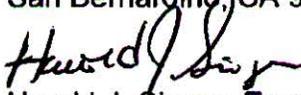
Edmund G. Brown Jr.
Governor

Victorville Office

14440 Civic Drive, Suite 200, Victorville, California 92392
(760) 241-6583 • FAX (760) 241-7308
<http://www.waterboards.ca.gov/lahontan>

MEMORANDUM

TO: Aaron Burton, Senior Environmental Planner
California Department of Transportation, District 8
464 W. Fourth Street
6th Floor, M.S. 822
San Bernardino, CA 92401

FROM: 
Harold J. Singer, Executive Officer
LAHONTAN REGIONAL WATER QUALITY CONTROL BOARD

DATE: OCT 31 2011

SUBJECT: ORDER FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION, STATE ROUTE 178 DRAINAGE IMPROVEMENT PROJECT, SAN BERNARDINO COUNTY, WDID NO. 6B361107004

The California Regional Water Quality Control Board, Lahontan Region (Water Board) has received project information from 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 State Route 178 Drainage Improvement 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, or will be provided upon request.

PROJECT DESCRIPTION

Specific Project details, as presented in the application, are summarized in the following table.

California Environmental Protection Agency

Table of Project Information:

WDID Number	6B361107004
Applicant	California Department of Transportation, 464 W Fourth Street 6th Floor, M.S. 822 San Bernardino, CA 92401 Contact: Aaron Burton, Senior Environmental Planner
Project Name	State Route 178 Drainage Improvement Project
Project Purpose and Description	The purpose of this Project is to improve storm flows beneath and across State Route 178 near the town of Trona. The Project is to replace 14 eroded culverts and repair 3 damaged culverts from the top of the paved roadway. Minor grading at the inlet and outlet of each culvert is required to maintain existing capacity. All work will be performed within the Caltrans right-of-way.
Location (City and County)	State Route 178 between postmiles 5 and 14.3, Trona, San Bernardino County
Location Latitude / Longitude	35.654936, -117.456129 (center)
Hydrologic Unit(s)	Indian Wells Hydrologic Unit 624.00, China Lake Hydrologic Area 624.20; Trona Hydrologic Unit 621.0, Searles Valley Hydrologic Area 621.10
Project Area	55 acres
Receiving Water(s) Name	Unnammed streams
Water Body Type(s)	Ephemeral
Wetland within the Project area	None
Area of Waters of U.S. (WOUS) within the Project Area	0.1 acre
Area and Linear Feet of Permanent Impact of Water of the United States (WOUS)	0.06 acre; 26 linear feet
Area, Linear Feet, and Volume of Temporary Impact of WOUS	None
Federal Permit(s)	The Applicant has applied for coverage under a U.S. Army Corps of Engineers (ACOE) Nationwide Permit Number 3, Maintenance, pursuant to section 404 of the CWA.
Non-Compensatory Mitigation	During and after construction, the Applicant will follow Best Management Practices (BMPs) to minimize the short-term degradation of water quality.
Compensatory Mitigation	None
Applicable Fees	\$640.00 (Project qualifies as Low Impact Discharge)
Fees Received	\$640.00

CEQA COMPLIANCE

The Water Board finds that the State Route 178 Drainage Improvement Project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to CCR, title 14, section 15301, Existing Facilities, for minor alterations with negligible

expansion of an existing public structure, including streets and related improvements. 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 waters of the United States, 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 a fee deposit required for WQC under section 401 of the CWA for the State Route 178 Drainage Improvement Project. The ACOE will regulate the Project under Nationwide Permit Number 3, Maintenance, pursuant to section 404 of the CWA.

CCR, title 23, section 3831(e) grants the Water Board Executive Officer the authority to grant or deny water quality certification for projects in accordance with section 401 of the CWA. The proposed Project qualifies for such water quality certification.

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 California Water Code (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 water quality certification 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 Porter-Cologne Water Quality Control Act (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 Porter-Cologne Water Quality Control Act (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 Game 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. 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.

2. The Applicant is responsible for informing any contractors of the specific conditions contained in this WQC Order.
3. 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 the channel. 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 the channel.
4. All open flow temporary diversion channels must be lined with filter fabric or plastic to prevent erosion and sediment transport.
5. 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.
6. An emergency spill kit must be at the Project site at all times during Project construction.
7. 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.
8. 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.

