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Via email only

December 2, 2025

City of Coachella Development Services, Planning Division
Attn: Kendra Reif, Community Development Director
53990 Enterprise Way
Coachella, CA 92236
Kreif@coachella.org

RE: KPC Coachella Specific Plan Draft Environmental Impact Report (State Clearinghouse No. 2022110295)

Dear Ms. Reif,

The Desert Tortoise Council (Council) is a non-profit organization comprising 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 northern 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.

Both our physical and email addresses are provided above in our letterhead for your use when providing future correspondence to us. When given a choice, we prefer to receive emails for 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 potentially occupied by the Mojave desert tortoise (*Gopherus agassizii*) (synonymous with Agassiz's desert tortoise), our comments include recommendations intended to enhance protection of this species and its habitat during activities that may be authorized by the City of Coachella (City), which we recommend be added to project

terms and conditions in the authorizing documents [e.g., issuance of right-of-way (ROW) grants, management plan and decision document, etc.] as appropriate. Please accept, carefully review, and include in the relevant project file the Council's following comments and attachment 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), "… based on population reduction (decreasing density), habitat loss of over 80% over three generations (90 years), including past reductions and predicted future declines, as well as the effects of disease (upper respiratory tract disease/mycoplasmosis). *Gopherus agassizii* (sensu stricto) comprises tortoises in the most well-studied 30% of the larger range; this portion of the original range has seen the most human impacts and is where the largest past population losses have been documented. A recent rigorous rangewide population reassessment of *G. agassizii* (sensu stricto) has demonstrated continued adult population and density declines of about 90% over three generations (two in the past and one ongoing) in four of the five *G. agassizii* recovery units and inadequate recruitment with decreasing percentages of juveniles in all five recovery units."

This status, in part, prompted the Council to join Defenders of Wildlife and the Desert Tortoise Preserve Committee (DTPC) to petition the California Fish and Game Commission (Commission) in March 2020 to elevate the listing of the Mojave desert tortoise from Threatened to Endangered under the California Endangered Species Act (CESA) (Defenders of Wildlife et al. 2020). Importantly, following California Department of Fish and Wildlife's (CDFW) (2024a) status review, in their April 2024 meeting the California Fish and Game Commission voted unanimously to accept the CDFW's petition evaluation and recommendation to uplist the tortoise from threatened to endangered under the CESA based on the scientific data provided on the species' status, declining trend, numerous threats, and lack of effective recovery implementation and land management (CDFW 2024b). On July 15, 2025, the tortoise was officially uplisted to endangered status under the CESA (Commission 2025a).

Description of the Proposed Project

The City of Coachella (City) proposes the development of a new master planned community (Project) comprised of new commercial, residential, educational, employment, and recreational opportunities (Figures 1 and 2). The Project identifies five villages (A-E) and neighborhoods and includes:

- A mixture of residential facilities, including an active adult/senior-oriented village, totaling approximately 9,538 dwelling units;
- Approximately 305 acres of commercial areas, which include mixed-use, entertainment center and performing arts theater, entertainment venue, and hotel rooms;
- A college/university overlay to allow for institutions of higher learning with an emphasis on healthcare;
- 71 acres of school uses (3 elementary schools and 1 middle school);
- 379 acres of parks, greenways, and amenity centers;

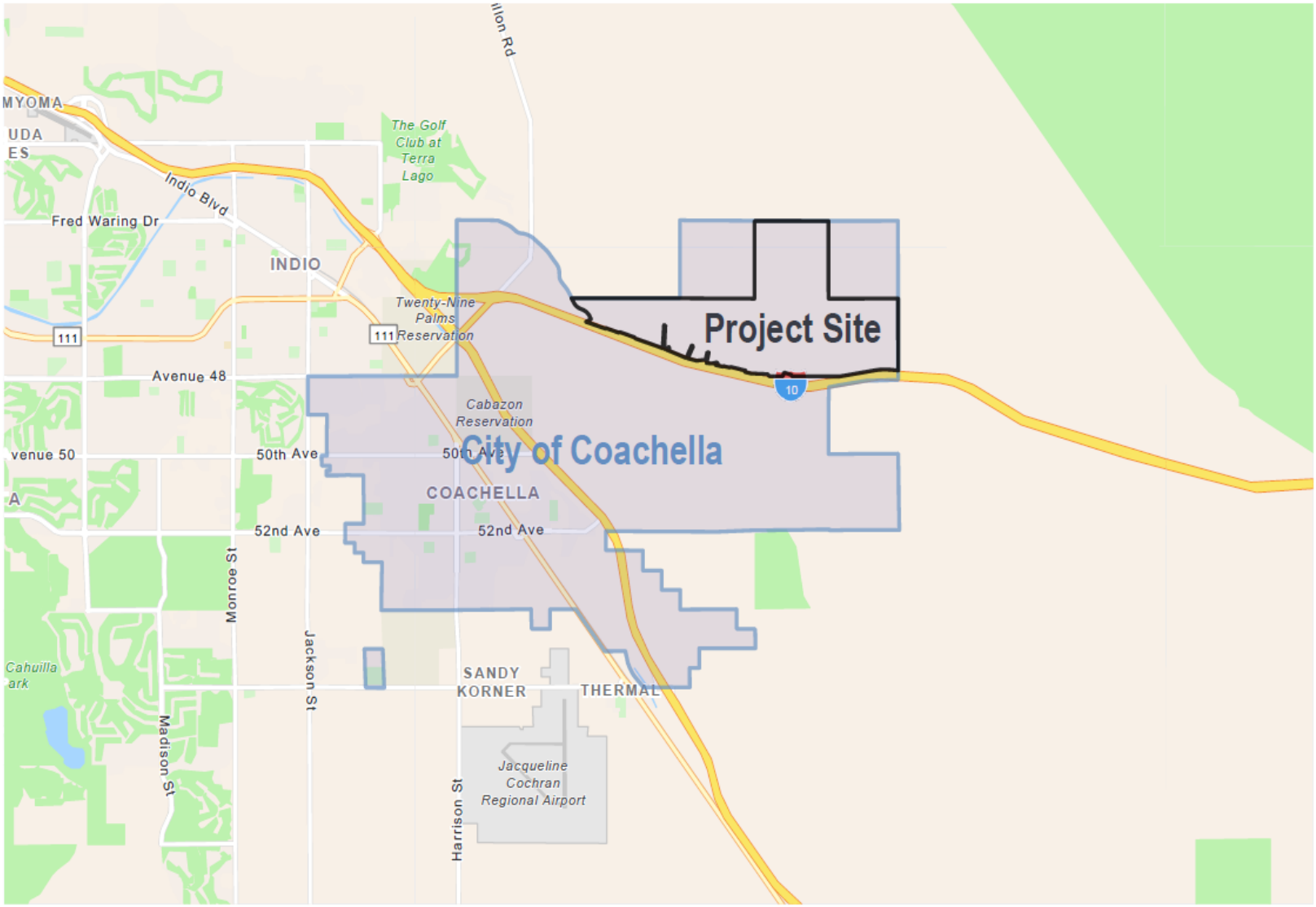


Figure 1. Location of the City of Coachella and proposed KPC Coachella Specific Land Use Plan.

