



**DESERT TORTOISE COUNCIL**

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**via email only**

1 December 2021

Jannice Cutler  
Rangeland Management Specialist  
Bureau of Land Management  
Grand Canyon - Parashant National Monument  
345 East Riverside Drive  
St. George, Utah 84790  
[jcutler@blm.gov](mailto:jcutler@blm.gov)

RE: Comments on the Land Health Evaluation for Cedar Pockets (AZ04866) and Highway West (AZ04812) Allotments, Mohave County, Arizona and Washington County, Utah

Dear Ms. Cutler,

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.

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

Thank you for notifying the Desert Tortoise Council about the Land Health Evaluation for Cedar Pockets (AZ04866) and Highway West (AZ04812) Allotments (Evaluation). We had formally notified all BLM offices in the range of the Mojave desert tortoise of the Council's desire to be considered an Affected Interest for all projects that BLM may be considering that may affect the tortoise. We appreciate you honoring this request.

In your notification to the Council regarding the Evaluation, you stated that the Council's "comments will be carefully considered during the preparation of an Environmental Assessment (EA) analyzing the impacts of renewing the ten-year grazing permit for these allotments, in compliance with the National Environmental Policy Act" (NEPA). Thus, we consider this process similar to "scoping" under NEPA and have developed our comments accordingly.

The purpose of the Evaluation to determine if the existing soil, water, and vegetative resources are meeting, making progress toward meeting, or not meeting the Arizona Standards for Rangeland Health as part of the BLM grazing program. The Evaluation lists the management objectives of relevant resources/resource uses (e.g., soil stability, ecological processes, invasive plant, no net loss of plant communities, livestock grazing, desired plant communities, special status species habitats, healthy special status species populations, no net loss of special status species habitat, etc.) from BLM resource management plans that apply to these two allotments. It then analyzes whether these objectives have/have not been met and what change has occurred when compared to most recent evaluations and a baseline evaluation. This evaluation process uses a methodology adopted by the BLM nationally in 1995 with Arizona rangeland standards adopted by BLM in 1997 (Appendix B of the Evaluation).

Most of the Cedar Pockets Allotment is in Washington County, Utah with a small portion in Mohave County, Arizona and immediately north and east of the Highway West Allotment. The Highway West Allotment is mostly in Arizona on the west slope of the Beaver Dam Mountains toward the Beaver Dam Wash. Portions of both allotments are in designated critical habitat for the tortoise.

**Adequate Range of Alternatives/Impacts:** In developing the EA, BLM should ensure the range of alternatives presented is sufficiently broad. Section 102(2)(E) of NEPA and BLM's Handbook on NEPA (BLM 2008a) directs BLM to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources..." In developing the EA, we request that at least one grazing alternative focus on improving habitats and populations of listed/special status species. This would include species listed under the federal Endangered Species Act (ESA) (e.g., Mojave desert tortoise, California condor (*Gymnogyps californianus*), Mexican spotted owl (*Strix occidentalis lucida*), southwestern willow flycatcher (*Empidonax traillii extimus*), western yellow-billed cuckoo (*Coccyzus americanus*), woundfin (*Plagopterus argentissimus*), Virgin River chub (*Gila seminuda*), and special status species (e.g., desert bighorn sheep, bald eagle, etc.).

With respect to the tortoise, this alternative would include the following:

- Exclude or substantially reduce grazing in designated critical habitat for the Mojave desert tortoise until the population shows an increasing trend in the area.

- Implement scientifically credible and statistically robust monitoring that collects data on a regular basis on the land health status of the tortoise (i.e., nutritional quality and quantity of native annual forbs and perennial grasses, change in distribution, density, and cover of non-native plant species, etc.) in addition to the BLM's current monitoring of the land health status for livestock.
- Measure the utilization rates of annual forbs by livestock to determine a utilization rate that would provide adequate quality and quantity of nutritional forbs to support an increasing tortoise population. Manage the allotments for native forbs so this rate is not exceeded.
- Condition the permit so when the land health status for the tortoise declines below a scientifically predetermined level or a fire occurs, grazing will be substantially reduced/removed until the land health status for the tortoise meets the level needed by the tortoise.
- Control or eradicate non-native plant species and substantially reduce their seedbank.
- Implement native annual and perennial vegetation restoration that has been lost or degraded from fire, drought, and past land management practices/human uses. [This and the previous management action on controlling non-native plants should be the highest priority as they would substantially reduce the threat of fire and provide more nutritious vegetation for consumption by both tortoises and livestock.]
- Ensure that existing and proposed manmade water sources for wildlife and livestock are designed, constructed, and maintained so they do not result in the likelihood of tortoises becoming trapped or drowning in them or provide water to tortoise predators (e.g., raven, coyote, etc.).
- Ensure that the distribution, cover, density of native woody perennial plants is sufficient to provide adequate cover for the tortoise from predators and temperature extremes.
- Prohibit supplemental feeding of livestock.
- Manage the habitat to provide connectivity of tortoise populations between the Upper Virgin River Recovery Unit and the Northeastern Mojave Recovery Unit. [The Cedar Pockets Allotment is part of the likely corridor that connects the tortoise populations of these two recovery units.]
- Implement other best management practices that will assist in recovery of the tortoise.

All alternatives in the EA should include the implementation of best management practices (BMPs) and effectiveness monitoring that is scientifically credible and statistically robust. These BMPs and monitoring should be conditions of the issued permits. Failure to implement the BMPs and monitoring or failure to meet requirements and standards for the tortoise should result in penalties and require corrective action (i.e., adaptive management – please see BLM 2008b, 2008c and Williams et al. 2009, Williams and Brown 2012) during the permit term and not at its expiration date.

