

DESERT TORTOISE COUNCIL

3807 Sierra Highway #6-4514

Acton, CA 93510

www.deserttortoise.org

eac@deserttortoise.org

Via email and BLM NEPA eplanning portal

November 5, 2022

Kristen Lalumiere
Bureau of Land Management
Palm Springs-South Coast Field Office
1201 Bird Center Drive
Palm Springs, CA 92262
KLalumiere@blm.gov

RE: Chuckwalla R-5 Ship Creek Guzzler Repair Chuckwalla Mountains Wilderness
Environmental Assessment (DOI-BLM-CA-D060-2021-0015-EA)

Dear Ms. Lalumiere,

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 Mojave desert tortoise (*Gopherus agassizii*) (synonymous with Agassiz'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 Mojave desert tortoise is among the top 50 species on the list of the world's most endangered tortoises and freshwater turtles. The International Union for Conservation of Nature's (IUCN) Species Survival Commission, Tortoise and Freshwater Turtle Specialist Group, now considers the Mojave desert tortoise to be Critically Endangered (Berry et al. 2021), as it is a "species that possess an extremely high risk of extinction as a result of rapid population declines of 80 to more than 90 percent over the previous 10 years (or three generations), population size fewer than 50 individuals, other factors." It is one of three turtle and tortoise species in the United States to be critically endangered. This status, in part, prompted the Council to join Defenders of Wildlife and Desert Tortoise Preserve Committee (Desert Tortoise Council 2020) to petition the California Fish and Game Commission in March 2020 to elevate the listing of the Mojave desert tortoise from threatened to endangered in California.

The Council reiterates it has continuously requested that the BLM contact us directly as an Affected Interest for all projects that may affect tortoises. This project was brought to our attention by one of our members, and not by the BLM. Our formal request of November 7, 2019 sent certified mail to Andrew Archuleta, District Manager of the BLM's California Desert District, and a copy sent certified mail to all field managers in the California Desert District is attached as a reminder. We are copying this comment letter to BLM California State Director, with the expectation that her office will be responsive to our persistent requests, and BLM will provide the Council with notification of proposed actions that may affect desert tortoises on lands managed by the BLM in California.

On the BLM National Environmental Policy Act (NEPA) ePlanning website, BLM posted an undated announcement that said, "the BLM will proceed through the NEPA process analyzing the proposed action, range of alternatives, and cumulative effects." In addition, BLM posted a copy of the subject environmental assessment (EA). However, we found no date for the initiation and closing of a public scoping period or comment period for the EA. Consequently, we are providing comments less than 15 days after the EA was posted with the hope that BLM will accept them, as the usual comment period for an EA by BLM is 15 to 30 days.

Description of Proposed Action and Alternatives

The proposed action is for the California Department of Fish and Wildlife (CDFW) and Society for the Conservation of Bighorn Sheep (SCBS) to replace a damaged, pre-existing water development or guzzler with a new, updated system. The purpose and need of the proposed action is to provide a reliable source of drinking water for desert bighorn sheep (*Ovis canadensis nelsoni*), a BLM sensitive species, because the current guzzler does not have sufficient capacity to capture and store water under current and future climate conditions. The replacement guzzler would be more resilient against predicted climate change variations including hotter, longer, drier seasons with more severe rain events.

Two alternatives are described and analyzed, the No Action Alternative and the Proposed Action Alternative.

No Action Alternative – BLM would not authorize work to replace the guzzler in the Chuckwalla Mountains Wilderness Area. No vehicle access or construction would occur.

Proposed Action Alternative – BLM would authorize the construction and maintenance of a 3-foot gabion basket base within a previously approved disturbance footprint to elevate water tanks out of the floodplain. The tanks would be covered with sand and sediment from the immediate wash area. A helicopter would be used to deliver three 2,300-gallon guzzlers via long-line, and deliver the first service of water to fill the tanks after installation. Trucks would transport equipment, staff, and volunteers to install the gabion, guzzlers, a wildlife accessible subterranean drinker, a remote monitoring system with satellite data to monitor water levels and function of the guzzler, and to conduct minor repairs to the existing pipeline from the dam.

The proposed work to replace the current guzzler is planned for three weekends in the fall of 2022 with 30 personnel at the site each day. Activities would not exceed this timeframe. The proposed action is located on BLM land in the Chuckwalla Mountains Wilderness Area in T.6 S., R. 16 E., Sec. 34, SE ¼ NW ¼ . The elevation is 1,920 feet. The proposed project is located in designated critical habitat for the tortoise.