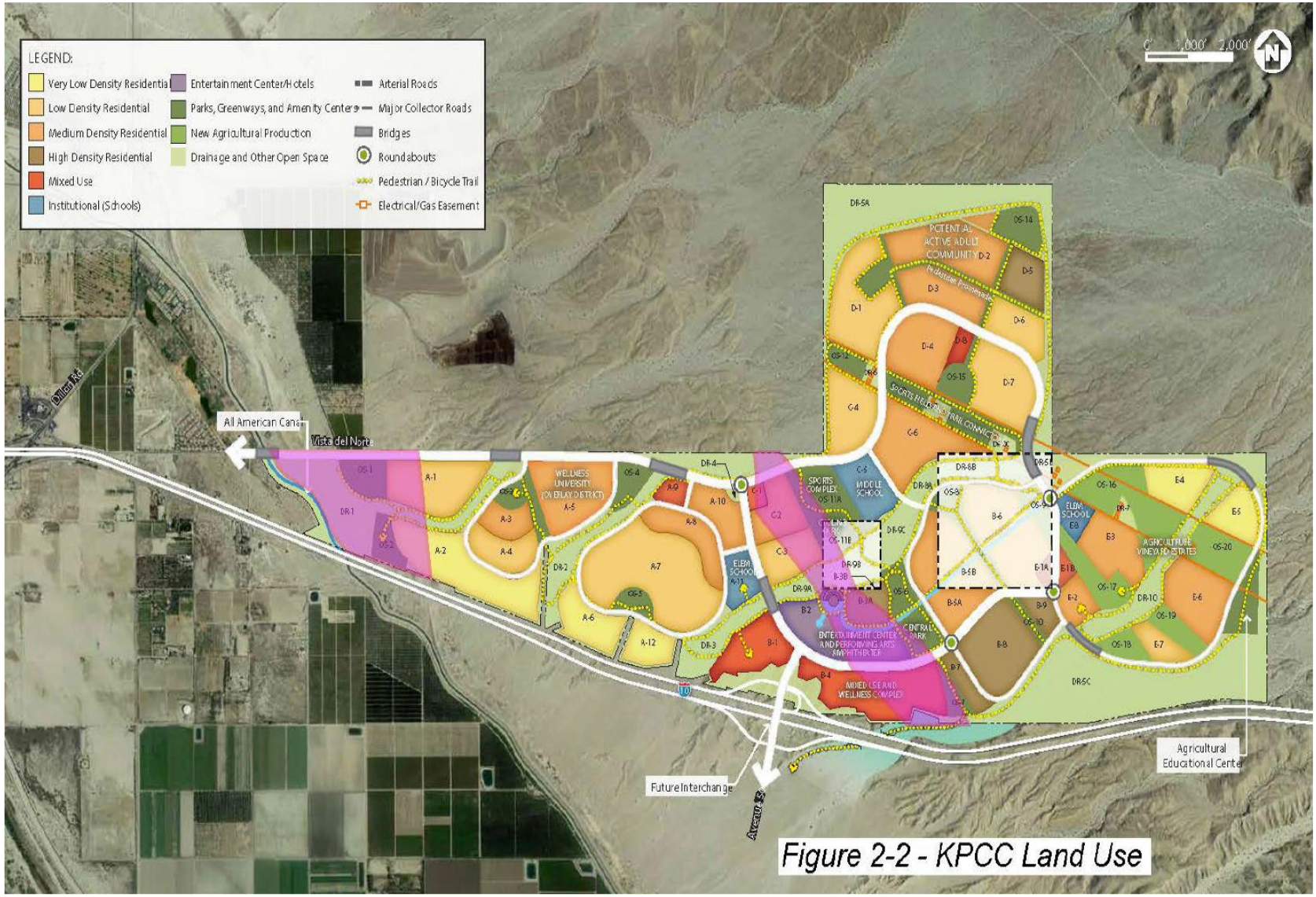


Figure 2. Proposed land uses, access routes, and utility easements within the KPC Coachella Specific Land Use Plan.

- 179 acres of circulation uses, including arterials, major, and secondary roadways;
- 68 acres of Agricultural Production areas; and
- 770 acres of natural open space, including drainage channels and trails.

The main entry into the Project would be via the planned Avenue 50 and Interstate 10 interchange directly to the south. Additionally, the extension of Vista Del Norte from the west would provide access to Dillon Road and the rest of the City. The Project is located on 2,807 acres at the eastern entrance of the City in the Coachella Valley and west, southwest of Joshua Tree National Park.

The Project would also include the construction or improvement of various off-site infrastructure, including extending overhead utilities, water facilities, sewer lines, drainage facilities, and creating/using a staging area south of Interstate 10.

The proposed Project occurs within the Permit Area of the Coachella Valley Multi-species Incidental Take Permit (ITP) that was issued by the U.S. Fish and Wildlife Service (USFWS), [and associated Coachella Valley Multi-species Habitat Conservation Plan (CVMSHCP or MSHCP)] and Natural Community Conservation Plan (NCCP) Permit (and associated Coachella Valley NCCP) issued by the California Department of Fish and Game (CDFG; CDFW since 2012) in 2008. The term of these two incidental take permits (Permits) is 75 years. Both Permits authorized the incidental take of the tortoise and 26 other Covered Species under the Federal Endangered Species Act (FESA) and CESA. The Project site is adjacent to, but not within or intersecting with currently designated Desert Tortoise and Linkage Conservation Area that was designated under the Permits.

Comments on the Proposed Project

Change in Regulatory Status of Species

The Biological Resources section of the DEIR appears to have relied on the KPC Coachella Biological Resources Assessment and Coachella Valley MSHCP Consistency Report, Appendix C1 of the DEIR (Consistency Report) that was prepared in April 2020. Since the preparation of the Consistency Report 5 ½ years ago, the regulatory status of several species have changed and should be updated in the EIR and its appendices to reflect these changes. For example:

> **Mojave desert tortoise**: The EIR and its appendices should reflect that on July 15, 2025, the tortoise was officially uplisted to endangered status under the CESA.
>
> **Western burrowing owl**: The EIR and its appendices should reflect that on October 9, 2024 the Commission unanimously approved naming the western burrowing owl (*Athene cunicularia hypugaea*) as a candidate for potential listing as a protected species under the CESA. As a candidate for potential listing, this species is temporarily afforded the same protections as a state-listed endangered or threatened species. The EIR should explain and analyze how this change in regulatory status would affect the direct, indirect, and cumulative impacts to and mitigation for the burrowing owl from implementation of the proposed Project. This analysis should include any future "take" of the burrowing owl from the use, operations, and maintenance of the proposed Project both during and outside the

breeding season.

