FINDING OF NO SIGNIFICANT IMPACT FOR PROPOSED ISSUANCE OF A SECTION 10(a)(1)(B) PERMITS (TE080999-0 and TE082034-0) UNDER THE ENDANGERED SPECIES ACT TO AUTHORIZE INCIDENTAL TAKE OF THE DESERT TORTOISE BY HYUNDAI MOTOR AMERICA AND CALIFORNIA CITY FOR THE HYUNDAI TEST TRACK, KERN COUNTY, CALIFORNIA

The Fish and Wildlife Service (Service) proposes to issue two section 10(a)(1)(B) Incidental Take Permits (Permits), one to Hyundai Motor America (Hyundai) and one to California City (City), addressing the federally threatened desert tortoise, and sign an Implementing Agreement (IA) for a Habitat Conservation Plan (EA/HCP) for the Hyundai test track facility (Facility). The IA concerns implementation of the EA/HCP and would be signed by the Service, Hyundai, the City, and California Department of Fish and Game (CDFG). The EA/HCP would be implemented by Hyundai and the City to minimize and mitigate the effects of covered activities on the threatened desert tortoise. Take would occur during construction of the test track and translocation study in eastern Kern County, California. Impacts would occur within a 4,526.5 acre area and mitigation would occur as habitat acquisition with one acre acquired for each acre impacted (1:1 ratio) and management of 3,386.5 acres for the desert tortoise.

Issuance of the Permits would be pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act), and would be conditioned upon proper implementation of the HCP and the IA. The proposed Permits and IA have a term of 30 years from date of approval. Take authorization would be effective upon permit issuance for the desert tortoise.

Documents reviewed in the preparation of this Finding of No Significant Impact (FONSI) include:

- Draft Implementing Agreement, dated January 2004;
- Draft Environmental Assessment /Habitat Conservation Plan (EA/HCP) for Issuance of an Endangered Species Section 10(a)1(B) Permit for the Incidental Take of the Desert Tortoise *(Gopherus agassizii)*, dated July 2003;
- Materials provided by Hyundai and the City that identify changes to the HCP in response to comments from the Service and CDFG, and updated information about the translocation study, dated November 2003; and
- Our intra-Service section 7 biological opinion on the proposed issuance of a federal permit, dated January 12, 2004.

These documents are incorporated by reference, as described in 40 CFR § 1508.13.

Alternatives Considered

This section provides a description and analysis of the reasonably practicable alternatives available to the Service. Alternatives for the project were developed in accordance with Section 10(a) of the Act and the National Environmental Policy Act of 1969. Five alternatives to the issuance of permits for the proposed project were analyzed: (1) a no action alternative to which the Service would not issue a permit for an automotive test course facility; (2) an On-Site Fencing Alternative; (3) issuance of a permit for an alternative site in San Bernardino County; (4) issuance of a permit for an alternative site in Riverside County; and (5) a More Mitigation Alternative. Only a single no action alternative was considered because the proposed project site and the two alternative site locations are potentially occupied by species listed as endangered or threatened pursuant to the Act.

No Action Alternative

Under the no-action alternative, the Service would not issue Section permits for the Facility. The proposed project would not be developed, and the objectives of the proposed project would not be met. Existing conditions at the proposed project sites analyzed in this document would remain unchanged. Without issuance of the incidental take permit, the EA/HCP would not be implemented and compensation acreage of Category I and II desert tortoise habitat east and south of the Desert Tortoise Research and Natural Area (DTRNA) would not be purchased and transferred into conservation.

On-Site Fencing Alternative

The on-site fencing alternative would be similar to the proposed project and the amount of acres impacted by this alternative would be the same as the proposed. As part of the on-site alternative, approximately 12 miles of three-stranded barbed-wire fencing would be installed around the proposed project site for security. The barbed-wire fence would be constructed along the proposed property boundary to mark the edge of the project site and deter trespassing. Security fencing and desert tortoise exclusion fencing would be constructed around the outer perimeter of the oval test course and surrounding swales and berms. Entry gates would be provided in the fence at the designated road entry point for the oval test course, and at three specified points along the oval test track. The three additional gates would be used only by authorized personnel for situations that require rapid access to the interior of the oval test track. Desert tortoise exclusion fencing also would be constructed along the east and west sides of the Hill-Up Road.