Access to the site to refill the tanks would occur when storm events do not provide enough water to the system. When the system is full, the water is expected to last for approximately two-and-a-half years.

In addition, four alternatives were considered but not analyzed in detail. These alternatives are:

- Alternative 1 – Using horses and mules;
- Alternative 2 – Hiking and carrying in all equipment and gear;
- Alternative 3 – Replacing drinker system with in-kind system from the 1970s; and,
- Alternative 4 – Driving and hiking in personnel, all equipment, tanks, and water.

These alternatives were dismissed because they would not be feasible without the use of a helicopter to transport and fill the tanks.

Comments

Proposed Action Alternative – In the EA, BLM says the construction phase of the Proposed Action Alternative would occur in the fall. Because tortoises are active in September and October and in the spring, we request that construction be implemented during the period from November to mid-February to avoid the “tortoise active season,” and not be implemented during forecasted rain events in the fall and winter. This schedule would reduce the likelihood of encountering a tortoise above ground or entering the project area during construction.

We are confused by BLM's different descriptions of where activities would be implemented to help mitigate the surface disturbance from the Proposed Action Alternative. On page 8 of the EA, BLM says, "upon departure CDFW will rake out, or equivalent/like action, all the off-route tracks near the intersection of Dupont Road, the designated OHV route." Farther down on the page, BLM says "Upon project completion, disturbed areas will be restored. It is not anticipated that any large plants will need to be removed during construction. All disturbed soil surfaces will be contoured and raked to match the surrounding terrain. Any rocks that are removed will be scattered back over the disturbed area. Upon project completion, vehicle and equipment tracks diverging from the identified access route leading into the washes will be raked over to discourage unauthorized OHV use." On page 18, BLM says, "After the project is completed, the temporary access route shall be rehabilitated using ripping, raking, and other accepted techniques." The EA is unclear whether the contouring/raking would occur on the vehicle route or include all areas that had surface disturbance (e.g., staging area and borrow area for tanks/gabions, etc.). Please clarify what actions would be implemented after the construction phase of the project is completed and whether additional mitigation would be implemented following maintenance activities.

Affected Environment

Page 12, Threatened or Endangered Species – In the EA, BLM says, "Based on USGS habitat this area is not considered prime tortoise habitat and densities are considered to be low." Please explain what USGS habitat is as no citation was provided. According to Berry (1977), concentrations of tortoises have been found in some of the major washes with microphyll woodlands, particularly in the region between the Chuckwalla and Chocolate mountains.

Environmental Effects

The Council has five concerns regarding the implementation of the Proposed Action Alternative – (1) the creation of a new vehicle route in critical habitat and a wilderness area with resulting long-term impacts to soils, vegetation, tortoises, and human access; (2) the attraction of predators to the area because of a newly-created reliable source of water; (3) the likelihood of tortoises and other small animals becoming entrapped or drowning in the guzzler; (4) the impacts to surface flow downstream/downslope from the guzzler; and (5) the incomplete analysis of the major indirect impacts to surface hydrology, soil moisture, vegetation, and the tortoise from implementation of the Proposed Action Alternative.

- (1) The creation of a new vehicle route in the Colorado Desert results in several direct and indirect impacts to the tortoise and tortoise habitat. During the three weeks of construction activities (120 vehicles trips – BLM 2022, page 17), subsequent maintenance activities (20 vehicle trips each – BLM 2022, page 17), and after construction and maintenance have occurred until the disturbed area has revegetated, which can potentially take several decades (Abella 2010), the public would see the new route created, likely consider it an open route, and use it.

BLM should ensure that the rehabilitation/restorations methods used for the vehicle route and other areas of temporary surface disturbance are effective. Abella and Berry (2016) reported that techniques such as recontouring to reestablish drainage patterns, can assist natural recovery of decommissioned routes. However, if BLM's intent is to successfully rehabilitate/restore the disturbed areas caused by implementation of the Proposed Action

Alternative (BLM 2022, page 8), BLM should include an *integrated set* of rehabilitation/restoration activities (e.g., reducing nonnative plants, augmenting native plants, etc.) and monitor the short- and long-term vegetation condition of the areas disturbed (Abella and Berry 2016). Most habitat restoration/rehabilitation efforts to date have focused on only one restoration activity (Abella and Berry 2016), which is what BLM is proposing in the EA. However, for successful restoration/rehabilitation, BLM should require implementation of (1) an integrated set of effective restoration activities; (2) construction of signs and barriers to prevent unauthorized OHV incursions; (3) monitoring the effectiveness of the restoration and the signs and barriers; and, (4) through monitoring, identify the need for additional restoration work and implement it (DeFalco and Scoles-Sciulla 2013).