LeConte's thrasher: The EIR and its appendices should reflect that on September 16, 2025, Commission received a petition to list Bendire's thrasher (*Toxostoma bendirei*) and LeConte's thrasher (*Toxostoma lecontei*) as a threatened or endangered species under the CESA and shortly thereafter acknowledged receipt (Commission 2025b). The EIR should explain and analyze how this potential future change in regulatory status would affect how the direct, indirect, and cumulative impacts to and mitigation for the LeConte's thrasher from implementation of the proposed Project would change. This analysis should include any future "take" from the use, operations, and maintenance of the proposed Project both during and outside the breeding season.

General Biological Surveys

In an appendix to the DEIR, we found a report of a general biological survey of the Project site conducted in April and May 2019; the results of a desktop literature and database review conducted in 2020 to assist in determining the existence or potential occurrence of special-status biological resources on and within the vicinity of the Project site; and the results of a 1-day vegetation mapping, a general biological survey, and habitat assessments for special-status species survey conducted on January 14, 2023 covering 2,807 acres. For the tortoise, the results of these surveys were that the potential for the tortoise to occur on the Project site is "moderate. Suitable habitat and soils present on site."

We are unclear what methodology was used for conducting a general biological survey on 2,807 acres of undeveloped land. The methodology implemented to conduct this survey should be explained in the EIR and its appendices.

We are unclear whether the City conducted the USFWS's (2009, 2019a) presence-absence surveys for the tortoise or whether only general biological surveys were conducted. The USFWS methodology for conducting presence-absence surveys was developed from statistical analysis of the survey data collected annually during rangewide surveys for the tortoise since 2001. These data were used to determine the appropriate survey methodology to implement to increase the likelihood of an experienced tortoise surveyor seeing a tortoise or tortoise sign (e.g., appropriate transect width, etc.). Tortoises are cryptic in coloration and behavior; thus, they are not easily seen when above ground and spend most of their time underground. The USFWS tortoise presence-absence survey methodology presumes that the qualified tortoise surveyor is searching only for tortoises and tortoise sign and no other special status species. Failure to implement this survey methodology likely means that tortoise/tortoise sign present on the Project site and nearby areas is not detected during a general biological survey. Please clarify this information in the EIR.

Analysis of Effects/Impacts to the Tortoise/Tortoise Habitat

According to the DEIR, "the purpose of an EIR is to provide detailed information to public agency decision-makers and the public on the environmental effects of a proposed project." "The intent of this Draft EIR is to evaluate and where feasible, avoid or mitigate the Project's potential environmental impacts utilizing site and Project-specific detailed plans, technical studies, and

related information that is available." "Mitigation measures are recommended for potentially significant impacts, to avoid or lessen, to the extent feasible and possible, the Project's environmental impacts." Under the Biological Resource section of the DEIR, the City says, "The purpose of this section is to describe the *existing* [emphasis added] regulatory and environmental conditions related to biological resources, identify potential impacts that could result from Project implementation, and as necessary, recommend mitigation to avoid or reduce the significance of impacts."

For Biological Resources, this analysis of impacts examined each California Environmental Quality Act (CEQA) criterion to determine the significance of the impact(s).

CEQA Criterion a: Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

The City defined what a substantial adverse effect would be in the DEIR. A substantial adverse effect to special-status species would occur if a project would:

(A1) reduce the population size or reduce the area of occupied habitat of a rare, threatened, or endangered species; or

(A2) reduce the population size or reduce the area of occupied habitat of a locally uncommon species.

A substantial adverse effect on a special-status wildlife species would occur if a project would:

(B1) reduce the known distribution of a species;

(B2) reduce the local or regional population of a species;

(B3) increase predation of a species, leading to population reduction;

(B4) reduce habitat availability sufficiently to affect potential reproduction; or

(B5) reduce habitat availability sufficiently to constrain the distribution of a species and not allow for natural changes in distributional patterns over time.

For the tortoise, A1, B1, B2, and B3 apply because of direct and indirect impacts According to/tortoise habitat and the demographic information on the status and trend of the tortoise, especially in the Colorado Desert Recovery Unit (see Appendix A – Demographic Status and Trend of the Mojave Desert Tortoise including the Colorado Desert Recovery Unit that is provided as an attachment). However, we were unable to find an evaluation or analysis of these impacts to the tortoise. We did find that the City said that the tortoise and other listed species "are covered by the CVMSHCP. Any potential impacts on these species would be covered through compliance with the CVMSHCP."

The CVMSHCP and associated Permits issued in 2008 are documents that authorized the take of listed species and the loss of habitat using information in the available scientific literature up to 2008 when the Permits were issued. The MSHCP did not include an evaluation/analysis of impacts to the tortoise. Rather the MSHCP is a planning document. Consequently, in the DEIR we did not find "detailed information to public agency decision-makers and the public on the environmental effects of a proposed project" with respect to the tortoise.

Since 2008, additional information on the biological needs of, demographic status and trend of, and threats to the tortoise have been reported in the scientific literature. By not providing this information and evaluation/analysis of the direct and indirect effects or impacts to the tortoise/tortoise habitat in the DEIR, the City is not complying with CEQA. The City seems to be confusing compliance with FESA and CESA with compliance with CEQA.

Accordingly, to comply with CEQA, the EIR should be revised to include current detailed information and an evaluation of the direct and indirect effects/ impacts of the proposed Project to the tortoise and other special status species that occur in and near the Project site. We include near the Project site because the indirect impacts of activities associated with the proposed Project have been documented to have an adverse effect on tortoises/tortoise habitat more than a mile from the activity (see below) and possibly into Joshua Tree National Park.

Project Activities and Indirect Impacts: Below are a few of the activities that would occur from implementation of the proposed Project and information on their indirect impacts to the tortoise.

