

**Mitigation and Monitoring Report Tables for U.S. Fish & Wildlife Service  
Permit #TE143444-0**

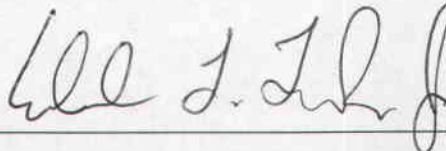
**Prepared on 6 May 2008 by:**

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**Updated on 9 January 2009 by:**

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*"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"*



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9 January 2009

Mr. Brian Croft  
US Fish & Wildlife  
22835 Calle San Juan De Los Logos  
Moreno Valley, Ca., 92551

RE: Compliance with protective measures given in the Habitat Conservation Plan and Environmental Assessment for U.S. Fish and Wildlife Service 10(a)(1)(B) permit TE143444-0 issued for the Copper Mountain College (CMC) Expansion Project

Dear Mr. Croft,

Circle Mountain Biological Consultants, Inc. (CMBC) has been contracted by the Copper Mountain Community College District (District) to facilitate implementation of pertinent mitigation measures for the above referenced project, which resulted in the incidental take of the desert tortoise (*Gopherus agassizii*) as authorized by U.S. Fish and Wildlife Service (Service) 10(a)(1)(B) incidental take permit TE143444-0 issued for the Copper Mountain College (CMC) Expansion Project.

Incidental take has also been authorized by Incidental Take Permit Number 2081-2005-028-06 from the California Department of Fish and Game (Department). The Department has a convenient means of tracking implementation of protective measures in tables it refers to as "Mitigation and Monitoring Reporting Program (MMRP) tables." In May 2008, Dr. Paul Delaney, Professor of Biology at CMC tabulated 110 protective measures from the related Environmental Assessment (EA), Implementing Agreement (IA), and Habitat Conservation Plan (HCP).

As Lead Authorized Biologist for this project, Ed LaRue performed the original focused survey in 2002, drafted the HCP in 2006, and implemented protective measures in 2008. As such, he is uniquely qualified to use Dr. Delaney's tables to track successful implementation of these 110 measures and to identify those measures that still need to be implemented.

CMBC has completed two companion documents including (1) "Tortoise Profiles," which documents observations for as many as 16 tortoises observed on campus between 15 September and 9 October 2008 and (2) "Construction Monitoring 15 September to 24 November 2008," which summarizes all biological monitoring during early expansion activities when tortoises would most likely be affected. Herein, CMBC reports compliance with the MMRP tables for the EA, IA, and HCP as outlined by Dr. Delaney on 6 May 2008.

CMBC has completed two previous MMRP tables for the Department, including one on 7 March 2007 for measures implemented in 2006 and one on 4 February 2008 for measures implemented in 2007. Since the federal incidental take permit was issued in July 2007, there have been no analogous reports prepared. Even so, there are logically three time periods in which protective measures have been implemented. As such, CMBC utilizes a color scheme to indicate the following:

Green = Those measures that were previously implemented prior to 4 February 2008

Blue = Those measures implemented between 4 February 2008 and 9 January 2009

Red = Those measures still outstanding

The reader will find a ready means to determine those measures that have already been implemented (i.e., given in green and blue font) and those measures that have yet to be implemented (i.e., given in red font). The timing of this report in early January 2009 is appropriate as all activities most likely to affect tortoises occurred between 15 September and 24 November 2008 and the Service requires compliance reports by 31 January of a given year. As such, most proactive protective measures intended to avoid impacts to tortoises at the most critical time given in the three federal documents have already been implemented.

The tables following the next few sections were compiled by Dr. Delaney from the U.S. Fish and Wildlife Service 10(a)(1)(B) permit #TE143444-0 issued for the Copper Mountain College Expansion Project on 17 July 2007, which includes the EA, IA, and HCP. The index at the end of this document will allow readers to cross-reference minimization and mitigation measures (collectively "Item #"), which are discussed multiple times in different source documents.

