

BIOLOGICAL ASSESSMENT
APPENDIX I
COORDINATION AND CONSULTATION
CORRESPONDENCE

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From: Kimberly Garvey
To: Maloney, Kim; Wahl, Rex
Date: Friday, April 08, 2005 10:06:32
Subject: Quarries - FWS consultation

I just got of the phone with Lesley Fitzpatrick. The Phoenix Office has agreed to take on the consultation for all the quarries and has cleared it with the Ventura and Carlsbad offices.

In relation to the existing BO, there are 2 things that we need to do in order to get up to date so we can proceed with getting a new one.

1. Provide reports for 1998, 1999, 2001, 2002, 2003, 2004. I am already coordinating with Igoe to get this done.
2. Provide a letter accepting the conservation recommendations for the original BO. I will get this done.

She would like to see all quarries addressed in a single BA and EA which includes all proposed mitigation measures. She also said that she would be able to review a draft when it is ready.

It will be important to address the quality of habitat available at each of the quarries. BLM has ranked all their habitat, so this should be to difficult if I can find someone in those offices who knows how to use GIS.

Happy Friday!

P.S. do we have "approval" from Region to proceed with this?

Kimberly L. Garvey
Natural Resource Specialist
Reclamation - Yuma Area Office
7301 Calle Agua Salada
Yuma, AZ 85364
ph: 928.343.8227
fax: 928.343.8320

CC: Broili, Thayer; Kimberly GARVEY

ENV-7.00



United States Department of the Interior

U.S. Fish and Wildlife Service
2321 West Royal Palm Road, Suite 103
Phoenix, Arizona 85021-4951
Telephone: (602) 242-0210 FAX: (602) 242-2513

In Reply Refer to:
AESO/SE
02-21-96-F-0226

June 2, 2005

AE
RW >

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Memorandum

To: Director, Resource Management Office, Yuma Area Office, Bureau of Reclamation, Yuma, Arizona

From: Field Supervisor

Subject: Extension of Programmatic Biological Opinion for Construction and Operation of One Quarry and Operation of Eight Existing Quarries (Nine Quarry Sites), Arizona and California

This responds to your memorandum of May 27, 2005, requesting the Fish and Wildlife Service (FWS) to extend the term of our April 11, 1997, biological opinion on the Bureau of Reclamation's (Reclamation's) construction and operation of one quarry and operation of eight existing quarries in Arizona and California. The biological opinion will expire on December 31, 2005. You request that we extend the term of the existing biological opinion, including all reasonable and prudent measures and terms and conditions, through December 31, 2006. This extension is to allow time to develop National Environmental Policy Act (NEPA) and Endangered Species Act (ESA) documents and complete consultation on the 24 quarries as outlined in your March 10, 2005, scoping request. The species of concern in this consultation is the threatened Mohave population of the desert tortoise (*Gopherus agassizii*). The desert tortoise is only listed as a threatened species in California; however, the conservation recommendations in the 1997 biological opinion included that Reclamation should implement the terms and conditions in the incidental take statement in Arizona as well as in California to provide protection for the Sonoran population as well as the listed Mohave population. Reclamation accepted those terms and conditions and has been implementing them.

Use of the materials provided by the quarries is covered under a separate biological opinion (02-21-04-F-0161) that addresses Reclamation's maintenance activities under the Colorado River Front Work and Levee System (CRFWLS). That biological opinion will provide coverage through 2051 for those activities.

In previous correspondence, you note that no additional species have been listed since 1997 that could be affected by the operation of the quarries. Also, operations at the quarries will remain the same as described in the April 11, 1997, biological opinion and the associated biological assessments prepared in 1996 by Reclamation for the consultation. There is one change made to the project description--the elimination of use for the Big Maria No. 2 Quarry in Riverside County, California.

