



DESERT TORTOISE COUNCIL

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CERTIFIED MAIL

November 7, 2019

Tim Smith, District Manager
Southern Nevada District
Bureau of Land Management
4701 North Torrey Pines Drive
Las Vegas, NV 89130

Shane DeForest, Acting District Manager
Ely District
Bureau of Land Management
702 North Industrial Way
Ely, NV 89301

RE: Reiteration of the Desert Tortoise Council's Previous Requests as An Affected Interest for Notification of Bureau of Land Management Proposed Actions Affecting the Desert Tortoises or Habitats

Dear Mr. Smith and Mr. DeForest:

The Desert Tortoise Council (Council) is a non-profit organization comprised of hundreds of professionals and laypersons throughout the United States and other countries. Council members share a common concern for wild desert tortoises and a commitment to advancing the public's understanding of the three species of desert tortoises. 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.

The Council has submitted written comments on numerous proposed actions by the Bureau of Land Management (BLM) within the range of species of desert tortoises (i.e., *Gopherus agassizii* synonymous with "Mojave desert tortoise" and *Gopherus morafkai* synonymous with Sonoran desert tortoise).

In 2018 and 2019, the Council provided written comments on numerous BLM proposed actions in the range of the Mojave and Sonoran desert tortoises. Some of these proposed actions in southern Nevada are listed below:

In 2019:

- 2019/8/29 - Preliminary Environmental Assessment December 2019 Competitive Oil and Gas Lease Sale (DOI-BLM-NV-L000-2019-0005-EA August 2019)
- 2019/8/16 - Proposed Gemini Solar Project, Clark County, Nevada: Resource Management Plan Amendment and Draft Environmental Impact Statement

In 2018:

- 2018/11/18 - Draft Resource Management Plan Amendment and Draft Environmental Assessment for Dry Lake East Designated Leasing Area (DOI-BLM-NV-S010-2018-0131-EA)
- 2018/08/26 - Bureau of Land Management's Notice of Intent to Prepare an Environmental Impact Statement and Land Use Plan Amendment, and a Notice of Segregation, both for the Proposed Gemini Solar Project in Clark County, Nevada
- 2018/8/25 - Bureau of Land Management's Notice of Intent to Prepare an Environmental Impact Statement and a Notice of Segregation for the Proposed Yellow Pine Solar Project, Clark County, NV

In each comment letter to the BLM, the Council asked “that the Desert Tortoise Council be identified as an Affected Interest for this and all other BLM projects 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.” The contact information is contained in the letterhead of these comment letters, eac@deserttortoise.org.

The Council believes this language was clear to the BLM and that the Council as an Affected Interest was to be notified of BLM proposed actions that may affect species of desert tortoises. However, the Council did not learn about any of these proposed actions from the BLM, but from several third parties. Given the numerous requests the Council has submitted to project officials at BLM field offices in southern Nevada in the last few years to be identified as an Affected Interest, we are puzzled as to why we did not (and do not) receive notification from the Southern Nevada District Office, the Ely District Office, or any of the field offices within these Districts of any proposed actions on BLM lands in southern Nevada. Consequently, we are elevating our request to you as the District Managers in southern Nevada.

Our request for the BLM to notify the Council of these proposed actions is based on federal regulations and BLM's handbook. According to 40 CFR 1500.2, “federal agencies shall to the fullest extent possible encourage and facilitate public involvement in decisions which affect the quality of the human environment.” This public involvement is further discussed in 40 CFR 1506.6, which says, “Agencies shall make diligent efforts to involve the public in preparing and implementing their National Environmental Policy Act (NEPA) procedures. The agency should request comments from the public and should *affirmatively solicit comments* [emphasis added] from those persons or organizations who may be interested or affected.”

The BLM NEPA Handbook states, “A primary goal of public involvement is to ensure that all interested and affected parties are aware of your proposed action. Knowing your community well is the first step in determining the interested and affected parties and tribes. You may already have a core list of those interested in and potentially affected by the BLM's proposed actions; this may provide a good starting point” (section 6.9.1). The Handbook also states under Environmental Assessments “The EA must list tribes, individuals, organizations, and agencies consulted (40 CFR 1508.9(b))” (section 8.3.7).

We urge the BLM to comply with these directives. With this letter, the Council requests that you ensure that the BLM notifies the Council in a timely manner (e.g., prior to the first day of the public comment period) of any proposed action in the Southern Nevada District or Ely District that may affect the Mojave desert tortoise or its habitats. This includes any action that may affect, either directly or indirectly, this species. If the BLM is unwilling or unable to do this, we request that it provide a written response to the Council explaining why it is unable to honor this request to comply with federal regulations and the BLM NEPA Handbook.

Should you have any questions regarding this request, please contact me at the contact information on the Council’s letterhead above.

Regards,



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

cc: Shonna Dooman, Field Manager – Las Vegas Field Office
Catrina Williams, Field Manager – Red Rock/Sloan Field Office
Noelle Glines-Bovio, Acting Field Manager – Pahrump Field Office

Literature Cited

Bureau of Land Management. 2008. National Environmental Policy Act Handbook. Handbook H-1790-1. January 2008.
https://www.blm.gov/sites/blm.gov/files/uploads/Media_Library_BLM_Policy_Handbook_h1790-1.pdf