

## **Excerpts from CMC's USFWS HCP and CDFW 2081 Permit**

**Paul Delaney Ph.D.**

**Copper Mountain Community College • USFWS Habitat Conservation Plan • June 2006**

[https://www.fws.gov/ventura/docs/hcps/final/CopperMountainCollege\\_HCP.pdf](https://www.fws.gov/ventura/docs/hcps/final/CopperMountainCollege_HCP.pdf)

### **Executive Summary**

Copper Mountain Community College District (District) herein provides a Habitat Conservation Plan (HCP) to minimize and mitigate adverse effects to the federally threatened desert tortoise (*Gopherus agassizii*) on 156.53 acres of desert tortoise habitat located in the unincorporated community of Joshua Tree, San Bernardino County, California (Township 1 North, Range 7 East, southeast quarter of Section 26). Because development of this project would likely result in take of this threatened species, the District is using this HCP as the basis for their section 10(a)(1)(B) incidental take permit (permit) application. The District requests that the permit duration be 16 years, which would be sufficient to cover all foreseeable construction and monitoring activities.

The District proposes to expand the Copper Mountain Community College campus from the existing 8.59 acres onto 71.57 acres that it owns in adjacent areas. It would begin the phased construction with a solar field and an 84.96-acre translocation area for desert tortoises (Translocation Area) in 2006, followed by a multi-use sports complex, various roads, and a parking area in 2007. During the next 12 years, the District would construct parking lots, new sports fields, additional classroom facilities, and other buildings.

The District proposes to implement measures to minimize adverse effects during construction and operation of these facilities, additional measures to mitigate adverse effects, and post-construction measures to minimize indirect effects from ongoing use of the new facilities. To minimize adverse effects to the desert tortoise and its habitat, the District would provide on-site biological monitoring during construction. Biologists authorized by the U.S. Fish and Wildlife Service (Service) would move desert tortoises out of harm's way and conduct conservation awareness programs. In addition, the District would meet a schedule of reporting requirements and appoint a field contact representative to oversee compliance. The District would also establish and maintain a translocation area to receive any desert tortoises displaced by construction activities during campus development. The District would fund the maintenance and monitoring of desert tortoises in the on-site Translocation Area, and develop and implement a desert studies curriculum through its Desert Studies Center at the Copper Mountain Community College campus to increase the level of desert tortoise awareness among citizens in the surrounding communities.

To mitigate adverse effects, the District would purchase an 80-acre private in-holding in the Thermal Canyon area of Joshua Tree National Park. They would transfer this parcel to Joshua Tree National Park (Park) and provide the Park with funds to assure adequate management for desert tortoise conservation on the 80-acre site. The District would implement an additional mitigation measure within 12 months of permit issuance. Although the 80-acre parcel is desert tortoise habitat, they are providing this additional mitigation because habitat on the 80-acre Thermal Canyon parcel (Thermal Canyon Parcel) is not entirely comparable in value to habitat that the District would disturb on the Project Site. We have described two alternative methods for implementing this additional mitigation in the “Mitigation Measures” section of this document. The District has agreed to implement one of these measures to ensure adequate mitigation. Although the District will not implement this additional measure until after permit issuance, the phased nature of their construction schedule will ensure that ground disturbance at the construction site does not outpace the implementation of mitigation.

### **HCP Section 3.6.2 Management of Translocation Area**

Though not obligated to do so, the District anticipates that it would continue after the 16-year permit expires. However, procedures for monitoring may change in order to avoid the need to handle desert tortoises. If the District cannot develop procedures to perform the monitoring without handling desert tortoises, they would seek a permit renewal for these activities. Regardless of the level of continued management, the area will continue to be preserved for its intended purpose through a deed restriction or conservation easement that is held by the District. There are no rights-of-way or other encumbrances on this parcel that would interfere with its use as a translocation area.

### **HCP Section 8.3 USFWS Permit Renewal**

Upon expiration, the section 10(a)(1)(B) permit may be renewed without the issuance of a new permit, provided that the permit is renewable, and that biological circumstances and other pertinent factors affecting covered species are not significantly different than those described in the original HCP. To renew the permit, the District shall submit to the Service, in writing:

- \* a request to renew the permit with reference to the original permit number;
- \* certification that all statements and information provided in the original HCP and permit application, together with any approved HCP amendments, are still true and correct, and inclusion of a list of changes;
- \* a description of any take that has occurred under the existing permit; and
- \* a description of any portions of the project still to be completed, if applicable, or what activities under the original permit the renewal is intended to cover.