In our files for the original consultation, we have annual reports for calendar years 1997 and 2000. Your memorandum of May 27, 2005, provided the annual reports for 1998-1999, and 2001-2004, with an update on quarrying accomplished to date in 2005. The total amount of material and the acres disturbed are provided in Table 1

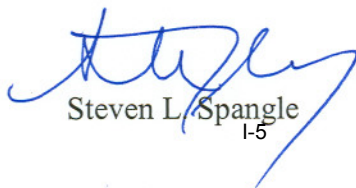
Table 1: Volume of material quarried and acres of desert tortoise habitat disturbed, 1997-2005

Year	Volume	Acres of Desert Tortoise Habitat
1997	0	0
1998	91,723	1.8
1999	25,714	3
2000	0	0
2001	25,000	3
2002	0	0
2003	57,809	3
2004	0	0
2005 (partial)	0	0
Yearly Allowed	80,000	10

This information allows us to review the amount of material and the acres of desert tortoise habitat that has been affected over the nine years the biological opinion has been in effect in order to assess if the amount of these measures has been, in the aggregate, met or exceeded. The findings in the biological opinion were based on this amount of material and loss of habitat, and any extension of the biological opinion for an additional year must not cause the originally considered aggregated amount of material or habitat loss to be exceeded absent reinitiation of consultation. As is evident in Table 1, this situation does not exist, and no additional amount of take over that provided in the 1997 biological opinion is likely to occur because of the extension. A report on amounts quarried and habitat lost in 2005 and 2006 will be required as part of this extension.

With this memorandum, we extend the expiration date of the April 11, 1997, biological opinion for the operation of eight existing quarries for one calendar year, to December 31, 2006. We anticipate that a new biological opinion covering these sites and the new sites under consideration will be completed prior to that date.

Thank you for your efforts to conserve listed species. If there are questions concerning this consultation, please contact me at (602) 242-0210 (x244) or have your staff contact Lesley Fitzpatrick (x236).


Steven L. Spangle
1-5

cc: Field Supervisor, Carlsbad Field Office, Fish and Wildlife Service, Carlsbad, CA
Regional Director, Bureau of Reclamation, Boulder City, NV (LC-2400)

W:\Lesley Fitzpatrick\96-0226 extension.doc:egg

pursuant to section 7 of the Act. Informal consultation may be used to exchange information and resolve conflicts with respect to threatened or endangered species or their critical habitat prior to a written request for formal consultation. During this review process, you may engage in planning efforts but may not make any irreversible commitment of resources. Such a commitment could constitute a violation of section 7(d) of the Act.

Federal agencies are required to confer with the Service, pursuant to section 7(a)(4) of the Act, when an agency action is likely to jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat (50 CFR 402.10(a)). A request for formal conference must be in writing and should include the same information that would be provided for a request for formal consultation. Conferences can also include discussions between the Service and the Federal Agency to identify and resolve potential conflicts between an action and proposed species or proposed critical habitat early in the decision-making process. The Service recommends ways to minimize or avoid adverse effects of the action. These recommendations are advisory because the jeopardy prohibition of section 7(a)(2) of the Act does not apply until the species is listed or the proposed critical habitat is designated. The conference process fulfills the need to inform Federal agencies of possible steps that an agency might take at an early stage to adjust its actions to avoid jeopardizing a proposed species.

When a proposed species or proposed critical habitat may be affected by an action, the lead Federal agency may elect to enter into formal conference with the Service even if the action is not likely to jeopardize or result in the destruction or adverse modification of proposed critical habitat. If the proposed species or the proposed critical habitat is designated after completion of the conference, the Federal agency may ask the Service, in writing, to confirm the conference as a formal consultation. If the Service reviews the proposed action and finds that no significant changes in the action as planned or in the information used during the conference have occurred, the Service will confirm the conference as a formal consultation on the project and no further section 7 consultation will be necessary. Use of the formal conference process in this manner can prevent delays in the event the proposed species is listed or the proposed critical habitat is designated during project development or implementation.