To facilitate movement across the project site, wildlife undercrossings would be constructed. One undercrossing would be constructed at a point along the southern entry road within the project boundaries. The position of the wildlife undercrossing would be determined by topography so as to provide a more natural route for wildlife to avoid crossing the entry roadway. Wildlife undercrossings would also be positioned along the Hill-Up Road to facilitate the movement of wildlife across the eastern portion of the project area. Each wildlife undercrossing would consist of a 4-foot-high by 6-foot-wide corrugated metal structure. The entry points for

the wildlife undercrossing would be reinforced with natural rock and planted with native vegetation to provide shade and cover near the entry points.

Hyundai and the City would conduct preclearance surveys for the oval track and its interior, areas adjacent to the test track on the proposed project site and all areas proposed for grading; would move desert tortoise occupying those areas; and would mitigate all grading impacts.

Alternative Site in San Bernardino County

While evaluating potential sites for development of the proposed project, Hyundai considered a site of approximately 4,340 acres, occupying nearly seven sections, located in an unincorporated area of San Bernardino County. The San Bernardino County Site Alternative is within the Landers USGS 7.5-minute series topographic quadrangle adjacent to the southwestern boundary of the U. S. Marine Corps Air Ground Combat Training Center, east of State Highway 247, and north of the City of Landers (Figure 5.3-1 5.4-1 of the EA/HCP, *Regional Location of the San Bernardino County Alternative Site*). The San Bernardino County Site Alternative is accessible from State Highway 247 by the Reche Road exit, running east-west, approximately 3 miles to the south.

The Facility design would be similar to that discussed in the proposed project. The San Bernardino County Site Alternative does not include the project elements pertaining to the City, such as extension of the water pipeline. This alternative would result in permanent impacts to approximately 2,218 acres (826 acres of grading plus 1,392 acres of habitat within an oval test tract design). There has been no previous mitigation effort for impacts to desert tortoise at this alternative site.

Alternative Site in Riverside County Site

While evaluating potential sites for development of the proposed project, Hyundai considered a site occupying nearly seven sections, located in an unincorporated area of Riverside County. The Riverside County Alternative Site is within the Indio USGS 7.5-minute series topographic quadrangle north of Interstate 10 and east of the community of Indio, California (Figure 5.4-1 of the EA/HCP, *Regional Location of the Riverside County Alternative Site*). The Riverside County Site Alternative is not currently accessible from Interstate 10 or other surface streets. This alternative did not meet many of Hyundai's requirements and therefore was not analyzed further.

More Mitigation Alternative

The More Mitigation Alternative would be similar to the proposed project, and would occupy the same project site. The Service would issue Section 10(a) incidental take permits for desert tortoise. The Facility design would be identical to the proposed project, and would result in permanent impacts to 3,386.5 acres of occupied desert tortoise habitat. As part of the mitigation measures under this alternative, Hyundai and the City would propose compensation for land at a 3:1 ratio. Compensation for 3,386.5 acres of land at 3:1 would result in a total of 10,159.5 acres being purchased, with additional fees per acre allotted for endowment and enhancement of the purchased lands. Compensation lands would be purchased adjacent to the DTRNA, and would

be transferred to a third-party conservation organization or CDFG, to be managed specifically for the desert tortoise. The third party or CDFG also would be responsible for enhancement of the compensation lands.

Effects and Finding of No Significant Impact

The Service's proposed action is to issue Permits to the Applicants (Hyundai and the City) under section 10(a)(1)(B) of the Act pursuant to the proposed terms in the EA/HCP and the IA. The Permits would authorize incidental take of approximately 30 desert tortoises and identify measures that would be implemented to avoid, minimize, and mitigate incidental take of desert tortoises during the 30-year term of the Permits.

The Permits would authorize take in the form of "capture," "harm" and "harassment" of the desert tortoise associated with the proposed project. The proposed project would permanently remove or degrade 4,526.5 acres of occupied habitat. The entire project site would be surrounded by desert tortoise exclusion fencing. Subsequent to fencing or removal of habitat, all desert tortoises at the project site would be captured and removed to the translocation site. These actions would result in the permanent removal of 4,526.5 acres of desert tortoise occupied habitat. Additional details regarding the impacts of the proposed action on the habitat and species in the project area are provided in sections 4, 6, 7, and Appendix A in the EA/HCP, in our Findings and Recommendations document, and in our Biological Opinion for the proposed action.

