



DESERT TORTOISE COUNCIL

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Submitted via email & NEPA ePlanning portal

September 12, 2023

Chelsea McKinney
Bureau of Land Management, Lower Sonoran Field Office
Attn: Goldfield Recreation Area,
2020 E. Bell Road
BLM_AZ_LSFO_Goldfield@blm.gov
cmmckinney@blm.gov

RE: Apache Junction Goldfield Recreation Area Draft Environmental Assessment (DOI-BLM-AZ-P020-2023-0002-EA)

Dear Ms. McKinney,

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 desert tortoise species. Established in 1975 to promote conservation of tortoises in the deserts of the southwestern United States and Mexico, the Council routinely provides information and other forms of assistance to individuals, organizations, and regulatory agencies on matters potentially affecting desert tortoises within their geographic ranges.

Both our physical and email addresses are provided above in our letterhead for your use when providing future correspondence to us. When given a choice, we prefer to receive emails for future correspondence, as mail delivered via the U.S. Postal Service may take several days to be delivered. Email is an "environmentally friendlier way" of receiving correspondence and documents rather than "snail mail."

We appreciate this opportunity to provide comments on the above-referenced project. Given the location of the proposed project in habitats likely occupied by Sonoran desert tortoise (*Gopherus morafkai*) (synonymous with Morafka's desert tortoise), our comments pertain to enhancing protection of this species during activities funded, authorized, or carried out by the Bureau of Land Management (BLM), which we assume will be added to the Decision Record for this project as needed. Please accept, carefully review, and include in the relevant project file the Council's following comments and attachments for the proposed action.

Comments on Draft Environmental Assessment

Purpose and Need

The BLM Lower Sonoran Field Office (LSFO) has prepared the Apache Junction Goldfield Recreation Area Draft Environmental Assessment (Draft EA) and Draft Finding of No Significant Impact (Draft FONSI) to address a specific purpose and need. According to BLM, the purpose of the proposed Goldfield Recreation Area, a special recreation management area (SRMA), is to identify, promote, and establish compatible recreation uses in the area, protect natural and cultural resources, reduce conflict between recreational users and surrounding residential areas, and increase public safety. The area receives regular use from the general public including local residents, winter visitors, OHV users, mountain bikers, and two Special Recreation Permit holders (horseback rides and jeep tours), along with a large number of equestrian users. Public safety issues listed include campers exceeding the 14-day camping limit, which has led to illegal activities such as trash dumping, increased drug activity, unauthorized fires, and loud noises startling horses and endangering riders.

BLM provided a list of issues to be addressed in the Draft EA.

- How would limiting the area to day use only prevent resource damage? OHV damage?
- Should routes be designated for particular use (OHV, equestrian, human)?
- How would the project reduce conflicts between ATV users and equestrians?
- How would limiting the area to day use only affect recreation values?
- How would creation of the equestrian staging areas affect recreation values?
- How are wildlife species currently being affected by the activities taking place within the project area, and how would the proposed actions affect them?
- How would continuing to allow camping along Hackamore Road impact Sonoran desert tortoise habitat (project area is in Category 3 tortoise habitat)?
- How would the project affect existing wildlife waters, if any?
- How would creation of the Goldfield Recreation Area affect cultural resources and/or Native American religious concerns?
- How would the project affect the existing land uses (rights-of-way, leases, and withdrawals)?

Description of Proposed Action and Alternatives in the Draft EA

Three action alternatives in addition to the No Action Alternative are analyzed in the Draft EA:

Alternative A - No Action Alternative: Under the No Action Alternative, a BLM SRMA would not be established in the project area.

Alternative B - Proposed Action: Under the Proposed Action Alternative, a designated SRMA for equestrian use only would be established. This would include two developed areas - an equestrian staging area would be developed at Highway 88 with a toilet, picnic tables, hitching posts, and mounting blocks, with one at Highway 88 and Nodak Roar and the other at Highway 88 and Hackamore Road. The proposed parking area will be gravel-lined. Abandoned mine land (AML) sites in the area will be evaluated and those deemed potentially hazardous to humans will be mitigated with signage, fencing, and/or back filled.

All lands within the fenced area would be specified as day use only. Horse step overs will be utilized to prohibit unauthorized use of trails. Locked gates will be utilized for Special Recreation Permit holders and other limited authorized users (mining claimants, right of way holders) to maintain access. Off-highway vehicles (OHVs) and other vehicle use, overnight camping, and target shooting would not be permitted within the fenced area. Hiking would be allowed. About 1.3 miles of trails would be open to all recreational uses.

Construction of fences, clearing vegetation in trailer park area, and construction in staging areas would use typical equipment:

- Motor graders
- Bulldozer
- Dump trucks
- Track hoes
- Concrete trucks
- Water trucks
- Utility and employee vehicles.

Alternative C – Limited Development Alternative: One equestrian staging area would be developed at Highway 88 and Nodak Road. All areas outside of the one equestrian staging area would be available for OHV use, equestrian use, and dispersed primitive camping. Mountain biking would not be authorized in the area, but hiking opportunities would remain.

Alternative D – Camping Alternative: A designated SRMA would be established and opportunities would be reduced for OHV driving, horseback riding, and other activities. Fencing the equestrian areas would occur. An equestrian staging area would be developed at Highway 88 and Nodak Road. All lands within the fenced area would be designated as day use only. Mountain biking and other mechanized travel would not be authorized in the area, but hiking opportunities would remain. Locked gates would be utilized for Special Recreation Permit holders and other limited authorized users (mining claimants, right of way holders) to maintain access. OHV and other vehicle use would not be permitted within the equestrian only fenced area. There would be no camping authorized within the fenced designated areas. Approved campsites available by reservation only would be constructed along the east side of Hackamore Road outside of the fenced area.

In addition, BLM considered another alternative, allowing for developed camping along Hackamore Road at current existing sites. This alternative was dropped from further analysis after public scoping comments suggested that camping in the local area was contributing to illegal dumping on public and private lands.

