



**DESERT TORTOISE COUNCIL**

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**Via email and BLM NEPA eplanning portal**

August 17, 2022

Attn: Maria Nicoletti  
Bureau of Land Management  
Kingman Field Office  
2755 Mission Blvd.  
Kingman, AZ 86401  
[mnicoletti@blm.gov](mailto:mnicoletti@blm.gov)

RE: DW Ranch Road Pit Mining and Reclamation Project Environmental Assessment for Land Use Authorization for Aggregate Surface Mining and Reclamation Activities on Split Estate Property (DOI-BLM-AZ-C010-2022-0028-EA)

Dear Ms. Nicoletti,

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 potentially 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 project.

BLM has prepared a Draft Environmental Assessment (DEA) for proposed surface mining and reclamation activities at the DW Ranch Road Pit (Project). The Project's land ownership is a "split estate." The Northern Improvement Company (NIC) has title to the mineral estate (aggregate) within 100-feet of the surface and the government owns the surface estate (managed by the BLM).

NIC is seeking authorization from the BLM to implement a mining and reclamation plan to resume aggregate mining, processing, and reclamation activities within the existing  $\pm 45$ -acre aggregate mine boundary and expand the current mining disturbance area by  $\pm 14.9$  acres within a  $\pm 398$ -acre tract. The Project is located about 0.5 mile south of Interstate 40 and 6 miles east of the intersection of Interstate 40 and U.S. 93 near Kingman, Mohave County, Arizona. Elevation is 4,200 feet.

### **Proposed Action and Alternatives**

In the DEA, BLM analyzed two alternatives, the No Action alternative and the Proposed Action alternative.

- No Action – BLM would not authorize the mining operations to resume at the site. All existing surface disturbances would remain un-reclaimed. A known source of marketable aggregate material would not be mined, requiring alternative sources to meet local demand in the Kingman area for Arizona Department of Transportation projects.
- Proposed Action – NIC proposes to resume and expand the existing aggregate mining, processing, and reclamation activities at their existing aggregate site. Existing surface mining disturbances at the site total approximately 45 acres and consist of two separate aggregate mining areas (former and current), a stockpiling and processing plant area, and an existing access road network. Ancillary facilities at the stockpiling and processing area include fuel and asphalt oil tanks, scale and scale house, laboratory trailer, storage containers, and a diesel-fueled generator. A water truck would be used to control dust on access roads and other disturbed surfaces. Drinking water would be trucked to the site.

The former and current mining area is about 22.2 acres with a 100-foot depth. New mining would expand the current mining disturbance area by  $\pm 14.9$  acres. The existing stockpiling and processing plant area occupies about 21 acres with miscellaneous raw and finished aggregate product stockpiles that would remain. The former mining areas is about 1,300 feet southeast of the current mining area and stockpiling and processing plant area. No processing plant or other equipment is located on-site.

Existing 35-foot-wide dirt access roads totaling approximately 1.8 acres would connect the current and former mining areas to the processing plant area and DW Ranch Road that is maintained by Mohave County.

Conventional construction equipment and blasting would be used to mine the aggregate. Maximum final depth of mining would be 100 feet below original grade. Initial crushing/screening of mined material using portable processing equipment may occur within the active mining area prior to transport to the stockpiling and processing plant area.

Mining activities would continue for 60 years and produce an estimated 3 million tons of saleable sand and gravel.

Reclamation activities would begin after surface mining activities are terminated and are described in the (Mining and Reclamation Plan – Appendix A of the DEA). The existing and future roads may be left in place for safety, fire protection, and to facilitate the planned end uses. If removed, roads would be decommissioned by stripping road base materials and scarifying to relieve compaction and remove rills or other surface irregularities.

