BIOLOGICAL ASSESSMENT
APPENDIX I
COORDINATION AND CONSULTATION
CORRESPONDENCE
From: Kimberly Garvey
To: Maloney, Kim; Wahl, Rex
Date: Friday, April 08, 2005 10:06:32
Subject: Quarries - FWS consultation

I just got off the phone with Lesley Fitzpatrick. The Phoenix Office has agreed to take on the consultation for all the quarries and has cleared it with the Ventura and Carlsbad offices.

In relation to the existing BO, there are 2 things that we need to do in order to get up to date so we can proceed with getting a new one.  
2. Provide a letter accepting the conservation recommendations for the original BO. I will get this done.

She would like to see all quarries addressed in a single BA and EA which includes all proposed mitigation measures. She also said that she would be able to review a draft when it is ready.

It will be important to address the quality of habitat available at each of the quarries. BLM has ranked all their habitat, so this should be difficult if I can find someone in those offices who knows how to use GIS.

Happy Friday!

P.S. do we have "approval" from Region to proceed with this?

Kimberly L. Garvey  
Natural Resource Specialist  
Reclamation - Yuma Area Office  
7301 Calle Agua Salada  
Yuma, AZ 85364  
ph: 928.343.8227  
fax: 928.343.8320

CC: Broili, Thayer; Kimberly GARVEY
Memorandum

To: Director, Resource Management Office, Yuma Area Office, Bureau of Reclamation, Yuma, Arizona

From: Field Supervisor

Subject: Extension of Programmatic Biological Opinion for Construction and Operation of One Quarry and Operation of Eight Existing Quarries (Nine Quarry Sites), Arizona and California

This responds to your memorandum of May 27, 2005, requesting the Fish and Wildlife Service (FWS) to extend the term of our April 11, 1997, biological opinion on the Bureau of Reclamation’s (Reclamation’s) construction and operation of one quarry and operation of eight existing quarries in Arizona and California. The biological opinion will expire on December 31, 2005. You request that we extend the term of the existing biological opinion, including all reasonable and prudent measures and terms and conditions, through December 31, 2006. This extension is to allow time to develop National Environmental Policy Act (NEPA) and Endangered Species Act (ESA) documents and complete consultation on the 24 quarries as outlined in your March 10, 2005, scoping request. The species of concern in this consultation is the threatened Mohave population of the desert tortoise (Gopherus agassizii). The desert tortoise is only listed as a threatened species in California; however, the conservation recommendations in the 1997 biological opinion included that Reclamation should implement the terms and conditions in the incidental take statement in Arizona as well as in California to provide protection for the Sonoran population as well as the listed Mohave population. Reclamation accepted those terms and conditions and has been implementing them.

Use of the materials provided by the quarries is covered under a separate biological opinion (02-21-04-F-0161) that addresses Reclamation’s maintenance activities under the Colorado River Front Work and Levee System (CRFWLS). That biological opinion will provide coverage through 2051 for those activities.

In previous correspondence, you note that no additional species have been listed since 1997 that could be affected by the operation of the quarries. Also, operations at the quarries will remain the same as described in the April 11, 1997, biological opinion and the associated biological assessments prepared in 1996 by Reclamation for the consultation. There is one change made to the project description—the elimination of use for the Big Maria No. 2 Quarry in Riverside County, California.
In our files for the original consultation, we have annual reports for calendar years 1997 and 2000. Your memorandum of May 27, 2005, provided the annual reports for 1998-1999, and 2001-2004, with an update on quarrying accomplished to date in 2005. The total amount of material and the acres disturbed are provided in Table 1.