Interchange Projects and Associated Arterials: In the CVMSHCP, the construction of these projects are Covered Activities but we were unable to find that the use of these projects and the associated direct and indirect impacts to Covered Species including their habitats is a Covered Activity. In addition, we were unable to find wording that clearly stated that the indirect impacts from these projects to the tortoise/tortoise habitat is a Covered Activity. For example, indirect impacts to tortoise habitat from construction of interchange projects and associated arterials includes destruction of seed banks through burial or removal, soil compaction that inhibits the establishment of new plants, intentional plantings of non-native plants, transport and/or spread of non-native seed onto the construction site and nearby areas, new use/increased use of the roadway resulting in ongoing transport and/or spread of non-native seed via vehicle tires, collecting and directing water from precipitation to the highway's shoulders that stimulates plant growth primarily weedy/non-native species along the highway, nitrogen deposition that encourages the growth of non-native plant species (Rao et al. 2009, Allen et al. 2009). Indirect impacts to tortoise habitat from maintenance activities are similar.

For the tortoise a direct impact of new roads or road widening/improvement projects is vehicles crushing tortoises. Von Seckendorff Hoff and Marlow (2002) reported that they detected reductions in tortoise numbers and sign from infrequent use of roadways to major highways with heavy use. There was a linear relationship between traffic level and reduction. For two graded, unpaved roads, the reduction in tortoises and sign was evident 1.1 to 1.4 km (3,620 to 4,608 feet = 0.68 to 0.87 mile) from the road. For roads with more than 5000 vehicles per day, the reduction was evident more than 4000 meters (13,166 feet = 2.49 miles) from the road. They noted that the installation of exclusion fences and other barriers along roadways helps reduce direct tortoise mortalities. However, exclusion fencing needs to be monitored and maintained. It also fragments populations of tortoise and other wildlife.

Nafus et al. (2013) reported that roads may decrease tortoise populations via several possible mechanisms, including cumulative mortality from vehicle collisions and reduced population growth rates from the loss of larger reproductive animals. Other documented impacts from road construction, use, and maintenance include increases in roadkill of wildlife species as well as

tortoises, creating or increasing food subsidies for common ravens, and contributing to increases in raven numbers and predation pressure on the desert tortoise. The indirect impacts include a change in behavior by tortoises that affects energy expenditure. Harju et al. (2024) reported that when female tortoises were nearer to a highway, they were more likely to switch to and stay within a more energy demanding movement state. Further, when in this state, they moved even greater distances than when in the traveling state and far from the highway. Harju et al. (2024) found exclusionary fencing can reduce direct mortality of tortoises on roads, but indirect negative road impacts remain. Other research that tracked free-moving Mojave desert tortoise behavior found that tortoises would avoid roads or alter movement near roads (Hromada et al. 2020, Hromada et al. 2023, Peaden et al. 2017). Harju et al. (2024) reported that "the negative impact of the highway on female movement can reduce connectivity by expanding the road effect beyond the fence, depressing local populations and thus functioning as a wider fragmentation barrier."

Please analyze these direct and indirect impacts to the tortoise/tortoise habitat in the EIR and analyze cumulative impacts from road construction, use, and maintenance for both covered and non-covered activities. For non-covered activities, the EIR should propose appropriate mitigation to substantially reduce or offset these adverse impacts to the tortoise/tortoise habitat.

New Subsidies for Tortoise Predators: In the Mojave Desert, common ravens are subsidized predators because they benefit from resources associated with human activities that allow their populations to grow beyond their "natural" carrying capacity in the desert habitat. Kristan et al. (2004) found that human developments in the western Mojave Desert affect raven populations by providing food subsidies, particularly trash and roadkill. Boarman et al. (2006) reported raven abundance was greatest near resource subsidies, specifically food (= trash) and water. Human subsidies include food and water from landfills and other sources of waste, reservoirs, sewage ponds, agricultural fields, feedlots, gutters. Subsidies also include perch, roost, and nest sites on power towers, telephone poles, light posts, billboards, fences, freeway or railroad overpasses, abandoned vehicles, and buildings (Boarman 1993). The human-provided subsidies allow ravens to survive in the desert during summer and winter when prey and water resources are typically inactive or scarce. Nesting ravens were documented to prey on tortoises more than a mile from their nest sites. Boarman et al. (1993) concluded that the human-provided resource subsidies must be reduced to facilitate a smaller raven population in the desert and reduced predation on the tortoise.

Coyotes are known predators of tortoises. Petersen (1994), Esque et al. (2010) and Nagy et al. (2015) reported high adult tortoise mortality from coyote predation in part of the range of the tortoise. In some areas, numbers of ravens correlated positively with coyote abundance (Boarman et al. 2006). Lovich et al. (2014) reported tortoise predation may be exacerbated by drought if coyotes switch from preferred mammalian prey to tortoises during dry years. Because the Mojave and Colorado deserts have been in a multi-decade drought (Stahle 2020, Williams et al. 2022) due to climate change and these drought conditions are expected to continue and intensify in future years, increased predation pressure from coyotes on tortoises is expected to continue.

The proposed Project would likely increase the availability of human-provided subsidies for predators of the tortoise including the common raven and coyote during the construction, use, and maintenance of the proposed Project. During the construction phase, the water used to control dust

and the waste generated during construction, including food brought to the Project area by workers for meals, are examples of food and water subsidies for ravens and coyotes that would attract these predators to the Project area and increase their numbers in the surrounding area including the adjacent Desert Tortoise and Linkage Conservation Area. Grading the Project site would expose, injure, or kill fossorial animals and provide a subsidized food source for ravens and coyotes. During the use and maintenance of the Project, the presence of food waste in uncovered trash containers or litter from the meals of workers would provide food subsidies for ravens and coyotes that would attract them to the Project site and increase the likelihood of them preying on tortoises adjacent to the Project site. Vehicles driving to and from the Project site daily are likely to result in roadkill of wildlife that would subsidize food for ravens and coyotes, thus increasing their numbers in/near the Project site and increasing predation pressure on the tortoises in the adjacent Desert Tortoise and Linkage Conservation Area.

These and other direct and indirect impacts to the tortoise should be analyzed in the EIR, and there should be a description and discussion of the direct and indirect impacts that would occur that were not analyzed in the National Environmental Policy Act (NEPA)/CEQA document for the CVMSHCP.

Surface Disturbance and Invasive Plant Species: Karban et al. (2024) compiled the research results of several studies on invasive annual plants in the southwest desert. They reported that practices that disturb soil and remove vegetation, such as blading and bull dozing, open up space and resources for invasive species to colonize and spread to adjacent areas. Their phenology enables them to outcompete native annual forbs. Invasive species germinate, grow, and produce seed faster and in greater abundance than native species. Their large numbers can overwhelm native species in the seed bank. This trait also allows for greater seed dispersal, increasing the chances of a seed landing somewhere suitable for recruitment. By investing less in leaves, growing quickly, and completing their lifecycle rapidly, invasive species are opportunistic and able to capitalize with a high reproductive output when favorable conditions occur. In addition, invasive plant species often spread by vegetative reproduction.