Table 1. Description of recreational activities allowed in each alternative.

Activity / Description	Alt. A No Action	Alt. B Proposed	Alt. C Limited	Alt. D Camping
All Areas Open to OHV	X		X	
All Areas Open to Equestrian	X		X	
All Areas Open to Camping	X		X	X
All Areas Open to Campfires	X		X	
Horse Staging Area 1		X	X	X
Hiking	X	X	X	X
Mountain Biking	X			
Horse Staging Area 2		X		
Designated OHV Area				X
Designated Equestrian Area		X		X
Designated Camping Area				X
Perimeter Fencing		X		X
Day Use Only (except campsites)				X
Day Use Only		X		

The project area is located on public land managed by the BLM LSFO. State Route 88 (also called Old Apache Trail) crosses the southeast portion of the project area between North Hackamore Road and Nodak Road. The project area is adjacent to the City of Apache Junction in Pinal County, Arizona. It is bordered on the north by Tonto National Forest, on the east by the Lost Dutchman State Park, on the south and west by private and local lands, and on the southwest by BLM land. Adjacent land uses include recreation, mining, Salt River Project’s Goldfield substation, transmission line rights-of-way, multiple use on national forest lands, Arizona State Trust lands, and commercial and residential development. The proposed project would encompass approximately 1,092 acres (see Figure 1 below).

The following comments are on issues about the Affected Environment, Environmental Consequences, and Mitigation in the Draft EA and the Draft FONSI.

3.0 Affected Environment and Environmental Consequences

The Council on Environmental Quality (CEQ) recently issued the following statement:

“The fundamental principles of informed and science-based decision making, transparency, and public engagement are reflected in NEPA [National Environmental Policy Act]. CEQ seeks to advance these core principles in this final rule.” (CEQ 2022).

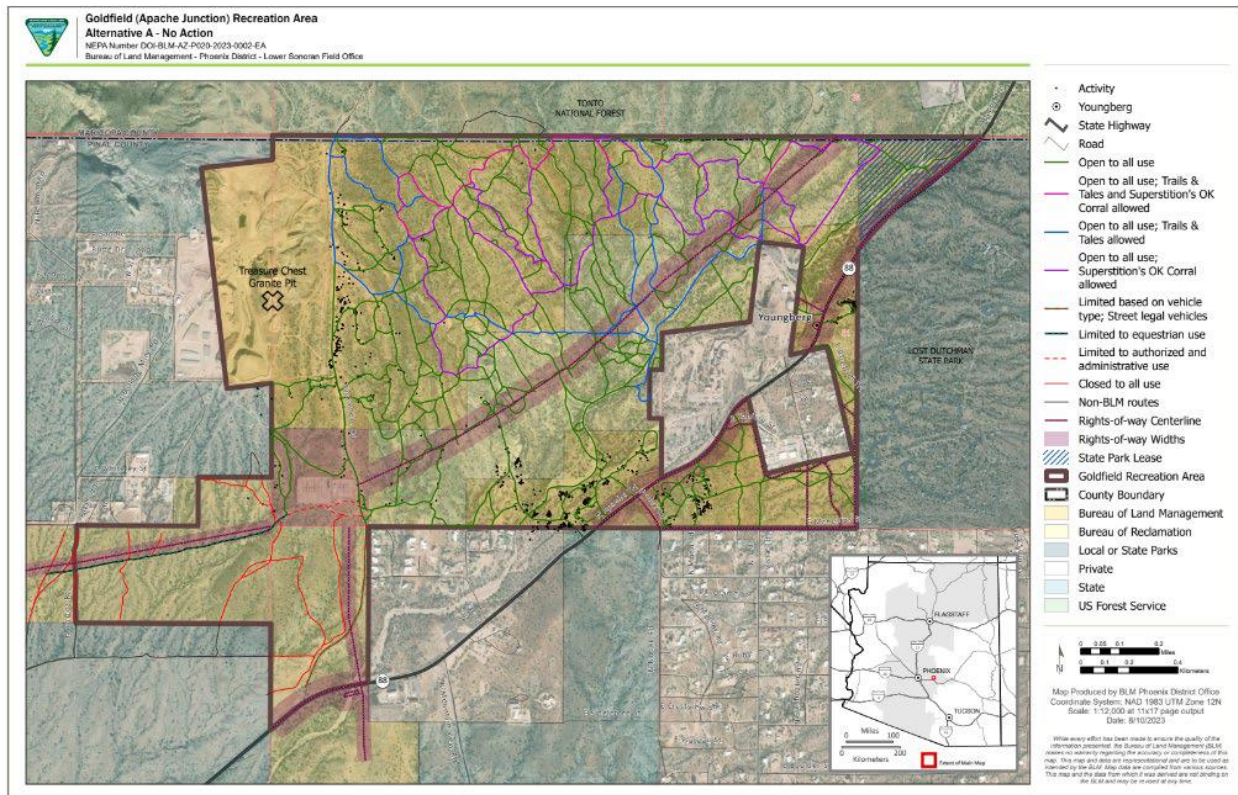


Figure 1. Location of Apache Junction Goldfield Recreation Area with current management designations.

The comments that follow incorporate these principles as we expect BLM to use science, provide data, and cite its sources in these sections of the Draft EA.

3.2 Types of Effects: In this section, please be sure BLM is using the most recent version of 40 Code of Federal Regulations (CFR) 1500. The CEQ recently changed parts of these regulations and has proposed to change other parts.

3.3 General Wildlife and Migratory Birds – Affected Environment and 3.5 BLM Sensitive Species: In the Draft EA BLM says, “The Project Area contains habitat that the BLM characterizes as Category III [sic] tortoise habitat. Category III – Habitat area no [sic] essential to maintenance of viable populations. Most conflicts not resolvable. Low to medium density not contiguous with medium or high density. Stable or decreasing populations.” “The project area contains approximately 640 acres of Category III tortoise habitat along the western side.”

