

March 4, 2009

Ms. Rebecca Jones, Wildlife Biologist
California Department of Fish and Game
36431 41st Street East
Palmdale, California 93552

Subject: Monthly Compliance Report #2 for February 2009 for the Copper Mountain College Expansion Project: State Incidental Take Permit No. 2081-2005-028-06.

Dear Ms. Jones,

This letter and attachments are intended to serve as the monthly compliance report #2 for February 2009 on the status of mitigation and monitoring activities for the above-noted Permit.

Circle Mountain Biological Consultants, Inc. (CMBC) has been contracted by the Copper Mountain Community College District (District or Permittee) to facilitate implementation and monitoring of pertinent mitigation measures for the above referenced project to protect the desert tortoise (*Gopherus agassizii*) as authorized by Incidental Take Permit Number 2081-2005-028-06 from the California Department of Fish and Game (Department).

As given in the Department's permit, Mitigation Measure 24, Condition 4.2.4. (MM24/C4.2.4) *Compliance inspections shall be conducted a minimum of once per month after clearing, grubbing, and grading are completed. A monthly compliance report shall be submitted to the Department's Palmdale office at: Ms. Rebecca Jones, 36431 41st Street East, Palmdale, CA 93552, PH/FAX (661) 285-5867.*

Mr. Ed LaRue of Circle Mountain Biological Consultants (CMBC) and Paul Delaney (for the District) performed a compliance inspection for the above-noted Permit on 25 February 2009. Their observations and comments are listed in the attached report dated 3 March 2009 (Attachment 1).

The District will take the following remedial actions recommended in CMBC's report dated 3 March 2009 (Attachment 1, page 5).

1. **Trash Abatement:** Construction entities policed the Impact Area (IA) and Dr. Delaney policed the northern portions of the Translocation Area (TA) to remove litter in January 2009. Additional litter removal from the TA will be performed in during the April survey. Supervisors were reminded that safety meetings should include advisories about litter prevention with both the IA and TA.
2. **Vehicle Placards:** The District will assign staff to place placards on all motor-driven equipment in the IA.
3. **Translocation Area:** The District will continue to monitor the TA to preclude pedestrian use of that conservation area.
4. **Firearms and Domestic Dogs:** The District has been diligent about calling the local animal control agency to remove feral and stray domestic dogs from the campus. On several occasions when neighborhood pet dogs came onto the campus they were held and the owners notified that dogs are not permitted on campus (except service animals).
5. **Contain All Construction Activities:** Dr. Delaney has observed the ponding and running water flowing north of the IA and determined that it is not subsidizing ravens or coyotes, nor resulting in adverse impacts to tortoises or other wildlife.

Please contact me if you have questions or comments.

I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate and complete.

Sincerely,



Paul M. Delaney Ph.D.
Professor, Biology
Copper Mountain College
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Joshua Tree CA 92252

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Ventura, California 93003

Curt Taucher, Regional Manager
Eastern Sierra/Inland Deserts Region
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Mr. Curt Sauer, Superintendent
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Moreno Valley, California 92251

Mr. Pat Fogerty
AP Architects
3434 Truxton Ave., Suite 240
Bakersfield, CA. 93301

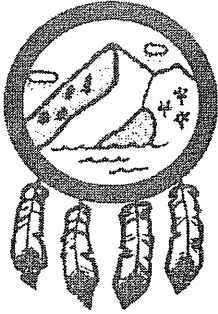
Mr. Jim Smith
Day Construction
3188-C Airway Ave.
Costa Mesa, CA 92626-4652

Mr. Edward L. LaRue, Jr.
Circle Mountain Biological Consultants, Inc.
P.O. Box 3197
Wrightwood, CA 92397

List of Attachments

Attachment 1: A report by Mr. Ed LaRue of Circle Mountain Biological Consultants, Inc. dated 3 March 2009, "Copper Mountain College Expansion Project: Compliance Inspection #2 for February 2009."

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CIRCLE MOUNTAIN BIOLOGICAL CONSULTANTS, INC.