Once established, invasive annual plant species outcompete native annual plant species in nearby undisturbed, natural areas with more resources, such as beneath native perennial plant canopies (Karban et al. 2024). Thus, proximity of undisturbed natural areas to areas with surface disturbance facilitates the introduction, spread, and proliferation of non-native invasive plants into undisturbed, natural areas.

The impacts to the tortoise from the introduction, spread, and proliferation of non-native invasive annual plants is potentially devastating to the tortoise. By outcompeting native annual forbs, these invasive plants replace native forbs. These invasive annual plants have altered the foods available to the tortoise, are not the foods needed by the tortoise, and are detrimental in the diets of juvenile and adult tortoises because of their low nutritional and water contents (Drake et al. 2016). They have replaced native annual and perennial forbs that are high in nitrogen, other nutrients, and water that the tortoise needs for survival, reproduction, and growth, especially for hatchling and juvenile tortoises (Berry et al. 2023).

The impacts from the development of the proposed Project to the tortoise/tortoise habitat in the adjacent Desert Tortoise and Linkage Conservation Area with respect to the introduction, spread, and proliferation of non-native invasive plants should be analyzed in the EIR.

The impacts to and take of the tortoise can occur even though a tortoise may not be found within the Project site. This occurs through indirect impacts to the tortoise. In the DEIR we were unable to find an analysis of these indirect impacts to the tortoise. Please include an analysis of the indirect impacts to the tortoise from the proposed Project in the EIR using current information on the biological needs of and threats to the tortoise including its demographic status in the Colorado Desert Recovery Unit (i.e., Allison and McLuckie 2018, USFWS 2016, 2018, 2019b, 2020, 2022, 2025a, 2025b). To assist the City in this analysis we have attached Appendix A – Demographic Status and Trend of the Mojave Desert Tortoise including the Colorado Desert Recovery Unit. The mitigation that would be implemented to avoid or minimize these indirect impacts should be included in the EIR along with an analysis of effectiveness. For example, regarding invasive plant species, we found no information in the DEIR that the management and monitoring of the adjacent Desert Tortoise and Linkage Conservation Area included removal of invasive non-native plants, establishment of native perennial and annual plants following the removal of invasives to deter their return, or monitoring to determine the effectiveness of these mitigation actions.

CEQA Criterion d: Would the Project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

The City concludes the impact is less than significant for the following reason – The adjacent Desert Tortoise Linkage and Conservation Area provides biological corridors and linkages to the Little San Bernardino Mountains and their associated canyon mouths and alluvial fans. However, we found no analysis of what the direct and indirect impacts to this designated Desert Tortoise Linkage and Conservation Area would likely result from the development, use, and maintenance of the proposed Project that is adjacent to the Desert Tortoise Linkage and Conservation Area.

Averill-Murray et al. (2021) published a paper on connectivity of Mojave desert tortoise populations and linkage habitat. The authors emphasized that "[m]aintaining an ecological network for the Mojave desert tortoise, with a system of core habitats (TCAs = Tortoise Conservation Areas) connected by linkages, is necessary to support demographically viable populations and long-term gene flow within and between TCAs." Those linkage habitats must be of sufficient size and mostly free of impacts from on-site or adjacent development to be successful.

"Ignoring minor or temporary disturbance on the landscape [e.g., utility maintenance/upgrades] could result in a cumulatively large impact that is not explicitly acknowledged (Goble 2009); therefore, understanding and quantifying all surface disturbance on a given landscape is prudent." Furthermore, "habitat linkages among TCAs must be wide enough to sustain multiple home ranges or local clusters of resident tortoises (Beier and others 2008, Morafka, 1994), while accounting for edge effects, in order to sustain regional tortoise populations." Consequently, effective linkage habitats are not long narrow corridors with development up to their borders. Any development within them has an edge effect (i.e., indirect impact) that extends from all sides into the linkage

habitat further narrowing or impeding the use of the linkage habitat, depending on the extent of the edge effect.

Averill-Murray et al. (2021) further noted that "To help maintain tortoise inhabitance and permeability across all other non-conservation-designated tortoise habitat, all surface disturbance could be limited to less than 5-percent development per square kilometer because the 5-percent threshold for development is the point at which tortoise occupation drops precipitously (Carter and others 2020a)." They caution that the upper threshold of 5 percent development per square kilometer may not maintain population sizes needed for demographic or functional connectivity; therefore, development thresholds should be lower than 5 percent.

The lifetime home range for the Mojave desert tortoise is more than 1.5 square miles (3.9 square kilometers) of habitat (Berry 1986) and tortoises may make periodic forays of more than 7 miles (11 kilometers) at a time (Berry 1986).

The EIR should analyze the indirect impacts of the proposed Project to the adjacent Desert Tortoise Linkage and Conservation Area and whether these impacts would impede or prevent the Desert Tortoise Linkage and Conservation Area from functioning as effective mitigation for the tortoise as intended in the MSHCP. Please revise the EIR to include this description and analysis.

CEQA Criterion f: Would the Project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?

The City concludes that the level of significance for this criterion is less than significant with mitigation incorporated. This conclusion is based on the requirement that the proposed Project would be required to adhere to CVMSHCP Section 4.5 Land Use Adjacency Guidelines. These Guidelines are to avoid or minimize indirect effects from development adjacent to or within the Conservation Areas. Adjacent means sharing a common boundary with any parcel in a Conservation Area.

As provided above under CEQA criteria a and d, the indirect impacts from the proposed Project may extend into areas that are not adjacent to the Conservation Areas and may adversely impact tortoise conservation areas more than 1 mile from the activity that causes the indirect impact. The EIR should analyze the indirect impacts of the proposed Project to the adjacent Desert Tortoise Linkage and Conservation Area and whether these impacts would impede or prevent the Desert Tortoise Linkage and Conservation Area from functioning as effective mitigation for the tortoise as intended in the MSHCP. Please revise the EIR to include this description and analysis.

Extent of Take Authorized: Under the ITP, 68,453 acres of tortoise habitat is the amount of "take" authorized. The DEIR states that much of the area of the proposed Project is tortoise habitat. The EIR should provide information on the acres of tortoise habitat that have been developed under the authorization of the Permits, and the additional acreage that would be developed, including off-site utilities, from implementation of the proposed Project. This information would be used to demonstrate whether the proposed Project complies with the terms and conditions of the Permits.

While the ITP issued by the U.S. Fish and Wildlife Service (USFWS) and the NCCP Permit issued by the CDFW are for take of several Covered Species including the tortoise in the Coachella Valley, these Permits appear to be limited to covering take that occurs during development (direct impacts) and take that is likely to occur from indirect impacts of *some* [emphasis added] activities during use, operations, and maintenance of the Project site. However, the ITP and NCCP Permit and associated NEPA and CEQA documents may not have described and analyzed all likely indirect impacts to the tortoise/tortoise habitat from the use, operations, and maintenance of the proposed Project. Some of these indirect impacts to the tortoise are described below.