The Council requests that BLM provide citations for these statements and references for documents that describe how the BLM determined the three categories of tortoise habitats, their locations, and how they will be managed. Were these categories developed/determined following the BLM (1988) and Desert Tortoise Management Oversight Group (MOG) (1991) documents?

We ask if BLM, when categorizing tortoise habitat for the Sonoran desert tortoise, included habitat needed for connectivity between populations to maintain population and species viability? This question is appropriate because of the CEQ's (2023) "Guidance for Federal Departments and Agencies on Ecological Connectivity and Wildlife Corridors." For example, the map on page 135 of the Draft EA shows washes traversing the project area (e.g., Weekes Wash). Weekes Wash is likely used as connectivity habitat by wildlife including the Sonoran desert tortoise to move to and from the proposed SRMA to Tonto National Forest.

We strongly recommend that if BLM has not done so, it should work with the Arizona Game and Fish Department (AGFD), U.S. Fish and Wildlife Service (USFWS), academic researchers (e.g., those that are knowledgeable about the behavior, lifetime movements, genetics, socialization, population viability, and other relevant issues about species viability for the tortoise at a landscape scale), and other signatories of the Candidate Conservation Agreement for the Sonoran Desert Tortoise (USFWS et al. 2015) to determine the minimum habitat locations and linkage habitats needed to achieve viability for the tortoise in Arizona. With these identified and mapped habitats and linkages, BLM and these collaborators should delineate buffer areas to ensure that indirect impacts from nearby lands do not undermine the successful functions of these habitats and linkages. If it has been several years since BLM has done this, we request that it update the maps in coordination with these agencies and academia. We make this request because more land may be needed to manage for tortoises/tortoise habitat, because of the large-scale impacts of climate change to tortoise habitat and tortoises. These impacts include the proliferation of invasive plant species that outcompete native plants and substantially reduce the availability of native nutritious plants for tortoises, and large-scale wildfires that Sonoran desert vegetation and tortoises are not adapted to and that require decades for restoration.

3.3.2 Environmental Consequences – BLM Sensitive Species – Sonoran Desert Tortoise:

Because one of the purposes of the SRMA is to "protect natural and cultural resources," which would include the Sonoran desert tortoise and its habitat, the Council requests that any surface disturbance activity conducted in tortoise habitat be immediately preceded by a tortoise clearance survey (USFWS 2009) that are conducted by biologist(s) that AGFD and USFWS agree are qualified in knowledge and experience to systematically find tortoises when implementing the clearance survey protocol. If tortoises are found, they should be translocated following the USFWS guidance (2020) for translocating desert tortoises. This guidance has considered the biological and ecological needs of the species, so when implemented, it would result in a greater level of success. This request would apply to both construction activities and all future maintenance activities.

In the Draft EA's description of the environmental consequences of the preferred alternative, BLM describes the management changes and the construction activities that would occur. However, we were unable to find a description of the maintenance activities that would occur under this alternative or their impacts on natural resources, including the tortoise and tortoise habitat. We request that BLM include maintenance activities in the description and analysis of their impacts to the tortoise/tortoise habitat in the Environmental Consequences section of the Final EA. These impacts would establish a baseline for determining appropriate mitigation measures to implement to avoid or minimize these impacts.

Mitigation

In the Draft EA, we refer BLM to section 1.3, “Relationships to Statutes, Regulations, Manuals and Other Plans.” We request that BLM also follow other pertinent BLM policies, recently issued manuals, and agreements. Please be sure to implement the mitigation described below for the tortoise.

In the Draft EA, BLM describes mitigation measures to avoid or minimize impacts to wildlife. These include:

- To offset the impacts of the proposed action for general wildlife and migratory bird species:
 - “Vegetation removal within the equestrian staging areas should not occur between March 1 – September 1 to protect migratory bird nesting activity. This will also help to protect amphibian and reptile species in the area which also tend to be most active during this time period.
 - Follow U.S. Fish and Wildlife Service’s nationwide standard conservation measures. [These are for migratory birds.]
 - “Completely cover of [sic] establish wildlife-friendly escape ramps for any unsupervised open trenches or pits and backfill them as soon as possible.
 - Always inspect the work area prior to starting and moving equipment to ensure there are no wildlife species in harm’s way.”
- “In addition to the previously identified mitigation measures, these additional measures apply for the protection of the Sonoran Desert Tortoise:
 - If desert tortoise [sic] are encountered during implementation, the tortoise would be avoided or moved according to the Arizona Game and Fish Department’s Guidelines for Handling Sonoran Desert Tortoises Encountered on Development Projects (AGFD 2014).”

In the Draft EA, the BLM says the following with respect to mitigation:

“the Authorized Officer will decide whether to implement mitigation, and/or other measures to minimize or reduce impacts.”

Consequently, we are unsure whether any of these (apparently discretionary) mitigation measures will be implemented. We remind BLM of their recently reinstated Mitigation Policy (BLM 2021a) and request that BLM implement the Instructional Memorandum on Mitigation (2021a), Mitigation Handbook (2021b), and Mitigation Manual (2021c) with respect to the proposed project and special status species.

Based on the ongoing unauthorized activities occurring in the proposed Goldfield SRMA that are reported in the Draft EA, the Council recommends that all mitigation measures BLM described in the Draft EA be mandatory, not discretionary. In addition, we strongly recommend that BLM implement the following additional mitigation measures to ensure that BLM management of the Goldfield SRMA:

- (1) is effective in achieving its purpose;

- (2) results in fewer impacts to tortoises/tortoise habitat than current conditions as claimed in the Draft EA; and,
- (3) complies with the Federal Land Policy and Management Act (FLPMA) that charges BLM with managing public lands “on the basis of multiple use and sustained yield in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values,” and taking “any action necessary to prevent unnecessary or undue degradation of the lands.”

