



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-160629-0

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 9/22/2008	7. EXPIRES 9/22/2058
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1. PERMITTEE

Leslie Canyon Watershed
Bar Boot Ranch
12626 E. Turkey Creek Road
Pearce, Arizona 85625
Phone: 520/824-3566
e-mail: jaustin@elcoronadoranch.net

8. NAME AND TITLE OF PRINCIPAL OFFICER: (if #1 is a business)
Josiah T. Austin

9. TYPE OF PERMIT:
Endangered Species – Incidental Take

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED: The Bar Boot Ranch in Cochise County, Arizona.

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 report due each December 31st throughout the life of the permit.

ISSUED BY:

TITLE *Actin*
Deputy Regional Director

DATE

29 Sept 2008

- 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 Leslie Canyon Watershed Safe Harbor Agreement (Agreement) and all specific terms and conditions contained in this permit. These 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, beautiful shiner, Yaqui catfish, Yaqui chub, and Yaqui topminnow as specified in the Agreement. Incidental take of individual Yaqui chub that are part of the baseline population on the Bar Boot Ranch are also authorized through the Section 7 Biological Opinion on the issuance of the Permit. Incidental take is not anticipated for other listed species. The Permit may be renewed at the end of the permit period, should the Permittee(s) and the U.S. Fish and Wildlife Service (FWS) agree.
- G. The FWS's current Safe Harbor Agreement policy provides that additional land, water, or resource restrictions or financial obligations above baseline conditions shall not be required of the Permittee(s) or its successors or assigns for the Chiricahua leopard frog, beautiful shiner, Yaqui catfish, Yaqui chub, and Yaqui topminnow on the properties covered under the Agreement beyond the level of conservation measures documented in the Agreement, if the Permit and Agreement are fully and completely complied with and implemented.
- H. By December 31st of each year that this Permit is valid, Permittee(s) will submit an annual report to the FWS office(s) appearing in conditions Q and R, below. Permittee(s) shall submit the following:
1. A narrative explanation describing the number of Chiricahua leopard frogs, beautiful shiner, Yaqui catfish, Yaqui chub, and Yaqui topminnow 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, beautiful shiner, Yaqui catfish, Yaqui chub, Yaqui topminnow, 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 incidental take occurred, and whether it was the result of a completed term of participation or early termination of participation. The Permittee(s) 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.
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- 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 incidental take of Chiricahua leopard frogs, beautiful shiner, Yaqui catfish, Yaqui chub, and Yaqui topminnow, the Permittee(s) is required to contact the FWS and obtain authorization and/or amendment of the Permit before commencing any activities that might result in incidental take beyond that described in the Agreement and/or Permit.
 - J. This Permit authorizes incidental take of all Chiricahua leopard frogs, beautiful shiner, Yaqui catfish, Yaqui chub, and Yaqui topminnow above the baseline of the properties within the covered area, provided that the Agreement is implemented in full. Incidental take can occur through the following specific landowner activities:
 1. "Routine" stock tank repair and maintenance or "emergency" stock tank repair and maintenance;
 2. Construction of any stock-tank improvement projects or facilities including water wells, fences, pipelines, or any supporting construction activities associated with such projects;
 3. Capture, translocation, and/or temporary holding of covered species during tank maintenance and improvement activities, if necessary to minimize mortality or injury to Chiricahua leopard frogs, or to implement the Agreement's conservation program;
 4. Livestock grazing and use either in the immediate vicinity of any stock tanks that support covered species or at other locations within the covered area (e.g., resulting in take of migrating Chiricahua leopard frogs);
 5. Livestock grazing and land use where such use results in take of Chiricahua leopard frogs as a result of inadvertent disease transmission, provided that the landowner has undertaken necessary measures to minimize such take as described in the Agreement;
 6. Any normal day-to-day ranch management activity, such as operation of cars and trucks, if such activities result in occasional and inadvertent taking of frogs moving across roads or other ranch properties;

7. Management actions to remove nonnative aquatic competitors and predators of covered species, which may cause harassment and possibly mortality through bi-catch, trampling, and use of pesticides;
8. Returning an enrolled property to baseline conditions;
9. Land treatments, such as prescribed fire, erosion control projects, mechanical shrub removal, and herbicide use;
10. Wildlife-related and outdoor recreational activities; and
11. Land uses, other than ranching, that occur on an enrolled property.