P.O. BOX 3197

WRIGHTWOOD, CA 92397

PHONE/FAX: (760) 249-4948

Email: circlemtn@yahoo.com

3 March 2009

Rebecca Jones, Wildlife Biologist
36431 41st Street East
Palmdale, California 93552

RE: Copper Mountain College Expansion Project: Compliance Inspection #2 for February 2009

Dear Ms. Jones,

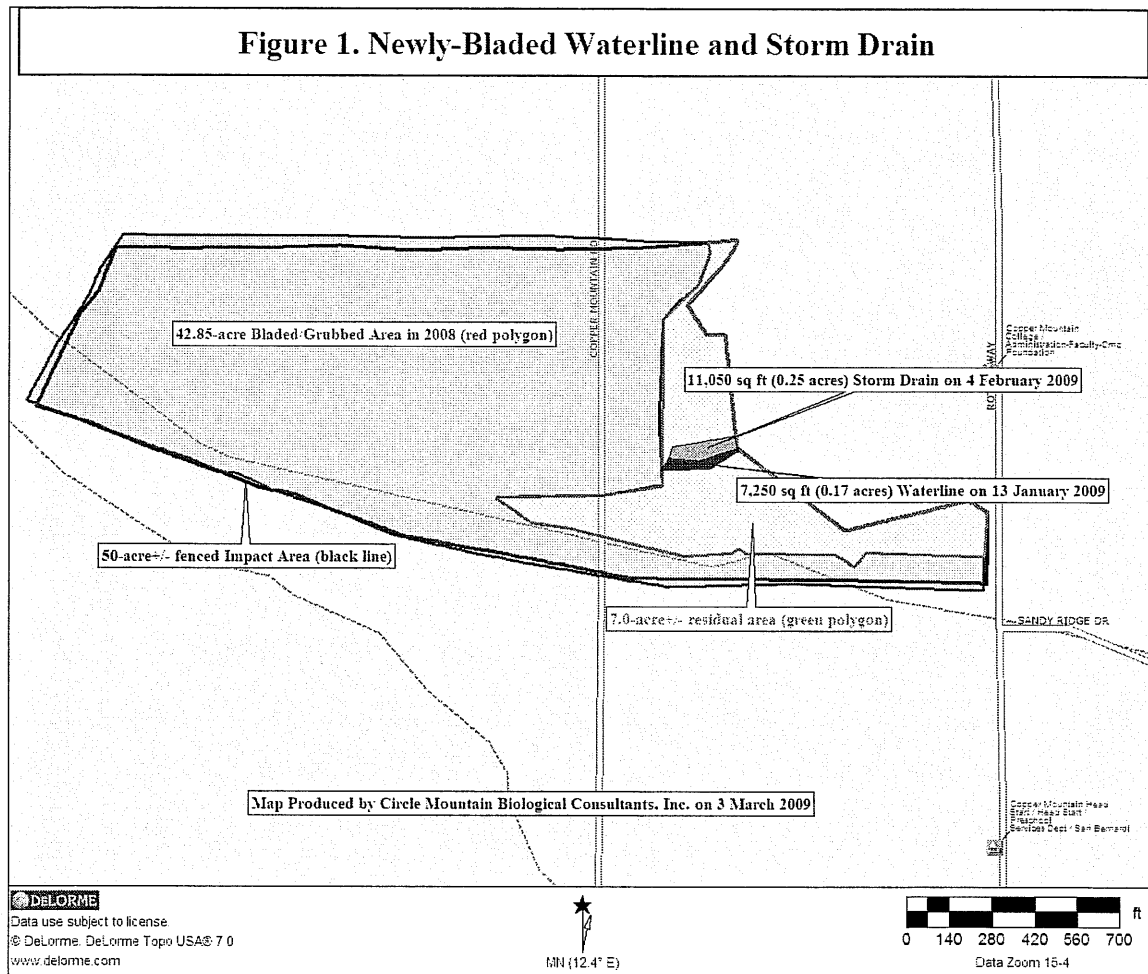
Circle Mountain Biological Consultants, Inc. (CMBC) has been contracted by the Copper Mountain Community College District (District or Permittee) to facilitate implementation and monitoring of pertinent mitigation measures for the above referenced project to protect the desert tortoise (*Gopherus agassizii*) as authorized by Incidental Take Permit Number 2081-2005-028-06 from the California Department of Fish and Game (Department).