The following sections describe implementation of those measures requiring additional discussion, which are cross-referenced with the Item # given in the left hand column of the MMRP tables that follow.

**Item #3.** *Permittee must place conservation easement (deed) restriction on 84.96 acre Translocation Area within 12 months following permit issuance. Deed restriction must ensure perpetual preservation of this site as desert tortoise habitat.*

Although the Translocation Area has been fenced with a permanent fence, a formal conservation easement (deed) restriction has not yet been obtained.

**Item #4.** *If Permittee selects the 30 acre DTNA parcel as mitigation land, it must notify the Service (USFWS) within 30 days after parcel acquisition.*

Of the available options, the District is pursuing the acquisition of 30 acres at the Desert Tortoise Natural Area, although that acquisition is incomplete at this time (9 January 2009). The District is actively working with the Desert Tortoise Preserve Committee (DTPC) to acquire appropriate lands.

The minor permit amendment on 10 June 2008 reads: "You [District] are anticipating that initial ground disturbance on the first phase of your development will occur in June of 2008. If this enhancement or acquisition *occurs within 12 months of the initiation of ground disturbance* [emphasis added], we do not anticipate that the take associated with the project will out pace the intended mitigation."

Importantly, since initial ground disturbance did not occur in June 2008, but rather on 15 September 2008, the District understands that this minor permit amendment allows it to purchase those 30 acres of land at the DTNA for eventual DTPC management by 15 September 2009, or one year following initial ground disturbance.

**Item #5.** *Permittee must contact Service prior to implementing activities within HCP that may kill migratory birds or destroy their nests to determine if a permit is required under the Migratory Bird Treaty Act.*

Since intrusive ground disturbance occurred between 15 September and 24 November 2008, Authorized Biologist Ed LaRue judged that this time period was well outside the breeding season of all protected birds and that no nesting birds were affected by construction activities. Particular attention was paid to the potential presence of western burrowing owl, which although not nesting, has previously been reported in the expansion area (Circle Mountain Biological Consultants 2002). Focused surveys were performed for burrowing owl on several occasions between March 2008 and September 2008 to ensure no burrowing owls were harmed, which is the case.

**Item #6.** *The District is required to contact the Service immediately if a desert tortoise is killed or injured by project activity. Project activities may continue pending outcome of District and Service review of circumstances surrounding the incident, provided that proposed protective measures and appropriate terms and conditions of the biological opinions for this project have been and continue to be fully implemented.*

Between 15 September and 16 October 2008, more than 12,000 rodent burrows and 17 known tortoise burrows were excavated to ensure that no tortoises were killed. The 43-acre± Impact Area footprint was bladed in the presence of four biological monitors between 19 and 24 November 2008. To the best of our knowledge, no tortoises were harmed or killed by any of these activities.



**Item #7.** *The District must require hydration of desert tortoises that void bladder contents during handling procedures. The authorized biologists may use their discretion considering amount the amount voided, condition of the desert tortoise, and environmental conditions to determine if hydration is necessary. The authorized biologist may use pan soaking or provide well-hydrated, appropriate foods for this procedure. The Ventura Fish and Wildlife Office must authorize any other methods for hydration prior to use.*

None of the 9 tortoises handled on 11 occasions voided their bladders, so re-hydration was not required.

**Item #8.** *The District must provide a copy of all correspondence that it sends to the Service regarding this permitted action to the Superintendent, Joshua Tree National Park, 74485 National Park Drive, Twentynine Palms, CA 92277.*

Importantly, the District submitted a copy of its "Compliance Status Report for the period of April 10, 2008 to October 2, 2008..." dated 16 October 2008 and all other pertinent documents to Curt Sauer, current Superintendent.