Congress defined “sustained yield” as “the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use.” The Sonoran desert tortoise, other native wildlife species, and native vegetation are renewable resources. BLM’s description of current unauthorized land uses in the project area describe an area that is experiencing unnecessary and undue degradation.

Our recommended mitigation measures are:

- BLM should assign a dedicated ranger to this newly created SRMA at least for the first few years after creation of the SRMA. This law enforcement presence and authority is intended to prevent/deter unauthorized activities and penalize those conducting unauthorized activities, which is needed to change current human behavior that has an established pattern of using the project area for unauthorized activities including illegal dumping, unauthorized camping, human-caused fires, and establishing and using unauthorized OHV routes. For example, local residents report that “[m]ost campers in recent years have been transients/vagrants, many of them abusers of illegal drugs, who are not recreating but living on the land for months. Their use of the land, besides being illegal under existing BLM rules, is extremely heavy and damaging, and represents a public health hazard: dumped trash, abandoned vehicles, human waste, drug paraphernalia.”
- BLM should implement an aggressive education program for at least the first few years to inform the public of the changes in allowable activities within the Goldfield SRMA, those that are prohibited, and the natural and cultural resources that occur there and how to protect them. This education program should use various methods and platforms including local signs and kiosks, QR codes, and information posted on BLM relevant webpages, social media, and blogs. In addition, BLM should coordinate this information with its public neighbors that include Tonto National Forest, Lost Dutchman State Park, and City of Apache Junction and request that they place this information or links on their webpages.
- BLM should implement the immediate cleanup of areas used for dumping and regular monitoring and cleanup of the SRMA to halt the local pattern of unauthorized dumping.
- BLM should prohibit feral or pet dogs in the SRMA. Dogs are known as predators of desert tortoises and as reported in the Draft EA, have frightened horses, and attacked horse riders.
- BLM should implement measures to eliminate the establishment of non-native plants in the staging areas during the construction and operation and maintenance phases of the Goldfield Recreation Area. We thank BLM for requiring equestrian users to feed weed-free feed to all mounts for three days prior to entry to reduce the risk of introduction and spread of non-native species Goldfield Recreation Area.

- BLM should include mitigation for the operations and maintenance activities that are described in the Draft EA and those not described but will be needed. The latter include, but are not limited to, provide and maintain trash receptacles, and maintain fences and locked gates, toilets, parking and staging areas, and signs. For trash receptacles, these should be located at/near picnic tables, staging and parking areas, and toilets.

Trash receptacles should be wildlife proof for both mammals and birds, maintained in good working order, and emptied regularly so as not to result in unintentional littering and providing subsidies for tortoise predators.

For maintenance of facilities, BLM should implement the most recent standard procedures for surveying for sensitive/special status species including the tortoise [i.e., currently clearance surveys (USFWS 2009)] to ensure they are not injured or killed during implementation of the maintenance activities at the SRMA,

- Because additional vegetation will be destroyed from the immediate creation of equestrian staging and parking areas, BLM should mitigate this loss by implementing revegetation measures that successfully establish native perennial and annual plant species. Any destruction of vegetation from implementation of the proposed project will result in a loss of their ability to sequester carbon in the future and the release of carbon from the destroyed plants. To assist BLM in implementing this mitigation measure, we have included links in the Literature Cited section to publications by Abella et al. (2023), Abella and Berry 2016), and Desert Tortoise Council (no date).
- BLM should analyze the impacts of the proposed project and describe how it and the mitigation BLM *will implement* [emphasis added] complies with the commitments BLM made in the Candidate Conservation Agreement for the Sonoran Desert Tortoise (USFWS et al. 2015).

Cumulative Effects Analysis

In **Section 3.2, “Types of Effects,”** BLM defines cumulative effects from the Code of Federal Regulations. Please note that the CEQ issued guidance on Considering Cumulative Effects Analysis that BLM references in its NEPA Handbook.

Please see *Grand Canyon Trust v. F.A.A.*, 290 F.3d 339, 345-46 (D.C. Cir. 2002) in which the court decided that agencies must analyze the cumulative impacts of actions in environmental assessments.

In the cumulative effects analysis of the Final EA, please ensure that the CEQs “Considering Cumulative Effects under the National Environmental Policy Act” (1997) is followed, including the eight principles, when analyzing cumulative effects of the proposed action to the affected resource issues. This CEQ document is referred to in BLM’s NEPA Handbook (BLM 2008).

CEQ states, “Determining the cumulative environmental consequences of an action requires delineating the cause-and-effect relationships between the multiple actions and the resources, ecosystems, and human communities of concern. The range of actions that must be considered

includes not only the project proposal but all connected and similar actions that could contribute to cumulative effects.” The analysis “must describe the response of the resource to this environmental change.” Cumulative impact analysis should “address the sustainability of resources, ecosystems, and human communities.”

CEQ’s guidance on how to analyze cumulative environmental consequences, which contains eight principles listed below:

1. Cumulative effects are caused by the aggregate of past, present, and reasonable future actions.

The effects of a proposed action on a given resource, ecosystem, and human community, include the present and future effects added to the effects that have taken place in the past. Such cumulative effects must also be added to the effects (past, present, and future) caused by all other actions that affect the same resource.

2. Cumulative effects are the total effect, including both direct and indirect effects, on a given resource, ecosystem, and human community of all actions taken, no matter who (federal, non-federal, or private) has taken the actions.

Individual effects from disparate activities may add up or interact to cause additional effects not apparent when looking at the individual effect at one time. The additional effects contributed by actions unrelated to the proposed action must be included in the analysis of cumulative effects.

3. Cumulative effects need to be analyzed in terms of the specific resource, ecosystem, and human community being affected.

Environmental effects are often evaluated from the perspective of the proposed action. Analyzing cumulative effects requires focusing on the resources, ecosystem, and human community that may be affected and developing an adequate understanding of how the resources are susceptible to effects.

4. It is not practical to analyze the cumulative effects of an action on the universe; the list of environmental effects must focus on those that are truly meaningful.