As given in the Department's permit, **Mitigation Measure 24, Condition 4.2.4.** (MM24/C4.2.4) *Compliance inspections shall be conducted a minimum of once per month after clearing, grubbing, and grading are completed. A monthly compliance report shall be submitted to the Department's Palmdale office at: Ms. Rebecca Jones, 36431 41st Street East, Palmdale, CA 93552, PH/FAX (661) 285-5867.*

PREVIOUS STATUS: Compliance visit #1 was completed on 28 January 2009 and sent to Becky Jones soon thereafter. On 13 January 2009 a 0.17-acre area was bladed for a new water line and on 4 February 2009 a 0.25-acre contiguous area was bladed for a new storm drain. LaRue was on-site to monitor both of these activities, which affected approximately 0.42 acres. Although they occurred inside the Impact Area (Figure 1 on next page), they were within vegetated areas and were therefore bladed in the presence of a monitor.

CURRENT STATUS: This letter documents the compliance visit by Ed LaRue and Dr. Paul Delaney on 25 February 2009, which serves as the second monthly compliance inspection required by MM24/C4.2.4 given above. A single-page compliance visit data sheet designed by Dr. Delaney is attached to the end of this report. Since this is a new feature since January, LaRue also completed one of these forms for the first visit to facilitate comparisons between the January and February visits. Whereas this letter documents the specific findings of the 25 February 2009 compliance inspection, the District will include other pertinent materials that are to accompany each monthly report.

Figure 1. Newly-Bladed Waterline and Storm Drain



DATE AND TIME OF COMPLIANCE INSPECTION #2: The inspection was completed by Ed LaRue and Dr. Paul Delaney on 25 February 2009. LaRue was on-site between 08:05 and 09:05 a.m. and Delaney was on-site between 08:05 and 08:55 a.m.

METHODS: LaRue and Delaney walked alongside the fenceline running southeast from Dan Cain's trailer, headed east along Jerry Lewis Drive to Rotary Way, walked the Translocation Area (TA) fenceline west to the western boundary of the Impact Area (IA), and then circled through the IA back east checking on compliance issues.

RESULTS:

Personnel and Vehicles: LaRue observed approximately 37 construction personnel and 49 motor-operated vehicles inside the IA. Of the 37 personnel, 26 (70%) wore hard hats *with* tortoise awareness stickers, 3 (8%) wore hard hats *without* stickers, and 8 (23%) were on break at their vehicles and not wearing hard hats. This is similar to the January visit and signifies relatively good compliance. Of the 49 vehicles, 27 (55%) *did not* have awareness placards and 22 (45%) displayed awareness placards or stickers. Dan Cain indicated that he had emphasized the need to display vehicle decals. In January, 81% did not have placards, so there is 26% better compliance in February than in January. Nearly all personal vehicles displayed placards; there were fewer placards on heavy equipment, which is operated by multiple workers.

Education Program: *As per MM4/C4.1.4, the Permittee is required to administer education programs.* Field Contact Representative (FCR) Dan Cain conducts most of these programs as needed. He maintains the comprehensive sign-up sheet should the Department want to see that.

Trash Abatement: *As per MM5/C4.1.7, the Permittee is required to maintain a litter-free environment to avoid attracting opportunistic predators.* In January, LaRue tallied 138 pieces of litter inside the IA and 18 pieces inside the northern portion of the TA. Since that time, Dr. Delaney entered the TA and removed all of the litter he observed. During the subsequent February visit LaRue tallied 36 pieces inside the IA and 15 pieces inside the TA. As such, there has been a significant reduction in litter inside the IA and about the same inside the TA, which was already relatively low.

Translocation Area: *As per MM9/C4.3.1, the Permittee is required to establish the TA and maintain it for tortoise conservation.* In January Cain drafted a letter to the U.S. Fish and Wildlife Service (Service) requesting a minor permit amendment to accept the 84.32-acre TA rather than the 84.96-acre originally envisioned. Pending concurrence from them, Cain intends to register the conservation easement with San Bernardino County. As in January, LaRue observed a single set of fresh human footprints inside the TA in February.