To offset the loss of habitat for the desert tortoise, the Applicants propose to conserve 3,386.5 acres of habitat in the local region associated with the projected expansion area for the DTRNA and the CDFG's Fremont Valley Desert Tortoise Ecological Reserve in eastern Kern County, California.

To minimize direct impacts to the desert tortoise during construction of the project, the Applicants propose to: (1) survey for and move any desert tortoise found prior to the translocation phase; (2) provide desert tortoise awareness training to all employees (construction and management); (3) employ biological monitors to monitor for desert tortoise around construction equipment; and (4) implement a desert tortoise translocation and study. These measures are described in more detail in the EA/HCP and in our Biological Opinion for the proposed action.

Pursuant to section 7 of the Act, we have prepared a biological opinion on the proposed action of issuing Permits and signing an IA. In the biological opinion, we concluded that the proposed action would not result in jeopardy to the desert tortoise. Although the project would result in a loss of desert tortoise habitat, the affected habitat is not in designated critical habitat for the desert tortoise nor is it in a Desert Wildlife Management Area. The 3,386.5 acres of habitat that would be conserved offsite would be of similar or better quality and would be managed for the conservation of the desert tortoise in perpetuity. The conserved lands have been deemed

important to the long-term conservation of the desert tortoise and have been located and designed to reduce fragmentation and provide connectivity between proposed conservation reserve areas. Therefore, mitigation measures will offset and minimize project impacts and contribute to the long-term survival and recovery of the desert tortoise by conserving in perpetuity 3,386.5 acres of habitat for the desert tortoise, and by implementing other best management practices.

Foreseeable actions on lands in the vicinity of the Hyundai test track site that could result in cumulative impacts are addressed broadly in the EA/HCP and biological opinion. Detailed project descriptions, information on desert tortoise status, and the quantity and quality of desert tortoise habitat within the area of potential effect are unavailable at this time. Therefore, any future development in this area that would affect the desert tortoise would require separate environmental review.

In addition to analyzing effects to biological resources and cumulative effects, the EA evaluated the following aspects of the human environment for potential significant adverse effects as a result of the proposed action: geology, air quality, water resources and water quality, cultural resources, energy and mineral resources, land use, recreation, transportation, hazards, noise, public services and utilities, population growth, and aesthetics. Appropriate mitigation measures were incorporated into the project to reduce impacts to a level below significance for those issues for which negative impacts were anticipated. No significant effects to these environmental resources are expected to result from permit issuance.

Public Review and Comment

On July 25, 2003, we published a public notice in the *Federal Register* (68 FR 44094) regarding the availability of and soliciting comments on the draft EA/HCP, and IA. The 60-day public comment period closed on September 22, 2003. A total of 16 copies of the draft EA/HCP, and IA were distributed to individuals, Federal and State agencies, Federal and State elected officials, city and county governments, the California City library, and environmental organizations. The documents were also available for review on the web page of the Ventura Fish and Wildlife Office.

By the end of the public review period, we received four comment letters, one from private citizens, one from the Desert Tortoise Preserve Committee, one from the California Native Plant Society, and one from the Defenders of Wildlife and Center for Biological Diversity. The comments in those letters were addressed by the Service in the Set of Findings and Recommendations Memorandum as part of the administrative record for this action. This FONSI and the Service's Findings and Recommendations document will be made available to all known interested parties. Following final action on these permit applications, the Service will publish a notice of permit decision in the *Federal Register*.

Conclusion

In summary, as documented in the EA/HCP, biological opinion, and IA, the proposed issuance of permits for incidental take of the desert tortoise are not expected to result in significant impacts to physical and biological resources. The issuance of the permits and implementation of the EA/HCP and IA would not result in significant effects to the human environment.

The Service has determinated that the proposal does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969. Accordingly, preparation of an Environmental Impact Statement is not required.

Deputy Manager
California/Nevada Operations Office

31 JANUARY 2004
Date