For cumulative effects analysis to help the decision maker and inform interested parties, it must be limited through scoping to effects that can be evaluated meaningfully. The boundaries for evaluating cumulative effects should be expanded to the point at which the resource is no longer affected significantly or the effects are no longer of interest to the affected parties.

5. Cumulative effects on a given resource, ecosystem, and human community are rarely aligned with political or administrative boundaries.

Resources are typically demarcated according to agency responsibilities, county lines, grazing allotments, or other administrative boundaries. Because natural and sociocultural resources are not usually so aligned, each political entity actually manages only a piece of the affected resource or ecosystem. Cumulative effects analysis on natural systems must use natural ecological boundaries and analysis of human communities must use actual sociocultural boundaries to ensure including all effects.

6. Cumulative effects may result from the accumulation of similar effects or the synergistic interaction of different effects.

Repeated actions may cause effects to build up through simple addition (more and more of the same type of effect), and the same or different actions may produce effects that interact to produce cumulative effects greater than the sum of the effects.

7. Cumulative effects may last for many years beyond the life of the action that caused the effects.

Some actions cause damage lasting far longer than the life of the action itself (e.g., acid mine damage, radioactive waste contamination, species extinctions). Cumulative effects analysis need to apply the best science and forecasting techniques to assess potential catastrophic consequences in the future.

8. Each affected resource, ecosystem, and human community must be analyzed in terms of its capacity to accommodate additional effects, based on its own time and space parameters.

Analysts tend to think in terms of how the resources, ecosystem, and human community will be modified given the action's development needs. The most effective cumulative effects analysis focuses on what is needed to ensure long-term productivity or sustainability of the resource.

Note that CEQ recognizes that synergistic and interactive impacts as well as cumulative impacts should be analyzed in the NEPA document for the resource issues.

We request that the Final EA (1) include these eight principles in its analysis of cumulative impacts to the Sonoran desert tortoise; (2) address the sustainability of the tortoise in/near the project area; and (3) include effective science-based mitigation, monitoring, and adaptive management that protect desert tortoises and their habitats during BLM's management and the public's use of the project area for recreation.

In addition, we request that BLM add this project and its impacts to a BLM database and geospatial tracking system for sensitive species, including Sonoran desert tortoises, that track cumulative impacts (e.g., vegetation/surface disturbance, paved and unpaved routes (both authorized and unauthorized/ad hoc), linear projects, invasive species occurrence, herbicide/pesticide use, wildfires, etc.), management decisions, and effectiveness of mitigation for each project. Without such a tracking system, BLM is unable to analyze cumulative impacts to sensitive species (e.g., desert tortoises) with any degree of confidence.

The Draft EA should include an analysis of all the action alternatives (Alternatives B, C, and D) and how the implementation of each one would result in "no net loss in quantity and quality of Sonoran desert tortoise habitat" (USFWS et al. 2015).

Appendix B – Submitted Comments

On page 80 of the pdf document, the only comments we found that were credited to the Council were "Attached please find the comments from the Desert Tortoise Council on BLM's proposed action." The comments that the Council submitted in an attached letter on March 9, 2023 were not

provided in the Draft EA. From the information provided in this section of the Draft EA, we are unsure whether BLM received the attached letter that contained the Council's comments, read the letter, as we could find no indication that BLM responded to the Council's comments. Consequently, we are attaching our comment letter submitted to BLM during the scoping period earlier this year and request that these comments be addressed in the Final EA.

Comments on Draft Finding of No Significant Impact

In reviewing the Draft FONSI we found several instances where the information in the Draft FONSI was different than in the Draft EA or mentioned information that was not in the Draft EA and potentially not applicable.

On page 3 of the Draft FONSI, BLM says, "The need for action is to meet BLM's responsibilities under:

- The Federal Land Policy and Management Act of 1976 (FLPMA) to provide for outdoor recreation (Section 102 [a] [8]).
- The John D. Dingell Jr. Conservation, Management, and Recreation Act (Public Law 116-9) to facilitate the expansion and enhancement of recreational shooting opportunities on federal land (Section 4001[a][1]).
- Secretarial Order (SO 3356 "Hunting, Fishing, Recreational Shooting, and Wildlife Conservation Opportunities and Coordination with States, Tribes, and Territories."; and [sic]
- Section 6 of the Endangered Species Act and the Department's Section 10 (a)(1)(A) permit.
- 43 Code of Federal Regulations (CFR) Part 8350.0-5."

Regarding the second bulleted item, our understanding after reading the Draft EA is that recreational shooting would not be allowed in the SRMA. Consequently, we are confused by the inclusion of this wording in the Draft FONSI.

Regarding the fourth bulleted item, Section 6 of the FESA is entitled "Cooperation with the States." It is a program that provides funding to state fish and wildlife agencies to further the conservation of species listed under the FESA. In Arizona, section 6 would be implemented between the USFWS and AGFD to fund/implement actions that would contribute to the conservation/recovery of listed species. We are unsure how this section of the FESA applies to the proposed project of establishing and managing the Goldfield SRMA.

The Department of the Interior's Section 10(a)(1)(A) permit also refers to the FESA and the intentional take of listed species for conservation purposes. This permit is sometimes referred to as a recovery permit. Because BLM says on page 15 of the Draft EA, "[t]here are no federally listed threatened or endangered species that occur within the project area," we are unsure how section 6 of the FESA and a section 10(a)(1)(A) permit applies to the proposed project.

On page 4 under "Intensity," BLM says, "This will decrease the amount of dust caused by visitors to the campsites or recreational shooting," and "[t]he direct, indirect, and cumulative effects from the designation of recreational target shooting and developed campsites are not considered highly controversial." However, on page 6 of the Draft EA, BLM says, "[t]here would be no camping authorized within the designated area or outside of the designated area along Hackamore Road."

Please correct the wording in the Final FONSI so it agrees with the Final EA.

