



DESERT TORTOISE COUNCIL

3807 Sierra Highway #6-4514

Acton, CA 93510

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eac@deserttortoise.org

Via email and BLM NEPA eplanning portal

August 12, 2022

Teresa Burke, Realty Specialist
Tiera Arbogast, Planning and Environmental Specialist
Bureau of Land Management
200S 440 W, Suite 500
Salt Lake City, UT
tsburke@blm.gov, tarbogast@blm.gov

RE: Dingell Act – Emery County Land Exchange – Scoping (DOI-BLM-UT-0000-2022-0003-EA)

Dear Ms. Burke and Ms. Arbogast,

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 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 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 Bureau of Land Management (BLM) is requesting public input/scoping on an analysis to exchange more than 90,000 acres of BLM-managed public lands in Utah for more than 115,000 acres of trust lands managed by and the State of Utah, School and Institutional Trust Lands Administration (SITLA). This land exchange was directed in the John D. Dingell, Jr. Conservation, Management and Recreation Act of 2019, Public Law 116-9 (Dingell Act). The Dingell Act created 17 BLM-managed wilderness areas in Emery County, Utah, the San Rafael Swell Recreation Area, the John Wesley Powell National Conservation Area, and other federally-managed areas. One of the main objectives of the exchange is to consolidate federal ownership within these areas for more effective management by exchanging SITLA land for BLM land located outside of congressionally-designated management areas.

The identified BLM and SITLA lands are located throughout Utah in Rich, Utah, Juab, Beaver, Millard, Uintah, Iron, Kane, Summit, Wasatch, Carbon, Emery, Grand, San Juan, Tooele, and Sevier counties. If the value of the BLM land exceeds the value of the SITLA land, the state of Utah shall convey to the BLM, as necessary, lands identified within the Red Cliffs National Conservation Area (Red Cliffs NCA) in Washington County, Utah, or any of the wilderness areas or national conservation areas in Washington County, Utah, established under subtitle O of Title I of the Omnibus Public Land Management Act (OPLMA) of 2009 (Public Law 111-11;123 Stat. 1075).

We were unable to find a description or map that identified the lands identified within the Red Cliffs NCA that may be included. We presume these lands would include areas used by the Mojave desert tortoise or that provide suitable habitat for them and would serve as linkages to other desert tortoise habitats. We request that BLM provide information on the proposed land exchange website and the National Environmental Policy Act (NEPA) document of where these "identified" lands are in the Red Cliffs NCA.

We presume that when the term "value" is used, it is referring to a realtor's economic evaluation of the land for future human development. We suggest that "value" should include non-development assets, especially given the serious threats of climate change. These non-development values would include ecological values that provide for genetic diversity of plants and animals, and protection of watersheds and air quality; cultural resource values such as protection of historical and paleontological resources; and psychological values (e.g., quiet and natural views).

Congress established the Red Cliffs NCA when it passed the OPLMA in 2009. This NCA was created to “conserve, protect, and enhance...the ecological, scenic, wildlife, recreational, cultural, historical, natural, educational, and scientific resources” of the public lands (OPLMA Sections 1974 and 1975); to protect each species that is located in the National Conservation Area; and species on the list of threatened or endangered species published under...the Endangered Species Act of 1973 [OPLMA Section 1974 (a)].

The Council supports BLM’s intent to acquire SITLA lands in the Red Cliffs NCA, especially if these lands are within habitat for the Mojave desert tortoise currently or in the foreseeable future. To comply with Congress’s direction in the establishment of the Red Cliffs NCA, when these lands are acquired, BLM should immediately withdraw them from any uses that are contrary to the intended purposes of the NCA including, but not limited to, mineral entry, rights-of-way for utilities, roads, etc., and establishment of future roads. If possible, we recommend that a conservation easement be placed on these lands to ensure that the management direction from Congress is implemented.

Before acquiring any lands from the State of Utah, BLM should ensure that the lands are free of legal encumbrances and have been surveyed to ensure there are no hazardous materials, excessive off-highway vehicle use, recently burned lands, and other conditions that would compromise habitat quality and exacerbate tortoise conservation. BLM should know the condition of the land with all potential threats identified, and evaluate whether habitat restoration or other remedial actions would be needed. We recommend that BLM take GPS-referenced photographs to document the condition of the lands before acquisition. These photographs would be used to help establish a baseline from which BLM would determine the immediate and future management needs of the acquired lands to meet the management direction Congress gave to BLM.

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.

Respectfully,



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

cc: Greg Sheehan, Utah State, Director, Bureau of Land Management gsheehan@blm.gov

Literature Cited

Berry, K.H., L.J. Allison, A.M. McLuckie, M. Vaughn, and R.W. Murphy. 2021. *Gopherus agassizii*. The IUCN Red List of Threatened Species 2021: e.T97246272A3150871. <https://dx.doi.org/10.2305/IUCN.UK.2021-2.RLTS.T97246272A3150871.en>

Desert Tortoise Council. 2020. A Petition to the State of California Fish and Game Commission to change the status of *Gopherus agassizii* from Threatened to Endangered. Formal petition submitted on 11 March 2020.