As part of the Proposed Action Alternative, in the California Desert Conservation Area, BLM should require the project proponent to implement at the location of the surface disturbance a set of vegetation restoration activities that have been documented as effective to restore native vegetation. Because CDFW is a wildlife conservation agency and the tortoise is listed under the California Endangered Species Act (CESA), CDFW should readily cooperate with BLM in implementing an effective set of vegetation restoration activities at the temporary disturbance locations, as these activities will benefit both desert bighorn sheep and the tortoise.

The Proposed Action Alternative is located in the Chuckwalla Critical Habitat Unit for the tortoise under the Federal Endangered Species Act (FESA). Critical habitat is defined as specific areas within the geographic range occupied by the species on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or protection. For the Mojave desert tortoise, the physical and biological features essential for conservation of the species are (1) sufficient space to support viable populations within each of the recovery units and provide for movements, dispersal, and gene flow; (2) sufficient quantity and quality of forage species and the proper soil conditions to provide for the growth of such species; (3) suitable substrates for burrowing, nesting, and overwintering in burrows, caliche caves, and other shelter sites; (4) sufficient vegetation for shelter from temperature extremes and predators; and (5) habitat protected from disturbance and human-caused mortality (USFWS 1994).

The term “conservation,” as defined in section 3(3) of the FESA, means “to use and the use of all methods and procedures which are necessary to bring an endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary,” i.e., the species is recovered and removed from the list of endangered and threatened species. Under the FESA and BLM’s Mitigation Policy and Handbook (BLM 2021a, 2021b), BLM should require the project proponent (i.e., CDFW) to fully compensate for the temporal loss of vegetation from project implementation in this critical habitat unit.

We request that BLM add additional Conservation Management Actions (CMAs) to the EA that would require CDFW to implement (1) an effective set of vegetation activities in the areas with temporary disturbance (e.g., routes used in the wilderness area and off of designated open OHV routes, staging areas, etc.); (2) construction of signs and barriers to prevent OHV incursions; (3) monitoring the effectiveness of the restoration and the signs and barriers; and, (4) through monitoring, identify the need for and additional restoration work and implement it.

- (2) Creating a reliable source of water in the Colorado Desert may attract numerous wildlife species including predators of the tortoise and desert bighorn sheep. In the EA, BLM says the primary predator of bighorn sheep is the coyote (*Canis latrans*), with bobcat (*Lynx rufus*) and golden eagle (*Aquila chrysaetos*) as predators of lambs. We also note that Yuma puma (*Felis concolor browni*) is a likely predator of bighorn sheep that occurs in the region. Major predators of the tortoise include the coyote and common raven (*Corvus corax*).

To determine wildlife use at this guzzler, BLM should require monitoring, which can be implemented remotely. If the monitoring indicates use of the guzzler by tortoise predators, BLM should require the guzzler be modified to prevent or deter these predators from accessing water from the guzzler. If design modifications are necessary to accomplish this, we request that they are monitored for the first year to determine their effectiveness.

- (3) Tortoises and other small animals may become entrapped or drown in the guzzler. We did not find a description or drawing of the guzzler design in the EA. BLM provided a reference (Andrew et al. 2001) that reported the results of examining 13 guzzlers during two months in 1998 in the Colorado Desert of California for vertebrate remains. Seven guzzlers had vertebrate remains from at least 30 individual animals but none were tortoise remains. Tortoise deaths in upland game guzzlers for birds has been documented (Hoover 1995).

On page 15 of the EA, BLM says, “To mitigate the likelihood of a tortoise drowning in a drinker, the proposed drinkers would be equipped with a roughened ramp as well as steps to allow tortoises to climb out. Because of the escape ramp and mitigation measures used for construction and maintenance, this project is not likely to adversely affect desert tortoises or adversely modify critical habitat.” While the ramp and step design may seem effective, concrete drinkers promote algae buildup (Brigham and Stevenson 2003) making the rough surface slippery and impeding an animal’s ability to escape the drinkers. Consequently, we request that BLM investigate the escape ramp/step method further to determine whether other design modifications such as ridges may be more effective to eliminate algal growth or a slippery surface. When the final experimental design for the escape ramp is implemented, we request the drinkers be monitored remotely to determine its effectiveness, and if not effective, that measures be implemented to correct the deficiency.