On page 4, BLM says, “There are four BLM sensitive species that have been observed in the project area including Bald Eagle – Sonoran Desert Population (*Haliaeetus leucocephalus*) (*sic*), Loggerhead Shrike (*Lanius ludovicianus*) (*sic*), Yuma Myotis (*Myotis yumanensis*) (*sic*), and Big Free-tailed Bat (*Nyctinomops macrotis*) (*sic*). However, on page 14 of the Draft EA, BLM says, “[t]here are several BLM sensitive species that potentially occur within the Project Area including the Sonoran desert tortoise (*Gopherus morafkai*), LeConte's thrasher (*Toxostoma lecontei*), American Peregrine Falcon (*Falco peregrinus anatum*), Sonoran Desert population of the bald eagle (*Haliaeetus leucocephalus*), Pale Townsend’s big-eared bat (*Corynorhinus twonsendii pallescens*), California leaf-nosed bat (*Macrotus californicus*), and gilded flicker (*Colaptes chrysoides*).” The FONSI should mention all sensitive species including the tortoise, and the amount and category of tortoise habitat in the project area, as BLM has special management considerations it committed to implement in the Candidate Conservation Agreement for the Sonoran Desert Tortoise in Arizona (USFWS et al. 2015). Please add this information on the presence of the tortoise and tortoise habitat in the project area and BLM’s compliance with commitments it made in the CCA in the Final FONSI.

We appreciate this opportunity to provide comments on the Draft EA and Draft FONSI and trust they will help protect tortoises during any resulting authorized activities. Herein, we reiterate that the Desert Tortoise Council wants to be identified as an Affected Interest for this and all other projects funded, authorized, or carried out by the BLM that may affect desert tortoises, and that any subsequent environmental documentation for these Projects is provided to us at the contact information listed above. Additionally, we ask that you respond in an email that you have received this comment letter so we can be sure our concerns have been registered with the appropriate personnel and office for these Projects.

Respectfully,



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

Attachment: Scoping Comments for Apache Junction Goldfield Recreation Area (DOI-BLM-AZ-P020-2023-0002-EA)

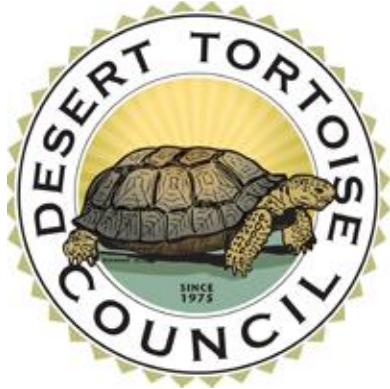
Cc: Heather Whitlaw, Field Supervisor, Arizona Ecological Services Field Office (Phoenix), U.S. Fish and Wildlife Service, heather_whitlaw@fws.gov
Sabra Tonn, Arizona Game and Fish Department, Project Evaluation Program Specialist, stonn@azgfd.gov
Neil Bosworth, Forest Supervisor, Tonto National Forest, neil.bosworth@usda.gov

Literature Cited

Abella S.R. and K.H. Berry. 2016. Enhancing and restoring habitat for the desert tortoise (*Gopherus agassizii*). *Journal of Fish and Wildlife Management* 7(1):255–279.
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DESERT TORTOISE COUNCIL

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Acton, CA 93510

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eac@deserttortoise.org

Via email and BLM NEPA eplanning portal

March 9, 2023

Attn: Chelsea McKinney
Bureau of Land Management
Lower Sonoran Field Office
2020 E. Bell Rd.
Phoenix, AZ 85022
cmmckinney@blm.gov
BLM_AZ_LSFO_Goldfield@blm.gov

RE: Scoping Comments for Apache Junction Goldfield Recreation Area (DOI-BLM-AZ-P020-2023-0002-EA)

Dear Ms. McKinney,

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 desert tortoise species. Established in 1975 to promote conservation of tortoises in the deserts of the southwestern United States and Mexico, the Council routinely provides information and other forms of assistance to individuals, organizations, and regulatory agencies on matters potentially affecting desert tortoises within their geographic ranges.

As of June 2022, our mailing address has changed to:

Desert Tortoise Council
3807 Sierra Highway #6-4514
Acton, CA 93510.

Our email address has not changed. Both addresses are provided above in our letterhead for your use when providing future correspondence to us.

We appreciate this opportunity to provide comments on the above-referenced project. Given the location of the proposed project in habitats likely occupied by the Sonoran desert tortoise (*Gopherus morafkai*) (synonymous with Morafka's desert tortoise), our comments pertain to enhancing protection of this species during activities funded, authorized, or carried out by the Bureau of Land Management (BLM), which we assume will be added to the Decision Record for this project as needed. Please accept, carefully review, and include in the relevant project file the Council's following comments and attachments for the proposed project.

The Council has requested numerous times in writing to BLM that the Council is an affected interest for any projects affecting the Sonoran desert tortoise, and have requested that we be notified of any projects in Sonoran desert tortoise habitat that BLM is considering. This notification include sending certified letters to all BLM district managers in Arizona in 2019, we were not contacted by BLM about this proposed project and the public comment period. Once again, we request that BLM notify the Council of all proposed BLM actions that may affect the Sonoran desert tortoise and/or Mojave desert tortoise (*Gopherus agassizii*). We are copying the Arizona State Director and BLM Director regarding this request with the hope that they will instruct their management and staff to honor our request and inform the Council of all future projects that may be authorized, funded, or carried out by BLM in the range of desert tortoise species.

Description of Proposed Action

According to BLM, the Lower Sonoran Field Office of BLM plans to develop a recreation area management plan (RAMP) in the Goldfield area near Apache Junction, Arizona to identify appropriate recreational uses, avoid user conflicts, ensure public health and safety, and protect natural and cultural resources in conformance with laws and land use plans. The proposed RAMP would manage around 1,100 acres and could expand recreational opportunities for Off-Highway Vehicle (OHV) driving, horseback riding, and other recreational activities, such as staging areas and corresponding routes. BLM would analyze the impacts of the RAMP in an Environmental Assessment (EA).

