

Ecosystems Advisory Committee

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Authority and Responsibilities: The primary goal of the Ecosystems Advisory Committee (EAC) is to support the mission of the Desert Tortoise Council (Council) by bringing the best available science into the agency decision-making process to better inform policymaking, project authorization and implementation, regulatory applications, and prioritization for agency funding. The EAC addresses proposed projects and other issues associated with the conservation of desert tortoises (*i.e.*, *Gopherus agassizii*, *G. morafkai*, and *G. evgoodei*) and their habitats, and as appropriate, provide comments to decision makers and project proponents based on scientifically sound, comprehensive, and up-to-date information on desert tortoises, their habitats, and other issues associated with conservation and management of desert ecosystems. The EAC may also perform a similar function, as appropriate, associated with the conservation of other species of imperiled tortoises and their habitats located in the southwestern U.S. and Mexico.

The Bylaws establish the general responsibilities of each standing committee, and specifically for the EAC.

Bylaws, Article VI, Section 6. Ecosystems Advisory Committee. The Ecosystems Advisory Committee shall consist of active members who shall represent the Board in matters on the conservation of desert tortoises and their habitats, as appropriate.

Obligation. It shall be the responsibility of this committee to keep informed on the status of desert tortoise populations in California, Nevada, Utah, Arizona, and Mexico; keep current on developments that would affect the status of these populations; and review and provide comment on projects and issues that may affect desert tortoise populations. The Ecosystems Advisory Committee may prepare and submit formal correspondence, and provide comment on behalf of the Board and the Council, under the signature of the committee chairperson or other member of the Board designated by the committee chairperson with the concurrence of the Chairperson of the Board. The Board shall be informed of upcoming committee activities to the extent practicable; provide review and comment for committee correspondence as appropriate and as can be accommodated for timely submittal; and receive notification of final correspondence in a timely fashion, typically at the time that correspondence is submitted or at the next meeting of the Board.

Restriction. The Ecosystem Advisory Committee and Board shall comply with all requirements for designated non-profit (501(c)(3)) organization status and shall not, either directly or indirectly, engage in political campaigning, advocate for political parties, work to advance the election of individual politicians, or support (or oppose) any candidate for elective public office. Lobbying (advocating for or against specific pieces of legislation) is allowable but shall be limited to an “unsubstantial” portion of overall Council activities, generally defined as up to five percent of annual investments of time and/or funding.

The Chairperson of the Board, with the concurrence of the Chairperson-elect, will appoint the EAC Chairperson. The EAC Chairperson will appoint Committee members with the concurrence of the Chairperson of the Board. Membership in the EAC is open to all members of the Board as well as members of the Council. Reviews of proposed projects and drafts of comment letters are prepared by the EAC under the authority of the Committee Chairperson. Comment letters are to fully reflect the opinions and concerns of Board members in representing all species of desert tortoises throughout their ranges. The EAC will strive to reach consensus within the Board given the often-diverse views of the Board and Council membership. EAC comment letters shall be restricted to issue-based advocacy supported by sound science and clear reasoning concerning predicted impacts of a project, decision, or regulation on the “perpetual survival of viable populations of desert tortoises represented throughout their historical range” (Council Mission). The EAC is to be a respected source of advice and guidance for decision makers to better understand the effects their decisions have on the conservation of desert tortoises, and other desert wildlife, and their habitats.

The EAC Chairperson will provide an update of EAC activities to the Board at each Board meeting. Prior to the Annual Business Meeting, the EAC Chairperson will provide a written report to the Chairperson of the Board, identifying the members of the Committee and summarizing EAC activities for the previous year. The EAC Chairperson may be asked to present a brief overview of the most recent year’s activities of the EAC at the Annual Business Meeting.

Operating Procedures: The primary approach of the EAC is to review and provide formal written comments and to attend and speak at hearings and public meetings on proposed projects, plans, policies, and regulations, and other subjects or issues affecting desert tortoises or their habitats. Timely responses are critical for EAC comments to receive full consideration. To evaluate provide comment on among the many developments and other activities throughout the range of desert tortoises, projects are prioritized on a case-by-case basis, and as feasible, include an assessment of:

- Location of the project in the context of habitats required by tortoises for feeding, breeding, shelter, movements and connectivity within and between populations, and the priority for their protection;
- Impacts (direct, indirect, and cumulative) to tortoises and tortoise habitats including designated tortoise critical habitat;
- Number of tortoises and acreage of habitats affected directly and indirectly;
- Conservation ramifications (i.e., the ability of tortoises to survive and persist), including implementing the Recovery Plan;
- Use of best available science, appropriateness, efficacy, and thoroughness of environmental documentation and analysis of short-term, long-term, and cumulative impacts;
- Regulatory issues such as appropriate project permitting; and
- Whether the project establishes a precedent.

