

## **Guidelines for Section 10(a)(1)(A) Permits Specific to the Alameda Whipsnake**

April 14, 2004

### **Qualifications:**

The application information (resume and curriculum vitae, formal education, and professional experience, etc.) needs to reflect direct education and experience with snakes or other herptiles, and should demonstrate:

- Experience handling Alameda whipsnakes, related species, or other snakes. This experience should be documented in the information submitted with the permit application (i.e., papers, references, supervisory appraisals, letters of support, etc.)
  
- Knowledge of the principles of general biology and ecology, and familiarity with the biology and ecology of Alameda whipsnakes, including demonstrated field identification of individuals and likely habitat.

### **Activities covered by 10(a)(1)(A) permit:**

1. **Research Projects:** To provide additional scientific information on the species, proposals should specify the purposes and objectives of the research project, describe how the project will contribute to the recovery of Alameda whipsnake (e.g. identify recovery actions (tasks) from the Alameda Whipsnake Recovery

Strategy), and describe the study design and techniques. Specific techniques may require special experience.

2. Permits associated with a particular project with potential effects to Alameda whipsnake that will be addressed in a future section 7 or section 10 (a)(1)(B) consultation: To provide the Service with additional demographic information on the Alameda whipsnake and its habitat, permitted individuals will notify the Service when the species or its habitat is encountered during: (1) pre-project planning, (2) assessment of environmental impacts, (3) habitat surveys and assessments.
  - a. Capturing Alameda whipsnake for positive identification and collection of morphological data during pre-project surveys will provide demographic information (information on status, range, distribution, habitat use), and will contribute to the information we utilize in recovery efforts. Issuance of this permit would not jeopardize the continued existence of the Alameda whipsnake.

**Activities that do not require a 10(a)(1)(a) permit:**

1. Applicants may request permits for determining presence/absence of Alameda whipsnakes or for construction monitoring. These activities do not require 10(a)(1)(A) permits because:

- a. the Service bases determination of effects to Alameda whipsnake on presence of suitable habitat, and cannot accept surveys as proof of absence of Alameda whipsnake.

Alameda whipsnakes are cryptically colored, secretive, and notoriously sensitive to human activities. Individual snakes are difficult to detect unless they are observed, undisturbed, at a distance. Most close-range observations represent chance encounters that are difficult to predict. While conducting surveys for Alameda whipsnakes may yield valuable demographic information, negative results of such surveys cannot be accepted as proof of absence of Alameda whipsnakes. Pre-project surveys for Alameda whipsnake habitat, location within the range of the species, information on proximity of known locality records, and connectivity to other areas of suitable habitat is required to determine whether incidental take may occur and whether a Section 7 biological opinion with an incidental take statement, or a Section 10(a)1(b) incidental take permit is necessary.

- b. Take that may result from monitoring development or construction projects is incidental to the project (and not part of the purpose of the project), and should therefore be authorized through a 10(a)1(b) incidental take permit or through a section 7 consultation with an incidental take statement. Monitoring associated with the project should also be addressed through these means and will not be authorized through a 10(a)1(A) permit.

Monitoring and/or handling of snakes during the construction phase of a project should be authorized under the section 7 biological opinion with an incidental take statement, or a section 10(a)1(b) incidental take permit. The Service does not authorize handling of Alameda whipsnakes through most section 7 consultations unless a project presents a risk of snakes becoming trapped and in need of rescue, and the project cannot be planned to avoid such risk. We typically do not recommend handling and relocating Alameda whipsnakes during monitoring of construction activities as a first course of action or primary minimization measure, particularly for small projects (i.e., those that qualify for the **Alameda whipsnake programmatic biological opinion**, and can fully implement avoidance and minimization measures). Alameda whipsnakes exhibit fidelity to overwintering sites and may have local patterns of movement within a familiar area. Relocating an Alameda whipsnake to an area with unfamiliar retreats, cover, and foraging habitat may increase a snake's risk of predation. Alameda whipsnakes may also be exposed to greater risk of predation and potentially to vehicular mortality when attempting to return to the capture site.

Instead, the Service recommends that projects be designed and planned to allow the snake opportunities to leave the project area on its own. Doing so will maximize the chance that the snake will move on its own into familiar areas of suitable habitat without being exposed to increased mortality risks. Measures designed to allow snakes opportunities to escape include: **controlled burns to**

remove ground vegetation cover in the area to be disturbed with a two week waiting period before proceeding with construction; flagging and avoiding sensitive areas; minimizing the project footprint; providing escape routes; planning the project such that areas of habitat do not become isolated within the construction area; and having on-site biological monitors authorized to halt construction and determine a course of action if a snake is detected. Snakes of other species that have been detected on project areas but not relocated (vicinity of snakes avoided and snake activity monitored) have left the project area on their own. Although the snakes did not move immediately, they did move away on their own and construction was able to proceed as planned.

However, some projects may be large, located in sensitive habitat that cannot be avoided, or may not be able to fully implement avoidance and minimization measures due to other environmental constraints. In these cases, the likelihood of snakes being encountered or becoming trapped is much greater. If it is determined Alameda whipsnakes may become trapped or are likely to be unable to escape during construction (for example, in a deep, steep-sided, trench that will be left uncovered for an extended period), the Service may determine handling and relocation of Alameda whipsnake may be necessary. The project proponent may request the Service consider authorizing (through section 7 consultation or a 10(a)1(B) permit) a biological monitor to handle and relocate snakes if they believe such situations may occur and cannot be avoided.

DRAFT

April 14, 2004

Greetings:

The attached is a draft of Guidelines for Scientific Take Permits [Sec. 10(a)(1)(B)] for the Alameda whipsnake. Please review them and provide comments and questions. They are derived from the Guidelines for the giant garter snake. Changes are in **redline**. The one significant change appears where we recommend a controlled burn on the disturbance footprint 2 weeks before construction begins, rather than dewatering of habitat. That was my idea. Please let me know if a different procedure would be preferred.

Thanks much,

Larry Host

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