



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

**FEDERAL FISH AND WILDLIFE PERMIT**

3-201  
(1/97)

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

3. NUMBER  
TE-123062-0

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 9/29/2006	7. EXPIRES 10/01/2056
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1. PERMITTEE

Arizona Game and Fish Department  
2221 West Greenway Road  
Phoenix, Arizona 85023  
Phone: 602/789-3278  
e-mail: DShroufe@azgfd.gov

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 range of the Chiricahua leopard frog.

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  
An annual report is due each February 15.

ISSUED BY:

TITLE  
Acting Deputy Regional Director

DATE

9-29-06



**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.

**F.** This permit shall be issued for a period of fifty (50) years, and provides for incidental take of Chiricahua leopard frog 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 FWS agree.

**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 Chiricahua leopard frog 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 February 15 of each year that the permit is valid, the Permittee will submit an annual report to FWS offices appearing in conditions P and Q, below. The Permittee will provide:

1. A narrative explanation describing the number of Chiricahua leopard frogs 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 Chiricahua leopard frogs 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 and/or extent of habitat impact described in the Agreement and/or permit is altered, such that there may be an increase in the anticipated take of Chiricahua leopard frogs, the Permittee is required to contact the FWS and obtain authorization and/or amendment of the permit before commencing any activities that might result in take beyond that described in the Agreement and/or permit.
- J. This permit authorizes incidental take of all Chiricahua leopard frogs above an enrolled property's baseline at time of enrollment within the covered area, provided that the Agreement is implemented in full. This incidental take can occur through the following specific landowner activities: 1) cattle use of enrolled aquatic sites supporting Chiricahua leopard frog populations, or of other ranch properties; 2) aquatic site maintenance; 3) improvement activities at enrolled aquatic sites; 4) land treatments; 5) existing land uses; and 6) 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.
- K. Neither this permit nor the associated Agreement authorize incidental take of Chiricahua leopard frogs that might occur as the result of Federal actions. Take below the baseline established for Chiricahua leopard frog, or any other listed species addressed in the Biological Opinion, for an enrolled property for any activity is not authorized.
- L. In order to be exempt from the prohibitions of section 9 of the 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.
    - I- AGFD shall monitor the project area and other areas that may be affected by Agreement-related activities.
      - i. 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:
        - a. Chiricahua leopard frog:
          - 1) the number of individuals used in reestablishments,
          - 2) the number of frogs documented lost to Agreement-related activities, and
          - 3) all other information indicated by the Agreement to be reported annually.
        - b. Aquatic Species:

- 1) the number of Agreement-related construction projects and the type that occurred,
- 2) the number of dead fish of any species (used as a Surrogate for Aquatic Species) and dead Sonora tiger salamanders located within or immediately downstream of project sites, related to Agreement activities;
- 3) the number of each species for any occurrences where Aquatic Species were captured and/or held; and
- 4) the results of any Aquatic Species monitoring that is performed where Chiricahua leopard frogs coexist with one or more of the Aquatic Species as a result of Agreement activities.

c. Riparian Species:

- 1) the number of Agreement-related activities and the type that occurred in active territories of southwestern willow flycatchers from April 15<sup>th</sup> through August 31<sup>st</sup>;
- 2) the number of Agreement-related activities and the types that occurred in active territories of western yellow-billed cuckoos from June 15<sup>th</sup> through August 15<sup>th</sup> (**should they become listed**); and
- 3) the number of acres of disturbance in riparian vegetation from Agreement-related activities.

d. Upland Species:

- 1) the approximate number of acres disturbed by Agreement-related construction in Upland vegetation types within the Altar Valley.

2. AGFD shall minimize incidental take of all listed species addressed in the Incidental Take Statement of the Biological Opinion.

- I- Prior to enrolling a potential participant, AGFD shall determine what species analyzed in the Intra-Service Biological Opinion are potentially present on a participant's property and may be impacted by Agreement activities.
- i. AGFD shall review the Heritage Database Management System (HDMS) for each 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 in unknown but possible, AGFD shall:
    - a. 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
    - b. assume presence and take appropriate minimization measures discussed below.
- II- AGFD shall minimize incidental take of Chiricahua leopard frogs 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.
  - iii. AGFD shall not translocate Chiricahua leopard frogs into a potential population site with native or non-native predators where the aquatic and riparian communities lack complexity to provide adequate cover for successful reproduction and recruitment.
- III- AGFD shall minimize incidental take of "Aquatic Species" (Apache trout, desert pupfish, Gila chub, Gila topminnow, Gila trout, headwater chub, Huachuca springsnail, Little Colorado spinedace, loach minnow, razorback sucker, Sonora chub, Sonora tiger salamander, spikedace, Stephan's riffle beetle, Three forks springsnail, beautiful shiner, Yaqui catfish, Yaqui chub, and Yaqui topminnow).
- 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 any construction activities in an aquatic site, except for livestock tank maintenance activities, shall be done using hand tools or when the aquatic site is dry, and shall minimize substrate disturbance.

- iii. AGFD shall ensure that, during livestock tank maintenance activities, if the livestock tank is not dry and heavy equipment will be used, and if any aquatic species are known to be present, the aquatic species shall be captured, held in a refugia site, and returned when construction has been completed. This shall be conducted by qualified individuals with appropriate State and Federal permits.
  - iv. 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.
  - v. AGFD shall ensure that Chiricahua leopard frogs are not reestablished directly to aquatic sites occupied by non-native predatory and competitive aquatic species (e.g., bullfrogs (*Rana catesbeiana*), crayfish (*Oronectes virilis*), tiger salamanders (*Ambystoma tigrinum mavortium* and *A.t. nebulosum*), and fish in the families Centrarchidae, Ictaluridae, and Salmonidae) where the habitat complexity is missing and, in the Permittee's best professional judgment, long-term co-existence is unlikely.
  - vi. If Chiricahua leopard frogs disperse or are reestablished into the occupied habitat of an Aquatic Species not already co-occupied by Chiricahua leopard frogs, AGFD shall conduct population monitoring on such Aquatic Species present during any Chiricahua leopard frog 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.
- IV- AGFD shall minimize incidental take of the southwestern willow flycatcher 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 15<sup>th</sup> through August 15<sup>th</sup>.
  - 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 15<sup>th</sup> through August 15<sup>th</sup>. 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 yellow billed-cuckoos (if this species is listed), June 15<sup>th</sup> through August 15<sup>th</sup>.
  - 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 15<sup>th</sup> through August 15<sup>th</sup>.
- M.** 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.
- N.** 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.
- O.** 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.
- P.** Upon locating a dead, injured, or sick Chiricahua leopard frog, or any other endangered, threatened, or candidate species, the Permittee is required to contact the FWS Law Enforcement Office in Mesa, Arizona (480) 967-7900, for care and disposition instructions. Extreme care should be taken in handling sick or injured individuals to ensure effective and proper treatment. Care should also be taken in handling dead specimens to preserve biological materials in the best possible state for analysis of cause of death. In conjunction with the care of sick or injured endangered/threatened species, or preservation of biological materials from a dead specimen, the Permittee and its contractor(s)/subcontractor(s) have the responsibility to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed.
- Q.** 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

- R.** 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 P and:

U.S. Fish and Wildlife Service  
Endangered Species Division  
500 Gold Avenue SW, Room 4012  
Albuquerque, New Mexico 87102  
Telephone: (505) 248-6920  
Facsimile: (505) 248-6922

--- END OF PERMIT # TE-0123062-0 ---

