DESERT TORTOISE COUNCIL
4654 East Avenue S #257B
Palmdale, California 93552
www.deserttortoise.org
ed.larue@verizon.net

Via email only

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Katrina Symons, Field Manager
Anthony Chavez, Rangeland Management Specialist
Barstow Field Office, Bureau of Land Management
2601 Barstow Road, Barstow, CA 92311
ksymons@blm.gov, rchavez@blm.gov

Re: Scoping comments for proposal to renew Ord Mountain Allotment grazing lease

Dear Ms. Symons:

The Desert Tortoise Council (Council) is a non-profit organization comprised of hundreds of professionals and laypersons who share a common concern for wild desert tortoises and a commitment to advancing the public's understanding of this species. Established in 1975 to promote conservation of tortoises in the deserts of the southwestern United States and Mexico, the Council regularly provides information to individuals, organizations and regulatory agencies on matters potentially affecting the desert tortoise within its geographic range.

We appreciate this opportunity to provide the following scoping comments on the Bureau of Land Management's (BLM's) proposal to renew the Ord Mountain Allotment grazing lease for the next 10-year period. We continue to be concerned that the Barstow Field Office of the BLM has once again failed to contact the Council as an Affected Party in matters affecting the desert tortoise (*Gopherus agassizii*). We only recently learned about BLM's solicitation for scoping comments from a third party, and, once again, ask that the Council be contacted in the future for *all* projects affecting tortoises.

Livestock grazing is an activity that has been shown to degrade desert tortoise habitat and contribute to declines in tortoise populations. Grazing livestock cause destruction of cryptogamic crusts and desert soils; reduction of water infiltration in compacted soils; erosion; introduction of invasive plant species; changes to natural fire regimes; and fragmentation of habitat (USFWS 1994a). Grazing livestock trample perennial shrubs and graze on native annual plants, causing considerable and important changes in the character of Mojave Desert vegetation communities (Webb and Steilstra 1979; Berry and Nicholson 1984; McClaran and Anable 1992).

Compacted soils disrupt soil crust development, reduce water infiltration, and increase surface run-off and erosion (Castellano and Valone 2007; Daniel et al. 2002; Webb and Stielstra 1979), conditions that favor the spread and establishment of invasive plants (Belsky and Gelbard 2000) and wildfires (D'Antonio and Vitousek 1992). Livestock spread invasive plant species by transporting non-native plant seeds into new sites on their coats, feet, and in their guts; preferentially grazing native plant species over weed species; creating patches of bare, disturbed soils that act as weed seedbeds; destroying microbiotic crusts that stabilize soils and inhibit weed seed germination; creating patches of nitrogen-rich soils that favor weed species; reducing concentrations of soil mycorrhizae required by many native species; and accelerating soil erosion that buries weed seeds and facilitates their germination (Belsky and Gelbard 2000).

Ultimately, livestock grazing leads to significant changes in the character of native desert scrub vegetation communities. Even limited grazing can cause a substantial change in vegetation and damage to soil crusts (Lovich and Bainbridge 1999). Grazing livestock also crush desert tortoises and their burrows. Injured and dead tortoises have occasionally been found with damaged shells indicative of trampling in grazed areas (BLM 1991; Berry 1978). Crushing of desert tortoise burrows, pallets, and shrubs used for shelter has been noted in several studies of the effects of cattle and sheep grazing (Avery 1993, 1997; Berry 1978; Boarman 2002; Nicholson and Humphreys 1981; USFWS 1994b; Webb and Stielstra 1979).

These disturbances caused by grazing livestock contribute to declines in local desert tortoise populations. Berry et al. (2014) found significantly more live tortoises and lower death rates in management areas with the longest history of exclusion of livestock. In a BLM-commissioned population modeling study, Tuma et al. (2016) found that livestock grazing causes greater declines in desert tortoise populations than does human presence and developments in desert areas, subsidized predators, or disease.

