



DESERT TORTOISE COUNCIL

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Via email only

16 September 2021

Attn: Laura Goff, Ivins City R&PP
Bureau of Land Management
345 East Riverside Drive,
St. George, UT 84790
lgoff@blm.gov

RE: Ivins City Outdoor Recreation, Public Works, and Cemetery R&PP

Dear Ms. Goff,

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.

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 authorized by the Bureau of Land Management (BLM), which we assume will be added to the Decision Record as needed. Please accept, carefully review, and include in the relevant project file the Council's following comments and attachments for the proposed project.

On November 7, 2019, the Council sent a letter to the BLM in Utah asking that we be contacted for projects on public lands managed by BLM that may affect desert tortoises¹, yet once again, we received notice from one of our members, not the BLM, about this project and otherwise would not have had this opportunity to comment.

We are also concerned that the BLM failed to provide an opportunity to provide scoping comments that would have allowed the Council to identify concerns and specific recommendations for components that are sometimes overlooked in environmental assessments. For example, we would certainly have recommended that updated survey protocols of 2019 (USFWS 2019) be implemented, as opposed to the older 2018 version used by the consultant; and that the entire action area, including the 25-acre proposed access parcel, be surveyed, which did not occur for the current analysis.

Unless otherwise noted, the page numbers referenced below are taken from the undated Environmental Assessment (EA) (DOI-BLM-UT-C030-2021-009-EA) accessed at the following link: <https://eplanning.blm.gov/eplanning-ui/project/2003671/510>

Page 1 describes the project as follows, “The outdoor recreation area would likely contain a regional park, a disc golf course, a junior mountain biking trail, and a trail system that connects to existing trails. The public works facility and yard would consist of an office, a fleet maintenance facility, various storage areas, covered employee parking, and a public garbage area. A communications tower would be developed near the public works facility and yard in the southwest corner of the R&PP Act lease area. The city cemetery would include burial areas, an interior roadway, grass, and landscaping. The land proposed for lease is located adjacent to Ivins City in Washington County, Utah, within the BLM-administered Santa Clara River Reserve. The project area for this environmental assessment (EA) consists of approximately 101.5 acres of BLM-administered land (the BLM lease area [i.e., the R&PP Act lease area]) plus 25.2 acres of private land for the development of an access road (the access road area).”

We note on page 3 that, “The current city cemetery is expected to reach capacity within 5 to 10 years.” Page 7 further states, “The cemetery would cover approximately 7 acres and include burial areas, an interior roadway, grass, and landscaping. Grading would be required for construction.” The words, “city cemetery,” appear 28 times in the EA, exclusively in the context of the proposal. Missing from the EA is any description of the conditions of the existing cemetery, its location, potential expansion into adjacent areas, etc. In the absence of this information, or any discussion under the alternatives analysis, is there any opportunity to expand the existing cemetery into vacant lands at the current location? The proposal is the creation of a brand-new cemetery inside the Santa Clara River Reserve without any mention of expanding the existing cemetery. The alternatives discussion is flawed until these conditions and possibilities are revealed in the new EA.

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<https://www.dropbox.com/s/3s913pk1i042cro/BLM%20Utah%20District%20Managers%20Council%20as%20an%20Affected%20Interest.11-7-2019.pdf?dl=0>

Page 5 states, “FW-13: Public lands supporting federally-listed or sensitive animal species will be retained in public ownership unless exchange or transfer will result in acquisition of better habitat for the same species or provide for suitable management by another agency or qualified organization. Habitats for such species may be acquired where logical to consolidate management areas and where BLM or qualified partners have the resources needed to effectively manage for the intended purpose.” We note that the contradiction of this measure is not elucidated as one of the environmental impacts of the proposed action described in Section 3.6.3., which also fails to identify where these “better habitats” are located. We contend that, in the absence of identifying and surveying these intended acquisition lands, the EA fails to completely analyze the impacts of the proposed action and how management of these “better habitats” will fully mitigate impacts of those actions.

We see on page 6 that recreation is one of the intended uses within Zone 1 of the reserve, but developing a cemetery and other ancillary facilities is not (as per Figure 2-1 on page 10). Our interpretation of the proposed action is that proponents would use this lease, which implies temporary use of the land, to facilitate irreversible, permanent impacts that will result in the loss of occupied desert tortoise habitat, which we contend contradicts FW-13 cited above. We question the rationale that these habitats could be developed now based on the promise of “better habitats” acquired later. This formula results in the net loss of habitat (see “this habitat would become permanently unavailable to desert tortoises” on page 26), which rationalizes the violation of FW-13. We also note with BLM’s recent decision to develop the Northern Corridor through an established reserve that was intended to consolidate and manage these “better habitats,” is a glaring example that desert tortoise conservation in Washington County is not guaranteed; development is assured now, conservation is promised later, and we see in Washington County that dedicated (much less future) conservation is expendable.

We also question the need for a 25-acre area to accommodate an access road that is 28-feet wide (page 12) and which Table 2.2 documents as a 4.6-acre impact. Again, there seems to be a failure to understand the implications of a “Reserve,” which we believe implies conservation of a given area with compatible uses, and that neither a new city cemetery nor a regional park with sport courts, playgrounds, and bathrooms are compatible with reserve design. We note that Guy Lane (Figure 3-4), Pendleton Parkway and 400 West (Figure 3-5) are all existing roads located east of the 25-acre access area that may provide access from the north and avoid this additional loss of tortoise habitats. However, there’s no discussion in the alternatives analysis of using these or other existing ways to access the site.

We question the reasons for rejecting “Alternatives Considered but Not Analyzed in Detail” on page 14, where prohibitive costs and the subject property comprised “...an area flat enough for burials” were the prevailing reasons for proposing this development in a nominal “Reserve.” We question if this proposed action is the best use of our public lands, particularly given its location within a reserve area.

The Council believes that one of the strengths of our comment letters is to review proposed protective measures and offer suggestions for how those measures may be improved. We see that the EA (page 13) refers to Appendix C where the measures “...to avoid and minimize potential impacts on the species” are supposed to be listed. However, that appendix is blank, claiming that

the measures are to be added when finalized. Absent these protective measures, we believe that this draft EA was released prematurely and fails to divulge the Environmental Consequences of the proposed action, which is a mandatory part of the analysis. Lacking these protective measures, the Council is unable to determine if minimization measures are commensurate with proposed impacts and to recommend remedies for perceived deficiencies.

Although we appreciate that there was a 300-foot buffer area associated with tortoise surveys, which we assume comprises the mandated “action area” for the project, we question the exclusion of the 25-acre access road area (pink polygon in Figure 3-1) from focused surveys. One of the purposes of protocol surveys is to determine tortoise concentrations, which given the lack of survey results of the access-road area, does not provide BLM with the baseline data needed to see if the proposed access is the best location.

Similarly, when protocol surveys revealed that as many as four tortoises are concentrated on the south-central portion of the intended development footprint, why didn’t the proponent reconfigure the subject area to avoid these tortoises, which we believe is another function of surveys? Surveys are intended, among other things, to inform proponents and land managers of alternative configurations that minimize or avoid impacts. It is as if the original boundary was a foregone conclusion, that all proposed components are required for development, when in fact, we believe the boundaries and components should have been (and still can be) altered to avoid loss or at least minimize impacts to tortoise habitat (as per FW-13 above).

We appreciate this opportunity to provide input and trust that our comments will help protect tortoises during any authorized project activities. Herein, we ask 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. 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.

Regards,



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

Literature Cited

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.