



DESERT TORTOISE COUNCIL

4654 East Avenue S #257B
Palmdale, California 93552

www.deserttortoise.org
eac@deserttortoise.org

Via email only

8 March 2018

To: Michael Ackerman
Nellis Air Force Base
99th Air Base Wing Public Affairs
4430 Grissom Ave., Ste. 107
Nellis AFB, Nevada 89191
99ABW.PAOutreach@us.af.mil

RE: Nevada Test and Training Range (NTTR) Military Land Withdrawal Legislative Environmental Impact Statement (LEIS)

Dear Mr. Ackerman,

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 routinely 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 comments on the above-referenced project. Given the location of the proposed project in habitats occupied by the Agassiz's desert tortoise (*Gopherus agassizii*), our comments pertain to enhancing protection of this species during Air Force-authorized activities. The Council provided scoping comments on the proposed land withdrawal on 10 December 2016, which are incorporated by reference. We appreciate that many of our concerns with regards to the presence and distribution of tortoises were addressed in the report, entitled "A Review of Desert Tortoise Projects Conducted on the Nevada Test and Training Range and Proposed Expansion Alternatives Final Report" (U.S. Army Corps of Engineers 2017) that was provided on the NTTR's LEIS website.

Beginning on page 15, extending through page 19, the Corps (2017) provides a comprehensive list of Section 7 consultations resulting in specific Biological Opinions and amendments. However, as requested on page 2 of our scoping comments letter, the Corps (2017) document never divulges how many tortoises have actually been harmed or killed by previously authorized Air Force activities. In this respect, the LEIS is deficient. Until the mortality associated with current management is divulged, we are unable to determine how new, changed management may adversely affect desert tortoises. The Final LEIS must document these missing data and explain how they will be used by the Air Force to avoid similar impacts in the future.

As summarized by the Corps (2017), we note that there have been extensive surveys of the existing NTTR during the most active tortoise periods, April-May and September-October, and that densities are estimated in various areas, all within the existing NTTR. However, we do not see evidence that the formula for estimating tortoise densities in the U.S. Fish and Wildlife Service (USFWS 2017) survey protocol was used. This formula provides an improved estimate of tortoise densities over large areas. We recommend that the Service's formula be applied to the number of tortoises with mid carapace lengths greater than 160 mm to see how the non-statistical density estimates given on page 28 compare to statistical density estimates using the USFWS' formula.

Although the title of the Corps (2017) document suggests that it provides a review of surveys in proposed expansion alternatives, in fact, there have been no surveys in the expansion areas, so the title is misleading. As such, the LEIS fails to provide any data that would allow us to determine the relative impacts of the expansion, particularly into Alternative 3C, east of the South Range (Alamo Withdrawal), which is what we requested in our scoping comments. We understand that the purpose of the LEIS is, in part, to document baseline data that would allow the public to determine the relative impacts and relative levels of take of tortoises. We find that the LEIS is deficient in this respect. We believe that our point 9, on the next page, will help to remedy this deficiency.

The following comments and recommendations pertain to Appendix H, Biological Resources, with specific pages referenced.

1. Page H-11, point 2. Please note that the recommendations given in Desert Tortoise Council (1999) are considered to be outdated and have been replaced by the USFWS (2009) Desert Tortoise (Mojave Population) Field Manual (herein "Field Manual"). As such, please be sure that the most recent standards are implemented for collecting data for living and dead tortoises.
2. Page H-11, point 3. Please be sure that the latest fencing standards are used for all desert tortoise exclusion fences, which are given in Chapter 8 of USFWS (2009).
3. Page H-11, point 5. This section indicates that tortoises would be relocated as per Desert Tortoise Council (1999) recommendations. Like point 1 above, these outdated relocation procedures have been replaced by the USFWS (2009) Field Manual, so be sure that the latest relocation standards are implemented. In other places where these older methods are referenced (points 8, 9, 10, and 14 on page H-13; 15 on page H-14), please programmatically change them to the updated USFWS (2009) standards.

4. Page H-14, point 15. The prescription states that tortoise burrows would be avoided between May 15 and September 30 of a given year to avoid nests with eggs and emerging hatchlings. We suggest that this period of avoidance be extended to October 30 of a given year, as there may still be emerging hatchling beyond the identified September 30 time period.

