



DESERT TORTOISE COUNCIL

3807 Sierra Highway #6-4514

Acton, CA 93510

www.deserttortoise.org

eac@deserttortoise.org

Via email only; not posted by BLM on ePlanning portal

November 23, 2022

Attn: Stephanie Trujillo
Bureau of Land Management
St. George Field Office
345 East Riverside Drive
St. George, UT 84790
strujill@blm.gov
blm_ut_sgfo_comments@blm.gov

RE: Proposed Exchange of Private Lands Red Cliffs Desert Reserve/Red Cliffs National Conservation Area and Public Lands in the Long Valley, Washington County, Utah 2200(LLUTC03000)P UTU-91525FD/PT

Dear Ms. Trujillo,

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. When given a choice, we prefer the Bureau of Land Management (BLM) email to us future correspondence, as mail delivered via the U.S. Postal

Service may take several days to be delivered. Email is an “environmentally friendlier way” of receiving correspondence and documents rather than “snail mail.”

We appreciate this opportunity to provide comments on the above-referenced project. Given the location of the proposed project in habitats known to be 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 proposed action as needed. Please accept, carefully review, and include in the relevant file for this proposed action the Council’s following comments for the proposed action.

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.

We thank the BLM for notifying the Council of this proposed land exchange in a letter dated October 14, 2022, and for inviting our comments on this proposed action.

Description of Proposed Action

In its October 14 letter, BLM says, “the purpose of the exchange is for the United States to acquire critical habitat for the Federally-threatened Mojave desert tortoise within the Red Cliffs Desert Reserve/Red Cliffs National Conservation Area.” The BLM “lands to be exchanged are located in Long Valley.” BLM would dispose of 1,050 acres of contiguous land in the Sand Mountain Special Recreation Area including consideration of disposal of mineral estate. In return, BLM would acquire the surface estate of 89.43 acres of contiguous land in the Reserve/NCA. The Northern Corridor Highway abuts the western boundary of the land identified for acquisition in the Reserve/NCA. The valid and existing rights and encumbrances of record would remain on these lands. The parties will complete the exchange on an equal value basis with an independent third-party appraiser. The 89.43 acres are currently owned by His Family Matters, L.C., but would be purchased by the Washington County Water Conservancy District prior to the exchange.

Comments on the Proposed Action

In this letter, BLM says our comments must be received within 45 days of receipt of the October 14 letter to ensure consideration in the environmental analysis for the proposed exchange. This wording sounds similar to wording BLM uses in its request for public comments during a scoping process to prepare environmental analysis in a National Environmental Policy Act (NEPA) document, yet we were unable to find the proposed land exchange on the BLM ePlanning portal or a project number in the October 14 letter. On its website, BLM says its “on-line E-Planning

portal ... gives the public access to ongoing land-use planning and NEPA documents.” We request that BLM provide information in the environmental analysis document (which we presume is a NEPA document) that addresses why it chose not to disclose this proposed action to the public on the BLM ePlanning portal. In addition, we request that BLM post the draft environmental analysis document on its ePlanning portal so the public has an opportunity to comment on the proposed action and to ensure transparency of BLM’s actions.

The current administration has promised to be the most ethical and transparent in history. We also note that in past years, BLM has posted on the BLM ePlanning portal proposed land exchanges and has requested the public’s input. Posting the proposed Red Cliffs Desert Reserve/Red Cliffs National Conservation Area (Reserve/NCA) and Long Valley land exchange on the BLM’s ePlanning portal and providing a reasonable public comment period is one simple action BLM should implement to comply with this promise of transparency. We request that BLM implement this action.

Generally, the Council would support the acquisition of tortoise habitat if it is to be managed for the benefit of the tortoise and would provide a net benefit to the tortoise. However, the Council has several concerns about the proposed exchange based on the limited information provided in the BLM’s October 14 letter.

One concern is whether the 1050 acres identified by BLM for disposal has been analyzed scientifically for its functions and values as tortoise habitat including connectivity habitat between tortoise populations. We request that BLM conduct this analysis in the NEPA document using the best available scientific data and principles of conservation biology.

A similar concern is that BLM should analyze scientifically the current and future functions and values the 89.43-acre land would provide to the tortoise in the Reserve/NCA. We have included “future functions and values” as BLM says the Northern Corridor Highway abuts the western boundary of 89.43 acres of land identified for acquisition. When viewing the location of this parcel on the map provided by BLM in its letter, we note the eastern edge of the parcel forms the eastern boundary of the Reserve/NCA. Thus, it appears this 89.43 acres of land would be “sandwiched” between a major highway on its western border and current/future urban development on its eastern border. If so, it is unlikely the location of this 89.43 acres would provide the physical and biological features/primary constituent elements that the tortoise needs as identified in the critical habitat designation (USFWS 1994) for conservation and recovery of the tortoise, and unlikely it would provide much benefit to the tortoise. We request that BLM use the best available science and principles of conservation biology to analyze the benefits and direct and indirect impacts to the tortoise from the BLM acquiring the 89.43 acres of land with the Northern Corridor Highway on its western boundary and an eastern boundary of the Reserve/NCA with its adjacent land likely zoned for current/future development. If the value to the tortoise of the BLM lands to be disposed of are greater than the lands to be acquired, BLM should renegotiate the land exchange so the tortoise benefits from the and acquisition and the benefits of the land acquisition are greater for the tortoise than the benefits of the land for disposal.

A third concern is the acquisition of surface rights only in the Reserve/NCA. This designation could potentially mean that in the future mineral exploration/extraction or other surface

disturbance (e.g., water, etc.) could occur to reach subsurface rights owned by someone else. The Council routinely requests that any lands acquired for the conservation/benefit of the tortoise have a conservation easement in perpetuity placed on the lands or the legal equivalent. This designation is to ensure that the purpose for which the lands are acquired will not legally allow for incompatible activities such as surface disturbance, access via a right-of-way, or other encumbrances. We request that whatever lands BLM acquires for the benefit of the tortoise, these lands have similar protections placed on them.

Another concern is from the limited data provided in the October 14 BLM letter, BLM says the exchange would occur on an equal value basis. The proposed exchange seems “unbalanced” as 1050 acres would not seem to have the equal value to 89.43 acres especially in an area that would be difficult to develop (i.e., within the boundary of the Reserve/NCA). We request that BLM provide the criteria and analysis in the NEPA document that the independent third-party appraiser used to determine the values of these exchange lands identified by BLM. If the exchange is not of an equal value, we request that the funds to be paid to BLM to achieve the equal value be used for effective on-the-ground habitat improvement activities for the tortoise in the Reserve/NCA (e.g., establishing native forage plants for the tortoise and shrubs for cover) and not used for BLM’s general budget.

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 and Marine Corps 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.
Ecosystems Advisory Committee, Chairperson
Desert Tortoise Council

cc: Deb Haaland, Secretary of the Interior, Deb_Haaland@ios.doi.gov
Tracy Stone-Manning, Director, Bureau of Land Management, tstonemanning@blm.gov
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.

[USFWS] U.S. Fish and Wildlife Service. 1994. Endangered and threatened wildlife and plants; determination of critical habitat for the Mojave population of the desert tortoise. Federal Register 55(26):5820-5866. Washington, D.C.