Section 401 Water Quality Certification Requirements Granted

I hereby issue an 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.

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 (zimmerman@waterboards.ca.gov), or Patrice Copeland, Senior Engineering Geologist, at (760) 241-7404 (pcopeland@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 w/ encl: Laura Zaninivich, California Department of Transportation

cc w/o encl: Veronica Chan, US Army Corps of Engineers
Becky Jones, California Department of Fish & Game
Bill Orme, SWRCB, Division of Water Quality
(via email, stateboard401@waterboards.ca.gov)
Paul Amato, Wetlands Regulatory Office, USEPA, Region 9
(via email, Amato.Paul@epamail.epa.gov)

R6_State Route178 Drainage Improvement Project_6B361107004

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,¹ 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.

¹ "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

Notice of Exemption

To: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

County Clerk
County of _____

From: (Public Agency) _____
Lahontan Regional Water Quality Control Board

(Address)
14440 Civic Drive, Suite 200, Victorville, CA 92392-2306

Project Title: State Route 178 Drainage Improvement Project

Project Location - Specific: The Project site is located on State Route 178 between milepost 5 and milepost 14.3, between the cities of Ridgecrest and Trona, San Bernardino County; latitude 35.654936, longitude -117.456129 (center) NAD 83.

Project Location - City: Trona Project Location - County: San Bernardino

Description of Nature, Purpose, and Beneficiaries of Project:

The Project is to replace 14 eroded culverts and repair 3 damaged culverts from the top of the paved roadway. Minor grading at the inlet and outlet of each culvert is required to maintain existing capacity. All work will be performed with the Caltrans right-of-way.

Name of Public Agency Approving Project: Lahontan Regional Water Quality Control Board

Name of Person or Agency Carrying Out Project: California Department of Transportation

Exempt Status: (check one)

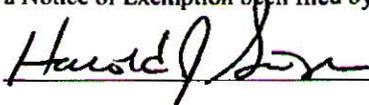
- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(e));
- Categorical Exemption. State type and section number: Section 15301, Existing Facilities
- Statutory Exemptions. State code number:

Reasons why project is exempt: The Water Board finds that the Project is categorically exempt pursuant to CCR, title 14, section 15301, Existing Facilities, for minor alterations with negligible expansion of an existing public structure, including streets and related improvements.

Lead Agency Contact Person: Jan M. Zimmerman Area Code/Telephone/Extension: (760) 241-7376

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature:  Date: Oct 31, 2011 Title: Executive Officer, Lahontan Regional Water Board

- Signed by Lead Agency Date received for filing at OPR: _____
- Signed by Applicant

Revised October 1989



California Natural Resources Agency
DEPARTMENT OF FISH AND GAME
Inland Deserts Region (R6)
12550 Jacaranda Ave
Victorville, CA 92395
www.dfg.ca.gov

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



November 30, 2011

Mr. Aaron Burton
California Department of Transportation, District 8
464 West 4th Street, MS 822
San Bernardino, CA 92401

Subject: Final Lake or Streambed Alteration Agreement
Notification No. 1600-2011-0198-R6
State Route 178 Drainage Improvement Project

Dear Mr. Burton:

Enclosed is the final Streambed Alteration Agreement (Agreement) for the State Route 178 Drainage Project (Project). Before the Department may issue an Agreement, it must comply with the California Environmental Quality Act (CEQA). In this case, the Department, acting as a responsible agency, determined your project is exempt from CEQA and filed a notice of exemption (NOE) on the same date it signed the Agreement.

Under CEQA, filing a NOE starts a 35-day period within which a party may challenge the filing agency's approval of the project. You may begin your project before the 35-day period expires if you have obtained all necessary local, state, and federal permits or other authorizations. However, if you elect to do so, it will be at your own risk.

If you have any questions regarding this matter, please contact Eric Weiss, Environmental Scientist at (909) 980-8607 or eweiss@dfg.ca.gov.

