



Department of Fish and Game
Habitat Conservation Planning Branch
Attention: CESA Permitting Program
1416 Ninth Street, Suite 1260
Sacramento, California 95814

November 8, 2011

Dear Sir or Madam,

For your records I have enclosed is a copy of "Amendment No. 1 (A Minor Amendment) to Incidental Take Permit No. 2081-2005-028-06 for the Copper Mountain Community College Expansion Site, San Bernardino County."

The copy has been signed by the Department of Fish and Game, and by Dr. Paul Delaney as the authorized representative of the Permittee.

Thank you for your time and attention to this matter.

Respectfully submitted,

A handwritten signature in cursive script that reads "Paul M. Delaney".

Paul M. Delaney Ph.D.
Copper Mountain College
6162 Rotary Way, PO Box 1398
Joshua Tree CA 92252

Office phone: (760) 366-3791, ext. 0257
Fax: (760) 366-3973
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State of California - The Natural Resources Agency

DEPARTMENT OF FISH AND GAME

Inland Deserts Region
4665 Lampson Avenue, Suite J
Los Alamitos, CA 90720
<http://www.dfg.ca.gov>

EDMUND G. BROWN JR., Governor

CHARLTON H. BONHAM, Director



November 4, 2011

Dr. Paul M. Delaney
Copper Mountain Community College
PO Box 1398
6162 Rotary Way
Joshua Tree, CA 92252

Incidental Take Permit No. 2081-2005-028-06
Amendment No. 1
(A Minor Amendment)
Copper Mountain Community College Expansion Site
San Bernardino County

Dear Dr. Delaney:

Enclosed are two copies of the subject permit signed by the Department of Fish and Game (Department). Please sign both copies and return one copy to the Department's Legal Office, 1416 Ninth Street, Sacramento, CA, 95814.

Please be aware that the permit does not take effect until the signed acknowledgement is received by the Department.

Sincerely,

A handwritten signature in cursive script that reads "Kimberly Nicol".

Kimberly Nicol
Regional Manager

Enclosures

CALIFORNIA DEPARTMENT OF FISH AND GAME

INLAND DESERTS REGION

4665 LAMPSON AVENUE, SUITE J

LOS ALAMITOS, CA 90720



AMENDMENT NO. 1

(A Minor Amendment)

California Endangered Species Act

Incidental Take Permit No. 2081-2005-028-06

Copper Mountain Community College District

Copper Mountain Community College Expansion Site

in San Bernardino County

INTRODUCTION

On November 22, 2006, the California Department of Fish and Game (DFG) issued Incidental Take Permit Number 2081-2005-028-06 (ITP) to the Copper Mountain Community College District (Permittee) for take, as defined by state law, of desert tortoise (*Gopherus agassizii*), a species designated as threatened under the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) (See Cal. Code Regs., tit. 14, § 670.5, subd. (b)(4)(A).) DFG authorized Permittee to take desert tortoise (Covered Species) incidental to the otherwise lawful development of the Copper Mountain Community College Expansion Site in San Bernardino County, California (Project). The Project as described in the ITP as originally issued by DFG includes the expansion of Copper Mountain Community College campus from its existing 8.59 acres to 156.53 acres owned by the Permittee in adjacent areas. In issuing the ITP, DFG found, among other things, that Permittee's compliance with the Conditions of Approval of the ITP would fully mitigate impacts to the Covered Species and would not jeopardize the continued existence of the Covered Species. (See generally Fish & G. Code, § 2081, subds. (b), (c); Cal. Code Regs., tit. 14, § 783.4.)

In a letter dated March 21, 2011, Permittee requested authorization to conduct blood testing, health assessments, and radio telemetry of individuals of the Covered Species to enhance management and conservation of the species in the Translocation Area

identified in or as otherwise a part of the ITP as originally issued. Permittee submitted the request following an unrelated release of a pet tortoise in the Translocation Area. That tortoise was found to be infected with *Mycoplasma agassizii*. Permittee also requests authorization pursuant to the ITP to use radio telemetry to track movement of individuals of the Covered Species and statistically describe changing special distribution of the Covered Species in the Translocation Area.

This Minor Amendment (No. 1) makes the following changes to the ITP as originally issued by DFG:

First, the Permittee may collect blood samples from and do health assessments on individuals of the Covered Species within the Translocation Area; and

Second, the Permittee may transmitter and monitor movement patterns of individuals of the Covered Species within the Translocation Area.