- (4) We are concerned the placement of the guzzler would substantially alter the direction and volume of downstream surface flow. The capacity of the tanks would increase compared to the existing guzzler. From the description of the Proposed Action Alternative, the tanks would be located on a raised gabion platform in a wash. We conclude this design would substantially reduce surface flow downstream/downslope from the guzzler thereby adversely impacting existing soils, soil moisture, and vegetation. Reducing these flows would likely result in a reduction in survival and recruitment of vegetation needed by wildlife species including tortoises for cover that provides protection from predators and thermal extremes and food for tortoises, bighorn sheep, and other herbivores.

(5) For the project footprint, BLM says, the Proposed Action Alternative would result in direct impacts to 8.4 acres of land – 6 acres from project access route (temporary), 0.11 acre from guzzler placement (permanent), 2 acres from camping/staging area (temporary – inside wilderness), and 0.3 acre from camping/staging area/landing zone (temporary – outside wilderness). We did not find any analyses of indirect impacts to soils, vegetation, or surface hydrology from implementation of the Proposed Action Alternative or indirect impacts to the tortoise. We request that BLM revise the Environmental Effects section of the EA to include these missing analyses of the indirect impacts to these resources.

In addition, because concentrations of tortoises have been found in some of the major washes with microphyll woodlands (Berry 1977), we suggest that BLM reassess the direct and indirect impacts to the tortoise as the Proposed Action Alternative is using a braided wash to access the project site for construction and maintenance. We found no analysis of impacts to the tortoise if maintenance occurs during the active season for the tortoise or during/following a rainfall event. Using a wash as a roadway that tortoises also use may result in injury or mortality from a vehicle crushing a tortoise. This impact should be included in the EA.

Specific Comments

Page 16, Threatened and Endangered Species, Desert tortoise (*Gopherus agassizii*) – In the EA, BLM says, “The habitat is not optimal for desert tortoises (Category 3) and their densities are low near the project site.” In looking at the map of modeled habitat for the Mojave desert tortoise (Nussear et al. 2009) part of the project area appears to be in tortoise habitat ranked as 0.7 or greater. The greater the number toward 1.0, the higher the value of the tortoise habitat. In addition, the USFWS (2011) says “[i]n the Colorado Desert Recovery Unit, desert tortoises are found in the valleys, on bajadas, desert pavements, rocky slopes, and in the broad, well-developed washes...” The Proposed Action Alternative includes using a broad wash to access the guzzler site. We remind BLM that habitat categories for the tortoise were developed in 1991, but in 1994, the USFWS designated critical habitat for the tortoise. The project area is in the Chuckwalla Critical Habitat Unit (USFWS 1994), which supersedes the importance of these outdated categories.

Page 17, Threatened and Endangered Species, Tortoise Mitigation Measures – BLM says, “To the extent possible, previously disturbed areas within the project site shall be utilized for the stockpiling of excavated materials, storage of equipment, and the location of office trailers and parking of vehicles.” We request that “and the location of office trailers” be removed from the EA as office trailers would not be allowed at the project site or in the wilderness area.

Page 18, Invasive Plant Species – BLM says, “The Reduced Vehicle Alternative would have similar impacts as the Proposed Alternative.” Because the term “Reduced Vehicle” was not previously used in the EA to name/describe an alternative, we are unsure which alternative BLM is referring to. Of the four alternatives described but not analyzed in the EA, Alternatives 1, 2, and 4 could meet this definition of reduced vehicle use. Please clarify the use of this term in the EA.

Page 18, Conservation and Management Actions 5 and 9 – “If the qualified biologist is available, the qualified biologist may move the desert tortoise from harm's way.” Moving a tortoise is considered incidental take under CESA. BLM or CDFW would need to obtain a 2081 permit from CDFW for incidental take to be fully authorized.

BLM’s analyses in the NEPA document should implement the CEQ’s (1997) guidance on analysis of cumulative effects. “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.”

The CEQ provides eight principles of cumulative effects analysis (CEQ 1997, Table 1-2). These are:

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 needs 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 resource, 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.

In BLM's NEPA Handbook (2008), BLM references this CEQ document as guidance to be used in analyzing cumulative effects. For the tortoise, numbers 5 through 8 are especially important and relevant given the tortoise's slow growth rates of 12 to 20 years to reach sexual maturity, and the slow growth of desert vegetation.

Please ensure these eight principles are analyzed in the EA for each alternative for the tortoise.

