



**DESERT TORTOISE COUNCIL**

4654 East Avenue S #257B  
Palmdale, California 93552

[www.deserttortoise.org](http://www.deserttortoise.org)  
[eac@deserttortoise.org](mailto:eac@deserttortoise.org)

**Via email only**

4 December 2017

To: Ms. Margo Allen ([margo.allen@navy.mil](mailto:margo.allen@navy.mil))

Naval Facilities Engineering, Command Southwest, Attn: Code JE20.TB  
1220 Pacific Highway, Building 131  
San Diego, CA 92132

Re: Scoping comments for an Environmental Assessment for testing, evaluation, and training activities at the Cuddeback Range at Naval Air Weapons Station China Lake

Dear Ms. Allen,

On behalf of the Desert Tortoise Council (Council), we are writing to provide scoping comments on an Environmental Assessment (EA) for the above-referenced project. The 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 and their habitats 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 understand that, as part of the 2015 and 2016 National Defense Authorization Acts, approximately 33,096 acres of land, including the former Air Force Cuddeback Air-Ground Gunnery Range (Cuddeback Range), was withdrawn from public lands management by the Bureau of Land Management (BLM) on behalf of the Navy. We understand that the Navy intends to pursue new ground training activities on the Cuddeback Range, including training of troops in expeditionary or irregular warfare, and conducting full-spectrum testing and evaluation of unmanned systems, miniature munitions, and integrated warfighting capabilities. We further understand that the Navy intends to construct perimeter fencing; construct a new access road connecting the Cuddeback Range to the South Range; and install mobile structures, generators, communications equipment, and connectivity to instrumented targets within defined areas.

As you are aware, the Cuddeback Range and surrounding withdrawn lands are situated within the Superior-Cronese Critical Habitat Unit for Agassiz's desert tortoise (*Gopherus agassizii*), a species listed as Threatened under the Federal Endangered Species Act of 1972, and the withdrawn lands are occupied by tortoises. We also understand that prior to withdrawal of these lands, there were discussions between the BLM and the U.S. Air Force concerning clean-up and restoration of the Cuddeback Range to provide habitat for the tortoise, per recommendations in the 1994 and 2011 Recovery Plans for the species (USFWS 1994, 2011). Additionally, the Desert Tortoise Preserve Committee and the Wildlands Conservancy purchased William Mitchell's grazing rights from the Pilot Knob cattle allotment in Critical Habitat surrounding the Cuddeback Range in the early 1990s, and spent money and resources to clean up and restore this area for the benefit of the local tortoise population. The Council has supported and applauded these activities, and thus we are very concerned about the Navy's proposed use of the area for activities that are not consistent with the conservation needs of the desert tortoise or the previous direction of management of these lands.

Agassiz's desert tortoise populations range-wide have declined significantly over the past 40 years, and in particular over the past decade. The U.S. Fish and Wildlife Service (USFWS 2015) reported that tortoise populations within a majority (10 of 17) of Critical Habitat Units declined between 2004 and 2014 to densities that are below viability ( $<3.9$  tortoises per  $\text{km}^2$ ; USFWS 1994). Tortoise populations in the Western Mojave Recovery Unit, in which the withdrawn lands are situated, declined by 51% between 2004 and 2014 (USFWS 2017), and in the Superior-Cronese Critical Habitat Unit, tortoise populations have declined by 61.5% during the same period (USFWS 2015). These precipitous declines are unsustainable, and we believe the tortoise is on the verge of extinction in the Western Mojave Recovery Unit. There are numerous causes for the decline of tortoise populations, one of them being military training activities that cause ground disturbance or result in translocation of tortoise populations. We are therefore deeply concerned about the Navy's proposal to initiate new training exercises in the withdrawn lands, as this could further push tortoise populations toward extinction, and cause the permanent loss of Critical Habitat. The Department of Defense holds millions of acres of the California desert for training purposes that are outside of Critical Habitat, and we firmly believe that training activities should be limited to those areas.

As well, the withdrawn lands are situated in a biologically important area for tortoises, in that these lands provide connectivity between populations in the Superior-Cronese and adjacent Fremont-Kramer Critical Habitat Units, as well as adjacent Wilderness Areas. The Navy's plan to disturb and fence the Cuddeback Range would essentially block tortoise movements/dispersal and gene flow between the Golden Valley and Grass Valley Wilderness Areas, which we would consider a significant effect. Additionally, the withdrawn lands contain higher elevation habitats north of the Grass Valley Wilderness Area that provide critically important refugia for tortoise populations in the face of global warming. Thus, we believe that the Navy's proposal for the Cuddeback Range and adjacent withdrawn lands would represent significant impacts to tortoise populations that occupy these lands, as well as to populations on lands in the Fremont-Kramer and Superior-Cronese Critical Habitat Units that surround the withdrawn lands.

