

## **Guidelines for Section 10(a)(1)(A) Permits Specific to the Giant Garter Snake**

### **Qualifications:**

The application information (resume and/or curriculum vitae, formal education, previous and current professional experience, etc.) needs to reflect direct education/experience with snakes or other herptiles, and should demonstrate:

- Experience handling giant garter snakes, related species, or other snakes. This experience should be documented in the information submitted with the permit application (i.e., papers, references, supervisory appraisals, letters of support, etc.)
- Knowledge of the principles of general biology and ecology, and familiarity with the biology and ecology of giant garter snakes, including demonstrated field identification of individuals and likely habitat.

### **Activities covered by 10(a)(1)(A) permit:**

1. **Research Projects:** To provide additional scientific information on the species, proposals should specify the purposes and objectives of the research project, describe how the project will contribute to the recovery of giant garter snake (e.g. identify recovery tasks from the Draft Giant Garter Snake Recovery Plan), and describe the study design and techniques. Specific techniques may require special experience.
2. **Permits associated with a particular project with potential effects to giant garter snake that will be addressed in a future section 7 or section 10 (a)(1)(B) consultation:** To provide the Service with additional demographic information on the giant garter snake and its habitat, permitted individuals will notify the Service when the species or its habitat is encountered during: (1) pre-project planning, (2) assessment of environmental impacts, (3) habitat surveys and assessments.
  - a. Capturing giant garter snake for positive identification and collection of morphological data during pre-project surveys will provide demographic information (information on status, range, distribution, habitat use), and will contribute to the information we utilize in recovery efforts. Issuance of this permit would not jeopardize the continued existence of the giant garter snake.

### **Activities that do not require a 10(a)(1)(a) permit:**

1. Applicants may request permits for determining presence/absence of giant garter snakes or for construction monitoring. These activities do not require 10(a)(1)(A) permits because:

a. the Service bases determination of effects to giant garter snake on presence of suitable habitat, and cannot accept surveys as proof of absence of giant garter snake.

Giant garter snakes are cryptically colored, secretive, and notoriously sensitive to human activities. Individual snakes are difficult to detect unless they are observed, undisturbed, at a distance. Most close-range observations represent chance encounters that are difficult to predict. While conducting surveys for giant garter snakes may yield valuable demographic information, negative results of such surveys cannot be accepted as proof of absence of giant garter snakes. Pre-project surveys for giant garter snake habitat, location within the range of the species, information on proximity of known locality records, and connectivity to other areas of suitable habitat is required to determine whether incidental take may occur and whether a Section 7 biological opinion with an incidental take statement, or a Section 10(a)1(b) incidental take permit is necessary.

b. Take that may result from monitoring development or construction projects is incidental to the project (and not part of the purpose of the project), and should therefore be authorized through a 10(a)(1)(b) incidental take permit or through a section 7 consultation with an incidental take statement. Monitoring associated with the project should also be addressed through these means and will not be authorized through a 10(a)(1)(A) permit.

Monitoring and/or handling of snakes during the construction phase of a project should be authorized under the section 7 biological opinion with an incidental take statement, or a section 10(a)1(b) incidental take permit. The Service does not authorize handling of giant garter snakes through most section 7 consultations unless a project presents a risk of snakes becoming trapped and in need of rescue, and the project cannot be planned to avoid such risk. We typically do not recommend handling and relocating giant garter snake during monitoring of construction activities as a first course of action or primary minimization measure, particularly for small projects (i.e., those that qualify for the giant garter snake programmatic, and can fully implement avoidance and minimization measures). Giant garter snakes exhibit fidelity to overwintering sites and may have local patterns of movement within a familiar area. Relocating a giant garter snake to an area with unfamiliar retreats, cover, and foraging habitat may increase a snake's risk of predation. Giant garter snakes may also be exposed to greater risk of predation and potentially to vehicular mortality when attempting to return to the capture site.

Instead, the Service recommends that projects be designed and planned to allow the snake opportunities to leave the project area on its own. Doing so will maximize the chance that the snake will move on its own into familiar areas of suitable habitat without being exposed to increased mortality risks. Measures designed to allow snakes opportunities to escape include: dewatering with a two

week waiting period before proceeding with construction; flagging and avoiding sensitive areas; minimizing the project footprint; providing escape routes; planning the project such that areas of habitat do not become isolated within the construction area; and having on-site biological monitors authorized to halt construction and determine a course of action if a snake is detected. Snakes that have been detected on project areas but not relocated (vicinity of snakes avoided and snake activity monitored) have left the project area on their own. Although the snakes did not move immediately, they did move away on their own and construction was able to proceed as planned.

