



March 15, 2023

Michelle Forsha
Senior Environmental Scientist, Specialist
Off-Highway Motor Vehicle Recreation Division
California Department of Parks and Recreation
Sent via email to: Michelle.Forsha@parks.ca.gov

Re: Comments on Proposed Draft Revisions to the Habitat Management Program

Dear Ms. Forsha:

Thank you for the opportunity to review and submit comments on the proposed revisions to the Habitat Management Program (HMP) under the Grants and Cooperative Agreements Program administered by the Off-highway Motorized Vehicle Recreation (OHMVR) Division of the Department of Parks and Recreation. This comment letter is submitted by Defenders of Wildlife (Defenders) and the Desert Tortoise Council (Council).

Defenders is a national wildlife conservation organization founded in 1947 and dedicated to protecting all native animals and plants in their natural communities. We use science, public education and participation, media, legislative advocacy, litigation, and proactive on-the-ground solutions to impede the accelerating rate of extinction of species, associated loss of biological diversity, and habitat alteration and destruction. Defenders has 2.1 million members and supporters in the U.S. including more than 316,000 in California. The 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 public 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 management and regulatory agencies on matters potentially affecting desert tortoises within their geographic ranges.

Defenders and the Council have staff who are experts in wildlife biology and management, including species and their habitats throughout California and the Mojave Desert. Two such species are the threatened desert tortoise (*Gopherus agassizii*) and threatened Mohave ground squirrel (*Xerospermophilus mohavensis*), which have and continue to be adversely affected by off-highway vehicle (OHV) recreation use in the western Mojave Desert.

HMP Background Information

California law requires any eligible entity receiving funding to support OHV recreation that involves ground disturbing activities to prepare and implement a HMP for the purpose of sustaining viable populations of plant and animal populations within a project area. HMPs include monitoring populations of certain species over time to determine their status and trend and to ensure they remain viable using an adaptive management process. Grantees must submit annual HMP status reports to ensure that populations of plant and animal species remain viable and are not negatively affected by OHV recreation use within a project area. Failure to prepare and implement a HMP and submit annual status reports can lead to a grantee or applicant being ineligible to receive future grant funding.

Comments

1. General: Defenders reviewed 10 annual HMP reports submitted by the Barstow and Ridgecrest Field Offices of the Bureau of Land Management (BLM) and found they largely failed to meet the regulatory requirements of the HMP, omitted existing information on impacts of OHV recreation use on desert tortoise populations and habitats, including critical habitat units designated in 1994 by the U.S. Fish and Wildlife Service (USFWS). We prepared a report (see attachment) of our analysis that focused only on the annual HMP reports submitted by the Ridgecrest Field Office that documented numerous deficiencies and submitted it to environmental scientists in the OHMVR Division¹ and BLM management staff. We hope that the revisions to the HMP requirements will resolve the issues we documented, and ensure that populations of special status species of plants and animals that are adversely affected by OHV recreation use throughout California remain viable.

2. Responses to Specific Questions asked by the OHMVR Division in the HMP: Below, we provide responses to the four questions included in the 2023 draft proposed updates to the HMP.

Question 1: What suggestions would you make to improve the HMP development and HMP compliance process?

Response: The HMP should be developed and implemented by subject matter experts in the species and their habitats affected by OHV recreation use. Individuals developing and implementing HMPs and preparing annual reports should be approved by staff from the OHMVR Division and the

¹ Scott Soares and Jon O'Brien

California Department of Fish and Wildlife (CDFW) who have scientific and statistical expertise for the species affected. If they are not available, then the agencies should seek such experts in the California university systems (University of California and California State University) for their assistance. It is critical that the monitoring plans provide scientifically valid information on species populations and trends throughout areas affected by OHV recreation use. This includes the collection of data that are appropriate for answering questions on the direct and indirect impacts of OHV recreation use for species and their habitats and that are statistically robust. In addition, population declines for species monitored under the HMP should have clear thresholds for triggering corrective actions to halt declines that threaten viability of their populations.

Compliance with the HMP and species' population monitoring and corrective management actions should be thoroughly reviewed by subject matter experts for the species being monitored, including staff from the OHMVR Division and CDFW. Deficiencies in the HMP and annual monitoring reports for the species being monitored should be corrected and subsequently enforced by the OHMVR Division environmental staff, and grantees that fail to provide the required information should be notified they are ineligible to receive continued funding to support OHV recreation use.

Question 2. What are your concerns regarding the draft proposed updates to the HMP?