We ask that the Navy provide a full description of the project in the EA, as well as how the project would cause ground disturbances, how the proposed training activities would affect the tortoise population that occupies the withdrawn lands and adjacent lands, how desert tortoise Critical Habitat would be affected, and how the Navy would mitigate for the effects. We understand that about 7,000 acres of the lands within the Gunnery Range were previously disturbed; however, in the decades since the range was last used for military training activities, the vegetation and wildlife populations have experienced decades of recovery, and tortoises are known to inhabit the area. We offer the following additional, specific recommendations for the EA:

For the Affected Environment section, we request that the Navy include information on the status of:

- existing conditions in the project area that quantifies areas with natural vegetation;
- Tortoise populations, as well as populations of other special-status species, including (but not limited to) Mohave ground squirrel (*Xerospermophilus mohavensis*) and desert cymopterus (*Cymopterus deserticola*);
- habitats for the desert tortoise, Mohave ground squirrel, desert cymopterus, and other species of concern;
- use of the area by common ravens and other predators of the desert tortoise;
- areas previously disturbed by human development/use (including past and ongoing removal of ordnance, existing structures and facilities, etc.); and
- presence of any hazardous materials.

Regarding alternatives to the proposed action, we urge the Navy to develop an alternative that has a minimum footprint on impacting the natural environment such as limiting surface disturbance activities within the 7,500-acre± Cuddeback Range to areas disturbed by previous military activities while designating the remaining 26,000 acres± of withdrawn lands for the conservation of the desert tortoise. This alternative would possibly provide the Navy with a means to meet its mission and comply with Section 7(a)(1) of the Federal Endangered Species Act.

The Environmental Effects section should include a description and locality information that quantifies:

- changes to current natural vegetation;
- populations of Agassiz's desert tortoise, Mohave ground squirrel, desert cymopterus, and other species of special concern;
- changes in habitats for Agassiz's desert tortoise, Mohave ground squirrel, desert cymopterus, and other species of concern;
- anticipated change in use of the area by common ravens and other predators of the tortoise;
- new activities that will result in surface disturbance; construction of, or modifications to, structures and facilities; and
- activities that will occur to manage/remove hazardous materials including ordnance.

Further, we ask that the Navy document how management of the withdrawn lands by the Navy would differ from current management under the BLM. Specifically, we ask that the Navy documents how its management of Critical Habitat would affect the primary constituent elements for Agassiz's desert tortoise, which include: sufficient space to support viable populations within the Western Mojave Recovery Unit and provide for movements, dispersal, and gene flow; sufficient quantity and quality of forage species and the proper soil conditions to provide for the growth of such species; suitable substrates for burrowing, nesting, and overwintering; burrows, caliche caves, and other shelter sites; sufficient vegetation for shelter from temperature extremes and predators; and habitat protected from disturbance and human-caused mortality. The Federal Endangered Species Act stipulates that the areas containing one or more of these elements may require special management considerations or protection.

The Council on Environmental Quality's NEPA Guidelines (40 CFR 1506.1) state limitations on actions during the NEPA process. These include limiting the choice of reasonable alternatives. We note that the Navy appears to have already chosen locations for the installation and placement of mobile structures, generators, communications equipment, and connectivity to instrumented targets within areas identified in Figure 2 of the fact sheet. We believe that it is premature to plan the locations of these facilities in the absence of environmental baseline data, and that this selection of locations gives the public the impression that these locations cannot be changed. Thus, the impression limits the choice of reasonable alternatives.

We strongly recommend that programmatic tortoise surveys be designed and implemented to ascertain the distribution and relative densities of tortoises throughout the 33,000± acres of the proposed action, and that the area of the proposed action be evaluated with regard to primary constituent elements for the tortoise. The results of these surveys and evaluations would be used with other information to determine the best locations of infrastructure and intensive ground maneuvers and training to avoid those areas supporting moderate and higher densities of tortoises, areas providing connectivity, and Critical Habitat. These results may point to relocating facilities shown in Figure 2 of the fact sheet to avoid tortoise concentration areas and Critical Habitat. Similarly, the Navy should use baseline data to choose an alignment for the new access road connecting the Cuddeback Range to the South Range that would result in the fewest impacts to tortoises, occupied habitat, and Critical Habitat.

The biological integrity of the Superior-Cronese Critical Habitat Unit is already severely compromised through many land uses, including military training (Fort Irwin), off-highway vehicle use, grazing, mining, utility development, urban development, and a series of roads, railroads, and other linear features that have degraded tortoise habitat and restricted tortoise movements/dispersal. We request that the Navy consider in their NEPA documentation these cumulative effects in determining the effect of their proposed action on the withdrawn lands.

We request that the EA provide explicit descriptions of the types and locations of training in expeditionary and irregular warfare that is mentioned in the fact sheet. If these activities may result in the losses of tortoises or the degradation of occupied habitats or Critical Habitat, we recommend that the Navy use environmental baseline data to determine the best locations for this training to avoid those areas supporting moderate and higher densities of tortoises, areas providing connectivity, and Critical Habitat. If areas cannot be avoided, we recommend that full mitigation be implemented to offset the Navy's impact to tortoise populations and habitats, including the acquisition of tortoise habitat as was done by the Army for the Fort Irwin Expansion.