However, some projects may be large, located in sensitive habitat that cannot be avoided, or may not be able to fully implement avoidance and minimization measures due to other environmental constraints. In these cases, the likelihood of snakes being encountered or becoming trapped is much greater. If it is determined giant garter snakes may become trapped or are likely to be unable to escape during construction (for example, in a deep, steep-sided, trench that will be left uncovered for an extended period), the Service may determine handling and relocation of giant garter snake may be necessary. The project proponent may request the Service consider authorizing (through section 7 consultation or a 10(a)1(B) permit) a biological monitor to handle and relocate snakes if they believe such situations may occur and cannot be avoided.

**“Special Terms and Conditions” part of the permit:** (Note that currently, Giant garter snake recovery permits issued for research projects appear consistent in their approach to authorized take and are not addressed here.)

The following is an example of the special terms and conditions section for use on garter snake permits associated with specific (non-research) projects.

1. 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,” 50 CFR Part 13, 50 CFR 17.22 (endangered species) and/or 50 CFR 17.32 (threatened species), as applicable (copies attached). In addition, the permittee must have any other applicable State and Federal permits prior to the commencement of activities authorized by this permit.
2. The permit authorizes take (capture, measure, and release) of the giant garter snake (*Thamnophis gigas*) in conjunction with demographic studies for the purpose of enhancing its survival as specified in the permittee’s DATE, application request in accordance with the conditions stated below.
3. Permitted activities are restricted to the following geographic areas in California:

Throughout the species range, or area specified by the permittee.

Proposals to conduct surveys pursuant to this permit at specific locations within the above referenced areas must be submitted in writing to the Sacramento Fish and Wildlife Office (SFWO), of the Fish and Wildlife Service, at least 10 days prior to conducting such activities. The SFWO address and phone and facsimile numbers are:

Sacramento Fish and Wildlife Office  
Endangered Species Division  
2800 Cottage Way Suite W 2605  
Sacramento, California 95825-1846  
(916) 414-6600  
fax: (916) 414-6612

The proposals shall include: (1) an explanation of the purpose of the study and a clear description of methods, including names of personnel, extent of the area to be surveyed, and the number and dates of surveys; (2) maps (at a minimum, a 1:24,000 scale U.S. Geological Survey topographical map) depicting the location of the survey site(s); (3) specific description of location, including county, drainage basin, USGS 7.5 minute quadrangle name, and waterways to be surveyed; and (4) any other information that will assist in accurately locating the survey area on maps.

The permittee shall not commence activities authorized by this permit in a new area, or at a previously authorized site at a new time, until permission is received from the SFWO. If the permittee is denied authorization to conduct activities at the requested location(s), including previously authorized sites, a request for reconsideration may be submitted to the Associate Manager-Endangered Species at the Service's Portland Regional Office (PRO), as provided in 50 CFR 13.29. The procedures specified in 50 CFR 13.29(b) must be followed. The PRO address is:

Ecological Services  
911 N.E. 11th Avenue  
Portland, Oregon 97232-4181

4. Authorized individuals:

Only individuals on the attached List of Authorized Individuals (List) are authorized to conduct activities pursuant to this permit. The List, printed on Service letterhead, may identify special conditions or circumstances under which individuals are authorized to conduct permitted activities and must be retained with these Special Terms and Conditions. Each named individual must be responsible for compliance with the terms and conditions of this permit.

To request changes to the List, the permittee must submit written requests to the SFWO.

The request shall be signed and dated by the permittee and include:

- a. the name of each individual to be appended to the List;
- b. a resume/qualifications statement of each person to be appended to the List, detailing their experience with each species and type of activity for which authorization is requested;
- c. the names and phone numbers of a minimum of two references; and
- d. the names of the individuals to be deleted from the List.

Note: This procedure is for personnel changes only. For requests to amend this permit, a complete amendment application must be submitted to the PRO.

5. Taking of the giant garter snake:

The permittee is authorized to capture giant garter snakes, collect morphological data, and release the individuals. All captures shall occur within the geographic boundaries specified above, and the time limitation specified in the permit. Individual garter snakes may be identified, measured, examined, and released, with the following provisions.

- a. During surveys the following habitat information will be recorded:
  - i. date of survey
  - ii. survey information including effort (number of searching hours), time of day, temperature at start and end of survey, weather conditions, and number of acres or linear feet surveyed;
  - iii. site description that may include habitat types present, substrate/soils, etc., topography/elevation, and surrounding land-use activity; and
  - iv. habitat characteristics including presence of burrows/over-wintering sites, amount and type of cover present, including upland and emergent vegetation, presence of prey species, distance to nearest available habitat, and other species observed.
  - v. Location of any giant garter snake and habitat characteristics in the immediate vicinity of any giant garter snake encountered.
- b. Garter snakes may only be captured during those activities not otherwise covered by a Section 7 consultation or Section 10(a)(1)(B) permits.