Response: We fully support the proposed updates to the HMP requirements that will address the effects of OHV recreation use within a project area rather than just the effects of ground disturbing activities. It is highly likely that OHV recreation use within the boundaries of a project area will have adverse impacts to special status species and their habitats. In some cases, such adverse impacts may result in their populations being reduced to a level that they are no longer viable, such as with the threatened desert tortoise in the western Mojave Desert (Allison and McLuckie 2018). Annual desert tortoise population monitoring by the USFWS (2021, 2022a, 2022b) has documented populations in designated critical habitat (USFWS 1994a) are below minimum viable density. OHV recreation use is a contributing factor in declines of desert tortoise populations (USFWS 1994b, 2011), especially in the western Mojave Desert where OHV recreation use is widespread and intense. BLM reported in 2022 that approximately 2.5 million visitor-days were associated with OHV recreation use on public lands in the western Mojave Desert.²

We strongly support the proposed revisions to the HMP that require monitoring of impacts to special status species habitats and their populations, adaptive management to modify OHV use to achieve and maintain viable populations and annual reporting for the full term of the project agreement. As noted above, we recommend that HMPs, including annual monitoring of special status species habitats and populations, be developed and implemented by individuals with expertise in the species and their habitats affected by OHV recreation use, and with expertise in statistics to provide statistically robust results. These individuals should be approved by environmental scientists from the OHMVR Division and CDFW.

² Barstow and Ridgecrest Field Office, Grants and Cooperative Agreements Applications, 2022.

Question 3. Do you have recommendations on how the HMPs may better apply best available science in a way that is feasible for all Grant Applicants?

Response: Utilizing the best available scientific information in developing and implementing HMPs should be mandatory and not dismissed or ignored by any grant applicant or overlooked by OHMVR staff reviewing grant applications. If an applicant fails to utilize the best available scientific information in the preparation and implementation of HMPs, they should not be eligible to receive grant funding. While this requirement may result in some applicants deciding to forego applying for grants, the HMP requirements should not be compromised to the extent that they are “feasible” for any grant applicant, which could potentially render the HMP ineffective in achieving the stated purpose of the grants program (i.e., maintaining viable populations of special status species within a project area).

Grant funding should be made available to applicants to prepare and implement HMPs using the best available scientific expertise. The OHMVR Division should encourage applicants to prepare and implement science-based HMPs by providing grant funding only to applicants whose activities do not place special status species populations at risk of becoming non-viable.

Question 4. Are there any other comments or topics that were not captured in the questions above that you would like to address?

Response: We recommend that environmental scientists from the OHMVR Division and CDFW conduct regular field visits to project areas affected by OHV recreation use as part of the verification process to ensure that HMPs and monitoring of special status species populations and habitats are achieving the regulatory goals and objectives of the grants program.

We also recommend that all HMPs and annual monitoring reports be made available to the public in electronic format on the OHMVR Divisions website. Currently, they are not readily available and require members of the public to file a Public Records Act request.

The document containing the proposed revisions to the HMP states, “CEQA [California Environmental Quality Act] and NEPA [National Environmental Policy Act] analysis, which is separate from the HMP, will still consider all direct and indirect impacts associated with the Project and OHV Recreation resulting from the project.” The Grants and Cooperative Agreements program has never been subject to a review under CEQA. To date, all grants awarded that support OHV recreation have been deemed by the OHMVR Division to be Categorical Exempt from CEQA analysis. We recommend that the California Department of Parks and Recreation analyze the effects of the Grants and Cooperative Agreements program on the environment, including effects from past, present and future OHV recreation use; analyze a range of reasonable alternatives; and identify measures to avoid, minimize and compensate for unavoidable adverse impacts. Preparation of a

CEQA analysis would require participation by environmental scientists and biologists from CDFW as California's trustee wildlife agency, which has never occurred because the grants program has been determined to be categorically exempt from CEQA.

Conclusion


We hope our comments and recommendations provided above are helpful to the OHMVR Division staff in revising the HMP requirements. Revisions are critical to achieving the statutory purpose of the Grants and Cooperative Agreements program, which includes sustaining viable populations of plants and animals within areas affected by OHV recreation use. Our recommendation to analyze the effects of the program under CEQA is equally important considering the significant impacts OHV recreation use has on special status species and their habitats.

Please contact Jeff Aardahl if you would like to discuss our comments and recommendations or need additional information.

Sincerely,



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cc: Julie Vance, Regional Manager, Region 4 – Central Region, California Department of Fish and Wildlife, Fresno, CA, Julie.Vance@wildlife.ca.gov
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Attachment: Analysis of HMP Reports Submitted by the Ridgecrest Field Office, Bureau of Land Management

Literature Cited

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