

**Defenders of Wildlife**  
**Desert Tortoise Council**

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Re: 2018/2019 proposals for California Off-highway Division grants

Dear Ms. Symons and Mr. Symons;

Thank you for the opportunity to submit scoping comments to help guide the Bureau of Land Management (BLM) in preparation of proposals for grant funding for 2018-2019 to the Off-highway Motorized Vehicle Recreation Division of the California Department of Parks and Recreation. Scoping comments contained in this letter are submitted by Defenders of Wildlife (Defenders) and the Desert Tortoise Council (Council).

Defenders is a national conservation organization with 1.8 million members and supporters in the U.S., including 279,000 in California. Defenders is dedicated to protecting all wild animals and plants in their natural communities. To this end, we employ science, public education and participation, media, legislative advocacy, litigation, and proactive on-the-ground solutions to impede the accelerating rate of extinction of species, associated loss of biological diversity, and habitat alteration and destruction.

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 desert tortoises and their habitats. Established in 1975 to promote conservation of tortoises and their habitats 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 desert tortoises.

Our scoping comments are as follows:

**1. BLM's request for public scoping comments:** BLM announced the opportunity for the public to submit scoping comments in an invitation on its BLM California webpage January 29, 2019, stating, *The Bureau of Land Management has scheduled the dates, times and locations of several public meetings to provide input in the development of off-highway vehicle (OHV) grant proposals for submission to the California State Parks, Off-Highway Motor Vehicle Recreation (OHMVR) Division. Proposed grant applications are currently being prepared by the BLM staff for the 2018/2019 grant cycle.*

**Comments:** Public meetings will be held throughout the California Desert District on February 12 and 13, and preliminary grant applications are due to the Off-highway Motorized Vehicle Recreation Division no later than March 4, 2019. We are concerned that scoping comments submitted by the public may not be used by BLM for two reasons; 1) because BLM stated in its invitation that *"Proposed grant applications are currently being prepared by the BLM staff for the 2018/2019 grant cycle,"* and 2) BLM did not provide a date when public scoping comments are due.

We recommend that BLM, 1) publish a supplement to the scoping comment invitation that indicates a date when comments are due, 2) that it provide a scoping report on comments it received concurrent with its submission of preliminary grant applications, and 3) indicate how those comments were used in preparation of preliminary grant applications.

We trust that BLM is sincere in its invitation for the public to submit scoping comments and is not simply attempting to satisfy grant application procedures by providing grant application information at the announced public meetings.

**2. Proposed activities to be supported by grants from the Off-highway Motorized Vehicle Recreation Division:** Proposed activities in the preliminary grant applications are the foundation or heart of the grant applications.

**Comment:** Proposed activities for which BLM is seeking funding should be developed by BLM based, in part, on public scoping comments received. The scoping report should provide this information.

**3. Grant applications for law enforcement activities:** BLM routinely seeks Off-highway Motorized Vehicle Recreation Division grant funds to support its law enforcement activities associated with management of off-highway vehicle use and recreation; and such grants have been consistently awarded to BLM.

**Comment:** Based on the ongoing number of off-highway vehicle use violations reported quarterly by BLM to the federal district court<sup>1</sup>, we recommend that BLM include activities in its preliminary grant applications for law enforcement that will increase effectiveness and efficiency of law enforcement. This aligns with the goals of grants program to support off-highway vehicle recreation that is well managed, high-quality, sustainable and responsibly maintains wildlife, soils, and habitat. The following activities should be included:

- **Monitors/Observers:** BLM should propose and seek grant funding for hiring and deploying monitors/observers in each of the travel management areas that have documented ongoing violations involving off-highway vehicles. These additional personnel can request assistance to specific locations for law enforcement action by BLM law enforcement rangers. We recommend that certain high-use holidays, particularly President's Day, Thanksgiving, New Year's Day, etc., be targeted for heightened monitoring activities. We also suggest that the BLM-authorized event referred to as "King of Hammers," occurring in February in Johnson Valley, San Bernardino County, be targeted. This event, rumored to attract in excess of 30,000 participants and spectators, to our knowledge has not been monitored; at least, no data are available from BLM on impacts to tortoises and habitats.
- **Helicopter assistance:** BLM should propose and seek grant funding for use of helicopters from local law enforcement agencies or the California Highway Patrol to augment law enforcement capability. Use of helicopters has proven to be an effective tool in detecting and responding to unauthorized off-highway vehicle use in the past, such as in the Rand Mountains and Fremont Valley within jurisdiction of the Ridgecrest BLM Field Office. Helicopters should be used as a law enforcement enhancement tool in travel management areas with known high-levels of non-compliance, such as in Juniper Flats, Fremont Peak, Red Mountain, Cuddeback Lake, Rand Mountains, Fremont Valley and the Jawbone-Butterbredt Area of Critical Environmental Concern (ACEC). And, also during high-use holidays identified above.
- **Trail cameras:** We recommend that BLM increase the use of trail cameras to obtain digital images of off-road vehicle use violations in sensitive habitats, such as in all ACECs designated for desert tortoise conservation; and in ACECs designated for protection of sensitive resources, such as Juniper Flats, Jawbone-Butterbredt, and the high-use unauthorized vehicle impact area one half mile east of Highway 395 along Cuddeback Road. Digital images can be used by law enforcement rangers to document frequency of use and also identify responsible parties. Law enforcement grant applications should include funding to purchase, operate and maintain an effective trail camera network.
- **Law enforcement response to violations:** We recommend that law enforcement rangers increase issuing citations rather than relying on written warnings so that

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<sup>1</sup> <https://www.blm.gov/programs/planning-and-nepa/plans-in-development/california/west-mojave-route-network-plan/court-documents>

enforcement outcomes, over time, become more effective in deterring unauthorized off-highway vehicle use.

- **Penalties for violations:** We recommend that BLM law enforcement rangers increase issuing mandatory court appearances for off-highway vehicle use violators who have caused damage to public lands and resources, such as establishing new routes or staging areas, or damage to areas under active restoration by BLM. BLM should document the cost of restoring habitat based on records it keeps on restoration work performed under agreements with conservation organizations, such as the Student Conservation Association. BLM should ask judges to impose fines for violations for habitat damage based on the cost for restoring habitat to its full ecological condition rather than simply based on initial treatments that visually mask vehicle routes, such as raking and vertical mulching.

**4. Grant applications for ground operations activities:** BLM routinely seeks grant funding from the Off-highway Motorized Vehicle Recreation Division to support various ground operations, such as maintaining designated open routes, installing open and closed route signs, and other actions associated with managing and sustaining off-highway vehicle recreation opportunities in an environmentally responsible manner. Activities associated with ground operations should also include those needed to conform to the provisions in the applicable land use plans governing the management of motorized vehicle use on public lands.

**Comment:** The Desert Renewable Energy Conservation Plan (DRECP), adopted by BLM in 2016, amended the California Desert Conservation Area (CDCA) Plan, which included Biological Goals and Objectives, various Conservation Management Actions (CMAs) governing the management of multiple use activities on public lands that were designed to achieve the Biological Goals and Objectives. These components of the DRECP are described as follows:

Biological Goals and Objectives: According to the DRECP, Chapter II.4.1.1 (Biological Resources), *“The primary biological resources goals of the DRECP LUPA are landscape and habitat connectivity, ecosystem and ecological function, and species conservation. The BLM believes these three primary goals are essential for management of biological resources consistent with FLPMA and the Endangered Species Act, and other pertinent federal statutes, regulations and policies.”* And, *“The overarching, interconnected, species conservation goal is to protect, manage, and contribute to recovery of viable populations of Focus and BLM Special Status Species throughout the species’ distribution in the DRECP LUPA Decision Area, including conserving sufficient habitat and resources to assist these species in adapting to environmental fluctuations and to provide habitat connectivity that facilitates population movement and genetic exchange among populations.”*