Table 1: Volume of material quarried and acres of desert tortoise habitat disturbed, 1997-2005

<table>
<thead>
<tr>
<th>Year</th>
<th>Volume</th>
<th>Acres of Desert Tortoise Habitat</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1998</td>
<td>91,723</td>
<td>1.8</td>
</tr>
<tr>
<td>1999</td>
<td>25,714</td>
<td>3</td>
</tr>
<tr>
<td>2000</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2001</td>
<td>25,000</td>
<td>3</td>
</tr>
<tr>
<td>2002</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2003</td>
<td>57,809</td>
<td>3</td>
</tr>
<tr>
<td>2004</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2005 (partial)</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Yearly Allowed</td>
<td>80,000</td>
<td>10</td>
</tr>
</tbody>
</table>

This information allows us to review the amount of material and the acres of desert tortoise habitat that has been affected over the nine years the biological opinion has been in effect in order to assess if the amount of these measures has been, in the aggregate, met or exceeded. The findings in the biological opinion were based on this amount of material and loss of habitat, and any extension of the biological opinion for an additional year must not cause the originally considered aggregated amount of material or habitat loss to be exceeded absent reinitiation of consultation. As is evident in Table 1, this situation does not exist, and no additional amount of take over that provided in the 1997 biological opinion is likely to occur because of the extension. A report on amounts quarried and habitat lost in 2005 and 2006 will be required as part of this extension.

With this memorandum, we extend the expiration date of the April 11, 1997, biological opinion for the operation of eight existing quarries for one calendar year, to December 31, 2006. We anticipate that a new biological opinion covering these sites and the new sites under consideration will be completed prior to that date.

Thank you for your efforts to conserve listed species. If there are questions concerning this consultation, please contact me at (602) 242-0210 (x244) or have your staff contact Lesley Fitzpatrick (x236).

Steven L. Spangle
United States Department of the Interior
FISH AND WILDLIFE SERVICE
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California  93003

Cynthia Hoeft, Director
Resource Management Office
Bureau of Reclamation
7301 Calle Agua Salada
Yuma, Arizona 85364

Subject: Request for Species List for Projects located in San Bernardino County, Riverside County, and Imperial County, California along the Colorado River

Dear Ms. Hoeft:

This letter is in response to your request of March 10, 2005, and received by us on March 24, 2005, for information on threatened, endangered, proposed and candidate species which may be present in the vicinity of the quarry operations along the Colorado River. The project area is located along 276 river miles of the Colorado River from the southerly international boundary with Mexico to Davis Dam which the Bureau of Reclamation is responsible for. The proposed projects consist of using the rock and gravel from quarries for various reclamation construction and erosion control projects, including levee maintenance, bankline armoring, and jetty construction on the Colorado River. Access roads need to be permitted. The quarry operations may include building access roads, blasting, scaling rock faces, grading and screening of rock, stockpiling rock and trucking rock to stockpile sites over existing county, state and federal roads.

As the lead Federal Agency for the project, you will assume responsibility under section 7 of the Endangered Species Act of 1973, as amended (Act).

The enclosed list of species fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act of 1973, as amended (Act). As the lead Federal Agency for the project, you have the responsibility to review its proposed activities and determine whether any listed species may be affected. If the project is a construction project, which may require an environmental impact statement, you have the responsibility to prepare a biological assessment to make a determination of the effects of the action on the listed species or critical habitat. If you determine that a listed species or critical habitat is likely to be adversely affected, you should request, in writing, through our office, formal consultation.

1. "Construction project" means any major Federal action which significantly affects the quality of the human environment designed primarily to result in the building of structures such as dams, buildings, roads, pipelines, and channels. This includes Federal actions such as permits, grants, licenses, or other forms of Federal authorizations or approval which may result in construction.
pursuant to section 7 of the Act. Informal consultation may be used to exchange information and resolve conflicts with respect to threatened or endangered species or their critical habitat prior to a written request for formal consultation. During this review process, you may engage in planning efforts but may not make any irreversible commitment of resources. Such a commitment could constitute a violation of section 7(d) of the Act.

Federal agencies are required to confer with the Service, pursuant to section 7(a)(4) of the Act, when an agency action is likely to jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat (50 CFR 402.10(a)). A request for formal conference must be in writing and should include the same information that would be provided for a request for formal consultation. Conferences can also include discussions between the Service and the Federal Agency to identify and resolve potential conflicts between and action and proposed species or proposed critical habitat early in the decision-making process. The Service recommends ways to minimize or avoid adverse effects of the action. These recommendations are advisory because the jeopardy prohibition of section 7(a)(2) of the Act does not apply until the species is listed or the proposed critical habitat is designated. The conference process fulfills the need to inform Federal agencies of possible steps that an agency might take at an early stage to adjust its actions to avoid jeopardizing a proposed species.

