



DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE PERMIT

2. AUTHORITY-STATUTES
16 USC 1539(a)(1)(A)
REGULATIONS (Attached)
50 CFR §§ 13 & 17

3. NUMBER
TE-083636-0

4. RENEWABLE	5. MAY COPY
<input checked="" type="checkbox"/> YES	<input checked="" type="checkbox"/> YES
<input type="checkbox"/> NO	<input type="checkbox"/> NO

6. EFFECTIVE 3/10/2008	7. EXPIRES 3/31/2058
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1. PERMITTEE

Arizona Game and Fish Department
5000 W. Carefree Highway
Phoenix, Arizona 85086-5000

8. NAME AND TITLE OF PRINCIPAL OFFICER (if #1 is a business)
Duane Shroufe, Director

9. TYPE OF PERMIT
Endangered Species – Incidental Take

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED
Throughout the state of Arizona within historic ranges of the Gila topminnow, Yaqui topminnow, desert pupfish, and Quitobaquito pupfish.

11. CONDITIONS AND AUTHORIZATIONS:

- A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2, ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORDANCE WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.
- B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW. THIS PERMIT DOES NOT WAIVE THE OBLIGATION TO ABIDE BY OTHER FOREIGN, STATE, LOCAL OR FEDERAL LAW IN CARRYING OUT AUTHORIZED ACTIVITIES.
- C. VALID FOR USE BY PERMITTEES NAMED ABOVE.
- D. ACCEPTANCE OF THIS PERMIT SERVES AS EVIDENCE THAT THE PERMITTEE UNDERSTANDS AND AGREES TO ABIDE BY THE "GENERAL CONDITIONS FOR NATIVE ENDANGERED AND THREATENED WILDLIFE SPECIES PERMITS" (copy enclosed).

12. REPORTING REQUIREMENTS
Annual reports shall be submitted by March 15 of each year the permit is in effect.

ISSUED BY:	TITLE Acting Deputy Regional Director	DATE 3/12/08
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E. The authorization granted by this permit is subject to:

1. Full and complete compliance with, and implementation of, the terms and conditions of the Safe Harbor Agreement (Agreement) and all specific terms and conditions contained in this permit. These permit terms and conditions shall supersede and take precedence over any inconsistent provisions in the Agreement or other documents associated with this section 10(a)(1)(A) enhancement of survival permit.
2. Full and complete compliance with any applicable local, state, or Federal law, regulation, or restriction governing the site and those conservation practices (as described within the Agreement) pertaining to, but not limited to, wildlife, land use, water quality, air quality, local economy, and cultural resources.
3. Compliance with all necessary and required permits and licenses applicable to the fulfillment of the Agreement.

For purposes of monitoring compliance and administration of the terms and conditions of this permit, the contact office for the FWS is:

U.S. Fish and Wildlife Service
Arizona Ecological Services Field Office
2321 West Royal Palm Road, Suite 103
Phoenix, Arizona 85021-4951
Telephone: (602) 242-0210
Facsimile: (602) 242-2513

F. This permit shall be issued for a period of 50 years, and provides for incidental take of Gila topminnow, desert pupfish, Yaqui topminnow, and Quitobaquito pupfish as specified in the Agreement. Incidental take for other listed species is authorized through the section 7 biological opinion on the issuance of the permit. The permit may be renewed at the end of the permit period, should the Permittee and the U.S. Fish and Wildlife (FWS) agree.

Annual reports, and any correspondence generated from implementation, modification, or administration of the permit, shall be provided by the Permittee to the contact office in Condition E and:

U.S. Fish and Wildlife Service
Endangered Species Division
P.O. Box 1306, Room 4102
Albuquerque, New Mexico 87103
Telephone: (505) 248-6554
Facsimile: (505) 248-6788

G. The FWS's current Safe Harbor policy provides that additional land, water, or resource restrictions or financial obligations above baseline conditions shall not be required of the Permittee or its successors or assigns for the Gila topminnow, desert pupfish, Yaqui

topminnow, and Quitobaquito pupfish on the enrolled portions of properties covered under the Agreement beyond the level of conservation measures documented in a landowner's Certificate of Inclusion, if the permit and Agreement are fully and completely complied with and implemented.

H. By March 15 of each year that the permit is valid, the Permittee will submit an annual report to FWS offices appearing in conditions E and F, above. The Permittee will provide:

1. A narrative explanation describing the number of Gila topminnow, desert pupfish, Yaqui topminnow, and Quitobaquito pupfish that have been translocated onto participant properties, the results of population monitoring, and any sites within the covered area where these species have become established through natural dispersal of individuals.
2. A summary of the location(s) and circumstance(s) where incidental take of Gila topminnow, desert pupfish, Yaqui topminnow, and Quitobaquito pupfish and any other listed species was anticipated or occurred. Identify when any specific sites on the covered lands were returned to baseline and the number of each species removed, when the take occurred, and whether it was the result of a completed term of participation or early termination of participation. The Permittee will provide an explanation of any early terminations.
3. A narrative explanation with the results of all compliance and monitoring activities, as well as the impacts from those activities.

