

MEMORANDUM OF AGREEMENT

Between

State of Utah
Department of Transportation
United States Department of Transportation
Federal Highway Administration
Utah Division
And
United States Department of Interior
Fish and Wildlife Service
Utah Field Office

For Streamlining of
Informal Section 7 Consultation
Under the Federal Endangered Species Act of 1973, as Amended

Whereas: The Utah Department of Transportation (UDOT), the Federal Highway Administration (FHWA) and the U.S. Fish and Wildlife Service (USFWS) have stewardship responsibilities over the Utah natural environment and share the goal of conserving and protecting Utah's threatened, endangered, and candidate flora and fauna species; and

Whereas: As a part of their environmental stewardship responsibilities, the UDOT and FHWA seek to protect threatened, endangered, and candidate species and their critical habitats, identified by the USFWS; and

Whereas: In 2008, UDOT and the FHWA entered into a Memorandum of Understanding for the State Assumption of Responsibility for Categorical Exclusions (6004 MOU) and as such UDOT acts as the lead federal agency in the preparation and approval of certain Categorical Exclusions under NEPA and any associated section 7 consultations. A new Memorandum of Understanding was executed on July 1, 2011 between FHWA and UDOT. On June 30, 2014, FHWA and UDOT executed a Second Renewed Memorandum of Understanding; and

Whereas: It is in the interest of all three agencies to streamline the environmental process and section 7 consultation activities by reducing unnecessary paper work and analyses; and

Whereas: UDOT has numerous annually federally funded projects that involve minor maintenance, or construction work associated with existing roadways, the majority of which, by their nature and past history, would have "no effect" to Threatened, Endangered or Candidate Species, or their critical habitats.

NO EFFECT DETERMINATIONS

UDOT, FHWA, and USFWS agree to the streamlining of section 7 Consultation for specific types of projects, examples of which include, but are not limited to:

- Rotomilling existing asphalt pavement and placing new asphalt at the same location (not including asphalt tailing storage or disposal).
- Installing or repairing of guardrail.
- Installing, upgrading, or repairing traffic signals, lighting, and signs,
- Striping of roadway surfaces.
- Constructing or upgrading curbs, gutters, and sidewalks in urbanized areas that are developed on both sides of all applicable roads.
- Intersection improvements in fully developed urban areas, such as additions to turn lanes, geometric improvements, and road widening in areas that are developed on both sides of all applicable roads.
- Installing and repairing concrete traffic barriers in urbanized areas.

Under this agreement, UDOT or FHWA will make “no effect” determinations, without requesting a concurrence letter from USFWS. This approach is consistent with Endangered Species Act Regulations (50 CFR §402).

If FHWA, UDOT, or their representatives are unsure of site-specific species or habitat location information relative to proposed actions, they will immediately contact USFWS by phone, email, or letter to discuss species location information, project plans, and the “no effect” determination.

FHWA and UDOT will maintain records all projects for which a “no effect” determination is made for a period of one year after construction is completed.

MAY AFFECT DETERMINATIONS

May Affect, Not Likely to Adversely Affect

A “may affect, not likely to adversely affect” determination would result from actions that may pose any effects to listed species, but where these effects are expected to be discountable, insignificant, or completely beneficial.

If the action “may affect, but is not likely to adversely affect” a listed species or critical habitat, UDOT/FHWA will request written concurrence from USFWS in accordance with 50 CFR §402.13.

May Affect, Likely to Adversely Affect or Adverse Modification/Destruction of Critical Habitat

If UDOT/FHWA determines that an action “may affect, is likely to adversely affect” a listed species or the USFWS determines the action is likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat, then UDOT/FHWA will initiate formal consultation as required by 50 CFR §402.14.

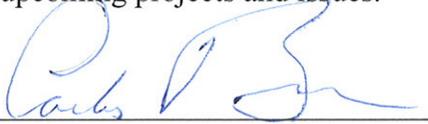
Examples of projects which may affect listed species or habitat could include but would not be

but not limited to:

- Projects in, or adjacent to Utah prairie dog habitat. Utah prairie dogs are frequently located on highway rights-of-way or medians, and could be affected due to soil and vegetation disturbances, or by direct mortality from construction equipment.
- Projects in or adjacent to desert tortoise habitat. Desert tortoises or their habitats could be affected due to soil and vegetation disturbances, or by direct mortality from construction equipment.
- Projects in or adjacent to listed plant species habitat.
- Projects in or adjacent to listed fish species habitat where equipment would be used in the waterway or floodplain, or there is a risk of fuel, oil, or other contaminants entering the waterway.
- Projects in or adjacent to riparian habitats for listed bird species (e.g., southwestern willow flycatcher).
- Projects within 0.5 mile of a Mexican spotted owl nest site or Mexican spotted owl suitable habitat.
- Projects within or adjacent to listed species' designated critical habitat.

ANNUAL COORDINATION

FHWA, USFWS and UDOT will meet quarterly to discuss past determinations and discuss upcoming projects and issues.



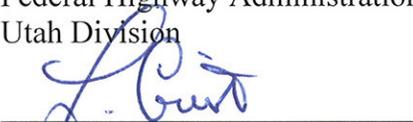
Carlos Braceras, P.E.
Executive Director
Utah Department of Transportation

11/10/14
Date



Ivan Marrero
Division Administrator
United States Department of Transportation
Federal Highway Administration
Utah Division

11/17/14
Date



Larry Crist
Field Supervisor
United States Department of Interior
Fish and Wildlife Service
Utah Field Office

11/6/2014
Date