These incidental 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, beautiful shiner, Yaqui catfish, Yaqui chub, and Yaqui topminnow that might occur as the result of Federal actions. Baseline condition for the covered properties has been set at zero populations for Chiricahua leopard frogs, beautiful shiner, Yaqui catfish, and Yaqui topminnow. For Yaqui chub, baseline condition has been set for zero on the 99 Bar property and at one population site on the Bar Boot property. Incidental take below the baseline established for Chiricahua leopard frog, beautiful shiner, Yaqui catfish, Yaqui chub, and Yaqui topminnow, or any other listed species addressed in the Biological Opinion, for the enrolled properties for any activity is not authorized through this Permit. Incidental take of individual Yaqui chub in the baseline population on the Bar Boot Ranch is anticipated and authorized in the Biological Opinion.
- L. In order to be exempt from the prohibitions of section 9 of the Endangered Species Act, the Permittee(s) must comply with the following terms and conditions. These terms and conditions are non-discretionary.
1. If the loss of multiple age/size class structure is observed during the annual monitoring of Yaqui chub at the Chalk Tank Complex, evaluations of the actions that may have lead to the level of incidental take observed must occur.
 - a. If the actions were related to the implementation of the Agreement, conservation measures associated with the Agreement should be re-evaluated. FWS will work with the Permittee(s) to implement modifications to the conservation measures that will further reduce the potential of incidental take of Yaqui chub in the Chalk Tank Complex population.
 2. If the loss of the multiple age/size class structure is observed during the annual monitoring of Yaqui chub at the Chalk Tank Complex for two consecutive years, the level of anticipated incidental take will have been exceeded, and reinitiation of Section 7 consultation shall be requested.

3. The Permittee(s) shall monitor the incidental take of all listed species addressed in the Incidental Take Statement of the Biological Opinion.
 - a. The Permittee(s) shall monitor the project area and other areas that may be affected by Agreement-related activities.
 - i. Permittee(s) 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 incidentally taken as a result of Agreement-related activities;
 - 3) all other information required by the Agreement to be reported annually.
 - b. beautiful shiner, Yaqui catfish, Yaqui chub, and Yaqui topminnow:
 - 1) the number of individuals by species used in reestablishments;
 - 2) the number of fish, by species, incidentally taken as a result of Agreement-related activities;
 - 3) all other information indicated by the Agreement to be reported annually;
 - 4) the number of Agreement-related construction projects and the type that occurred;
 - 5) the number of each species that were captured and/or held for Agreement-related activities.
4. Permittee(s) shall minimize incidental take of all listed species addressed in the Incidental Take Statement of the Biological Opinion.

M. This Permit and each of its terms and conditions shall be binding on, and for the benefit of, the Permittee(s). 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(s) understand and agree to abide by the terms and conditions of this Permit and all applicable sections of 50 CFR 13, 17, and 21 pertinent to issued FWS permits.
- P. Upon locating a dead, injured, or sick Chiricahua leopard frog, beautiful shiner, Yaqui catfish, Yaqui chub, Yaqui topminnow, or any other endangered, threatened, or candidate species, the Permittee(s) 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(s) 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 this Permit, shall be provided by the Permittee(s) to the contact office in Condition Q and:

U.S. Fish and Wildlife Service
Endangered Species Division
500 Gold Avenue SW, Room 6034
Albuquerque, New Mexico 87102
Telephone: (505) 248-6920
Facsimile: (505) 248-6922

----END OF PERMIT # TE-160629-0----