Sincerely,

Tonya Moore
Senior Environmental Scientist

cc: Eric Weiss, Environmental Scientist

Conserving California's Wildlife Since 1870

CALIFORNIA DEPARTMENT OF FISH AND GAME
INLAND DESERTS REGION
4665 LAMPSON AVE, SUITE J
LOS ALAMITOS, CA 90720



STREAMBED ALTERATION AGREEMENT
NOTIFICATION NO. 1600-2011-0198-R6
Unnamed Desert Ephemeral Washes

CALIFORNIA DEPARTMENT OF TRANSPORTATION, DISTRICT 8
STATE ROUTE-178 DRAINAGE IMPROVEMENT PROJECT

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Game (DFG) and California Department of Transportation, District 8, as represented by Mr. Aaron Burton.

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified DFG on August 8, 2011 that Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, DFG has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, Permittee agrees to complete the project in accordance with the Agreement.

PROJECT LOCATION

The project is located along State Route (SR) 178 in northern San Bernardino County. The limits of the project begin at Postmile (PM) 5.0 east of the City of Ridgecrest and end at PM 14.3 west of the town of Trona, impacting unnamed tributaries to China Lake, in the County of San Bernardino, State of California; Latitude 35.653402, Longitude - 117.454838 Townships 26S, Range 41E, U.S. Geological Survey (USGS) maps Lone Butte and Westend.

PROJECT DESCRIPTION

The project is limited to the in-kind replacement of fourteen culverts and the repair of three existing culverts along State Route 178. The culvert replacement would occur from the top of the paved roadway while minor grading will occur at the sites of the existing inlet and outlet basins. Total area of impacts shall not exceed 0.07 acres. The

project consists of seventeen individual locations, which will be upgraded to improve drainage beneath and across the roadway. The following sites have been identified for construction:

Site #1 PM 5.06	Site #8 PM 6.68	Site #15 PM 11.44
Site #2 PM 5.29	Site #9 PM 6.79	Site #16 PM 11.90
Site #3 PM 5.48	Site #10 PM 6.87	Site #17 PM 14.1
Site #4 PM 5.64	Site #11 PM 7.09	
Site #5 PM 5.92	Site #12 PM 7.84	
Site #6 PM 6.29	Site #13 PM 8.29	
Site #7 PM 6.39	Site #14 PM 9.95	

PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include: loss of natural bed or bank, loss of bank stability during construction, debris transport impedance, colonization of exotic plants, disruption of nesting birds [e.g. burrowing owl (*Athene cunicularia*), Le Conte's thrasher (*Toxostoma lecontei*)], and direct take of terrestrial species [e.g. Desert tortoise (*Gopherus agassizii*), Mohave ground squirrel (*Xerospermophilus mohavensis*)].

The adverse effects the project could have on the fish or wildlife resources identified above include: the loss of natural bed or bank through the increased size and extent of the existing culverts. The construction of the project would disturb the existing soil of the banks to some extent thereby diminishing the stability of the surrounding soils and rendering the area more prone to erosion. The culverts may impede the transport of debris either through the slowing of water through the culvert leading to sediment deposition and increased maintenance or physically blocking the conveyance of natural debris. Newly disturbed soils are prone to invasive weed colonization, areas within the proposed project may be subject to additional pressures from invasives. Any bird species which may nest within or in near proximity may be disrupted during project construction or future maintenance activities. Direct take of desert tortoise may occur during the construction of the proposed project, three live desert tortoises were identified during early biological studies. Direct take of Mohave ground squirrel may occur during the construction of the proposed project, twenty-five Mohave ground squirrels were identified within the proposed project during early biological studies.

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification

materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to DFG personnel, or personnel from another state, federal, or local agency upon request.

- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify DFG if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, DFG shall contact Permittee to resolve any conflict.
- 1.4 Project Site Entry. Permittee agrees that DFG personnel may enter the project site at any time to verify compliance with the Agreement.

2. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, Permittee shall implement each measure listed below.