CMAs: The DRECP includes various CMAs, some of which are applicable to all land use activities and associated with individual species and their habitats. Those applicable to the management of off-highway or motorized vehicle use include the following:

- **LUPA-BIO-IFS-1:** *“Activities within desert tortoise linkages, identified in Appendix D, that may have a negative impact on the linkage will require an evaluation, in the environmental document(s), of the effects on the maintenance of long-term viable desert tortoise populations within the affected linkage. The analysis will consider the amount of suitable habitat, including climate refugia, required to ensure long-term viability within each linkage given the linkage’s population density, long-term demographic and genetic needs, degree of existing habitat disturbance/impacts, mortality sources, and most up-to-date population viability modeling. Activities that would compromise the long-term viability of a linkage population or the function of the linkage, as determined by the BLM in coordination with USFWS and CDFW, are prohibited and will require reconfiguration or re-siting.”*
- **LUPA-BIO-LUPA-BIO-IFS-9:** *“Vehicular traffic will not exceed 15 miles per hour within the areas not cleared by protocol level surveys where desert tortoise may be impacted.”*

**Activities:** Under the DRECP, an activity is defined as: *“Authorized projects and management activities conducted on BLM-administered lands. Activities include actions approved by permit or other authorization as well as actions conducted by the BLM.”* Casual use activities are those authorized or allowed by BLM for which no permit is required, but which fall under the definition of an activity under the DRECP.

**Comment:** We recommend that BLM include actions needed to comply with the above CMAs in its grant application for ground operations, and specifically the following:

- Analyze the effects of off-road vehicle use on desert tortoise linkages and, in coordination with the USFWS and CDFW, identify where the extent and intensity of off-road vehicle use compromises linkage function, and take actions to prohibit such use or reconfigure or relocate off-highway vehicle use to restore linkage functionality.
- Establish and enforce a 15 mile per hour speed limit for all off-highway and motorized vehicle use within suitable, occupied habitat for the desert tortoise, with priority given to designated critical habitat.

**5. Grant applications for restoration/Effectiveness of vertical mulching:** BLM has implemented vertical mulching and other trail-camouflaging techniques throughout desert tortoise habitats with limited supplemental monitoring data to determine the effectiveness or need to augment those efforts. Grant monies should be used both to revisit the sites and, where necessary, fund remediation activities where vehicles have continued to use camouflaged, closed trails.

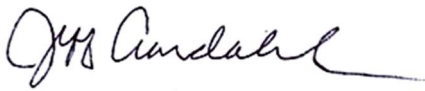
**6. Grant applications for Mohave ground squirrel (MGS) studies:** BLM is to be commended for recent expenditure of money to study MGS populations in potential Development Focus Areas (DFAs) identified in the DRECP, including North of Edwards Air Force Base, Searles Valley, and Rose Valley along Highway 395. We recommend that BLM seek grant funds for studies of MGS occurrence in the Jawbone-Dove Springs, Spangler Hills, El Mirage, and Stoddard Valley open

areas. The MGS Technical Advisory Group (MGS TAG) has identified the southern part of the MGS range, including El Mirage Open Area, as a high priority for detecting residual populations of MGS. Stoddard Valley Open Area is just east of the known MGS range and has not been subjected to any focused MGS studies to our knowledge. Finally, MGS are very likely to occur at Dove Springs and Spangler Hills, where both occurrence data and tissue collection would be high priorities for ongoing genetics research with the University of Nevada, Reno.

### **Conclusion**

Scoping comments and recommendations in this letter submitted by Defenders and the Council are intended to assist BLM in preparing preliminary applications for grant funding from the Off-highway Motorized Vehicle Recreation Division of the California Department of Parks and Recreation. We have recommended various activities for grant funding in order to minimize the adverse impacts of ongoing off-highway vehicle recreation on the desert tortoise, Mohave ground squirrel, and their habitats; enable BLM to comply with provisions of the DRECP; and make law enforcement rules and regulations governing off-highway vehicle use more efficient and effective.

Sincerely,



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