Given the recent declines in desert tortoises in the Ord-Rodman Critical Habitat Unit (CHU; USFWS 1994a, 2014) and cumulative effects on tortoises throughout the West Mojave, which are listed and described herein, we believe that the BLM should draft an Environmental Impact Statement (EIS) or Supplemental EIS (SEIS) rather than an Environmental Assessment (EA) for the grazing lease renewal. The SEIS would be tiered upon the Final EIS for the West Mojave Plan (BLM 2005), but as given below, there have been many significant changes in both tortoise numbers and land use planning that we regard a less rigorous EA to be unacceptable. Specific considerations for either type of draft environmental document follow.

1. The U.S. Fish and Wildlife Service (USFWS) has recently reported that there has been a 51% decrease in adult tortoise numbers throughout the West Mojave and a 56% decline in the Ord-Rodman CHU between 2004 and 2014 (USFWS 2014). These declines have been in desert tortoise critical habitat, which are defined as essential habitats necessary for the recovery of tortoises. Since most of the critical habitat occurs on public lands managed by the BLM (critical habitat cannot be established on private lands even though they may be within legislative boundaries), it is important that the scope of BLM's analysis in the environmental document encompass the entire West Mojave Desert region, of which the Ord-Rodman CHU is a significant portion. For this reason, we contend that the environmental document should be an EIS or SEIS rather than an EA.

2. The CHU is in a region that is experiencing multiple proposed and existing impacts at the State, federal, and local levels, both inside and outside the allotment area. The cumulative effects analysis in the environmental document must include, at a minimum, the following regional projects:

(a) The Desert Renewable Energy Conservation Plan (DRECP), which plans to facilitate renewable energy development in the CHU and adjacent areas (in the vicinity of Daggett Ridge and northwestern areas – Coolwater to Lugo alignment) and establish Special Recreation Management Areas and Extensive Recreational Management Areas in desert tortoise critical habitat.

(b) **S**an Bernardino County **Pa**rtnership for **R**enewable Energy & **C**onservation (SPARC) is creating a Renewable Energy Element for the General Plan that may affect tortoises and habitats within and adjacent to the CHU and Ord Mountain Allotment.

(c) The Section 368 West-wide Energy Corridors study, of which BLM is a participant, proposes to allow energy transmission corridors through the northwestern corner of the CHU and Ord Mountain Allotment and along Interstate 40 north of the allotment.

(d) Twentynine Palms Marine Corps Base expansion could displace more than 1,000 tortoises and must be addressed in the BLM's environmental document for lease renewal. This is particularly important as some of the Marine's proposed translocation sites are within the Ord Mountain Allotment.

(e) Impacts associated with the "King of the Hammers" event must be analyzed. Started in 2008, the event, which is held in February each year in Johnson Valley, attracts tens of thousands spectators. Although the event is held outside the Ord Mountain Allotment, most spectators bring personal off-road vehicles where they likely recreate within the grazing allotment. The Council would like to see an in depth analysis of how this event has affected the desert and desert tortoises in particular: How many people annually attend? What data have BLM gathered to show the impacts of this permitted event on tortoises? How many hours have BLM biologists spent monitoring the event and measuring impacts? Has there been an opportunity for annual public participation in analyzing the impacts of BLM's issuance of this use permit?

Given the extensive nature of the above proposals and ongoing projects, the Council contends that an EA would be insufficient to address these cumulative effects, which should be addressed formally in a new EIS or SEIS tiered on the West Mojave Plan Final EIS (BLM 2005).

In addition to the data required to complete the cumulative effects analysis requested above, the following 20 items identify baseline data and information that the Council expects to see presented and/or analyzed in the environmental document:

1. BLM must summarize the requirements identified in the latest EA (BLM 2006) and indicate how each required prescription given therein either has or has not been implemented. Until the BLM has achieved standards required by adoption of this EA, the Council contends that there should be no increase in cattle grazing in the Ord Mountain Allotment.