- 2.1 Staging Areas. All staging, storage, lay-down access roads and equipment storage/parking areas will be placed outside of environmentally sensitive areas. A biologist shall be consulted on the placement of all areas, and shall clearly delineate areas with highly visible staking, flagging and fencing.
- 2.2 Environmentally Sensitive Area Designation. All areas of environmental concern shall be clearly delineated and maintained on a bi-weekly basis. All ephemeral washes shall be clearly delineated as areas to which NO additional impacts (temporary or otherwise) are authorized beyond the *project total* of 0.57 acres that will be filled or impacted by the direct footprint of the widened or improved culverts. No access is granted beyond this scope; all access to the above mentioned washes will be done remotely from *the top of the paved roadway* as delineated within the Streambed Alteration Agreement Application and the Natural Environmental (NES)/CEQA document.
- 2.3 Notification of California Natural Diversity Database (CNDDDB). If any sensitive species are observed on or in proximity to the project site, or during project surveys, the Applicant shall submit California Natural Diversity Data Base (CNDDDB) forms and maps to the CNDDDB within five working days of the sightings, and provide the regional Department office with copies of the CNDDDB forms and survey maps. The CNDDDB form is available online at: www.dfg.ca.gov/whdab/pdfs/natspec.pdf. This information shall be mailed

within five days to: California Department of Fish and Game, Natural Diversity Data Base, 1807 13th Street, Suite 202, Sacramento, CA 95814, Phone (916) 324-3812. A copy of this information shall also be mailed within five days to the Department of Fish and Game Region 6, 4665 Lampson Avenue, Suite J, Los Alamitos, CA 90720, Attn: Streambed Team. Please reference SAA # 1600-2011-0198-R6

- 2.4 Migratory Bird Treaty Act Compliance. The Applicant shall not remove vegetation from the jurisdictional areas within the project site from March 15 to September 15 to avoid impacts to nesting birds. If the Applicant intends to commence project construction during the period commencing March 15 through September 15, the Applicant shall have a qualified biologist survey all potential nesting vegetation within the project site for nesting birds, prior to project activities (including construction and/or site preparation). Surveys shall be conducted for five consecutive days, at the appropriate time of day during the breeding season, and surveys shall end no more than three days prior to clearing. The Department shall be notified in writing prior to the start of the surveys. Documentation of surveys and findings shall be submitted to the Department within ten (10) days of the last survey. If no nesting birds were observed project activities may begin. If an active bird nest is located, the nest site shall be fenced a minimum of 200 feet in all directions, and this area shall not be disturbed until after September 15 or until the nest becomes inactive. If threatened or endangered species are observed in the area, no work shall occur during the breeding season (March 15 through September 15) to avoid direct or indirect (noise) take of listed species.

Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests, including raptors and other migratory non-game birds (As listed under the Migratory Bird Treaty Act).

- 2.5 Biological Monitor. A qualified biologist shall be on-site to monitor all activities that result in the clearing or grading of sensitive habitat as well as grading, excavation, and/or other ground-disturbing activities in jurisdictional areas. The Applicant shall flag the limits of grading and the jurisdictional areas, perform necessary surveys, and take photographs during the construction process, as required by this permit. The monitor is required to halt construction activities if threatened or endangered species are identified and notify the appropriate agencies immediately.
- 2.6 Tree Removal and Trimming Pre-Construction Surveys. A pre-construction breeding bird survey shall be conducted within 7 days prior to construction activities. This action will be dependent on the timing of the habitat removal.
- 2.7 Burrowing Owl. Prior to the initiation of any project activities in State stream jurisdictional areas (jurisdictional areas), the Applicant shall conduct a burrowing owl habitat assessment for the jurisdictional areas. The habitat assessment shall determine whether suitable habitat for burrowing owl is present on-site. The habitat

shall focus on whether burrows are present on-site (natural or artificial burrows) that burrowing owls previously have used, are using, or could use now or in the future. A report summarizing the results of the habitat assessment shall be submitted to the Department within 30 days following the completion of the habitat assessment. If no suitable habitat is found on-site, Conditions 2.7 A thru D do not apply. If suitable habitat is found on-site, the Applicant shall comply with the burrowing owl mitigation guidelines set forth by the Department. The Applicant shall submit documentation of compliance with the Departmental guidelines within fifteen (15) days of completing the habitat assessment.