The project area is bordered on the east by the Lost Dutchman State Park. This 320-acre State Park was established in 1977 and expanded in 1983 via a lease from BLM. The State Park is currently managed for camping and day use including hiking trails that lead from the State Park into the Superstition Mountain Wilderness and surrounding Tonto National Forest. The State Park's website emphasizes native wildlife viewing, the beauty of its native desert plants, and describes staying there as a "soothing respite from everyday life" (Arizona State Parks 2023).

Scoping Comments

BLM's press release stated that the public comment period closed on March 9, but the BLM NEPA eplanning website reported the comment period as closing on March 10. Because of this discrepancy, we ask that BLM accept our comments submitted on March 10 for the proposed action.

Analysis of Impacts to the Sonoran Desert Tortoise: We ask that BLM ensure that provisions given in the following documents be conscientiously considered and implemented when analyzing and implementing the RAMP:

- Arizona Game and Fish Department. 2010. Desert Tortoise Survey Guidelines for Environmental Consultants. <https://s3.amazonaws.com/azgfd-portal-wordpress/PortalImages/files/wildlife/2010SurveyguidelinesForConsultants.pdf>.
- Arizona Game and Fish Department. 2014. Guidelines for Handling Sonoran Desert Tortoises Encountered on Development Projects. <https://s3.amazonaws.com/azgfd-portal-wordpress/PortalImages/files/wildlife/2014%20Tortoise%20handling%20guidelines.pdf>.
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- Bureau of Land Management. 2022. Habitat Connectivity on Public Lands Instruction Memorandum 2023-005.
- U. S. Fish and Wildlife Service and Cooperating Agencies comprising the Arizona Interagency Desert Tortoise Team. 2015. Candidate Conservation Agreement for the Sonoran Desert Tortoise (*Gopherus morafkai*) in Arizona. Phoenix AZ.

According to the BLM Manual 6840, Special Status Species Management includes the following BLM directives (BLM 2008a) that are applicable to the Sonoran desert tortoise:

6840.01 *Purpose*. The purpose of this manual is to provide policy and guidance for the conservation of BLM special status species and the ecosystems upon which they depend on BLM-administered lands. BLM special status species are: (1) species listed or proposed for listing under the FESA, and (2) species requiring special management consideration to promote their conservation and reduce the likelihood and need for future listing under the FESA, which are designated as BLM sensitive by the State Director(s).

6840.02 *Objectives*. The objectives of the BLM special status species policy are (1) to conserve and/or recover FESA-listed species and the ecosystems on which they depend so that FESA protections are no longer needed for these species, and (2), to initiate proactive conservation measures that reduce or eliminate threats to BLM-sensitive species to minimize the likelihood of and need for listing of these species under the FESA. With respect to the Sonoran desert tortoise, we request that the proposed action or other alternatives contribute to meeting objectives in BLM Manual 6840 – Special Status Species Management (BLM 2008a).

Impacts from Increased OHV Use: BLM should consider the purpose of the neighboring State Park when developing the RAMP and ensure that the native flora and fauna (including the Sonoran desert tortoise) and the experience of a soothing respite are not degraded by activities that are authorized under the BLM RAMP. This would include the numerous adverse impacts from OHV use and associated activities such as staging areas, etc. We have attached a list of scientific papers that analyze the direct and indirect impacts of OHV use to desert tortoises and desert habitats (Appendix A - Partial bibliography of scientific studies and reports on the impacts from vehicle use to desert ecosystems). We request that in the Draft EA BLM use these scientific papers and reports when analyzing the impacts to the tortoise, other animal and plant species, and their habitats from OHV use.

We request that BLM include at least one alternative that does not increase the current authorized OHV use in the RAMP and another that decreases it.

Shooting and Target Practice: We reiterate our comment above about considering the purpose of the neighboring State Park when developing the RAMP and ensure that the native flora and fauna (including the Sonoran desert tortoise) and the experience of a soothing respite are not degraded by activities that are authorized under the BLM RAMP. There is documentation that people like to shoot tortoises (Berry et al. 2006, Berry et al. 2008, Berry et al. 2014) and that shooting starts fires (Short and Finney 2022; the 2013 Doce Fire in Prescott National Forest). These activities should be prohibited in the RAMP and this prohibition enforced.

Impacts from Proliferation of Nonnative Plant Species and Fires: The Draft EA should include an analysis of how the proposed project would contribute to the spread and proliferation of non-native invasive plant species; how this spread/proliferation would affect the desert tortoise and its habitats (including availability of adequate and nutritious forage and the frequency and size of human-caused fires); and how the proposed project may affect the frequency, intensity, and size of human-caused and naturally occurring fires. For reasons given in the previous paragraph, we strongly urge the BLM to develop and implement a management and monitoring plan for nonnative invasive plant species as part of the RAMP. This plan should integrate management/enhancement of native vegetation with fire prevention and fire response to wildfires.

Climate Change Impacts: We request that the Draft EA address the effects of the proposed action on climate change and the effects that climate change may have on the proposed action. For the former, if more routes are authorized for OHV use, this usually means more vehicles being used and more areas are denuded of vegetation. How does this impact greenhouse gas emissions, plant biomass, and the ability of remaining plants to photosynthesize when impacted by dust? Recall that with climate change increasing in its intensity, we should be managing our lands to increase plant cover and biomass to increase the uptake and sequestration of carbon, and we should not be promoting activities that result in more consumption of fossil fuels such as increased recreational driving.

For the effects that climate change may have on the proposed action, we recommend including: an analysis of habitats within/near the project area that may provide refugia for tortoise populations; an analysis of how the proposed action would contribute to the spread and proliferation of nonnative invasive plant species in/near the project area; how this spread/proliferation would affect the desert tortoise and its habitats (including availability of nutritious forage and the frequency and size of fires); and how the proposed action may increase the likelihood of human-caused fires.