### **Affected Environment**

A biological resource survey of the Project area was conducted by Willow Creek Environmental Consulting who reported that 17.7 acres of the new area to be mined is Crucifixion Thorn-Eastern Mojave Desert Buckwheat Desert Scrub Alliance (DEA, Figure 3-2). BLM reported that Willow Creek's analysis shows no potential for occurrence of the Sonoran desert tortoise within the Project Area. However, their surveys were conducted in February, and as BLM states in the DEA, tortoises would not have been visible aboveground due to the timing of this survey. In addition, it is unclear whether protocol level surveys for tortoises or general biological surveys were conducted by qualified tortoise biologists. The elevation of the Project Area is within the upper elevation limits for the Sonoran desert tortoise (Zylstra & Swann 2008).

We recommend that surveys for the Sonoran desert tortoise be conducted as described by the Arizona Interagency Tortoise Recovery Team (2008), Arizona Game and Fish Department (2010), and (USFWS 2019). These would be conducted at the Project Area and nearby by qualified biologists to determine whether tortoises and/or tortoise sign occur in the Project Area or nearby. If tortoise/tortoise sign is found, we recommend:

- ❖ The perimeter of the Proposed Expansion Area/Current Mining Area, the Former Mining Area, and the Processing Plant and Stockpile Area (please see Figure 1-4 of the DEA) be fenced with tortoise exclusion fencing (USFWS 2009) to prevent tortoises from moving into the Project Area;
- ❖ That BLM honor its commitment to manage for Sonoran desert tortoises as described in:
  - Bureau of Land Management. 2012. Desert Tortoise Mitigation Policy. Instructional Memorandum IM-AZ-2012-031; and,
  - 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;
- ❖ That modifications to the Environmental Protections Measures (EPMs) and Project Design Features in the DEA include:

*Environmental Protection Measures and Project Design Features*

NIC has developed environmental protection measures (EPMs) and project design features (PDFs), in coordination with BLM, to reduce the potential adverse impacts of the Proposed Action alternative. Measures relevant to the Sonoran desert tortoise include:

1. If Sonoran Desert Tortoise are encountered at any time during the 60-year life of the Project, the Arizona Game and Fish Department (AZGFD) Guidelines for Handling Sonoran Desert Tortoises Encountered on Development Projects and the BLM Guidelines for Handling Desert Tortoise Encountered on Roads and Vehicle Ways shall be followed.
2. Vegetation clearing should be conducted outside of the breeding and nesting season of migratory and resident bird species (March 1 through August 31).
3. Dust control would be required during site preparation, expansion activities, and mining operations. Dust control water should not be excessive or allowed to runoff or settle in low areas of the Project site to preclude wildlife from using it as a drinking or bathing source.
4. NIC shall notify the BLM wildlife biologist and the AZGFD of any special status species wildlife injuries and/or mortalities found in the Project area during mining or reclamation activities as soon as is practical and no later than the same business day.
5. NIC shall properly manage trash and other waste products so as to not attract wildlife. This shall include keeping food in designated containers/enclosures.
6. All equipment and vehicles shall be clean and free from mud, debris, and weedy material prior to entering the project site. This measure would ensure that non-native invasive and noxious weed seed would not be introduced onto the project site.
7. Salvage restricted and harvest restricted native plant species may need to be flagged for salvage or mitigation purposes. A qualified botanist shall identify and flag all native plants that are to be salvaged or mitigated for. A qualified botanist or landscape company shall direct and/or perform the salvage and transplant of all species requested for mitigation.
8. NIC shall remove vegetation only as necessary to access new mining areas and prepare new areas for overburden fill placements.
9. NIC shall use erosion control materials that are free of weeds, such as fiber rolls filled with weed-free rice or wheat straw, wood excelsior, or coconut fiber.

For EPM #1, we recommend that this language be modified to require the current version of the AZGFD Guidelines would be implemented for the tortoise. Because the life of the Project is 60 years, it is likely that the documents referenced in the DEA will be updated as new information is

acquired on the status of the tortoise and the effectiveness of management and mitigation measures. In addition, we recommend that the following documents, or their latest versions during the life of the Project, be implemented by the NIC or the operator of the aggregate mine in the Project Area. For EPM #2, this measure is being implemented for nesting migratory birds. However, the active season for the Sonoran desert tortoise extends into September with the summer monsoon season (USFWS 2021). We request that the March 1 to August 31 date for this EPM be extended to September 30 to minimize injury and mortality to the tortoise.

