

DESERT TORTOISE COUNCIL

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Via email only

16 June 2014

Mr. Randall Porter, Geologist, Project Lead
Bureau of Land Management
300 South Richmond Road
Ridgecrest, CA 93555
rporter@blm.gov

RE: Exploratory Drilling of the Dragonfly Placer Claims by Glacial Minerals, Inc. in El Paso Mountains, Kern County, California

Dear Mr. Porter,

The Desert Tortoise Council (Council) is a private, 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 1976 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 historical range.

We are disappointed because, although we have often asked that the Bureau of Land Management (BLM) consider the Council as an affected party for projects potentially affecting the desert tortoise, we were not informed of this proposed project. We received a copy of the Environmental Assessment [DOI-BLM-CA-D050-2014-014-EA for Exploratory Drilling of the Dragonfly Placer Claims by Glacial Minerals, Inc., Plan of Operations (POO) - CACA-53193] from a third party, and are now taking this opportunity to provide feedback before the comment due date of 6/17/2014. Herein, we refer to specific information given in the Environmental Assessment (EA), Biological Assessment (BA), and Plan of Operations (POO) and provide specific recommendations that refer to each point of information. The outline is cross-referenced with that given in the appendix to this letter.

We are impressed with the thorough nature of all three documents and offer our comments as friendly amendments.

Recommended Amendments to the EA, BA, and/or POO

The following recommendations refer by section to specific information for the EA, BA, and POO that we reviewed, which follows the outline given in the appendix to this letter.

EA-2. BLM has the authority to approve, disapprove, or approve with modification any of the measures given in the EA, BA, or POO. The following measures are presented with the assumption that the BLM will approve exploratory activities and these recommendations are suggested as friendly amendments to the measures proposed by Glacial Minerals LLC and their consultants.

EA-4. The surveys performed in April 2013, finding 4 tortoises in the general area of the project, were sufficient to determine that each of the proposed 12 drill holes is found within occupied desert tortoise habitat. Given their mobility and widespread distribution shown in the BA (Figure 4, page 17), the proponent should assume that tortoises may occur anywhere within the affected area. It is appropriate that there are protective measures including enlisting biological monitors and fencing drill equipment, among others.

EA-5 and EA-6. The Council understands from these measures and others that the larger claim areas comprise approximately 965 acres of suitable if not occupied desert tortoise habitat. This, then, should be considered the “action area,” which is defined by regulation as all areas to be affected directly or indirectly and not merely the immediate area involved in the action (50 CFR §402.02). As such, if the project proceeds and a mine is developed, this entire area (and perhaps an even larger area, pending input from the USFWS) must be subject to focused tortoise surveys and NEPA analysis.

EA-7. The Council requests that the FCR’s report be made public and available to us for review, particularly if there is intent to proceed with the mine.

BA-2 and BA-3. The surveys revealed that tortoises are found throughout the area and that a 15 mile per hour speed limit will be implemented. Given the mobility of tortoises and the difficulty of seeing juvenile animals, the Council suggests the BLM clarify that: (1) a biological monitor precede all equipment accessing and leaving the site; and (2) all vehicles access and leave the site together, in single-file with the biologist(s) driving the lead vehicle.

BA-4. The area to be fenced around each drill site should be surveyed first to ensure no tortoises or occupied burrows are found within the fence. This will avoid the possibility of a tortoise becoming entrapped within the fence. Also, the proponent should maintain some flexibility, so if a tortoise or burrow is found at the intended location for a drill hole, the proponent would move the location to a new place where no tortoises or burrows occur or take appropriate measures to protect the tortoise until the project is complete.

BA-5. This measure (see same-numbered measure in the appendix) requires that the proponent contact the BLM immediately if an injured or dead tortoise is found, but fails to instruct the proponent to cease all additional activities that may harm tortoises until the BLM responds. The Council recommends that this caveat be added to the reporting requirement.