I. If, during the tenure of this permit, the project design or extent of habitat impact described in the Agreement or permit is altered, such that there may be an increase in the anticipated take of Gila topminnow, desert pupfish, Yaqui topminnow, and Quitobaquito pupfish, the Permittee is required to contact the FWS and obtain authorization or amendment of the permit before commencing any activities that might result in take beyond that described in the Agreement or permit.

This permit authorizes incidental take of all Gila topminnow, desert pupfish, Yaqui topminnow, and Quitobaquito pupfish above an enrolled property's baseline at time of enrollment within the covered area, provided that the Agreement is implemented in full. Incidental take can occur through the following specific landowner activities: 1) Contamination of water due to run-off from roadways, agricultural fields; 2) Contamination of water during pesticide application; 3) Intentional drying of the habitat; 4) Earthwork around occupied habitats; 5) Management actions to remove nonnative aquatic species; 6) Vegetation management (including prescribed fire); 7) Water diversion and management; 8) Any normal day-to-day land use and management activity as agreed to by the Arizona Game and Fish Department (AGFD) and Cooperators; and 9) a decision by a Participant to return any enrolled site or sites on their properties to baseline conditions. These take authorizations are contingent upon adequate implementation of all commitments required by this Agreement.

- J.** Neither this permit nor the associated Agreement authorize incidental take of Gila topminnow, desert pupfish, Yaqui topminnow, and Quitobaquito pupfish that might occur as the result of Federal actions. Take below the baseline established for Gila topminnow, desert pupfish, Yaqui topminnow, and Quitobaquito pupfish, or any other listed species addressed in the Biological Opinion, for an enrolled property for any activity is not authorized.
- K.** To be exempt from the prohibitions of section 9 of the Endangered Species Act, the Permittee must comply with the following terms and conditions. These terms and conditions are non-discretionary.
1. AGFD shall monitor the incidental take of all listed species addressed in the Incidental Take Statement of the Biological Opinion.
 2. AGFD shall monitor the project area and other areas that may be affected by Agreement-related activities.
 3. AGFD shall provide a summary of the species, number of individuals, and acres of habitat affected by Agreement activities to the FWS as part of the Agreement's annual report, including: Gila topminnow, desert pupfish, Yaqui topminnow, and Quitobaquito pupfish:
 - i. the number of individuals used in reestablishments;
 - ii. the number of individuals documented lost to Agreement-related activities, and;
 - iii. all other information indicated by the Agreement to be reported annually.

Aquatic Species:

- i. the number of Agreement-related construction projects and the type that occurred,
- ii. the number of dead fish of any species (used as a Surrogate for Aquatic Species) and dead Sonora tiger salamanders and Chiricahua leopard frogs located within or immediately downstream of project sites, related to Agreement activities;
- iii. the number of each species for any occurrences where Aquatic Species were captured or held; and
- iv. the results of any Aquatic Species monitoring that is performed where Gila topminnow, desert pupfish, Yaqui topminnow, and Quitobaquito pupfish coexist with one or more of the Aquatic Species as a result of Agreement activities.

Riparian Species:

- i. the number of Agreement-related activities and the type that occurred in active territories of southwestern willow flycatchers from April 15th through August 31st;
 - ii. the number of Agreement-related activities and the types that occurred in active territories of western yellow-billed cuckoos from June 15th through August 15th (should they become listed); and
 - iii. the number of acres of disturbance in riparian vegetation from Agreement-related activities.
4. AGFD shall minimize incidental take of all listed species addressed in the Incidental Take Statement of the Biological Opinion.
 - a. Before enrolling a potential participant, AGFD shall determine what species analyzed in the Biological Opinion are potentially present on a participant's property and may be impacted by Agreement activities. Potential participant sites in urban, suburban, and rural localities will be examined on a case-by-case basis, to determine whether suitable habitats for any of the species analyzed in the Biological Opinion are present. If suitable habitats for these species are not present, additional surveys (as described below) are not required. In semi-natural, natural, or wild sites with suitable habitats for the species analyzed in the Biological Opinion, AGFD will survey for those species at that site and assess any potential impacts of Agreement activities.
 - i. AGFD shall review the Heritage Database Management System (HDMS) for each appropriate potential property.
 - ii. AGFD shall review the historical range of each species analyzed in the Biological Opinion.
 - iii. AGFD shall review current survey records of species analyzed in the Biological Opinion.
 - iv. AGFD shall review available suitable habitat for each species analyzed in the Biological Opinion.
 - v. If Agreement-related new construction will be done on an enrolled property, using heavy equipment, and listed species occupancy is unknown but possible, AGFD shall:
 1. conduct pre-activity surveys for appropriate species (per protocol) to determine occupancy of the habitat, and avoid unnecessary take of species analyzed in the Biological Opinion, or