Tortoise Observations: *As per MM10/C4.3.2, all tortoises are to be translocated out of the IA into the TA and per MM21/C4.3.9 and MM27/C4.2.6, the FCR and others are to be on the lookout for tortoises.* No tortoises have been observed on campus or within the construction area since October 2008.

Fencing: *As per MM11/C4.3.3, MM20/C4.3.8, and MM23/C4.3.4, the Permittee is required to install and maintain fences around both the TA and IA.* District staff continues to monitor the perimeter fences every Monday and Friday. The eastern alignment of the TA fenceline still needs to be moved, which will be monitored. Cain anticipates realigning this portion of the fence in late March 2009.

Purchase Compensation Lands: *As per MM12/C5, the Permittee is required to acquire 80 acres of habitat management lands to offset impacts resulting from campus expansion.* On 13 February 2009, the title paperwork was submitted to First American Title Company to transfer the 80-acre Thermal Canyon lands to National Park Service. Final acceptance is pending.

Firearms and Domestic Dogs: *As per MM18/C4.1.5, the Permittee is required to prohibit firearms and domestic dogs from the site.* Whereas LaRue observed approximately 10 domestic dog prints inside the IA in January, only three were observed in February. Several tracks were observed inside the TA, which LaRue tentatively identified as belonging to one or more coyotes. Delaney reported that the same dog has been observed on several occasions and the owner contacted to restrain her pet. All personnel have been instructed that firearms are prohibited and no firearms have been observed on-site.

Translocation Area Monitoring Program: *As per MM22/C4.3.11, the District is required to monitor all tortoises moved into the TA and to perform annual surveys in the spring.* It is too early to perform the first surveys in the TA, which are currently scheduled for April 2009.

Monthly Compliance Inspections: *As per MM24/C4.2.4, compliance inspections are to be conducted monthly.* After conferring with Becky Jones before the first visit, LaRue and Delaney agreed that LaRue would perform the visits for the first few months, that the visits would be unannounced and occur in the last week of the month, and the monthly compliance report would be supplemented by other relevant data collected in support of the Permit. Importantly, both LaRue and Delaney conducted this visit with the intent to have Delaney independently perform the visits by summer or early fall. This report, completed by LaRue, represents the second of 18 anticipated monthly compliance reports.

Failure to Implement Mitigation Measures: *As per MM26/C4.2.3, the Permittee is required to notify the Department immediately if any mitigation measures have not been implemented as give in the Permit.* Thus far, there has been no need to contact the Department as all mitigation measures have been implemented in a timely manner.

Stop Construction Activities: *As per MM28/C4.1.6, the Designated Biologist and FCR have authority to stop any construction activity that is not in compliance with the Permit.* There has been no need to stop construction activities since the first compliance visit in January.

Accessing the Construction Site Through Existing Routes: *As per MM29/C4.1.9, all project-related personnel are to access the site through approved routes and there is to be no cross-country travel.* Newly constructed Jerry Lewis Drive has been designated as the official entry point to the construction site. This gate was closed during the inspection of 25 February 2009 and Dan Cain reports that there has been good compliance with keeping the gate closed.

Clean-up of Hazardous Waste Leaks or Spills: *As per MM30/C4.1.11, all hazardous waste leaks and spills are to be promptly cleaned up and disposed of properly.* LaRue looked for spills on 25 February 2009 and failed to find any.

Contain All Construction Activities: *As per MM31/C4.1.10, all construction impacts are to be confined to the IA with vehicle speeds not to exceed 20 miles per hour.* LaRue saw no evidence that construction impacts had occurred outside the IA.

Handling Injured Tortoises: *As per MM32/C4.3.10 and MM33/C4.2.8, all injured tortoises are to be taken to a local veterinarian and the Department contacted and all dead tortoises are to be collected and the Department contacted.* To our knowledge, there have been no tortoises injured or accidentally killed as a result of expansion activities.