AMENDMENT

The ITP as originally issued by DFG is amended as follows (amended language in ***bold italics***; deleted language in ~~strikethrough~~):

The following shall be added to the ITP, Condition of Approval 4.3:

1. Condition 4.3.13. Blood samples shall be collected as follows by qualified persons approved by DFG:

- Blood samples may be collected a maximum of once per month between the months of April and November. Individuals of the Covered Species with "suspect" Enzyme-linked immunosorbent assay (ELISA) test results may be re-sampled within the same month.***
- For individuals of the Covered Species greater than or equal to 180 millimeters carapace length, the maximum amount of blood that will be***

collected from the brachial vein or subcarapacial sinus will be 2.0 cubic centimeters (total volume of all fluids) per sample.

- *For individuals of the Covered Species less than 180 millimeters carapace length, the maximum amount of blood (total volume of all fluids) per sample that will be collected from the brachial vein or subcarapacial sinus will be calculated according to the October 2007 protocol for bleeding juvenile tortoises developed for this project or other updated protocol approved by the Desert Tortoise Recovery Office (DTRO) (Attachment 3).*
- *If the amount of blood that is drawn from an individual of the Covered Species is more than what is required to address the three factors identified in the Permittee's study proposal, this blood shall be archived and only used for the specific purposes that have been approved in writing by the DTRO. The facilities that archive unused blood shall only make such samples available to entities as approved or directed by the DTRO.*
- *Blood to be shipped to laboratories for analysis shall be accompanied by a copy of this permit to validate that the specimens were taken pursuant to a permit.*
- *Permittee shall have the blood analysis done at an approved facility.*

2. Condition 4.3.14. Radio transmitters shall be attached to individuals of the Covered Species similar to the manner described in Boarman et al. (1998). Radio transmitters and antennae must be mounted so as not to impede growth or the daily activities of the individual desert tortoise, including burrow construction, righting of the overturned individual, and mating. Permittee shall ensure the well-being of individual desert tortoise when attaching radio transmitters, and during the location and operation of these devices.

- *Placement and installation of radio antennae on individuals of the Covered Species shall be done in a manner that eliminates voids between the carapace and the antennae (i.e., the antennae attachment shall be flush with the carapace). Antennae may be left trailing unattached behind the individual tortoise.*
- *The total mass of the instrumentation that is attached to each individual of*

the Covered Species, including the antenna, epoxy, etc., shall not exceed 10 percent of the animal's body mass.

- ***Permittee shall remove or replace radio transmitter batteries before the batteries are likely to fail.***
- ***Permittee shall report any damage to the shell of any individual of the Covered Species that occurs as a result attachment or removal of a radio transmitter to DFG, in writing, within 3 working days of any such damage.***
- ***Permittee shall monitor transmitted adult individuals of the Covered Species year-round at intervals approved by DFG to ensure such animals are not lost due to long-range movements beyond the area capable of detection by telemetry equipment. Monitoring is important even during the inactive period (when an animal is brumating). This will facilitate recapture in the spring when transmitted individuals first exits their burrow to ensure that any malfunctioning transmitter is replaced before the individual becomes active.***
- ***Only persons approved by DFG shall attachment or remove transmitters to individuals of the Covered Species.***

The two Conditions of Approval set forth above (4.3.13 and 4.3.14) shall be added to the ITP Mitigation Monitoring and Reporting Program (MMRP) at Pages 5 and 6, as Conditions 21 and 22.

All terms and conditions of the ITP and MMRP not expressly amended herein shall remain in full force and effect, and Permittee must implement and shall adhere to such conditions as originally approved by DFG.

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FINDINGS

Issuance of this Amendment will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will this Amendment increase other Project impacts on the Covered Species (i.e., "impacts of taking" as used in Fish and Game Code section 2081, subdivision (b)(2)).

Discussion: This Amendment makes two specific changes to the ITP as originally issued. It will allow blood testing, health assessments and radio telemetry of desert tortoises in the Translocation Area. This request was made because a pet tortoise was released into the Translocation Area. The resulting impacts to the Covered Species including the handling of the previously translocated tortoises which are currently monitored monthly as a result of the Project, will remain the same.

DFG has determined that the amended Conditions of Approval as set forth above will not increase the amount of take or the severity of other impacts of the taking on the Covered Species. Given the circumstances of this Project, DFG believes that the changes to the Project or Conditions of the ITP described in this Amendment, including blood work and transmitterming, when using experienced biologists approved by the DFG, will not increase impacts to the Covered Species.