A. Prior to commencing project activities within the jurisdictional areas, a qualified biologist shall conduct focused surveys for burrowing owls within the jurisdictional areas to identify burrows occupied by owls (occupied burrows). Surveys should be conducted by walking through suitable habitat within the jurisdictional areas of the project site. The pedestrian survey transects shall be spaced to allow 100% visual coverage of the ground surface. Surveys should be conducted during weather that is conducive to observing owls outside their burrows. The Department recommends following the survey methodology described in the 1993 Burrowing Owl Consortium Protocol Guidelines. If no occupied burrows are found on-site, Conditions 13 B and C do not apply.

B. All owls associated with occupied burrows, found in jurisdictional areas that will be directly impacted (temporarily or permanently) by the project, shall be passively relocated and the following measures shall be implemented to avoid take of owls:

(1) Occupied burrows shall not be disturbed during the nesting season of February 1 through August 31, unless a qualified biologist can verify through non-invasive methods that either the owls have not begun egg laying and incubation or that juveniles from the occupied burrows are foraging independently and are capable of independent flight.

(2) Owls must be passively relocated by a qualified biologist from any occupied burrows that will be impacted by project activities within jurisdictional areas. Passive relocation is used to exclude owls from their burrows by installing one-way doors in burrow entrances. These one-way doors allow the owl to exit the burrow, but not enter it. Suitable habitat must be available adjacent to or near the disturbance site or artificial burrows will need to be provided nearby. Once the biologist has confirmed that the owls have left the burrow, burrows should be excavated using hand tools and refilled to prevent reoccupation.

All relocation shall be approved by the Department and shall follow the 1993 Burrowing Owl Consortium protocol guidelines. The qualified biologist shall monitor the relocated owls a minimum of three days per week for a minimum of three weeks. A report summarizing the results of the relocation and monitoring shall be submitted to the Department within 30 days following completion of the relocation and monitoring of the owls.

C. A Burrowing Owl Mitigation and Monitoring Plan shall be submitted to the Department for review and approval prior to relocation of owls. The Burrowing Owl Mitigation and Monitoring Plan shall describe proposed relocation and monitoring plans. The plan shall include the number and location of occupied burrow sites and details on adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation of artificial burrows (numbers, location, and type of burrows) shall also be included in the plan. The Plan shall also describe proposed off-site areas to preserve to compensate for impacts to burrowing owls/occupied burrows at the project site as required under Condition 2.11. D.

D. As compensation for the direct loss of burrowing owl nesting and foraging habitat, the Applicant shall mitigate by acquiring and permanently protecting 6.5 acres of known burrowing owl nesting and foraging habitat for every pair or unpaired burrowing owl impacted by the project (those owls that required relocation because their burrows were directly impacted). The Applicant shall set-up a non-wasting endowment account for the long-term management of the preservation site for burrowing owls. The site shall be managed for the benefit of burrowing owls. The preservation site, site management, and endowment shall be approved by the Department.

Additionally, if burrowing owl surveys or passive relocation of owls is not conducted over other portions of your project site including areas outside of State jurisdictional areas, the project proponent risks being in violation of the Fish and Game Code and other laws that protect the owl. The burrowing owl is protected under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13) and Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors. Therefore, it is the responsibility of the project proponent to ensure compliance with these laws for the entire project site. The Department recommends focused surveys be conducted over all potential suitable habitat within the entire project site (even areas outside State jurisdiction pursuant to

Section 1600) and to relocate following the 1993 Burrowing Owl Consortium Protocol Guidelines to ensure there are not violations of other laws.

2.8 Construction BMPs.

- 2.8.1 The Applicant shall not allow water containing mud, silt or other pollutants from grading, aggregate washing, or other activities to enter a lake or flowing stream or be placed in locations that may be subjected to high storm flows.
- 2.8.2 The Applicant shall comply with all litter and pollution laws. All contractors, subcontractors and employees shall also obey these laws and it shall be the responsibility of the Applicant to ensure compliance.
- 2.8.3 Spoil sites shall not be located within a stream/lake or locations that may be subjected to high storm flows, where spoil shall be washed back into a stream/lake, or where it will impact streambed habitat, aquatic or riparian vegetation.
- 2.8.4 Raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to fish and wildlife resources, resulting from project related activities shall be prevented from contaminating the soil and/or entering the waters of the state. These materials, placed within or where they may enter a stream/lake, by Applicant or any party working under contract, or with the permission of the Applicant shall be removed immediately.
- 2.8.5 No broken concrete, 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 placed where it may be washed by rainfall or runoff into, waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream.
- 2.8.6 Concrete debris or asphalt debris will not be placed as rock slope protection. Should the design of the rock slope protection change from what is currently submitted to the Department, the Department must be re-notified and a new agreement or amendment may be required.
- 2.8.7 No equipment maintenance shall be done within or near any stream

channel where petroleum products or other pollutants from the equipment may enter these areas under any flow.