BA-6. The BA fails to provide meaningful rationale for why the cumulative effects analysis is restricted to mostly rugged, undeveloped portions of El Paso Mountains. Perhaps this is sufficient for the 12 drill holes, but if the larger mine is pursued, the cumulative effects area should be significantly larger. It should include the many renewable energy projects that have recently been proposed in the Cantil, Fremont Valley, and Jawbone Canyon areas, for example.

BA-7. We note in Appendix A of the BA that Mohave fish-hook cactus (*Sclerocactus polyancistrus*) was observed during the surveys but it is not included as a special status species in Appendix B. In fact, Mohave fish-hook cactus is a List 4.2 species according to the California Native Plant Society. All Mohave fish-hook cacti should be mapped during monitoring and future resource inventories. For individual cactus that cannot be avoided, the reclamation plan should specifically identify this species for salvage and transplanting.

POO-1. We assume that any site with an open drill hole is either under the supervision of the biological monitor or that it is fully secured by fencing and road barricade. The BLM should require that all open drill holes be contained within tortoise-proof fences. The fences should not be removed until drill holes have been backfilled and other reclamation activities completed.

The recommendations given above assume that drilling activities have not occurred and the BLM is receptive to friendly amendments that will further ensure that tortoises are not adversely affected by exploratory activities. Should the proponent decide to pursue the mine or additional unidentified exploratory activities, we ask that the Council be considered an affected party. We would like to have the opportunity to provide pre-project scoping comments and to receive all environmental documents associated with additional exploratory or mining activities.

Regards,



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

Appendix: Background Information

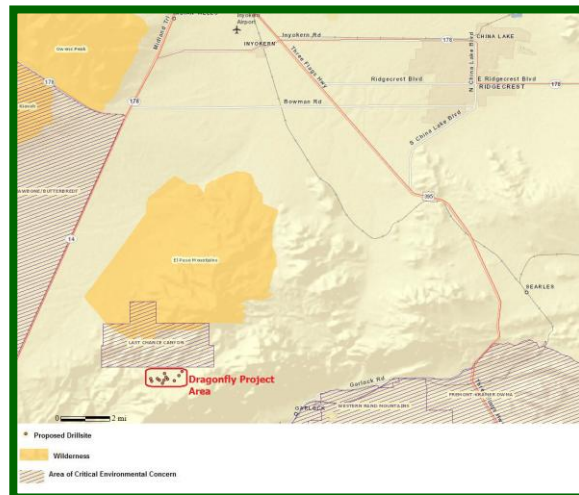
The following background information taken from the EA, BA, and POO is reiterated for our membership, who will have an opportunity to read these comments on our website (www.deserttortoise.org). Although no date appears on the EA, we see in Appendix 1 that the latest BLM signatory date was 5/15/2014, so we assume that the exploratory activities have not been initiated. The outline below should be cross referenced with the numbers given in the preceding letter.

Environmental Assessment

EA-1. Glacial Minerals, Inc has submitted to the BLM a plan to explore and conduct drilling operations on unpatented placer claims located within Kern County, California. These claims are the Dragonfly Group, 6 placer claims covering roughly 960 acres of public lands in and adjacent to Last Chance Canyon, within the El Paso Mountains.

EA-2. The BLM will decide whether to approve, approve with modification, or disapprove the drilling plan submitted by Glacial Minerals, Inc.

EA-3. Though not located within an Area of Critical Environmental Concern (ACEC), Desert Wildlife Management Area (DWMA), or Wilderness Area, the proposed drill sites (and therefore, the mine, if it is eventually developed) is very near such designated areas, as depicted in the following map taken from page 6 of the EA:



EA-4. The study area is within the 1984 Desert Tortoise Range of the West Mojave Plan. The Dragonfly Claim Group is not located within USFWS [U.S. Fish and Wildlife Service] Critical Habitat for desert tortoise. A total of four desert tortoises were observed during the general biological survey; however, two individuals were off-site and one individual was observed just outside the 5-acre buffer study area. A fourth individual was found outside the exploratory drilling study areas but within the Dragonfly Claim Group area and approximately 140 feet east of travel route EP103.