The Migratory Bird Treaty Act (16 U.S.C. 703-712; MBTA) implements four treaties that provide for international protection of migratory birds. Unlike the Endangered Species Act, neither the MBTA nor its implementing regulations at 50 CFR Part 21, provide for permitting of "incidental take" of migratory birds. The Service recognizes that some birds may be killed during project implementation even if all reasonable measures to avoid it are implemented. While it is not possible under the MBTA to absolve individuals, companies, or agencies from liability if they follow reasonable avoidance measures, the Service's Office of Law Enforcement and Department of Justice have used enforcement and prosecutorial discretion in the past regarding individuals, companies, or agencies who have made good faith efforts to avoid the take of migratory birds.

Cynthia Hoeft

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Only listed species receive protection under the Act. However, sensitive species should be considered in the planning process in the event they become listed or proposed for listing prior to project completion. We recommend that you review information in the California Department of Fish and Game's (CDFG) Natural Diversity Data Base. You can contact the CDFG at (916) 324-3812 for information on other sensitive species that may occur in this area.

If you have any questions regarding this letter, please contact Bridget Clayton of my staff at (805) 644-1766, extension 272.

Sincerely,



Judy Hohman
Acting Division Chief
Mojave/Great Basin Deserts

Enclosure

**LISTED, PROPOSED, AND CANDIDATE SPECIES THAT MAY
OCCUR IN THE VICINITY OF THE PROJECTS LOCATED ALONG THE
COLORADO RIVER IN SAN BERNARDINO, RIVERSIDE, AND
IMPERIAL COUNTIES, CALIFORNIA**

Birds

bald eagle	<i>Haliaeetus leucocephalus</i>	T
least Bell's vireo	<i>Vireo bellii pusillus</i>	E, CH
Southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	E, PCH
yellow billed cuckoo	<i>Coccyzus americanus</i>	C
Yuma clapper rail	<i>Rallus longirostris yumanensis</i>	E

Reptiles

desert tortoise, (Mojave pop.)	<i>Gopherus agassizii</i>	T, CH
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Fishes

razorback sucker	<i>Xyrauchen texanus</i>	E, CH
bonytail chub	<i>Gila elegans</i>	E, CH
Colorado pikeminnow (=Colorado squawfish)	<i>Ptychocheilus lucius</i>	E, CH

LEGEND

- E – Endangered
- C – Candidate
- CH –Critical Habitat
- T – Threatened
- PCH – Proposed Critical Habitat

From: <Lesley_Fitzpatrick@fws.gov>
To: "Kimberly GARVEY" <KGARVEY@lc.usbr.gov>
Date: Monday, September 26, 2005 07:29:20
Subject: Re: Quarries EA

Kimberly: As I recall, we (Arizona) will do the consultation with Ventura reviewing our work on the California side. If you have any other questions, please let me know.

Thanks,

Lesley

Lesley Fitzpatrick
Fish and Wildlife Biologist
AESO
602-242-0210 x236

CC: <Judy_Hohman@fws.gov>

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MEMORANDUM

To: Field Supervisor, U.S. Fish & Wildlife Service
Phoenix Office, 2321 West Royal Palm Road, Suite 103,
Phoenix, AZ 85021
Attn: Mr. Steven L. Spangle

From: Cynthia Hoeft
Director, Resource Management Office

Cynthia Hoeft

Subject: Extension of Programmatic Biological Opinion for
Construction and Operation of One Quarry and
Operation of Eight Existing Quarries, Arizona and
California (2-21-96-F-226)

Reclamation is continuing our consultation for quarries operations as originally outlined in our March 2005 memorandum with the subject, "Issue Scoping Request for Quarries Utilized by the Bureau of Reclamation." In your memorandum of June 2, 2005, the U.S. Fish and Wildlife Service (Service) granted a one year extension of the 1997 Biological Opinion (BO) through the end of 2006. Reclamation anticipated completing the new programmatic Biological Assessment (BA) prior to the end of 2006; however, the scope of quarries being considered has since been revised and resulted in a modified completion date. The new programmatic BA is near completion and we anticipate providing the document to your office by the end of January 2007. Therefore, we are requesting an additional six-month extension of the 1997 BO, including all Conservation Recommendations and Terms and Conditions while the consultation process is ongoing. In addition, Reclamation is completing a programmatic level Environmental Assessment (EA) and the Draft EA is scheduled for distribution at the end of January 2007.