2.8.8 The Applicant shall notify the Department, in writing, at least five (5) days prior to initiation of project activities in jurisdictional areas, and at least five (5) days prior to completion of project activities in jurisdictional areas. Notification shall be sent to the Department at 12550 Jacaranda Avenue, Victorville, CA 92392, Attn: Eric Weiss. Please reference **SAA # 1600-2011-0198-R6**.

2.8.9 The Applicant shall notify the department of any change of conditions to the project, the jurisdictional impacts, or the mitigation efforts, if the conditions at the site of a proposed project change in a manner which increases or decreases the risk that a fish or wildlife resource may be substantially adversely affected by the proposed project. The notifying report shall be provided to the Department no later than seven (7) days after the change of conditions is identified. As used here, change of condition refers to the process, procedures, and methods of operation of a project, the biological and physical characteristics of a project area, or the laws or regulations pertinent to the project as defined below. **A copy of the notifying change of conditions report shall be included in the annual reports.**

(A) Biological conditions: a change in biological conditions includes, but is not limited to, the following: 1) the presence of a fish or wildlife resource within or adjacent to the project area, whether native or non-native, not previously known to occur in the area; or 2) the presence of a fish or wildlife resource within or adjacent to the project area, whether native or non-native, the status of which has changed to endangered, rare, or threatened, as defined in section 15380 of Title 14 of the California Code of Regulations.

(B) Physical conditions: a change in physical conditions includes, but is not limited to, the following: 1) a change in the morphology of a river, stream, or lake, such as the lowering of a bed or scouring of a bank, or changes in stream form and configuration caused by flooding; 2) the movement of a river or stream channel to a different location; 3) a reduction of or other change in riparian vegetation on the bed, channel, or bank of a river, stream, or lake, or 4) changes to the hydrologic regime such as fluctuations in the timing or volume of water flows in a river or stream.

(C) Legal conditions: a change in legal conditions includes, but is not limited to, a change in Regulations, Statutory Law, a Judicial or Court decision, or the listing of a species, the status of which has changed to endangered, rare, or threatened, as defined in section 15380 of Title 14 of the California Code of Regulations.

- 2.9 Incidental Take Permit. It is recommended that an Incidental Take Permit for all potential threatened and endangered species be sought and obtained from the Department of Fish and Game pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, title 14, section 783.0 et seq. and comply with all federal endangered species requirements.
- 2.10 Presence of Threatened Species. Without an Incidental Take Permit, take of a threatened or endangered species is *not* authorized. During all phases of construction, if a desert tortoise or MGS is identified within the project area, all construction activities within 150 feet of the species will cease immediately, and will not resume until the tortoise or squirrel has moved out of the project area on its own accord or the squirrel has relocated.
- 2.11 Educational Program. Permittee shall conduct an education program for all persons employed or otherwise working on the Project site prior to performing any work on-site. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status under CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Interpretation shall be provided for non-English speaking workers, and the same instruction shall be provided for any new workers prior to their performing work on-site. Copies of this ITP shall be maintained at the worksite. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry on-site. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. These forms shall be filed at the worksite offices and be available to DFG upon request.
- 2.12 Biological Monitors. Biological monitors shall be onsite during the construction and installation of all culverts and basin work.

3. Compensatory Measures

To compensate for adverse impacts to fish and wildlife resources identified above that cannot be avoided or minimized, Permittee shall implement each measure listed below.

- 3.1 The proposed project would impact seventeen ephemeral channels for a total impact of 0.07 acres to state jurisdictional waters. Impacts would be resultant of

the direct footprint of the culvert replacement and headwalls. All access to the 0.07 acres of impacts addressed under this agreement shall be done so from the top of the paved roadway. All other wash areas, not specifically addressed under the 0.07 acres of impacts shall be clearly delineated as an Environmentally Sensitive Area and precluded from any and all access.