2. BLM monitoring data since 1990 that track the level of grazing in the Ord Mountain Allotment since the tortoise was federally listed in 1990.

3. An analysis of adverse impacts associated with recreational use on the grazing allotment given its proximity to the Stoddard Valley Open Area to the west and Johnson Valley Open Area to the south and southeast. How many citations have been issued? What are BLM's monitoring data showing impacts of recreational vehicles?

4. How has BLM implemented recommendations in the original and revised recovery plans (USFWS 1994b, 2011) to minimize recreational impacts to tortoises in critical habitat portions of the allotment? Specifically, how many designated closed routes have been eliminated through vertical mulching, and how effective have those closures been? Have any fences or other markers been installed along common boundaries to inform recreational vehicle users that they are leaving open areas and entering tortoise critical habitats within the allotment? Specifically, has BLM monitoring data shown a decrease or increase in impacts in the Cinnamon Hills area?

5. Based on observations by several Council board members, we know that cattle grazing has not be restricted to the 132,852 acres of public lands within the allotment; there are stray cattle to the south into Lucerne Valley and to the east on Marine Corps lands. BLM (2006) indicated the following requirements (page 11): "…range fences would be installed in two places to exclude cattle from high concentration tortoise areas round [sic] adjacent to the Ord Mountain Allotment: (a) along the southern boundary of the allotment, west of the Cinnamon Hills, in northern Lucerne Valley; and (2) along the eastern boundary of the allotment, in the vicinity of Box Canyon." Have these fences been installed? The environmental document must indicate how cattle trespass outside the allotment will be curtailed or eliminated.

6. Using USFWS (2014) data and any other data the BLM may have gathered since the programmatic studies associated with the West Mojave Plan (BLM 2005), document declines and trends in tortoise distribution and densities in the Ord Mountain Allotment on an annual basis and compare that to cattle use in Animal Unit Months (AUMs) over the same time period.

7. Show the location of established watering sites (i.e., tanks, troughs, springs, etc.) and concentration areas (i.e., piospheres, corrals, etc.) relative to tortoise occupied habitats. How has BLM located and subsequently managed these resources to minimize impacts to tortoises and their habitats? How will BLM's intended introduction of 12-times more cattle (i.e., increasing 25 head to 305 head) avoid impacts to tortoises and adverse modification of tortoise critical habitat?

8. Document all areas of the allotment that are not meeting land health standards due to grazing and show how those areas relate to tortoise distribution within the allotment. The EA must identify prescriptions to be implemented by the BLM to meet land health standards or abandon its intent to increase cattle grazing from 25 to 305 heads. What are BLM's allotment management changes needed to maintain or improve resource conditions within the Ord Mountain allotment?

9. Assuming Health Assessments within the grazing allotment have been completed, the BLM needs to summarize the results of those assessments in the proposed environmental document and further document implementation of any corrective management strategies. BLM (2006) states: "Where a determination indicates that standards are not being achieved, changes in grazing management must be implemented that may result in new terms and conditions to achieve standards and conform to guidelines." Have any such changed measures been implemented?

10. Does BLM's range monitoring data show that the allotment, which has suffered from four or five years of harsh drought conditions, can support an increase in the number of AUMs? Please include an analysis of the effects of ongoing drought conditions, its effect on available forage, and describe how numbers of cattle would be increased or decreased relative to available forage. Further, we recommend that the BLM identify specific measures and stocking rates that would reduce competition between cattle and tortoise during annual drought conditions, including removal of cattle from critical habitat when drought conditions prevail.

11. How often under current drought conditions have ephemeral production not exceeded 230 pounds per acre and ephemeral authorization not been granted? Would the ephemeral production threshold need to be increased given drought conditions of BLM's stated intent to increase cattle presence twelve-fold?

12. Whereas the No Action alternative would continue to allow approximately 302 cows/horses to graze throughout the year, the new environmental document must include an alternative that would reduce this allowable level of grazing to allow habitats to recover from recent and current drought conditions in the West Mojave Desert.