The EAC will carry out their activities in the following manner:

1. The EAC Chairperson oversees the review of proposed actions including changes to legislative and administrative regulations and policies, environmental assessments and

impact statements, environmental impact reports, land use plans, public notices of proposed projects, and other subjects or issues affecting desert tortoises or their habitats to determine if commenting is warranted.

2. Any Board or Council member or non-member may bring an issue to the attention of the EAC Chairperson or other members of the Board, by any means available (e.g., telephone, electronic media, US Postal Service). The Corresponding Secretary will ensure that each public notice received at the Council's official post office box will be presented to the EAC Chairperson in a timely manner.

3. The EAC Chairperson will maintain an annotated list or table of all projects for which comments were made or not made. This information will typically include the date on which an action was taken or not taken, a list of EAC member(s) producing the comment letter, and other pertinent information. Importantly, this list will identify those members who formally recuse themselves from participating on a given issue.

4. The EAC Chairperson will provide notice to the Board and any additional members of the EAC of any project for which comments are intended to be prepared, with a brief summary of relevant issues, project location, availability of project documents (e.g., web link), and comment submittal date, seeking input and assistance, as appropriate, from Board and EAC members. In those instances where time is limited to meet a submittal deadline, the draft comment letter may be distributed to the EAC members or entire Board in lieu of the notice.

5. The EAC Chairperson may identify a lead person to prepare draft comments, or prepare them on behalf of the Board. Unless there is a need for recusal, the EAC Chairperson will sign all comment letters. If the EAC Chairperson is recused, the EAC Chairperson will work with another appropriate and willing Board member, with concurrence of the Chairperson of the Board, to sign the final comment letter.

6. In preparing comments, all available sources of information are to be used, including project documents, relevant information from the scientific literature, legal and regulatory requirements, interviews with knowledgeable or involved persons, contacts with other concerned organizations, and/or discussions with the project proponent.

7. Comments must be prepared in a professional manner and will not make personal attacks or allegations. At no time shall comments be made that would defame and/or discredit any person, organization, government agency, or educational institution. Generally, names of agency representatives will not be stated. If a document is identified as incomplete or insufficient, suggestions should be provided as to how the information may be augmented or modified to provide a more comprehensive and informative document with current information. Comment letters should ask questions and specifically request feedback from project proponents, because that will obligate them to document how those issues were addressed in final environmental documents and decision documents, and avoid responses that our comments simply be acknowledged and dismissed.

8. The EAC may coordinate and collaborate with other organizations and regulatory agency personnel, as appropriate, to establish a united position, expedite preparation of comment

letters, share technical or scientific expertise, and/or combine financial resources. Final comment letters will typically be shared with participating organizations, particularly those bringing the issue to the Council's attention, and will be provided to the general membership by being posted promptly on the webpage.

9. The Board may be asked to "sign-on" to comment letters or position statements prepared by other organizations. These requests are to be considered on a case-by-case basis, and if endorsed by the Board, these documents should reflect the same standards, guiding principles, and procedures established by the Board for the EAC. Endorsement of letters or position statements prepared by other organizations requires that a minimum of four Board members formally vote "yes" to endorse a given document.

10. All issues addressed by the EAC shall be in support of the stated Mission and Objectives established in the Bylaws of the Council, clearly focusing on desert tortoises and desert tortoise habitats. Issues associated with general conservation, concerns regarding species and issues not directly associated with desert tortoises or their habitats, or providing support for positions of other conservation organizations may be addressed on a case-by-case basis and must reflect the scientific foundation and expertise on which the Council was established, and conform to the policies and standards of the Council. As such, the Board should limit its professional input to desert tortoises; other tortoises, turtles and their habitats; other species that occur within desert tortoise habitats; and conservation issues that could directly or indirectly affect these species or their habitats.

11. With Board approval, funds may be authorized for travel to project meetings, to undertake field investigations, engage technical support, hire legal counsel, or for other actions as deemed necessary by the EAC Chairperson and/or the Board.