We request this analysis at national level as BLM develops and implements all recreation area management plans on BLM land throughout the west.

Cumulative Impacts Analysis: Please see *Grand Canyon Trust v. F.A.A.*, 290 F.3d 339, 345-46 (D.C. Cir. 2002) in which the court decided that agencies must analyze the cumulative impacts of actions in environmental assessments.

In the cumulative effects analysis of the Draft EA, please ensure that the CEQs “Considering Cumulative Effects under the National Environmental Policy Act” (1997) is followed, including the eight principles, when analyzing cumulative effects of the proposed action to the affected resource issues. This CEQ document is referred to in BLM’s National Environmental Policy Act Handbook (BLM 2008b).

CEQ states, “Determining the cumulative environmental consequences of an action requires delineating the cause-and-effect relationships between the multiple actions and the resources, ecosystems, and human communities of concern. The range of actions that must be considered includes not only the project proposal but all connected and similar actions that could contribute to cumulative effects.” The analysis “must describe the response of the resource to this environmental change.” Cumulative impact analysis should “address the sustainability of resources, ecosystems, and human communities.”

CEQs guidance on how to analyze cumulative environmental consequences, which contains eight principles listed below:

1. Cumulative effects are caused by the aggregate of past, present, and reasonable future actions.

The effects of a proposed action on a given resource, ecosystem, and human community, include the present and future effects added to the effects that have taken place in the past. Such cumulative effects must also be added to the effects (past, present, and future) caused by all other actions that affect the same resource.

2. Cumulative effects are the total effect, including both direct and indirect effects, on a given resource, ecosystem, and human community of all actions taken, no matter who (federal, non-federal, or private) has taken the actions.

Individual effects from disparate activities may add up or interact to cause additional effects not apparent when looking at the individual effect at one time. The additional effects contributed by actions unrelated to the proposed action must be included in the analysis of cumulative effects.

3. Cumulative effects need to be analyzed in terms of the specific resource, ecosystem, and human community being affected.

Environmental effects are often evaluated from the perspective of the proposed action. Analyzing cumulative effects requires focusing on the resources, ecosystem, and human community that may be affected and developing an adequate understanding of how the resources are susceptible to effects.

4. It is not practical to analyze the cumulative effects of an action on the universe; the list of environmental effects must focus on those that are truly meaningful.

For cumulative effects analysis to help the decision maker and inform interested parties, it must be limited through scoping to effects that can be evaluated meaningfully. The boundaries for evaluating cumulative effects should be expanded to the point at which the resource is no longer affected significantly or the effects are no longer of interest to the affected parties.

5. Cumulative effects on a given resource, ecosystem, and human community are rarely aligned with political or administrative boundaries.

Resources are typically demarcated according to agency responsibilities, county lines, grazing allotments, or other administrative boundaries. Because natural and sociocultural resources are not usually so aligned, each political entity actually manages only a piece of the affected resource or ecosystem. Cumulative effects analysis on natural systems must use natural ecological boundaries and analysis of human communities must use actual sociocultural boundaries to ensure including all effects.

6. Cumulative effects may result from the accumulation of similar effects or the synergistic interaction of different effects.

Repeated actions may cause effects to build up through simple addition (more and more of the same type of effect), and the same or different actions may produce effects that interact to produce cumulative effects greater than the sum of the effects.

7. Cumulative effects may last for many years beyond the life of the action that caused the effects.

Some actions cause damage lasting far longer than the life of the action itself (e.g., acid mine damage, radioactive waste contamination, species extinctions). Cumulative effects analysis need to apply the best science and forecasting techniques to assess potential catastrophic consequences in the future.

8. Each affected resource, ecosystem, and human community must be analyzed in terms of its capacity to accommodate additional effects, based on its own time and space parameters.

Analysts tend to think in terms of how the resources, ecosystem, and human community will be modified given the action's development needs. The most effective cumulative effects analysis focuses on what is needed to ensure long-term productivity or sustainability of the resource.

Please add an analysis of cumulative impacts of each alternative to the DEA for the resource issues carried forward in the DEA for analysis.

Note that CEQ recognizes that synergistic and interactive impacts as well as cumulative impacts should be analyzed in the NEPA document for the resource issues.

We request that the Draft EA (1) include these eight principles in its analysis of cumulative impacts to the Sonoran desert tortoise; (2) address the sustainability of the tortoise in/near the project area; and (3) include effective science-based mitigation, monitoring, and adaptive management that protect desert tortoises and their habitats during BLM's management and the public's use of the project area for recreation.

The Draft EA should include an analysis of all the action alternatives and how the implementation of each one would result in "no net loss in quantity and quality of Sonoran desert tortoise habitat" as it claims it does for roads (USFWS et al. 2015).

We appreciate this opportunity to provide comments on this project and trust they will help protect tortoises during any resulting authorized activities. Herein, we reiterate that the Desert Tortoise Council wants to be identified as an Affected Interest for this and all other projects funded, authorized, or carried out by the BLM that may affect species of desert tortoises, and that any subsequent environmental documentation for this project is provided to us at the contact information listed above. Additionally, we ask that you respond in an email that you have received this comment letter so we can be sure our concerns have been registered with the appropriate personnel and office for this project.

Respectfully,



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

Attachment: Appendix A - Partial bibliography of scientific studies and reports on the impacts from vehicle use to desert ecosystems

Cc: Tracy Stone-Manning, Director, Bureau of Land Management, tstonemanning@blm.gov
Nada L. Culver, Deputy Director of Policy and Programs, Bureau of Land Management, nculver@blm.gov
David Jenkins, Assistant Director of Resources & Planning, Bureau of Land Management, djenkins@blm.gov
Raymond Suazo, Arizona State Director, blm_az_asoweb@blm.gov

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Appendix A

Partial bibliography of scientific studies and reports on the impacts from vehicle use to desert ecosystems (as of December 2019)

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