For EPM #3, dust control measures should be implemented during reclamation activities. This activity would use earth-moving equipment to move dirt and contour areas and would likely produce airborne dust.

For EPM #4, we recommend an additional requirement – a veterinarian qualified to treat desert tortoises should be notified if a tortoise is injured, and NIC or the current mining operator should be responsible for veterinary care of an injured tortoise in the Project Area.

For EPM #5, we request the addition of keeping food in designated containers/enclosures “not be accessible to wildlife.”

We appreciate BLM requiring EPMs #6 through #9 above, as they will help reduce the introduction and spread of non-native invasive plant species to the Project Area and nearby. We request that a weed management plan be required that establishes the baseline of existing non-native invasive plant species composition, distribution, and cover, and the implementation of management and monitoring actions by NIC or the mining operator to ensure that future conditions of non-native invasive species in the Project Area are at a substantially reduced level than baseline conditions.

In addition, BLM should require stockpiling of topsoil from the Proposed Expansion Area and reused during the reclamation phase in the Project Area. We also offer Abella and Berry (2016) as useful guidance for restoring arid environments<sup>1</sup>.

In the DEA, BLM refers to Appendix B, Biological Assessment, and it is listed in the Table of Contents for the DEA. However, when we accessed the available documents on the BLM eplanning NEPA webpage (<https://eplanning.blm.gov/eplanning-ui/project/2019046/570>), the only documents available were the DW Ranch Mining and Reclamation Plan (Appendix A), the DW Ranch Pit EA Draft, and the DW Ranch Pit EA Figures. We request that BLM provide Appendix B, the Biological Assessment, as part of the Final EA for public review and comment.

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.

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<sup>1</sup> <https://www.dropbox.com/s/nx1b5m2b5ehya12/%23Abella%20and%20Berry%202016.pdf?dl=0>

Respectfully,



Edward L. LaRue, Jr., M.S.

Desert Tortoise Council, Ecosystems Advisory Committee, Chairperson

### 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):xx-xx; e1944-687X. doi: 10.3996/052015-JFWM-046.
- Arizona Game and Fish Department. 2010. Desert Tortoise Survey Guidelines for Environmental Consultants, June 2010. <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. Arizona Game and Fish Department, Revised September 22, 2014. <https://s3.amazonaws.com/azgfd-portal-wordpress/PortalImages/files/wildlife/2014%20Tortoise%20handling%20guidelines.pdf>
- Arizona Interagency Desert Tortoise Team. 2008. Recommended Standard Mitigation Measures for Projects in Sonoran Desert Tortoise Habitat. June 2008.
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- [USFWS] U.S. Fish and Wildlife Service. 2009. Desert Tortoise (Mojave Population) Field Manual: (*Gopherus agassizii*). Region 8, Sacramento, California.
- [USFWS] U.S. Fish and Wildlife Service. 2019. Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*). USFWS Desert Tortoise Recovery Office. Reno, NV.
- [USFWS] U.S. Fish and Wildlife Service. 2021. U.S. Fish and Wildlife Service Species Assessment and Listing Priority Assignment Form for Sonoran desert tortoise, *Gopherus morafkai*. December 10, 2021. 42 pages.
- [USFWS et al.] U.S. Fish and Wildlife Service, Bureau of Land Management, Bureau of Reclamation, National Park Service, Department of Defense, Customs and Border Protection, U.S. Forest Service, Natural Resources Conservation Service, Arizona Game and Fish Department, and Arizona Department of Transportation. 2015. Candidate Conservation Agreement for the Sonoran Desert Tortoise (*Gopherus morafkai*) in Arizona. May 27, 2015. <https://www.blm.gov/sites/blm.gov/files/policies/IMAZ-2016-004-a1.pdf>.
- Zylstra, E.R., and D.E. Swann. 2008. A History of Desert Tortoise Research at Saguaro National Park. August 2008. <https://irma.nps.gov/DataStore/DownloadFile/553304>