If the Service concurs with the information provided in the request, it shall renew the permit consistent with permit renewal procedures required by Federal regulation (50 CFR 13.22). If the District files a renewal request and the request is on file with the issuing Service office at least 30 days prior to the permits expiration, the permit shall remain valid while the renewal is being processed, provided the existing permit is renewable. However, the District may not take listed species beyond the quantity authorized by the original permit. If the District fails to file a

renewal request within 30 days prior to permit expiration, the permit shall become invalid upon expiration. The District must have complied with all annual reporting requirements to qualify for a permit renewal. <https://fwsepermits.servicenowservices.com/fws>

## **CDFW California 2081 Permit Renewal**

<https://wildlife.ca.gov/Regions/6>

### **14 CCR § 783.6**

#### **§ 783.6. General Permit Conditions.**

The following provisions apply to all permits issued under this article.

**(a) Assignment or transfer of permit.**

(1) Except as provided in subsection (a)(2) below, no incidental take permit shall be assigned or transferred without the written consent of the Department, which shall not be unreasonably withheld.

(2) With written notice to the Department, any permit may be assigned or transferred without the approval of the Department in the following circumstances:

(A) The sale, merger, annexation, consolidation or other acquisition of an institutional, corporate or public entity permit holder by another entity.

(B) The transfer of a permit from a natural person to the institutional, corporate, or public employer of such individual.

(C) As security for a debt under the provision of any mortgage, deed of trust, indenture, bank credit agreement, or similar instrument.

**(b) Renewal of permits.**

(1) Applicants for renewal must submit a written application to the Regional Manager at least 60 days prior to the expiration date of the permit. Applicants must certify in writing that all statements and information in the original application remain current and correct, unless previously changed or corrected. If the information is no longer current or correct, the applicant must provide corrected information.

(2) Renewal criteria. The Director shall renew a permit if the application meets the standards in section 783.4.

(3) Continuation of permitted project or activity. Any person holding a valid, renewable, incidental take permit who has submitted a timely application for renewal, may continue the activities authorized by the expired permit until the Director has acted on such person's application for renewal.

**(c) Amendment of permit.**

(1) Permittee's request. Where circumstances have changed so that a permittee desires to have any condition of a permit modified, such permittee must submit an application and supporting information in conformity with this article.

(2) Department amendments. The Department may amend any permit at any time during its term with the concurrence of the permittee, or as required by law. The Department shall amend a permit as required by law regardless of whether the permittee concurs with such amendment.

(3) Change of name or address. A permittee is not required to amend a permit or obtain a new permit if there is a change in the legal individual or business name, or in the mailing address of the permittee. A permittee is required to notify the Regional Manager within 10 calendar days of

such change. This provision does not authorize any change in location of the conduct of the permitted project or activity when approval of the location is a qualifying condition of the permit.

(4) Minor permit amendments. Amendments that would not significantly modify the scope or nature of the permitted project or activity or the minimization, mitigation or monitoring measures in an incidental take permit, as determined by the Department, shall be considered minor permit amendments. Minor permit amendments shall be approved and incorporated into the incidental take permit, or denied, by the Director within 60 days of the permittee's submission of an application for amendment. If the Director approves a minor permit amendment, the Department shall not impose any new permit condition or modify any existing permit condition except when the new or modified condition:

(A) relates solely to the minor permit amendment,

(B) is required by changes in the law, or

(C) is needed to make existing permit conditions consistent with the proposed amendment.

(5) Major permit amendments. Amendments that would significantly modify the scope or nature of the permitted project or activity or the minimization, mitigation or monitoring measures in an incidental take permit, or require additional environmental review pursuant to Public Resources Code, section 21166, or California Code of Regulations, title 14, section 15162, as determined by the Department, shall be considered major permit amendments. Requests for major permit amendments shall be reviewed according to the process established for initial permit applications, except that the information and analysis provided in support of an application for a major permit amendment may rely on and supplement the information and analysis used in the initial permit application.

(6) Approval standard. The Director shall approve any minor or major permit amendment if the amended permit would continue to meet the standards in section 783.4.

(d) Alteration of permit. Permits shall not be altered, erased, or mutilated, and any permit which has been altered, erased, or mutilated shall immediately become invalid.

(e) Display of permit. Permits shall be displayed for inspection upon request by the Director or the Director's agents.

(f) Surrender of permit. Any person holding a permit shall surrender such permit to the Department upon notification that the permit has been suspended or revoked and all appeal procedures have been exhausted.

Note: Authority cited: Sections 702 and 2081(d), Fish and Game Code. Reference: Section 2081(b), Fish and Game Code.

### **HISTORY**

1. New section filed 12-30-98; operative 12-30-98 pursuant to Government Code section 11343.4(d) (Register 99, No. 1).