Reclamation would also like to take this opportunity to provide you the quarry activity reported for calendar year 2005. In our memorandum dated May 27, 2005, Reclamation reported that no new rock was quarried from any of the quarries that were subject to

the Terms and Conditions in the BO and no desert tortoise habitat was disturbed. Reclamation did not quarry new rock at any of the subject quarries for the remainder of 2005 and no desert tortoises were disturbed.

During 2006, Reclamation did not quarry any new rock; however, waste material from the floor of the Times Gulch Quarry (Mohave County, Arizona) was processed to produce 30 tons of gravel. During this operation the Conservation Recommendations and Terms and Conditions in the BO were implemented and no desert tortoises were observed and no habitat was disturbed.

We look forward to continuing our collaborative work with the Service. If you have any questions or concerns, please contact Mr. Julian DeSantiago at jdesantiago@lc.usbr.gov or 928-343-8259.

cc: U.S. Fish & Wildlife Service, Phoenix Office, 2321 West
Royal Palm Road, Suite 103, Phoenix, AZ 85021
Attn: Ms. Lesley Fitzpatrick

7001
7210 (DeSantiago)

JDeSantiago:dfw:12/05/06
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ENV-7.00

United States Department of the Interior

U.S. Fish and Wildlife Service
Arizona Ecological Services Field Office
2321 West Royal Palm Road, Suite 103
Phoenix, Arizona 85021-4951

Telephone: (602) 242-0210 Fax: (602) 242-2513



In Reply Refer to:

AESO/SE
22410-1996-F-0226

December 18, 2006

Memorandum

To: Director, Resource Management Office, Yuma Area Office, Bureau of Reclamation, Yuma, Arizona

From: Field Supervisor

Subject: Extension of Coverage for Programmatic Biological Opinion for Construction and Operation of One Quarry and Operation of Eight Existing Quarries, Arizona and California.

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Bureau of Reclamation
Yuma Area Office
Yuma, Arizona

This responds to your memorandum dated December 7, 2006, requesting the Fish and Wildlife Service (FWS) to extend the term of our April 11, 1997, biological opinion for the subject quarry and operations activity of the Bureau of Reclamation (Reclamation). This is the second request for an extension of the term of this biological opinion. We responded to your request for a year-long extension of the December 31, 2005 expiration date on June 2, 2005. The extension was needed to allow for completion of new environmental documents for a new consultation to be initiated.

As described in your memorandum to us, the new environmental documents will not be finalized before December 31, 2006. They will be completed early in 2007. In order to complete consultation for the new quarry operations plan and not have a lapse in coverage under the Endangered Species Act, Reclamation is requesting a six-month extension, to June 30, 2007, for the existing biological opinion.

The FWS has determined that granting this request for a six-month extension will not create additional adverse effects to the threatened Mohave desert tortoise (*Gopherus agassizii*) and the Sonoran desert tortoise beyond that which was included in the 1997 biological opinion. We can make this determination since neither the amount of acreage disturbed covered in the biological opinion nor the amount of incidental take described has been exceeded. For 2005, no new rock was quarried and no desert tortoises were disturbed. In 2006, work was done at the Times Gulch Quarry to provide 30 tons of gravel. The Conservation Recommendations and Terms and Conditions from the biological opinion were followed and no desert tortoises were found and no new habitat disturbance occurred.

The FWS amends the term of the 1997 biological opinion to June 30, 2007. We stress the importance of completion of the new planning documents to cover future work in these and new

quarries in early 2007. Should there be a need for extensive amounts of rock for river-management purposes, the limitations of the existing biological opinion may become an issue.

Thank you for providing us with updated information on the status of the quarry program. If you need further assistance, please contact me at (602) 242-0210 x244 or Lesley Fitzpatrick at x236.



for Steven L. Spangle

cc: Field Supervisor, Carlsbad Field Office, Fish and Wildlife Service, Carlsbad, CA
Branch Chief, Arizona Game and Fish Department, Phoenix, AZ

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