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 Mohave desert tortoise, 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

cc: BLM Director, Tracy Stone-Manning, tstonemanning@blm.gov
BLM Deputy Director of Policy, Nada L. Culver, nculver@blm.gov
BLM Assistant Director, Resources & Planning, David Jenkins, djenkins@blm.gov
BLM California State Director, Karen Mouritsen, kmouritsen@blm.gov
Brandy Wood, Region 6 – Desert Inland Region, California Department of Fish and Wildlife
brandy.wood@wildlife.ca.gov

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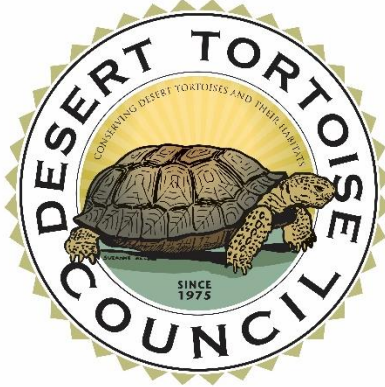
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DESERT TORTOISE COUNCIL

4654 East Avenue S #257B
Palmdale, California 93552

www.deserttortoise.org
eac@deserttortoise.org

CERTIFIED MAIL

November 7, 2019

Andrew Archuleta, District Manager
Bureau of Land Management
22835 Calle San Juan De Los Lagos
Moreno Valley, CA 92553

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. Archuleta:

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 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.

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 these desert tortoise species. Some of these proposed actions are listed below:

In 2019:

- 2019/10/21 - Cache Creek Pipeline Replacement/Relocation Project (DPI-BLM-CA-050-2019-0018-EA)

- 2019/10/03 - Chaparrals Dual Sport Motorcycle Ride Special Recreation Permit-SR18-20 (DOI-BLM- CA-D050-2018-0011-CX)
- 2019/8/2/19 - Environmental Assessment (DOI-BLM-CA-D090-2019-0013-EA) 40-95 Junction Communication Site
- 2019/5/28 - Protest of West Mojave (WEMO) Route Network Project Final Supplemental Environmental Impact Statement (BLM/CA/DOI-BLM-CA-D080-2018-0008-EIS)
- 2019/2/27 - Comments on the Kern River Gas Transmission Company Pesticide Use Proposal for Operations and Maintenance Activities (DOI-BLM-CA-D080-2019-0008-EA)

In 2018:

- 2018/11/07 - Desert Quartzite Solar Project Draft Plan Amendment/ Environmental Impact Statement/ Environmental Impact Report (DOI-BLM-CA-D060-2017-0002 / CA State Clearinghouse No. 2015031066)
- 2018/10/08 - Environmental Assessment for a Modification to Keystone Mine Plan of Operations (CACA-33965)
- 2019/6/13 - Draft Supplemental Environmental Impact Statement (Draft SEIS) and draft Land Use Plan Amendment (Draft LUPA) for the West Mojave Route Network
- 2018/4/29 - Halloran Springs Communication Site Lease (DOI-BLM-CA-D090-2018-0011-EA, CACA-053336) Environmental Assessment
- 2018/4/20 - Scoping Comments on Joint Draft Environmental Impact Statement/ Environmental Impact Report (Draft EIS/EIR) for the Crimson Solar Project and Input on Potential Plan Amendments to the California Desert Conservation Area Plan
- 2018/3/29 - Interconnect Towers Ash Hill Communications Site (DOI-BLM-CA-D090-2016-0007-EA)
- 2018/3/18 - Scoping comments to consider changes to the Desert Renewable Energy Conservation Plan
- 2018/3/07 - Scoping Comments for the Lower Colorado River Travel Management Plan
- 2018/2/12 - DOI-BLM-CA-D080-2018-003, CalNev Pipeline Dig JT-34440 and JT-38470

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 offices in the California Desert District 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 BLM of any recent proposed actions in the California Desert District. Consequently, we are elevating our request to you as the District Manager.

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

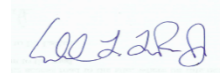
fullest extent possible encourage and facilitate public involvement in decisions which affect the quality of the human environment.” This public involvement is further discussed in 40 CFR 1506.6, which says “Agencies shall make diligent efforts to involve the public in preparing and implementing their 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 California Desert District notifies the Council in a timely manner (e.g., prior to the first day of the public comment period) of any proposed action 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: Carl Symons, Field Manager – Ridgecrest Field Office
Katrina Symons, Field Manager – Barstow Field Office
Michael Ahrens, Field Manager – Needles Field Office
Carrie Sahagan, Field Manager – El Centro Field Office
Douglas Herrema, Field Manager – Palm Springs Field Office

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