EA-5. The BLM, through informal consultation with the California Office of Historic Preservation, has determined that the Area of Potential Effect for the Proposed Action is the entire 964.66 acres of the claim group.

EA-6. Although raised through public comments, this [EA] document does not consider the possibility of this exploration leading to further development as reasonably foreseeable. This is because the likelihood of future development cannot be assessed until the results of this drilling are complete. Any assumptions about future development would be speculative based on current information. Any future federal authorizations for development in this area would be subject to its own NEPA [National Environmental Policy Act] analysis.

EA-7. Within 90 days of terminating activities, the FCR [Field Contact Representative] shall submit a report documenting the effectiveness of the project protocols and also report any observations of desert tortoises.

Biological Assessment

The following excerpts are taken from the Biological Assessment (BA), prepared by PCR Services Corporation, and dated May 2013:

BA-1. The Dragonfly Claim Group area consists of primarily undeveloped land, although existing and historic mining operations occur in the area, which is dominated by Mojave creosote bush scrub interlaced with sandy desert washes.

BA-2. As shown on **Figure 4, *Locations of Sensitive Species***, a total of four desert tortoise individuals were observed during the general biological survey; however, two individuals were off-site (i.e., outside of the study area near Drilling Locations 2 and 7) and one individual was observed just outside the 5-acre buffer study area (i.e., near Drilling Location 9). A fourth individual was found outside the exploratory drilling study areas but within the Dragonfly Claim Group area and approximately 140 feet east of travel route EP103.

BA-3. When workers are entering each drill hole work site, vehicles will drive no greater than 15 miles per hour (MPH) within travel routes.

BA-4. A temporary tortoise-proof exclusion fence will be erected around each drill hole location, at least 100 feet long (50 feet in each direction of the drilling hole or the extent of the drilling equipment if asymmetric to the drill location) along each side of the road. Once the drilling rigs and trucks are in place, temporary exclusion fencing will be erected at the ends of the work area (i.e., perpendicular to the road) to ensure that no desert tortoise enters the work area while drilling is being conducted. All temporary tortoise-proof exclusion fencing should be secured at the bottom (e.g., partially buried or have straw wattle keyed in along the bottom) to ensure there are no gaps in the fencing and no wildlife can dig or crawl under the exclusion fencing.

BA-5. Upon locating a project-related injured or dead tortoise, or a tortoise that is injured or dead (i.e., of unnatural causes not related to the project) within the vicinity, the FCR will notify the BLM Field Office immediately. The information provided must include the date and time of the finding or incident (if known), location of the carcass or injured animal, a photograph, cause of death, if known, and other pertinent information.

BA-6. This cumulative analysis considers those cumulative effects on the biological resources within the Cumulative Effects Study Area (CESA) that could result from the implementation of the Proposed Action and No Action Alternative. The extent of a CESA [sic] will vary

depending on each resource being considered. For purposes of this analysis, the CESA is defined by the boundaries of the Koehn Hydrologic Area watershed to the northwest and the ridgeline of the El Paso Mountains to the southeast, which totals approximately 16,510 acres, as shown in **Figure 6**, *Cumulative Effects Study Area*.

BA-7. We note in Appendix A that Mohave fish-hook cactus (*Sclerocactus polyancistrus*) was observed during the surveys but it is not included as a special status species in Appendix B. In fact, Mohave fish-hook cactus is a List 4.2 species according to the California Native Plant Society.

Plan of Operations

The following excerpts are taken from the October 2013 Revised Plan of Operations (POO), Exploratory Drilling Project Dragonfly Claim Group, El Paso Mountains, Kern County, California, prepared by Meridian Consultants LLC:

POO-1. Roads will be closed overnight following drilling and backfilling. Some of the drill holes may remain open overnight in order to complete drilling and down hole geophysics. In the event that a drill hole must remain open overnight, the road will be properly barricaded. Because different drill holes are located on different roads, the need for detours/alternate routes will be addressed on an as needed basis.