**Item #9.** *All reports must include the following certification from a responsible company official who supervised or directed preparation of the report: "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."*

This statement was included on page 5 of Dan Cain's compliance report dated 16 October 2008. These MMRP tables are prefaced with this statement and signed by Ed LaRue who completed this report with review and input from Dan Cain and Paul Delaney.

**Item #10.** *The District would purchase 80 acres of land near Thermal Canyon prior to ground disturbance on the Project Site. The legal description for this parcel is Township 5 South, Range 9 East, South ½ of the Northwest ¼ of Section 13, SBBM. The District would transfer the land to the Park following acquisition. Due to the isolated location of this parcel and its pristine condition, it would not initially require any active enhancement or management. For the 16-year duration of this permit, the Park would visit the site once a year to assess whether off-highway vehicle (OHV) intrusions, raven subsidies, and/or non-native invasive plants occur on the site. These visits would involve 1 to 2-hour walking surveys of the site. The Park would also remove any trash and debris from the site that they detect during inspections of the parcel and perform native plant re-vegetation of sites identified during inspections that show substantial degradation from OHV egress.*

In 2008 the District purchased this parcel and transferred it to the National Park Service (NPS). NPS performed its annual site visit on 27 June 2008.

**Item #11.** *To complete the remainder of its mitigation, the District may choose to provide funding to a designated entity for the improved management of desert tortoise habitat on a 605-acre desert park located near Coyote Hole Springs within 12 months of permit issuance. The legal description for this parcel is Township 1 South, Range 7 East, Section 6, SBBM.*

The District has opted NOT to pursue this alternative measure.

**Item #12.** *If the District does not choose to fund management of the Desert Park or if there are problems finding a management entity to accomplish this task, it may choose to provide funds to the DTPC for acquisition and management of 30 acres of desert tortoise habitat at the DTNA. The District does not currently know the legal description for this parcel, but the DTPC would purchase the land within the DTNA as outlined in the DTPC's Management Plan for the Desert Tortoise Natural Area and Adjacent Lands (Connor 2002).*

The District has decided to pursue this option and is currently in negotiations with DTPC. As given above in Item #4, the District understands that it has until 15 September 2009 to acquire these 30 acres.

**Item #13. Translocation Area Management:** *The District would enclose the area with a 1-inch by 2-inch desert tortoise-proof fence before Phase 1 development begins. The District would permanently enclose the Translocation Area with a block wall or standard chain link fence in a later phase of the project. If the District uses chain link, they would affix a 24-inch by 1-inch by 2-inch mesh, galvanized steel hardware cloth to the bottom. They would bury the bottom 6 to 12 inches of the wire mesh below the soil surface to prevent desert tortoises from digging out (or in). The District would place signs prohibiting the drop-off of unwanted pet desert tortoises along the fence to reduce the risk of the public releasing diseased animals into the area. The District would equip gates accessing the facility with features to prevent the escape of desert tortoises from the area.*

The right-of-way (ROW) for the Translocation Area was staked and bladed beginning on 16 September 2008. Prior to blading the ROW, five biologists excavated approximately 700 rodent burrows from fenceline looking for hatchling tortoises. A permanent tortoise-proof fence was installed between 16 and 25 September 2008. A minor amendment from the Service dated 10 June 2008 authorized the District to place a three-strand fence around the Translocation Area rather than a chain-link fence, which saved the (nonprofit) District thousands of dollars. As reported in the "Tortoise Profiles" document, at least nine tortoises are known to occur inside the fenced area, including two unmarked tortoises, two tortoises already inside the area that were marked, and five tortoises that were processed, marked, and translocated into the Translocation Area from the Impact Area. Appropriate signs (see CMC compliance report dated 16 October 2008) have been placed around the perimeter of the Translocation Area and Valley Fence fitted gates with tortoise-proof mesh. The District will be responsible for monitoring the fences and maintaining their integrity in perpetuity.