- 3.2 Permanent Impacts. The Applicant shall mitigate the permanent impact to 0.07 acres of jurisdictional channel and desert wash habitat within drainages either through the removal of 1.0 acre of invasive species removal, 1.0 acre of drainage improvements, 1.0 acre of trash abatement, a combination thereof or other methods approved by the Department prior to construction and within an immediate watershed. The Applicant shall mitigate project impacts noted in this Condition (3.1) by completing the 1.0 acre of drainage improvements or acquiring and preserving 0.5 acre of proposed mitigation.
- 3.3 Use of Native Plants: Revegetation Efforts. The Department recommends the use of native plants to the greatest extent feasible in the landscaped areas adjacent and/or near the mitigation/open space areas and within or adjacent to stream channels. The Applicant shall not plant, seed or otherwise introduce invasive exotic plant species to the landscaped areas adjacent and/or near the mitigation/open space areas and within or adjacent to stream channels (minimum 100 foot setback from open space areas and 150 foot setback from stream channels and riparian mitigation sites). Invasive exotic plant species not to be used include those species listed on the "California Invasive Plant Inventory, February 2006" and the February 2007, Inventory Update, (which updated Lists A & B of the California Exotic Pest Plant Council's list of "Exotic Pest Plants of Greatest Ecological Concern in California as of October 1999"). This list includes: pepper trees, pampas grass, fountain grass, ice plant, myoporum, black locust, capeweed, tree of heaven, periwinkle, bush lupine, sweet alyssum, English ivy, French broom, Scotch broom, Spanish broom, and Lepidium latifolium. A copy of the complete list can be obtained by contacting the California Invasive Plant Council by phone at (510) 843-3902, at their website at www.cal-ipc.org, or by email at info@cal-ipc.org. The Applicant shall submit a copy of the draft landscape/planting plan to the Department's representative for review at least 30 days prior to the acquisition and/or use of any plant materials (seeds or container plants) adjacent to the mitigation/open space site and/or within or adjacent to any stream channel.

4. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 4.1.1 Habitat Mitigation and Monitoring Reporting. Prior to the initiation of any project activities in jurisdictional areas and no later than 60 days after signature to this agreement, the Applicant shall submit

to the Department for review and approval a Habitat Mitigation and Monitoring Plan designed to meet the overall mitigation goals identified in Condition 4 of this Agreement. The plan shall provide details on the creation/restoration, improvement and enhancement aspects of the mitigation. The plan shall include monitoring and maintenance procedures/timeline, success standards and contingency measures, description of plans for invasive removal activities including monitoring and maintenance objectives to prevent the re invasion of undesirable weeds and/or invasive wildlife species for a minimum of five years. Any plans for exotic plant and/or invasive wildlife species removal shall include a detailed plan that identifies on a map each location and size of non-native vegetation to be removed, and the methods used to remove and dispose of invasive wildlife species. Monitoring and maintenance of the sites shall be done annually for a minimum of five years, or until the Department determines the restoration sites are successful. If trash abatement or other similar techniques will be utilized, areas proposed for abatement or improvement will be submitted for Departmental approval at least 30 days prior to initiation of construction. If the proposed mitigation does not meet the Department's standards, additional mitigation may be proposed and approved. Once approved, the applicant may begin construction.

- 4.1.2 Habitat Mitigation and Monitoring Plan. To minimize temporal loss of fish and wildlife resources the Habitat Mitigation and Monitoring Plan shall be implemented within one hundred twenty (120) days of impacts to jurisdictional areas. The Applicant shall notify the Department, in writing, no later than one hundred twenty (120) days after impacts to jurisdictional areas and confirm the implementation of the Habitat Mitigation and Monitoring Plan
- 4.1.3 Mitigation Lands Reporting. An annual report shall be submitted to the Department each year for a minimum of 5 years after mitigation or until the Department deems the mitigation site(s) successful. This report shall include (a) a description of the restoration activities done the previous year (including revegetation, channel improvements, trash abatement and exotic species removal) and when they were conducted; (b) information regarding exotic vegetation removal including the amount removed, the amount removed and treated, frequency and timing of removal and treatment, disposal specifics, and a summary of the general success and failures or failure of the exotic removal plan; (c) information regarding the presence or absence of invasive wildlife species including the methods used to remove

and dispose of invasive wildlife species; (d) information pertaining to channel improvements, trash abatement including the methods used for abatement, amounts removed and frequency and timing of removal. The report shall also include wildlife observed at the site during monitoring surveys including sensitive species and/or listed species. Photos from designated photo stations shall be included.