Clean-up Upon Completion of Work: *As per MM36/C4.1.13, all construction materials are to be removed from the site upon project completion.* It is too early to implement this measure.

Final Mitigation Report: *As per MM37/C4.2.7, a final mitigation report must be submitted to the Department no later than 45 days after completion of each phase.* No phases have yet been completed, so it is too early to implement this measure.

REMEDIAL ACTIONS:

The District and its subcontractors conscientiously implemented measures in the interim between 28 January and 25 February 2009 so that the following improvements were noted:

Trash Abatement: Inside the IA, litter incidence decreased from 138 pieces to 36 pieces, which represents a 74% reduction inside the IA. Construction personnel have displayed a significant increase in compliance and should continue to uphold these standards. Inside the TA, litter incidence decreased from 18 to 15 pieces, which is a 16% reduction inside the TA. Since, Dr. Delaney removed all observable litter in early February, these data indicate there is still some windblown litter occurring inside the TA. LaRue advises against routinely removing litter from the TA, but suggested to Delaney that all litter be removed from the TA when it is surveyed in April and that whenever personnel are in the TA for other reasons (e.g., to collect soil samples), that litter be removed.

Vehicle Placards: Owing to increased awareness and enforcement by the District, 45% of the vehicles displayed placards in February compared to only 19% in January. Though not tallied, LaRue observed that nearly all personal vehicles displayed placards and very few of the pieces of heavy equipment. Therefore, it is recommended that someone be assigned the one-time duty to place placards on all motor-driven equipment.

Translocation Area: The District should continue to watch for pedestrian use within the TA and take necessary actions to preclude students and others from that conservation area.

Firearms and Domestic Dogs: Delaney indicated that the District contacted a single pet owner on two occasions to have her restrain her dog from the campus. The data indicate a decrease in dog incidence both inside the IA and TA, which should continue to be enforced.

Contain All Construction Activities: Dr. Delaney should occasionally visit the ponding and running water flowing north of the IA to see if it is subsidizing ravens or coyotes and resulting in adverse impacts to tortoises or other wildlife.

This concludes the second of 18 anticipated monthly compliance inspections and reports for authorized expansion activities. This report was completed by Ed LaRue and reviewed by Dan Cain and Paul Delaney, who may be contacted using the following information:

Dan Cain, Field Contact Representative
Office phone: (760) 366-5295
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Paul Delaney, PhD, Professor of Biology
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Ed LaRue, Authorized Biologist
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Cell phone: (760) 964-0012
Email: ed.larue@verizon.net

Respectfully Submitted,

Circle Mountain Biological Consultants, Inc.
Edward L. LaRue, Jr.
Authorized Biologist

Attachments:

January 2009 Compliance Visit Form
February 2009 Compliance Visit Form



Copper Mountain Community College District (CMCCD)
State Incidental Take Permit No. 2081-2005-028-06
Federal Incidental Take Permit No. TE-143444-0
Compliance Inspection Report No. 1 For January 2009