Distinguishing Covered Activities from Those Not Covered: The Covered Activities identified in the CVMSHCP were Overhead power lines "P61," "N71, and " "CM" Line in the Desert Tortoise and Linkage. However, we were unable to find the locations of these power lines in the DEIR. According to Appendix K of the CVMSHCP, all other utilities that are in the conservation areas would not be Covered Activities. Consequently, if the construction or improvement of various off-site infrastructure, including extending utilities, water facilities, sewer lines, and drainage facilities would occur in the tortoise linkage area adjacent to the Project site, these impacts would not have been authorized under the ITP or NCCP Permit. They should be identified and their direct and indirect impacts to the tortoise/tortoise habitat analyzed in the EIR.

Utilities should be designed, constructed, and maintained so they do not contribute to or result in entrapment, injury, or death of tortoises and other special status species, either directly or indirectly. For example, utility poles (e.g., poles used for street lighting, electrical transmission, or communication) should be designed, constructed, maintained, and monitored so that the common raven, a predator of the tortoise, is not able to use them for nest or perch sites.

Drainage, sewer, and stormwater basins should be designed so they do not provide subsidies for predators of the tortoise such as the common raven and coyote. Any water management facilities adjacent to/near tortoise habitat should be designed so they do not inadvertently entrap, injure, or kill tortoises of any size.

Food subsidies for tortoise predators (e.g., road kill, open waste containers, residents feeding animals outside, etc.) will attract tortoise predators to the area and increase the mortality on the tortoise population.

In "APPENDIX K – Covered Activities under the Coachella Valley Multiple Species Habitat Conservation Plan, Natural Community and Conservation Plan" (Terra Nova 2004), information on Covered Activities includes the following:

> *Agricultural Production Areas*: Take of Covered Species resulting from toxicological effects of herbicide use is not a Covered Activity. Any Take of Covered Species resulting from toxicological effects of pesticide use is not a Covered Activity.

At least one of these areas is adjacent to the Desert Tortoise and Linkage Conservation Area. The direct and indirect impacts to the tortoise from the use and management of these agricultural production areas should be analyzed in the EIR.

The Permits do not provide take authorization for agricultural operations. The impacts from the use of herbicides and/or pesticides in the agricultural production areas should be described and analyzed in the EIR to the tortoise and other Covered Species that occur down-gradient and downwind from agricultural production areas. The crops produced would provide food subsidies for coyotes and common ravens that are predators of the tortoise. The resulting increase in their numbers and in predation pressure on the tortoises in the area including how it affects the function of the Desert Tortoise and Linkage Conservation Area should be analyzed in the EIR.

The EIR should be revised to include (1) a list of the activities that the Permits cover, (2) a list of activities that these Permits do not cover that are likely to result in adverse impacts to the tortoise, including indirect impacts, (3) an analysis/evaluation of how these impacts from covered and non-covered activities would affect the survival and recovery of the tortoise, and (4) how the proposed mitigation would effectively offset these impacts to a level that is less than significant with respect to the survival and recovery of the tortoise.

CEQA Criterion on Cumulative Impacts to Biological Resources: In this section of the DEIR, the City says that "The CVMSHCP [issued in 2007] has analyzed cumulative effects within the region of the Project under CEQA, NEPA, CESA, and Federal ESA. Since the Project would comply with the CVMSHCP any cumulative Project impacts would be less than significant."

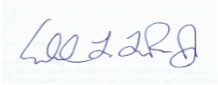
As stated above, this analysis under CEQA was conducted in 2007 or 18 years ago. Much has changed with respect to the information on the needs of the tortoise to survive and recover, its demographic status and trend, and the extent of threats and resulting impacts to the tortoise/tortoise habitat. This CEQA document should analyze the impacts to the tortoise from the implementation of the proposed Project using 2025 data, not 2007 data.

In addition, we remind the City that a term and condition in the ITP is that the USFWS may "revoke incidental take Permits that are found likely to jeopardize the continued existence of a listed species." Looking at the information that is available on the tortoise since 2007 indicates that (1) the density of tortoises in four of the five recovery units is below the density needed for population viability with the fifth recovery unit showing an ongoing decline in tortoise density; (2) recruitment is not occurring in most recovery units; and (3) the myriad of human-caused threats to the tortoise and their direct, indirect, and cumulative impacts to its survival and recovery are increasing in number, location, and arrangement (e.g., affecting connectivity). This information coupled with the requirements needed for recovery as described in the 1994 recovery plan and 2011 revised recovery plan that tortoises in all recovery units must meet recovery goals for the species to achieve recovery indicates that the tortoise has been moving and continues to move in the opposite direction of recovery. Consequently, the City should include in the EIR an analysis of this information to determine whether the proposed Project would jeopardize the continued existence of the tortoise.

We appreciate this opportunity to provide the above comments and trust they will help protect tortoises during any resulting authorized activities. Herein, we reiterate that the Council wants to be identified as an Affected Interest for this and all other projects funded, authorized, or carried out by the City that may affect desert tortoises, and that any subsequent environmental documentation for this Project is provided to us at the contact information listed above.

Please 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

Attachment: Appendix A – Demographic Status and Trend of the Mojave Desert Tortoise including the Colorado Desert Recovery Unit.

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Appendix A
Demographic Status and Trend of the Mojave Desert Tortoise including the Colorado Desert Recovery Unit

Status of the Population of the Mojave Desert Tortoise: The Council provides the following information for resource and land management agencies so that these data may be included and analyzed in their project and land management documents and aid them in making management decisions that affect the Mojave desert tortoise (tortoise).

There are 17 populations of Mojave desert tortoise described below that occur in Critical Habitat Units (CHUs) and Tortoise Conservation Areas (TCAs); 14 are on lands managed by the BLM; 8 of these are in the California Desert Conservation Area (CDCA).

As the primary land management entity in the range of the Mojave desert tortoise, the Bureau of Land Management's (BLM's) implementation of a conservation strategy for the Mojave desert tortoise in the CDCA through implementation of its Resource Management Plan and Amendments through 2014 has resulted in the following changes in the status for the tortoise throughout its range and in California from 2004 to 2014 (**Table 1**, **Table 2**; USFWS 2015, Allison and McLuckie 2018). The Council believes these data show that BLM and others have failed to implement an effective conservation strategy for the Mojave desert tortoise as described in the recovery plan (both USFWS 1994a and 2011), and have contributed to tortoise declines in density and abundance between 2004 to 2014 (**Table 1, Table 2**; USFWS 2015, Allison and McLuckie 2018) with declines or no improvement in population density from 2015 to 2024 (**Table 3**; USFWS 2016, 2018, 2019, 2020, 2022a, 2022b, 2025). To achieve recovery, the tortoise populations in all five recovery units must meet recovery goals. If the tortoise in one of more recovery units does not meet recovery goals, the tortoise cannot be recovered.