Issuance of this Amendment does not affect DFG's previous determination that issuance of the ITP meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

Discussion: DFG determined in November 2006 that the ITP for the Project, as approved, met the standards for issuance of an ITP under CESA. This determination included findings that, among other things, the impacts of the taking would be minimized and fully mitigated, and that the Project would not jeopardize the continued existence of the Covered Species. Those findings are unchanged with respect to this Amendment because the Project and ITP as amended: (1) will have no effect on the amount or severity of Project impacts on the Covered Species, as discussed above; and (2) does not substantively alter the measures that will be undertaken to minimize and mitigate

previously authorized impacts on the Covered Species. This Amendment acknowledges that individuals of the Covered Species in the Translocation Area were compromised when someone released a pet tortoise infected with *Mycoplasma agassizii* into the Translocation Area. Permittee's continued adherence to and implementation of the avoidance and minimization measures set forth in the ITP's Conditions of Approval and MMRP will minimize and fully mitigate impacts of the taking on the Covered Species.

None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166, or California Code of Regulations, Title 14, sections 15162 and 15163, exist as a result of this Amendment.

Discussion: DFG issued the ITP in November 2006 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) after, among other things, considering the environmental impact report certified by the Permittee as the lead agency for the Project (SCH No. 2003061062). As explained below, DFG finds for purposes of CESA that this Amendment is a minor change to the original ITP. (Cal. Code Regs., tit. 14, § 783.6, subd. (c)(4).) DFG finds for the same reasons under CEQA that approval of the Amendment will not result in, and does not have the potential to create any new significant or substantially more severe environmental effects than previously analyzed and disclosed by the Permittee during its prior lead agency review of the Project, particularly with respect to the impacts authorized by DFG pursuant to the ITP as amended. As a result, DFG finds that additional subsequent or supplemental environmental review is not required by CEQA as part of DFG's approval of this Minor Amendment. (*Id.*, § 15164.) Likewise, consistent with its earlier finding at the time of issuance of the ITP, DFG finds that the impacts of the taking authorized by the ITP as modified by this Minor Amendment are and will be mitigated to below a level of significance for purposes of CEQA by and through the Conditions of Approval required by the ITP as amended. (Pub. Resources Code, § 21081, subd. (a)(1).)

DFG finds that this Amendment is a Minor Amendment, as defined in California Code of Regulations, Title 14, section 783.6, subdivision (c)(4).

Discussion: This Amendment authorizes the Permittee conduct blood testing, health assessments, and radio telemetry of individuals of the Covered Species in the approved Translocation Area. These changes to the ITP as originally approved will not: (1) increase the level of take or other Project impacts on Covered Species previously analyzed and authorized by the ITP, (2) affect the Permittee's substantive mitigation obligations under the ITP, (3) require further environmental review under CEQA, or (4) increase temporal impacts on the Covered Species. Therefore, this Amendment will not significantly modify the scope or nature of the permitted Project or activity, or the minimization, mitigation, or monitoring measures in the ITP. DFG has determined that the changes to the ITP as originally approved constitute a Minor Amendment for purposes of California Code of Regulations, Title 14, section 783.6, subdivision (c)(4).

The authorization provided by this Amendment is not valid until Permittee signs and dates the acknowledgement below, and returns one of the duplicate originals of this Amendment by registered first class mail to DFG at:

Department of Fish and Game
Habitat Conservation Planning Branch
Attention: CESA Permitting Program
1416 Ninth Street, Suite 1260
Sacramento, California 95814

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Minor Amendment No. 1
Incidental Take Permit 2081-2005-028-06
COPPER MOUNTAIN COMMUNITY COLLEGE
Copper Mountain Community College Expansion Site

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND GAME

on 11/4/11

Kimberly Nicol

Kimberly Nicol
Regional Manager
Inland Deserts Region

Approved as to form:

[Signature]

John H. Mattox
Staff Counsel IV

ACKNOWLEDGMENT

The undersigned: (1) warrants that he or she is acting as a duly authorized representative of the Permittee, (2) acknowledges receipt of the original ITP and this Amendment, and (3) agrees on behalf of the Permittee to comply with all terms and conditions of the ITP as amended.

By: Paul M. Delaney

Date: 8-November-2011

Printed Name: Paul M. Delaney

Title: District Biologist