The EA should analyze if future use by the Navy could result in an increase of common ravens and other predators of the desert tortoise in the region. The Navy's plans for future management must include provisions for monitoring and managing raven predation on tortoises as a result of its proposed action. The monitoring and management plan would include reducing human subsidies for food, water, and sites for nesting, roosting, and perching to address local impacts, and contributing to the National Fish and Wildlife Foundation's Raven Management Fund for regional and cumulative impacts.

We request that the EA address the effects of the proposed action on global warming and the effects that global warming may have on the proposed action. For the latter, we recommend including: an analysis of habitats within the withdrawn lands that may provide high elevation refugia for tortoise populations, an analysis of how the proposed action would contribute to the spread and proliferation of nonnative invasive plant species, how this spread/proliferation would affect the desert tortoise and its habitats (including the frequency and size of human-caused fires), and how the proposed action (e.g., full-spectrum testing and evaluation of unmanned systems, miniature munitions, and integrated warfighting capabilities) would affect the likelihood of human-caused fires. We strongly urge the Navy to develop and implement a management and monitoring plan using this analysis and other relevant data that would reduce the transport to and spread of nonnative seeds and other plant propagules at the 33,000-acre± area and eliminate/reduce the likelihood of human-caused fires. The plan should integrate vegetation management with fire management and fire response.

We request that the Navy provide details on the proposed fencing around the Cuddeback Range. Would tortoises be excluded from the Cuddeback Range, or would the Navy install a permeable fence that allows tortoises to pass through the range? If the Navy plans to exclude tortoises from the Cuddeback Range, would the Navy translocate tortoises inside the range to adjacent areas surrounding the range? If translocation of tortoises from the Cuddeback Range is planned, the Navy should be aware that the translocation of tortoises by Fort Irwin was largely unsuccessful, with more than 50% of the translocated tortoises dying within several years of the effort. How would the Navy ensure that any translocation of tortoises would be successful? As well, in keeping with best management practices, we recommend that any additional restoration activities and installation of the perimeter fence (as per page 2 of the fact sheet) be monitored by qualified desert tortoise biologists to minimize and/or avoid impacts to tortoises and habitats.

When the Navy is discussing its development of mitigation and monitoring of impacts to Agassiz's desert tortoise in the EA, we recommend that this discussion include explicit details of the actions the Navy will carry out to implement its Section 7(a)(1) responsibilities and to ensure the continuity and quality of designated Critical Habitat under the Federal Endangered Species Act.

The withdrawal area contains desert cymopterus, which is an uncommon plant species restricted to the West Mojave Desert. In the Cuddeback Dry Lake basin, the BLM estimated that there may be as many as a few thousand plants present. The USFWS was petitioned to list desert cymopterus under the Federal Endangered Species Act. Because of U.S. Air Force and BLM commitments to manage for desert cymopterus and its habitat in the Cuddeback Dry Lake basin, this contributed to the decision by the USFWS in 2004 that listing was not warranted. We urge the Navy to consider this plant in its management of the area and develop/implement a management and monitoring plan for its future conservation.

We note that the Integrated Natural Resources Management Plan (INRMP) for China Lake Naval Air Weapons Station was signed in 2014. It did not include the withdrawn lands identified in the proposed action. Given the intent and requirements of the Sikes Act Improvement Act and the recently documented severe decline of tortoise populations in the Western Mojave Recovery Unit, we recommend that the Navy amend the INRMP as soon as possible to include the 33,000+ acres of land recently added to China Lake, including new desert tortoise management and monitoring actions associated with the proposed action. We recommend that management and monitoring of the desert cymopterus population and habitat be added to the management actions in the INRMP to reduce the likelihood of listing this species in the future.

As per page 2 of the fact sheet, any action outside of the scope of the proposed action would require additional environmental analysis and the preparation of appropriate documentation. Herein, we ask that the Desert Tortoise Council be identified as an Affected Interest, and that any subsequent environmental documentation be provided to us for an opportunity to provide additional input.

Regards,



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

U.S. Fish and Wildlife Service (USFWS). 1994. Desert Tortoise (Mojave Population) Recovery Plan. U.S. Fish and Wildlife Service, Portland, OR. Pp. 73, plus appendices.

U.S. Fish and Wildlife Service. 2011. Revised recovery plan for the Mojave population of the desert tortoise (*Gopherus agassizii*). U.S. Fish and Wildlife Service, Pacific Southwest Region, Sacramento, California. 222 pp.

U.S. Fish and Wildlife Service. 2014. Update of Mojave desert tortoise population trends (dated 10 March 2014). Unpublished report prepared by the Desert Tortoise Recovery Office of the USFWS. Reno, NV. 21 pages.

U.S. Fish and Wildlife Service. 2015. Range-wide monitoring of the Mojave desert tortoise (*Gopherus agassizii*): 2013 and 2014 annual reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada.

U.S. Fish and Wildlife Service. 2017. Status of the desert tortoise and Critical Habitat (dated 11 October 2017). Unpublished report prepared by the Desert Tortoise Recovery Office of the USFWS. Reno, NV. 24 pages.