CONTACT INFORMATION

Any communication that Permittee or DFG submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or DFG specifies by written notice to the other.

To Permittee:

Aaron Burton
California Department of Transportation, District 8
464 W, 4th Street, MS 822
San Bernardino, CA 92401
Telephone (909) 383-2841
Aaron.burton@dot.ca.gov

cc: Laura Zaninovich
464 W, 4th Street, MS 822
San Bernardino, CA 92401

Laura.Zaninovich@dot.ca.gov

To DFG:

Department of Fish and Game
Inland Deserts Region 6
12550 Jacaranda Ave.
Victorville, CA 92395
Attn: Lake and Streambed Alteration Program – Eric Weiss
Notification #1600-2011-0198-R6
eweiss@dfg.ca.gov

LIABILITY

Permittee shall be solely liable for any violations of the Agreement, whether committed by Permittee or any person acting on behalf of Permittee, including its officers.

employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute DFG's endorsement of, or require Permittee to proceed with the project. The decision to proceed with the project is Permittee's alone.

SUSPENSION AND REVOCATION

DFG may suspend or revoke in its entirety the Agreement if it determines that Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before DFG suspends or revokes the Agreement, it shall provide Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide Permittee an opportunity to correct any deficiency before DFG suspends or revokes the Agreement, and include instructions to Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused DFG to issue the notice.

ENFORCEMENT

Nothing in the Agreement precludes DFG from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects DFG's enforcement authority or that of its enforcement personnel.

OTHER LEGAL OBLIGATIONS

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the project or an activity related to it.

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 *et seq.* (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

Nothing in the Agreement authorizes Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

AMENDMENT

DFG may amend the Agreement at any time during its term if DFG determines the amendment is necessary to protect an existing fish or wildlife resource.

Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by DFG and Permittee. To request an amendment, Permittee shall submit to DFG a completed DFG "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by Permittee in writing, as specified below, and thereafter DFG approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall submit to DFG a completed DFG "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

In accordance with FGC section 1605(b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall submit to DFG a completed DFG "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). DFG shall process the extension request in accordance with FGC 1605(b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (Fish & G. Code, § 1605, subd. (f)).

EFFECTIVE DATE

The Agreement becomes effective on the date of DFG's signature, which shall be: 1) after Permittee's signature; 2) after DFG complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable FGC section 711.4 filing fee listed at http://www.dfg.ca.gov/habcon/ceqa/ceqa_changes.html.

TERM

This Agreement shall expire on November 14, 2016, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

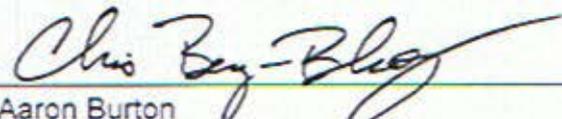
AUTHORIZATION

This Agreement authorizes only the project described herein. If Permittee begins or completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify DFG in accordance with FGC section 1602.

CONCURRENCE

The undersigned accepts and agrees to comply with all provisions contained herein.

**FOR CALIFORNIA DEPARTMENT OF
TRANSPORTATION, DISTRICT 8**

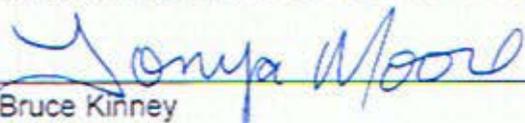
for 

Aaron Burton
Senior Environmental Planner

11/18/11

Date

FOR DEPARTMENT OF FISH AND GAME

for 

Bruce Kinney
Environmental Program Manager

11/30/11

Date

Prepared by: Eric Weiss
Environmental Scientist

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