Important points from these tables include the following:

Change in Status for the Mojave Desert Tortoise Range-wide
● Ten of 17 populations of the Mojave desert tortoise declined from 2004 to 2014.

● Eleven of 17 populations of the Mojave desert tortoise are below the population viability threshold. These 11 populations represent 89.7 percent of the range-wide habitat in CHUs/TCAs.

Change in Status for the Colorado Desert Recovery Unit – California
● This recovery unit had a 36.25 percent decline in tortoise density from 2004 to 2014.

● Tortoise populations in four of the seven TCAs in this recovery unit have densities that are below viability as of 2014 (USFWS 1994a).

Change in Status for the Joshua Tree Tortoise Population in the Colorado Desert Recovery Unit.
● The population in this recovery unit which is geographically closest to the Project site has a population density of 3.7 per km^2 in 2014, which is below the density for population viability.

Table 1. Summary of 10-year trend data for the 5 Recovery Units and 17 CHUs/TCAs for Mojave desert tortoise. The table includes the area of each Recovery Unit and CHU/TCA, percent of total habitat for each Recovery Unit and CHU/TCA, density (number of breeding adults/km^2 and standard errors = SE), and the percent change in population density between 2004 and 2014. Populations below the viable level of 3.9 breeding individuals/km^2 (10 breeding individuals per mi^2) (assumes a 1:1 sex ratio) or showing a decline from 2004 to 2014 are in red.

Recovery Unit: Designated Critical Habitat Unit[1]/Tortoise Conservation Area	Surveyed area (km^2)	% of total habitat area in Recovery Unit & CHU/TCA	2014 density/km^2 (SE)	% 10-year change (2004–2014)
Western Mojave, CA	**6,294**	**24.51**	**2.8 (1.0)**	**–50.7 decline**
Fremont-Kramer	2,347	9.14	2.6 (1.0)	–50.6 decline
Ord-Rodman	852	3.32	3.6 (1.4)	–56.5 decline
Superior-Cronese	3,094	12.05	2.4 (0.9)	–61.5 decline
Colorado Desert, CA	**11,663**	**45.42**	**4.0 (1.4)**	**–36.25 decline**
Chocolate Mtn AGR, CA	713	2.78	7.2 (2.8)	–29.77 decline
Chuckwalla, CA	2,818	10.97	3.3 (1.3)	–37.43 decline
Chemehuevi, CA	3,763	14.65	2.8 (1.1)	–64.70 decline
Fenner, CA	1,782	6.94	4.8 (1.9)	–52.86 decline
Joshua Tree, CA	1,152	4.49	3.7 (1.5)	+178.62 increase
Pinto Mtn, CA	508	1.98	2.4 (1.0)	–60.30 decline
Piute Valley, NV	927	3.61	5.3 (2.1)	+162.36 increase
Northeastern Mojave	**4,160**	**16.2**	**4.5 (1.9)**	**+325.62 increase**
Beaver Dam Slope, NV, UT, AZ	750	2.92	6.2 (2.4)	+370.33 increase
Coyote Spring, NV	960	3.74	4.0 (1.6)	+ 265.06 increase
Gold Butte, NV & AZ	1,607	6.26	2.7 (1.0)	+ 384.37 increase
Mormon Mesa, NV	844	3.29	6.4 (2.5)	+ 217.80 increase
Eastern Mojave, NV & CA	**3,446**	**13.42**	**1.9 (0.7)**	**–67.26 decline**
El Dorado Valley, NV	999	3.89	1.5 (0.6)	–61.14 decline
Ivanpah Valley, CA	2,447	9.53	2.3 (0.9)	–56.05 decline
Upper Virgin River	**115**	**0.45**	**15.3 (6.0)**	**–26.57 decline**
Red Cliffs Desert	115	0.45	15.3 (6.0)	–26.57 decline
Range-wide Area of CHUs - TCAs/Range-wide Change in Population Status	**25,678**	**100.00**		**–32.18 decline**

[1] U.S. Fish and Wildlife Service. 1994b. 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.

Table 2. Estimated change in abundance of adult Mojave desert tortoises in each recovery unit between 2004 and 2014 (Allison and McLuckie 2018). Decreases in abundance are in red.

Recovery Unit	Modeled Habitat (km^2)	2004 Abundance	2014 Abundance	Change in Abundance	Percent Change in Abundance
Western Mojave	23,139	131,540	64,871	-66,668	-51%
Colorado Desert	18,024	103,675	66,097	-37,578	-36%
Northeastern Mojave	10,664	12,610	46,701	34,091	270%
Eastern Mojave	16,061	75,342	24,664	-50,679	-67%
Upper Virgin River	613	13,226	10,010	-3,216	-24%
Total	**68,501**	**336,393**	**212,343**	**-124,050**	**-37%**

Table 3. Summary of data for Agassiz's desert tortoise, *Gopherus agassizii* (=Mojave desert tortoise) from 2004 to 2024 for the 5 Recovery Units and 17 Critical Habitat Units (CHUs)/Tortoise Conservation Areas (TCAs). The table includes the area of each Recovery Unit and CHU/TCA, percent of total habitat for each Recovery Unit and CHU/TCA, density (number of breeding adults/km^2 and standard errors = SE), and percent change in population density between 2004-2014 (USFWS 2015). Populations below the viable level of 3.9 breeding individuals/km^2 (10 breeding individuals per mi^2) (assumes a 1:1 sex ratio) (USFWS 1994a, 2015) or showing a decline from 2004 to 2014 are in **red.**