When a proposed species or proposed critical habitat may be affected by an action, the lead Federal agency may elect to enter into formal conference with the Service even if the action is not likely to jeopardize or result in the destruction or adverse modification of proposed critical habitat. If the proposed species or the proposed critical habitat is designated after completion of the conference, the Federal agency may ask the Service, in writing, to confirm the conference as a formal consultation. If the Service reviews the proposed action and finds that no significant changes in the action as planned or in in the information used during the conference have occurred, the Service will confirm the conference as a formal consultation on the project and no further section 7 consultation will be necessary. Use of the formal conference process in this manner can prevent delays in the event the proposed species is listed or the proposed critical habitat is designated during project development or implementation.

The Migratory Bird Treaty Act (16 U.S.C. 703-712; MBTA) implements four treaties that provide for international protection of migratory birds. Unlike the Endangered Species Act, neither the MBTA nor its implementing regulations at 50 CFR Part 21, provide for permitting of “incidental take” of migratory birds. The Service recognizes that some birds may be killed during project implementation even if all reasonable measures to avoid it are implemented. While it is not possible under the MBTA to absolve individuals, companies, or agencies from liability if they follow reasonable avoidance measures, the Service’s Office of Law Enforcement and Department of Justice have used enforcement and prosecutorial discretion in the past regarding individuals, companies, or agencies who have made good faith efforts to avoid the take of migratory birds.
Only listed species receive protection under the Act. However, sensitive species should be considered in the planning process in the event they become listed or proposed for listing prior to project completion. We recommend that you review information in the California Department of Fish and Game’s (CDFG) Natural Diversity Data Base. You can contact the CDFG at (916) 324-3812 for information on other sensitive species that may occur in this area.

If you have any questions regarding this letter, please contact Bridget Clayton of my staff at (805) 644-1766, extension 272.

Sincerely,

Judy Hohman  
Acting Division Chief  
Mojave/Great Basin Deserts

Enclosure
LISTED, PROPOSED, AND CANDIDATE SPECIES THAT MAY OCCUR IN THE VICINITY OF THE PROJECTS LOCATED ALONG THE COLORADO RIVER IN SAN BERNARDINO, RIVERSIDE, AND IMPERIAL COUNTIES, CALIFORNIA

**Birds**

- bald eagle
- least Bell's vireo
- Southwestern willow flycatcher
- yellow billed cuckoo
- Yuma clapper rail

**Reptiles**

- desert tortoise, (Mojave pop.)
- Gopherus agassizii

**Fishes**

- razorback sucker
- bonytail chub
- Colorado pikeminnow
  (=Colorado squawfish)
- Xyrauchen texanus
- Gila elegans
- Ptychocheilus lucius

**LEGEND**

- E – Endangered
- C – Candidate
- CH – Critical Habitat
- T – Threatened
- PCH – Proposed Critical Habitat
Kimberly: As I recall, we (Arizona) will do the consultation with Ventura reviewing our work on the California side. If you have any other questions, please let me know.

Thanks,

Lesley

Lesley Fitzpatrick
Fish and Wildlife Biologist
AESO
602-242-0210 x236

CC: <Judy_Hohman@fws.gov>
MEMORANDUM

To: Field Supervisor, U.S. Fish & Wildlife Service
   Phoenix Office, 2321 West Royal Palm Road, Suite 103,
   Phoenix, AZ  85021
   Attn: Mr. Steven L. Spangle

From: Cynthia Hoeft
      Director, Resource Management Office

Subject: Extension of Programmatic Biological Opinion for
         Construction and Operation of One Quarry and
         Operation of Eight Existing Quarries, Arizona and
         California (2-21-96-F-226)