Location: CMCCD Construction Site		Monitors: Ed LaRue
Date: 28 January 2009	Start Time: 09:00 a.m.	End Time: 09:45 a.m.
Temperature (°F): None	Cloud Cover (%): None	Wind Speed (mph): None
Rel. Humidity (%): None	Baro. Press. (mmHg): None	Wind Direction: None
Previous Status: This is the first monthly compliance visit.		
Current Status: Monitoring and compliance activities since the last report noted below.		
Methods: Monitors walked project site.		Results: See below.
# Personnel in Impact Area (IA): 31	# Personnel in IA with Tortoise Hardhat Decal: 27	Personnel in Tortoise Education This Month: ??
# Vehicles in Impact Area (IA): 54	# Vehicles in IA with Tortoise Placards: 44	Vehicles Speeding: Yes <input type="checkbox"/> _____ No <input checked="" type="checkbox"/>
Fencing Intact: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Firearms Observed on Site: Yes <input type="checkbox"/> _____ No <input checked="" type="checkbox"/>	Mitigation Land Purchase: Ongoing <input checked="" type="checkbox"/> Completed <input type="checkbox"/>
Trash Abatement : # Pieces in TA: 18 IA: 138	# Dog Prints: In TA: 4 IA: 10	Ravens or Subsidies On Site: Yes <input type="checkbox"/> _____ No <input checked="" type="checkbox"/>
Translocation Area (TA) Status Quo: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	TA Gates Closed After Transit: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Pond Subsidizing Predators: Maybe <input type="checkbox"/> See report No <input checked="" type="checkbox"/>
Project Activity Stopped: Yes <input type="checkbox"/> _____ No <input checked="" type="checkbox"/>	Weekly Fence Inspection Completed: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Weekly Raven Census Performed: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Tortoise/Sign Observations: Yes <input type="checkbox"/> _____ GPS _____ No <input checked="" type="checkbox"/>	Tortoise/s Handled: Yes <input type="checkbox"/> _____ No <input checked="" type="checkbox"/>	Tortoise/s Ill or Injured: Yes <input type="checkbox"/> _____ No <input checked="" type="checkbox"/>
IA Accessed By Existing Routes: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> _____	Construction Activities Confined to IA: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Hazardous Waste Cleanups: Yes <input type="checkbox"/> No <input type="checkbox"/> _____ NA <input checked="" type="checkbox"/>
Other Abatement Observed: Yes <input type="checkbox"/> _____ No <input type="checkbox"/>	Remedial Action Suggested: See accompanying report	Final Mitigation Report Too Early to Perform: <input checked="" type="checkbox"/>
Minimization Successful to Date: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> _____	Violations Observed: Yes <input type="checkbox"/> _____ No <input checked="" type="checkbox"/>	Adaptive Management Needed: Yes <input type="checkbox"/> _____ No <input checked="" type="checkbox"/>
Additional Notes:		
Certification: "I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate and complete". Signature _____.		



Copper Mountain Community College District (CMCCD)
State Incidental Take Permit No. 2081-2005-028-06
Federal Incidental Take Permit No. TE-143444-0
Compliance Inspection Report No. 2 For February 2009

Location: CMCCD Construction Site		Monitors: Ed LaRue, Paul Delaney
Date: 25 February 2009	Start Time: 08:05 a.m.	End Time: 09:05 a.m.
Temperature (°F): 57.5°F	Cloud Cover (%): 5%	Wind Speed (mph): Calm
Rel. Humidity (%): 46.2	Baro. Press. (mmHg): 928.4	Wind Direction: None
Previous Status: See prior compliance inspection report of 28 January 2009.		
Current Status: Monitoring and compliance activities since the last report noted below.		
Methods: Monitors walked project site.		Results: See below.
# Personnel in Impact Area (IA): 37	# Personnel in IA with Tortoise Hardhat Decal: 26	Personnel in Tortoise Education This Month: ??
# Vehicles in Impact Area (IA): 49	# Vehicles in IA with Tortoise Placards: 22	Vehicles Speeding: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Fencing Intact: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Firearms Observed on Site: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Mitigation Land Purchase: Ongoing <input checked="" type="checkbox"/> Completed <input type="checkbox"/>
Trash Abatement : # Pieces in TA: 15 IA: 36	# Dog Prints: In TA: 0 IA: 3	Ravens or Subsidies On Site: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Translocation Area (TA) Status Quo: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	TA Gates Closed After Transit: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Pond Subsidizing Predators: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Project Activity Stopped: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Weekly Fence Inspection Completed: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Weekly Raven Census Performed: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Tortoise/Sign Observations: Yes <input type="checkbox"/> GPS <input type="checkbox"/> No <input checked="" type="checkbox"/>	Tortoise/s Handled: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Tortoise/s Ill or Injured: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
IA Accessed By Existing Routes: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Construction Activities Confined to IA: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Hazardous Waste Cleanups: Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input checked="" type="checkbox"/>
Other Abatement Observed: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Remedial Action Suggested: See accompanying report	Final Mitigation Report Too Early to Perform: <input checked="" type="checkbox"/>
Minimization Successful to Date: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Violations Observed: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Adaptive Management Needed: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Additional Notes:		
Certification: "I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate and complete". Signature _____.		