Recovery Unit: Designated CHU/TCA &	% of total habitat area in Recovery Unit & CHU/TCA	2004 density / km^2	2014 density/ km^2 (SE)	% 10-year change (2004–2014)	2015 density / km^2	2016 density / km^2	2017 density / km^2	2018 density / km^2	2019 density / km^2	2020 density / km^2	2021 density / km^2	2024 density /km^2
Western Mojave, CA	**24.51**		**2.8 (1.0)**	**–50.7 decline**								
Fremont-Kramer	9.14		2.6 (1.0)	–50.6 decline	4.5	No data	4.1	No data	2.7	1.7	No data	1.8
Ord-Rodman	3.32		3.6 (1.4)	–56.5 decline	No data	No data	3.9	2.5/3.4*	2.1/2.5*	No data	1.9/2.5*	2.7
Superior-Cronese	12.05		2.4 (0.9)	–61.5 decline	2.6	3.6	1.7	No data	1.9	No data	No data	No data
Colorado Desert, CA	**45.42**		**4.0 (1.4)**	**–36.25 decline**								
Chocolate Mtn AGR, CA	2.78		7.2 (2.8)	–29.77 decline	10.3	8.5	9.4	7.6	7.0	7.1	3.9	7.4
Chuckwalla, CA	10.97		3.3 (1.3)	–37.43 decline	No data	No data	4.3	No data	1.8	4.6	2.6	No data
Chemehuevi, CA	14.65		2.8 (1.1)	–64.70 decline	No data	1.7	No data	2.9	No data	4.0	No data	No data
Fenner, CA	6.94		4.8 (1.9)	–52.86 decline	No data	5.5	No data	6.0	2.8	No data	5.3	No data
Joshua Tree, CA	4.49		3.7 (1.5)	+178.62 increase	No data	2.6	3.6	No data	3.1	3.9	No data	No data
Pinto Mtn, CA	1.98		2.4 (1.0)	–60.30 decline	No data	2.1	2.3	No data	1.7	2.9	No data	No data
Piute Valley, NV	3.61		5.3 (2.1)	+162.36 increase	No data	4.0	5.9	No data	No data	No data	3.9	4.0

Northeastern Mojave AZ, NV, & UT	**16.2**		**4.5 (1.9)**	**+325.62 increase**								
Beaver Dam Slope, NV, UT, & AZ	2.92		6.2 (2.4)	+370.33 increase	No data	5.6	1.3	5.1	2.0	No data	No data	1.7
Coyote Spring, NV	3.74		4.0 (1.6)	+ 265.06 increase	No data	4.2	No data	No data	3.2	No data	No data	2.7
Gold Butte, NV & AZ	6.26		2.7 (1.0)	+ 384.37 increase	No data	No data	1.9	2.3	No data	No data	2.4	No data
Mormon Mesa, NV	3.29		6.4 (2.5)	+ 217.80 increase	No data	2.1	No data	3.6	No data	5.2	5.2	No data
Eastern Mojave, NV & CA	**13.42**		**1.9 (0.7)**	**–67.26 decline**								
El Dorado Valley, NV	3.89		1.5 (0.6)	–61.14 decline	No data	2.7	5.6	No data	2.3	No data	No data	No data
Ivanpah Valley, CA	9.53		2.3 (0.9)	–56.05 decline	1.9	No data	No data	3.7	2.6	No data	1.8	No data
Upper Virgin River, UT & AZ	**0.45**		**15.3 (6.0)**	**–26.57 decline**								
Red Cliffs Desert**	0.45	29.1 (21.4-39.6)**	15.3 (6.0)	–26.57 decline	15.0	No data	19.1	No data	17.2	No data	No data	17.5†
Rangewide Area of CHUs - TCAs/Rangewide Change in Population Status	**100.00**			**–32.18 decline**								

*This density includes the adult tortoises translocated from the expansion of the MCAGCC, that is resident adult tortoises and translocated adult tortoises.

**Methodology for collecting density data initiated in 1999.

†Results from 2023; results from 2025 showed an annualize mortality of 26 percent (McLuckie at al. 2025) which means the density is lower than the 2023 results.

Change in Status for the Mojave Desert Tortoise in California

- Eight of 10 populations of the Mojave desert tortoise in California declined from 29 to 64 percent from 2004 to 2014 with implementation of tortoise conservation measures in the Bureau of Land Management's Northern and Eastern Colorado Desert (NECO), Northern and Eastern Mojave Desert (NEMO), and Western Mojave Desert (WEMO) Plans.

- Eight of 10 populations of the Mojave desert tortoise in California are below the viability threshold for density. These eight populations represent 87.45 percent of the habitat in California that is in CHU/TCAs.

- The two viable populations of the Mojave desert tortoise in California are declining. If their rates of decline from 2004 to 2014 continue, these two populations will no longer be viable by about 2030.

Change in Status for the Mojave Desert Tortoise on BLM Land in California

- Eight of eight populations of Mojave desert tortoise on lands managed by the BLM in California declined from 2004 to 2014.

- Seven of eight populations of Mojave desert tortoise on lands managed by the BLM in California are no longer viable.

Change in Status for Mojave Desert Tortoise Populations in California that Are Moving toward Meeting Recovery Criteria

- The only population of Mojave desert tortoise in California that did not decline is on land managed by the National Park Service, which increased 178 percent from 2004 to 2014.

Important points to note from the data from 2015 to 2024 in Table 3 are:

Change in Status for the Mojave Desert Tortoise in the Western Mojave Recovery Unit:

- The density of tortoises continues to decline in the Western Mojave Recovery Unit
- The density of tortoises from 2015 to 2024 continues to fall below the density needed for population viability.

Change in Status for the Mojave Desert Tortoise in the Colorado Desert Recovery Unit:

- Many of the populations in this recovery unit have densities that are near the threshold for population viability.

Change in Status for the Mojave Desert Tortoise in the Northeastern Mojave Recovery Unit:

- Two of the three population with densities greater than needed for population viability declined to level below the minimum viability threshold.
- Three of the four populations in this recovery unit have densities below the minimum density needed for population viability.

Change in Status for the Mojave Desert Tortoise in the Eastern Mojave Recovery Unit:

- Both populations in this recovery unit have densities below the minimum density needed for population viability.

Change in Status for the Mojave Desert Tortoise in the Upper Virgin River Recovery Unit:
● The one population in this recovery unit is small and appears to have stable densities.

The Endangered Mojave Desert Tortoise: The Council believes that the Mojave desert tortoise meets the definition of an endangered species. In the FESA, Congress defined an "endangered species" as "any species which is in danger of extinction throughout all or a significant portion of its range…" In the California Endangered Species Act (CESA), the California legislature defined an "endangered species" as a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant, which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes (California Fish and Game Code § 2062). Because most of the populations of the Mojave desert tortoise were non-viable in 2014, most are declining, and the threats to the Mojave desert tortoise are numerous and have not been substantially reduced throughout the species' range, the Council believes the Mojave desert tortoise should be designated as an endangered species by the USFWS and California Fish and Game Commission. Despite claims by USFWS (Averill-Murray and Field 2023) that a large number of individuals of a listed species and an increasing population trend in part of the range of the species prohibits it from meeting the definitions of endangered, we are reminded that the tenants of conservation biology include numerous factors when determining population viability. The number of individuals present is one of a myriad of factors (e.g., species distribution and density, survival strategy, sex ratio, recruitment, genetics, threats including climate change, etc.) used to determine population viability. In addition, a review of all the available data does not show an increasing population trend (please see Tables 1 and 3).

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