Reclamation is continuing our consultation for quarries operations
as originally outlined in our March 2005 memorandum with the
subject, "Issue Scoping Request for Quarries Utilized by the
Bureau of Reclamation." In your memorandum of June 2, 2005, the
U.S. Fish and Wildlife Service (Service) granted a one year
extension of the 1997 Biological Opinion (BO) through the end of
2006. Reclamation anticipated completing the new programmatic
Biological Assessment (BA) prior to the end of 2006; however, the
scope of quarries being considered has since been revised and
resulted in a modified completion date. The new programmatic BA
is near completion and we anticipate providing the document to
your office by the end of January 2007. Therefore, we are
requesting an additional six-month extension of the 1997 BO,
including all Conservation Recommendations and Terms and
Conditions while the consultation process is ongoing. In
addition, Reclamation is completing a programmatic level
Environmental Assessment (EA) and the Draft EA is scheduled for

Reclamation would also like to take this opportunity to provide
you the quarry activity reported for calendar year 2005. In our
memorandum dated May 27, 2005, Reclamation reported that no new
rock was quarried from any of the quarries that were subject to
the Terms and Conditions in the BO and no desert tortoise habitat was disturbed. Reclamation did not quarry new rock at any of the subject quarries for the remainder of 2005 and no desert tortoises were disturbed.

During 2006, Reclamation did not quarry any new rock; however, waste material from the floor of the Times Gulch Quarry (Mohave County, Arizona) was processed to produce 30 tons of gravel. During this operation the Conservation Recommendations and Terms and Conditions in the BO were implemented and no desert tortoises were observed and no habitat was disturbed.

We look forward to continuing our collaborative work with the Service. If you have any questions or concerns, please contact Mr. Julian DeSantiago at jdesantiago@lc.usbr.gov or 928-343-8259.

cc: U.S. Fish & Wildlife Service, Phoenix Office, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021 Attn: Ms. Lesley Fitzpatrick

7001
7210 (DeSantiago)

JDeSantiago:dfw:12/05/06
Dir:7000/DeSantiago/7210-12.003
In Reply Refer to:
AESO/SE
22410-1996-F-0226

December 18, 2006

Memorandum

To: Director, Resource Management Office, Yuma Area Office, Bureau of Reclamation, Yuma, Arizona

From: Field Supervisor

Subject: Extension of Coverage for Programmatic Biological Opinion for Construction and Operation of One Quarry and Operation of Eight Existing Quarries, Arizona and California.

This responds to your memorandum dated December 7, 2006, requesting the Fish and Wildlife Service (FWS) to extend the term of our April 11, 1997, biological opinion for the subject quarry and operations activity of the Bureau of Reclamation (Reclamation). This is the second request for an extension of the term of this biological opinion. We responded to your request for a year-long extension of the December 31, 2005 expiration date on June 2, 2005. The extension was needed to allow for completion of new environmental documents for a new consultation to be initiated.

As described in your memorandum to us, the new environmental documents will not be finalized before December 31, 2006. They will be completed early in 2007. In order to complete consultation for the new quarry operations plan and not have a lapse in coverage under the Endangered Species Act, Reclamation is requesting a six-month extension, to June 30, 2007, for the existing biological opinion.

The FWS has determined that granting this request for a six-month extension will not create additional adverse effects to the threatened Mohave desert tortoise (Gopherus agassizii) and the Sonoran desert tortoise beyond that which was included in the 1997 biological opinion. We can make this determination since neither the amount of acreage disturbed covered in the biological opinion nor the amount of incidental take described has been exceeded. For 2005, no new rock was quarried and no desert tortoises were disturbed. In 2006, work was done at the Times Gulch Quarry to provide 30 tons of gravel. The Conservation Recommendations and Terms and Conditions from the biological opinion were followed and no desert tortoises were found and no new habitat disturbance occurred.

The FWS amends the term of the 1997 biological opinion to June 30, 2007. We stress the importance of completion of the new planning documents to cover future work in these and new
quarries in early 2007. Should there be a need for extensive amounts of rock for river-
management purposes, the limitations of the existing biological opinion may become an issue.

Thank you for providing us with updated information on the status of the quarry program. If you
need further assistance, please contact me at (602) 242-0210 x244 or Lesley Fitzpatrick at x236.

[Signature]

Steven L. Spangle

cc: Field Supervisor, Carlsbad Field Office, Fish and Wildlife Service, Carlsbad, CA
Branch Chief, Arizona Game and Fish Department, Phoenix, AZ