5. Page H-15, point 19, final bullet. This prescription indicates that reporting requirements for tortoises observed, moved, injured, or killed will be defined. We strongly recommend that the Air Force also maintain an active data base of desert tortoise locations. These locations and typical tortoise data (e.g., size, sex, time of day, photos, etc.) should be recorded on standardized data sheets, mapped, and routinely provided to construction personnel and others to inform them of areas with heightened likelihood of tortoise encounters.

6. Page H-15, point 20 and page H-17, point 28. In annual reporting, the Air Force should describe each tortoise injury and death, describe how the impact occurred, and proactively use this information to modify activities, insofar as possible, to avoid similar impacts in the future. If, for example, a tortoise is accidentally killed by a vehicle travelling 35 miles per hour on paved roads (page H-14, point 16), the Air Force should consider reducing this speed limit on asphalt roads.

7. Page H-16, point 22. This prescription pertaining to restoration of disturbed areas should be amended to discourage the introduction of non-native plants, and where they appear, remove or otherwise control such plants. The Council has recently completed best management practices (BMPs) for arid lands restoration (Abella and Berry 2016), an offer this as a resource to the Air Force to facilitate habitat restoration. These BMPs are available on our website, at deserttortoise.org.

8. Page H-17, point 24. We are in support of the prescription given here that would minimize the creation of standing water that may attract desert tortoises, but recommend that the prescription be modified to indicate that this prescription is also intended to avoid providing a new water source to common ravens. In this respect, we find that the measures do not adequately provide for monitoring raven populations or controlling them if necessary. Additional measures should be identified relative to raven management throughout the NTTR and proposed expansion areas.

9. Page H-17, Section H.3.1. Here and elsewhere, the LEIS states that the expansion areas have not been surveyed, that in lieu of surveys models have been completed, but does not commit to programmatically surveying these areas. Although we expect that programmatic surveys will not likely be completed before the project is approved by Congress, we maintain that the Air Force should commit to conducting programmatic surveys, and provide a schedule in the Final EIS for completing these surveys. Results of the surveys would be used by the Air Force to avoid or minimize impacts, particularly to higher density tortoise habitats.

Page 3-161 in Chapter 3 of the LEIS. The first paragraph estimates tortoise densities on the existing NTTR, and the second paragraph again states that no surveys have been performed in proposed expansion areas, referencing habitat models. But it does not take the next logical step of reporting what the model shows. In the Final LEIS, this section should be amended to report the findings of the model. Although it is designed to show suitable versus unsuitable tortoise habitats, it does not take the next step of estimating densities, which is necessary if tortoise densities on the existing NTTR are to be compared with densities in the Alamo Withdrawal, in particular.

We appreciate this opportunity to provide input and trust that our comments will further protect tortoises during authorized project activities. Herein, we ask that the Desert Tortoise Council continue to be identified as an Affected Interest for this and all other Air Force projects that may affect desert tortoises, and that any subsequent environmental documentation for this particular project is provided to us at the contact information listed above.

Regards,



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

Literature Cited

- Abella S. and K. Berry. 2016. Enhancing and restoring habitat for the desert tortoise (*Gopherus agassizii*). *Journal of Fish and Wildlife Management* 7(1):xx-xx; e1944-687X. doi: 10.3996/052015-JFWM-046. Available at website: deserttortoise.org.
- Desert Tortoise Council. 1999 (revised from 1994 version). Guidelines for handling desert tortoises during construction projects. Edward L. LaRue, Jr., editor.
- U.S. Fish and Wildlife Service. 2009. Desert Tortoise (Mojave Population) Field Manual: (*Gopherus agassizii*). Region 8, Sacramento, California.
- U.S. Army Corps of Engineers (Corps). 2017. A Review of Desert Tortoise Projects Conducted on the Nevada Test and Training Range and Proposed Expansion Alternatives Final Report. Contract # W9126G-14-D-0014, Delivery Order No. DS01, Leidos Subcontract No.: P010176987.
- U.S. Fish and Wildlife Service (USFWS). 2017. Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*). USFWS Desert Tortoise Recovery Office. Dated 21 August 2017. Reno, NV.