The impacts to the tortoises from vehicle use for livestock operations and maintenance should be described and analyzed in the EA as well as impacts from ground disturbance at loading areas/chutes, watering sites, and other activities associated with managing livestock.

## **General Comments**

The BLM's land health evaluation process was developed to measure and manage for healthy rangelands and to sustain the grazing needs of livestock. It was not designed or intended to manage for healthy habitats for wildlife species including the special needs of species listed under the ESA (e.g., including the Mojave desert tortoise, etc.). We recommend that a more integrated approach be developed that includes collecting appropriate data on the specific needs of special status species in each evaluation area. Rangeland health should be expanded to encompass both wildlife and rangeland health. What is beneficial for wildlife persistence is usually beneficial for livestock in habitats appropriate for livestock grazing.

Tortoise Active Season/Plant Growing Season: In the Evaluation, BLM says, "the tortoise active season" is from March 15-October 15. This is an approximation as tortoises, especially younger tortoises, may be active at any time outside these dates when the weather is sufficiently warm (Wilson et al. 1999). In addition, with climate change, the date of emergence for tortoises may be earlier and the date for entering winter brumation may be later, thus extending the tortoise active season. Similarly, the growing season for desert plants is likely beginning earlier and lasting longer than historically occurred.

Key Forage Species: The key forage species used to monitor the grazing are one woody perennial shrub and two perennial bunch grass species for the one sample site in the Cedar Pocket Allotment and three woody perennial shrubs for one sample site in the Highway West Allotment and two woody perennial shrubs for the second sample site (please see Tables 5 through 11 in the Evaluation). BLM collected utilization data on other woody perennial shrubs and bunch grasses. These utilization data indicate that when available, cattle prefer perennial grasses over woody shrubs.

Cattle prefer grazing to browsing; their dietary preference is likely for perennial grasses and annual forbs rather than woody shrubs. However, BLM provided no utilization data on annual forbs even though they comprise much of the diet for cattle and the majority of the diet for tortoises and are required by the tortoise for adequate nutrition. The reason given is forbs cannot be measured when the data are collected. In addition, BLM did not provide (and therefore we assume did not collect) data on the distribution, density, and cover of non-native annual plants, which may affect the availability and utilization of key species. We recommend that if BLM desires to improve the quality and quantity of forage available for both livestock and tortoises in these allotments, it needs to collect data on the distribution, density, cover, and utilization of appropriate key forage species for livestock and wildlife including the tortoise, and for non-native plant species and ensure that the data collected answers the questions being asked and are statistically robust. BLM's key forage species should include native annual forbs.

Overlap in Habitat Use by Cattle and Tortoises: Cattle are present during part of the growing season for forbs. "The [Highway West] allotment is rested from March 16 – October 14, during the desert tortoise active season." "This allows for the growth of desert vegetation (in tortoise habitat) during the spring and summer without any grazing use, resulting in ephemeral plant growth for forage for desert tortoise and other wildlife species without competition from livestock. This system also allows vegetation to regrow, thus giving wildlife species a better chance at obtaining important food sources." The Cedar Pockets Allotment is rested from June 1 to October 15, and "there is likely some competition for forage between livestock and tortoises" in the spring. Regarding impacts from grazing to the tortoise, BLM says, "Tortoises emerging from burrows in the spring may experience a reduction in forage from livestock grazing, however, limiting livestock utilization 45 percent should lessen this impact."

BLM should not assume that a 45 percent utilization rate of key species by livestock (cow/calf operation) is appropriate for desert tortoise habitat. We are not aware of research/studies that show that a 45 percent utilization rate of these key species is appropriate for desert tortoise habitat. We request that these data be provided in the EA to support these claims.


Given the information above on the tortoise's active season, with the current grazing period for the Highway West and Cedar Pockets Allotments, it is likely that cattle and tortoises are utilizing the same native annual forbs that tortoises need for survival, growth, and reproduction/recruitment. Because BLM is not collecting data on annual forbs or their utilization rate, it is difficult to determine how BLM's current evaluation process can determine whether there is sufficient nutritious forage for the tortoise and other herbivorous wildlife species.

Science and Statistics: From the data BLM provided in the Evaluation for the Cedar Pockets and Highway West Allotments, we conclude the land health evaluation process implemented for these two allotments may not be scientifically credible and statistically rigorous (e.g., small sample sizes – two sample sites in the Highway West Allotment and one in the Cedar Pocket Allotment, data collected do not answer questions asked of the resources/resource issues, no confidence limits provided, etc.). BLM's Rangeland Health Standards Manual (2001) says, "The condition or degree of function of an identified area [e.g., an allotment] in relation to the [Rangeland Health] Standards and the trend toward or away from any Standard is evaluated through the use of reliable and scientifically sound indicators" (BLM 2001). BLM should revisit its specific methodology for data collected on these two allotments to ensure it is collecting data on scientifically sound indicators and in a manner that is scientifically credible and statistically rigorous.

In the EA, BLM should evaluate the specific attributes of the environment that are needed by tortoises for their survival, growth, reproduction, and recruitment, as required under 43 CFR 4180.1(d) (e.g., availability of native annual forbs and livestock utilization rates). Absent this information, BLM is not able to analyze the effects of livestock grazing on the desert tortoise or other listed/special status wildlife species in these allotments.

We appreciate this opportunity to provide input and trust that our comments 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 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. 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.

Regards,



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

## Literature Cited

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- Williams, B. K., and E. D. Brown. 2012. Adaptive Management: The U.S. Department of the Interior Applications Guide. Adaptive Management Working Group, U.S. Department of the Interior, Washington, D.C.
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