13. Given the Settlement Agreement prior to the West Mojave Plan (see page 6 of BLM 2006), are prescribed areas of the Ord Mountain Allotment still excluded from cattle grazing in the spring and fall? If not, an alternative should be assessed that prohibits cattle grazing from critical habitat areas in the spring and fall.

14. Document the history of proposals for voluntary relinquishment of cattle grazing in the allotment, by the Department of Defense to offset the Fort Irwin expansion and any other attempts to retire cattle grazing on the allotment. Why have these efforts failed? Are there any new plans to retire cattle grazing on the allotment? Please discuss how an allotment is officially retired.

15. If any of the data requested above have either not been collected or are currently unavailable, the Council contends that the BLM lacks sufficient baseline data on which to renew the current lease. These types of data are essential to ensure that healthy habitats are available for desert tortoises and that cattle are not adversely modifying desert tortoise critical habitat. In the absence of such data, BLM decisions will not be based on sound science.

16. Has the BLM satisfied the following requirement given in the last EA for the allotment (BLM 2006): "New cattle guards would be designed and installed to prevent entrapment of desert tortoises. All existing cattle guards in desert tortoise habitat would be modified within three years of plan adoption [i.e., by 2009] to prevent entrapment of desert tortoises."

17. Given that the 2016 DRECP Record of Decision (BLM 2016) effectively eliminated Desert Wildlife Management Areas (DWMAs) and Multiple Use Classes (MUCs), while maintaining Areas of Critical Environmental Concern (ACECs) and establishing new National Conservation Lands (NCL), a section must be included in the environmental document that describes past management and how current management has changed as the result of programmatic changes associated with the DRECP. Although the DRECP is pertinent to the cumulative effects analyses, these changed circumstances warrant a separate section and discussion in the environmental document.

18. Will the BLM's action require renewal of an existing biological opinion that authorizes 10 more years of cattle grazing at 12 times the current rate on tortoise populations that have declined by 56% in the Ord-Rodman CHU? What percentage of the 56% decline in tortoises in the Ord-Rodman CHU may be attributed to effects of cattle grazing? We note that BLM (2006) indicates that if the annual level of take reaches five tortoises for all the allotments in the West Mojave Plan *and* Northern and Eastern Mojave Plan California Desert Conservation Area Plan Amendment areas, BLM will meet with USFWS to determine if reinitiation of consultation is necessary on the grazing aspect of the plan. How has BLM monitored the effects of cattle grazing on tortoise mortality to determine if the threshold of five tortoise mortalities has been reached?

19. Given these new declining trend data and the BLM's proposal to increase cattle grazing in spite of persisting drought conditions and their lingering effects, the Council formally requests that BLM reinitiate formal consultation with the USFWS. A 56% decline, which is considered an unforeseen circumstance, warrants a new analysis and potential amendment to the biological opinion regulating cattle grazing on the Ord-Rodman CHU. The biological opinion also needs to consider the drastically changed political environment resulting from the DRECP Record of Decision; e.g., changed management regimes that affect tortoise conservation and recovery.

20. Given that these declines occurred when cattle grazing on the allotment was at about 25 head and in the early years prior to the current drought, how can the BLM justify increasing the use to 305 head? Given these anticipated increases, the environmental document must address the potential adverse modification of critical habitat, which the Council contends can only be accomplished by a third party, in this case the USFWS.

We understand that the BLM is required to include the requested data and analyses in the environmental document, and reiterate that given the severe declines on tortoise populations and the multiple threats associated with cumulative effects, that the document should be an EIS or SEIS rather than an EA. Further, we understand that the BLM will produce a draft environmental document and that, as an Affected Party, the BLM is obligated to provide that document to the Desert Tortoise Council.

Good luck with your planning efforts, and we look forward to reviewing the draft environmental document when it becomes available.

Regards,

Edward L. LaRue, Jr., M.S.
Desert Tortoise Council, Ecosystems Advisory Committee, Chairperson

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