2. assume presence and take appropriate minimization measures discussed below.
- b. AGFD shall minimize incidental take of Gila topminnow, desert pupfish, Yaqui topminnow, and Quitobaquito pupfish while implementing this Agreement.
 - i. AGFD shall fully implement all aspects of the Agreement.
 - ii. AGFD shall reestablish any population site that is part of a Participating Landowner's or Neighbor's baseline, if appropriate, should it be extirpated during the period that a landowner is enrolled in the Agreement.
 - c. AGFD shall minimize incidental take of "Aquatic Species" (Chiricahua leopard frog, Gila chub, razorback sucker, Huachuca springsnail, Sonora tiger salamander, and headwater chub).
 - i. AGFD shall ensure that any Agreement-related construction project will employ all best management practices to minimize erosion and sediment transport into a river, stream, pond, livestock tank, or other aquatic site.
 - ii. AGFD shall ensure that piscicides are only used in aquatic sites where the effects can be limited to a single property that are not likely to be recolonized by nonnative predators or competitors through natural dispersal or downstream transport.
 - iii. AGFD shall ensure that Gila topminnow, desert pupfish, Yaqui topminnow, and Quitobaquito pupfish are not reestablished directly to aquatic sites occupied by nonnative predatory and competitive aquatic species (e.g., bullfrogs [*Rana catesbeiana*], crayfish [*Oronectes virilis*], tiger salamanders [*Ambystoma tigrinum mavortium* and *A. t. nebulosum*], and fish) where the habitat complexity is missing and, in the Permittee's best professional judgment, long-term co-existence is unlikely.
 - iv. If Gila topminnow, desert pupfish, Yaqui topminnow, and Quitobaquito pupfish disperse or are reestablished into the occupied habitat of an Aquatic Species not already co-occupied by them, AGFD shall conduct population monitoring on such Aquatic Species present during any Gila topminnow, desert pupfish, Yaqui topminnow, and Quitobaquito pupfish monitoring to monitor the level of take. Existing monitoring on Aquatic Species by AGFD, or their partners, can be used to fulfill this term and condition. If population-level effects are not observed in the first three years of monitoring, population monitoring may continue once every three years thereafter.
 - d. AGFD shall minimize incidental take of the southwestern willow flycatcher, Yuma clapper rail, and western yellow-billed cuckoo.

- i. Any Agreement-related construction project will employ all best management practices to minimize erosion and sediment transport into a river, stream, pond, livestock tank, or other aquatic site.
 - ii. Any construction activities in riparian vegetation shall minimize disturbance of riparian vegetation.
 - iii. Agreement-related new construction activities, using heavy equipment, shall not occur within a ¼ mile of occupied territories of southwestern willow flycatchers during the breeding season, April 15th through August 15th, and March 15 to August 15 for Yuma clapper rails.
 - iv. Human presence due to Agreement-related non-construction activities shall be avoided within occupied territories of southwestern willow flycatchers during the breeding season, April 15th through August 15th. If activities must occur, avoid movement over open ground and stay within cover to avoid unnecessary disturbance in an occupied territory.
 - v. Agreement-related construction activities, using heavy equipment, shall not occur within a ¼ mile of occupied suitable habitat during the breeding season for western yellow billed-cuckoos (if this species is listed), June 15th through August 15th.
 - vi. Human disturbance due to Agreement-related non-construction activities shall be avoided within 300 ft of an occupied western yellow-bill cuckoo nest site during the breeding season (if this species is listed), June 15th through August 15th.
- L.** This permit and each of its terms and conditions shall be binding on, and for the benefit of, the Permittee. All transfer rights of the permit and the Agreement, and transfer of ownership of enrolled properties will be subject to provisions for transfer of obligations and rights to a new Permit holder and new landowners, if the new permit holder and landowner become party to the original agreement and this permit.
- M.** If at any time during the duration of the permit the FWS determines that the status of any listed species has declined to the point where the continuation of the permitted activity would be likely to result in jeopardy to that species, all Agreement-related activities must cease and the FWS may revoke the Permittee's Section 10(a)(1)(A) permit. However, the FWS will pursue all appropriate options to avoid permit revocation.
- N.** Acceptance of the permit serves as evidence that the Permittee understands and agrees to abide by the terms and conditions of this permit and all applicable sections of 50 CFR 13, 17, and 21 pertinent to issued permits.

--- END OF PERMIT # TE-083686-0 ---