**Item #14.** *The District would monitor desert tortoises within the Translocation Area for the permit duration to ensure that the translocation is successful, by taking the following actions (Items #14-21) to monitor desert tortoises and the Translocation Area: Permanently mark all desert tortoises within the Translocation Area following the methodology described in "Guidelines for Handling Desert Tortoises During Construction Projects" (Desert Tortoise Council 1999) or the most recent version.*

The five tortoises rescued from the Impact Area and two others found inside the fenced Translocation Area were marked "CMC1" through "CMC7," which will facilitate subsequent identification when the Translocation Area is surveyed annually in the spring.

**Item #15.** *Perform annual surveys in early spring to identify the total number of desert tortoises present.*

**Item #16.** *Weigh, measure, and perform a visual health assessment of desert tortoises to detect evidence of disease on an annual basis.*

**Item #17.** *Perform annual surveys for the presence of hatchling desert tortoises that show signs of raven-predation.*

**Item #18.** *Perform an annual assessment of new facilities to determine if they are subsidizing common raven or other predator populations in or near the Translocation Area.*

**Item #21.** *Perform an annual assessment to determine the presence of non-native invasive plant species within the Translocation Area.*

As given in the District's Translocation Plan (dated October 2007), Items #15 through #18 and #21 will be implemented beginning in the spring of 2009.

**Item #19.** *Count raven numbers and nests once a week using a standard methodology (e.g. 15-minute surveys of the Translocation Area at 6:00 am on each Wednesday throughout the year).*

Dr. Delaney initiated the raven monitoring effort in September 2008 and continues to implement it.

**Item #20.** *Perform monitoring of all fence lines surrounding the Translocation Area once a week.*

**Item #24.** *Repair any damage to Translocation Area boundary fences that is detected during weekly monitoring;*

Dan Cain is responsible for Items #20 and #24, which he continues to implement.



**Item #22.** *Once the District has established the Translocation Area, it would monitor the site and implement the following adaptive management measures (Items #22-26): Quarantine any desert tortoises within the Translocation Area showing signs of Upper Respiratory Tract Disease (URTD), contact the Service to determine the most appropriate and recent protocols to implement for the care and handling of desert tortoises that have URTD.*

**Item #23.** *Remove any predator subsidies (trash, water sources, roosting sites) identified within the Translocation Area or Project Site during annual desert tortoise surveys or other Translocation Area assessments;*

**Item #25.** *During the non-nesting season, remove any raven nests in the Translocation Area or other adjacent lands if desert tortoises with evidence of common raven predation are found within the Translocation Area during annual surveys; and*

**Item #26.** *Manage any non-native invasive plant populations within the Translocation Area, except for Mediterranean split grass and red-stem filaree that the District identifies during yearly monitoring.*

Dr. Delaney is currently in charge of implementing measures #22, #23, #25, and #26 which will be implemented for the first time in the spring of 2009.

**Item #27.** *The District will implement the following measures (Item #27-59) to minimize impacts to the human environment during implementation of the HCP. Some measures only apply to certain portions of the HCP's plan area. The following acronyms represent the separate portions of the plan area and are used to indicate which portions of the plan area each measure applies to: 1) PS = Project Site and Finished Facilities; 2) TA = Translocation Area; 3) TC = Thermal Canyon Parcel; 4) DP = 605-acre Desert Park; and 5) DTNA = 30-acre DTNA Parcel..*

*The District would apply water, non-toxic dust palliatives, or gravel to soil on construction sites, work areas, and unpaved gravel access routes. (PS).*

The District's contractors (Day Construction, Premiere Construction, etc.) have used these and other state of the art technologies to minimize fugitive dust and impacts to adjacent areas, including the Translocation Area.

**Item #28.** *Landscaping on all completed facilities would incorporate native species to the extent possible. Landscaping personnel would monitor the completed facilities for non-native invasive plant species as part of routine maintenance to remove these plants when located. Removal would avoid the use of any herbicides, except those documented to be harmless to wildlife. (PS)*

Active construction is ongoing, so it is too early to implement this measure.