- c. Garter snakes may only be captured by hand or hand-held reptile snare;
  - d. All garter snakes shall be released at the point of capture.
  - e. The following scale counts and measurements shall be taken: supra labial scale counts on the right and left sides, width of 6<sup>th</sup> and 7<sup>th</sup> supra labial scales at mid-height, and dorsal scale row count at mid-body. Snakes shall be weighed and length measured or estimated, and photographed (one photo each of whole snake and close-up head profile). Behavior and condition of snake shall be noted. Other data may be taken as time allows. Snakes shall not be held longer than 15 minutes.
6. The number of individuals allowed to be incidentally injured during the performance of activities conducted pursuant to this permit is **one garter snake**. No individuals are allowed to be incidentally killed during the performance of activities conducted pursuant to this permit.
- a. Any incidental injury or mortality of the garter snake must be reported, in writing, within three (3) days, to the PRO and the SFWO.
  - b. In the event that the number of individuals allowed to be injured or killed is exceeded during the performance of permitted activities, the permittee must:
    - i. Immediately cease the activity until re-authorized by the PRO, which may, after analysis of the circumstances of injury or mortality, revoke or amend this permit;
    - ii. Immediately notify the PRO (telephone: 503-231-2063; fax: 503-231-6243) and the SFWO. Within three (3) working days, the permittee must follow up such verbal notification, in writing, to each office, with a copy to the California Department of Fish and Game (CDFG), Wildlife Management Division, 1416 Ninth Street, Sacramento, California 95814 (telephone: 916-654-4260);
    - iii. With the written notification, the permittee is to include a report of the circumstances that led to the injury or mortality. A description of the changes in activity protocols that will be implemented to reduce the likelihood of such injury or mortality should be included, if appropriate.
  - c. Preserve any dead specimens in accordance with standard museum practices. Before expiration of the permit, all preserved specimens will be properly labeled and deposited with the designated depository. The permittee shall supply the depository with a copy of this permit to validate that the specimens were taken pursuant to a permit.

7. Designated depository:

Museum of Vertebrate Zoology, University of California, Berkeley, California.

8. California Natural Diversity Database (NDDDB) forms must be completed for each locality where snakes are encountered and submitted to: Natural Diversity Data Base, CDFG - NHD, 1416 Ninth Street, 12th Floor, Sacramento, California 95814

Copies of this form can be obtained from the CDFG - NHD at the above address (telephone: 916-324-3812). Copies of all NDDDB forms must be submitted to the SFWO.

The permittee shall notify verbally or in writing Chief, Endangered Species Division at the SFWO within **three (3) days** of any capture or identification of the garter snake. Accompanying documentation, including: date, location marked on 7.5 minute quad map, photographs, and measurement data, shall be subsequently sent via facsimile or mail to the address in #3 above (SFWO) within seven (7) working days of the date of capture or identification.

All reports or other documents that include information gathered under the authority of this permit (e.g., reports prepared by consulting firms for their clients) shall reference this permit. Copies of such documents shall be provided to the SFWO upon their completion. Draft documents, and other information resulting from work conducted under the authority of this permit, shall be submitted to the Service upon request.

9. An annual report of activities must be submitted to the SFWO by January 31 following each year this permit is in effect. The report must be in the following format.

- a. Introduction section addressing reasons and objectives for taking the species;
- b. Methodology section addressing data collection and analysis procedures, as listed in information required under section 5a. of the permit.
- c. Results section that summarizes the data collected, including information on any other federally listed species detected while conducting activities authorized under this permit;
- d. Conclusion section that specifically provides recommendations for recovery of the species;
- e. Maps of study areas depicting locations of study areas (regardless of results) and all locations of observations/captures of giant garter snakes found in the study area; and

- f. Numbers of individuals incidently killed and injured, including dates, locations, circumstances of take, and location and status of the animals(s), living or dead.

If no activities occurred over the course of a year, indication of such must be submitted as an annual report.

**“List of Authorized Individuals” part of the permit:**

1. Individuals authorized to independently conduct giant garter snake activities pursuant to this permit:
2. Individuals authorized to conduct giant garter snake activities pursuant to this permit only under the direct, on-site supervision of the individuals listed above:

Other individuals whose names must first be added to this list, may conduct activities pursuant to this permit only under the direct on-site supervision of an individual authorized to independently conduct activities listed above. “On-site supervision” is defined as an unauthorized person conducting activities within 10 meters of an authorized individual.