12. Board and EAC members are encouraged to provide an "early review" of the primary documents on which the EAC is commenting (e.g., environmental assessment, environmental impact statement, environmental impact report, agency reports, proposed regulations). If so able, they are to inform the EAC Chairperson or other author in a timely manner. Early reviews involve reviewing the primary documents and providing input to the author prior to development of the initial draft letter. If an early review is performed, the reviewer should provide the author with an initial set of concerns, thoughts, or questions.

13. The EAC Chairperson either writes or reviews the draft comment letter and distributes it to members of the EAC and Board for review, clearly identifying the date for which responses from Board members are needed. The EAC Chairperson may distribute draft comment letters for review to appropriate members of the Council.

14. EAC members, including all Board members as available, are to review each comment letter and provide any recommended edits to the EAC Chairperson or other author of the letter. If a Board member intends to provide edits and would not be able to provide those edits until close to the submittal deadline, they should inform the EAC Chairperson or other author to ensure the letter is not submitted until their comments are received. If the Board member is not available, they will notify the author that no review will be provided.

15. When proposing revisions to draft comment letters, Board members and EAC members should focus on the letter's substance, presentation, word choice, and include technical and grammatical edits. Suggested revisions should, to the extent possible:

- a. Provide specific text to be inserted, deleted, or modified in the draft comment letter without relying on the original author to address general concepts or conduct additional background research;
- b. Provide the complete reference information from a scientific paper or report that was cited in the revisions to the draft comment letter;
- c. Be based on the latest version of the draft comment letter;
- d. Be provided to the author using the Track Change editing feature or other feature identified by the EAC Chairperson;
- e. If more than one person has edited the draft comment letter in Track Changes, new revisions should also be highlighted to clearly separate them from other earlier comments; and
- f. To the extent possible, be based on a review of the relevant primary documents to inform these specific text recommendations.

16. There may be times when the comments from a Board member or an EAC member substantially change a letter. These changes may conflict with other reviewers' comments, may expand the scope of the letter, or may provide new position statements. With assistance from the EAC Chairperson, Board members and EAC members are to identify if there is disagreement among members concerning the content of the draft comment letter, or if one member may substantially alter input of other Board members and EAC members. In these situations, the members are to resolve those differences in direct correspondence with one another (not necessarily through the EAC Chairperson), and submit mutually agreed upon text for incorporation into the comment letter. It is important to note that addressing and resolving disagreements can result in the most appropriate and scientifically defensible comment letter.

17. EAC and Board members reviewing a comment letter state their concurrence or non-concurrence with components of the comment letter, which must be based on a substantive review, as appropriate, of the project or issue. A substantive review is defined as a review of the project documents, familiarity with the project location, an understanding of associated issues, other background knowledge that provides a basis for a critical review of the comment letter, or a combination thereof.

18. There may be times when a Board member may endorse a comment letter that is subsequently changed in response to new input. When this occurs, the endorsement will stand until such time as the Board member informs the EAC Chairperson they can no longer endorse the revised letter. Should the endorsement be revoked, reviewers are encouraged to work together to resolve differences as described above (see #16).

19. The EAC Chairperson will ensure that newly revised drafts are distributed as often as possible, in a timely manner, and that the first line in the comment letter identifies the current date and latest draft number of the document being circulated.

20. When a minimum of three Board members (in addition to the author of the letter) provides concurrence with the draft comment letter, the EAC Chairperson will then submit

the final comment letter, as appropriate, to the addressee and persons cc'd and bcc'd on the letter. Typically, this occurs within a few days of the deadline with comment letters transmitted via email. All final letters will be made available to the general membership by posting them to the Council's EAC webpage. To accomplish this the EAC Chairperson will send the final comment letter to the Council's website manager for posting on the EAC webpage and cc the Board, EAC members, and others as appropriate. For maintaining Council records, the EAC Chairperson will send a copy of the final comment letter to the Operations Manager. The Operations Manager will post the final letter on the EAC folder on the Desert Tortoise Council's Google Drive.

21. There may be situations where time does not allow for review of draft comments by a minimum of three Board members. Under these circumstances, the comments may be distributed under the sole authority of the EAC Chairperson provided they adhere to the principles detailed above. If time allows, the EAC Chairperson may contact the Chairperson of the Board or other Board member for concurrence with an emergency action. Written notice is provided as soon as possible to the Board that this action was taken.