

DESERT TORTOISE COUNCIL

4654 East Avenue S #257B

Palmdale, California 93552

www.deserttortoise.org

eac@deserttortoise.org

Via email only

4 April 2022

Attn: Stephen Gallimore, Realty Specialist
BLM Las Vegas Field Office
4701 N. Torrey Pines Drive
Las Vegas, NV 89130
sgallimore@blm.gov

RE: Online Spring Land Sale in Las Vegas Valley

Dear Mr. Gallimore,

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 possibly 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 project as needed. Please accept, carefully review, and include in the relevant project file the Council's following comments and attachments for the proposed project.

Mojave desert tortoise is now on the list of the world's most endangered tortoises and freshwater turtles. It is in the top 50 species. The International Union for Conservation of Nature's (IUCN) Species Survival Commission, Tortoise and Freshwater Turtle Specialist Group, now considers Mojave desert tortoise to be Critically Endangered (Berry et al. 2021). As such, 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), a current population size of fewer than 50 individuals, or other factors." It is one of three turtle and tortoise species in the United States to be critically endangered.

Despite our persisting requests to be contacted directly by the BLM for projects that may affect the desert tortoise¹, one of our members, not the BLM, informed the Council of BLM's intent to sell these lands. Also, although the Las Vegas Field Office Assistant Field Manager, Division of Lands is identified on the BLM's press release on the website, that person's contact information is not provided. So, we are emailing our comments to you as the identified contact for additional information and ask that you direct it to the pertinent person.

We note that the press release does not include any links to documents that can be reviewed for this project. Rather, the following description is given: "The Bureau of Land Management Las Vegas Field Office is seeking public comments on a proposal to sell 35 parcels totaling 400.815 acres of public lands in the Las Vegas Valley in compliance with the Southern Nevada Public Land Management Act (SNPLMA). In accordance with the SNPLMA, 85 percent of the funds generated by this sale will be used throughout Nevada for projects such as the development of parks, trails, and natural areas, capital improvements on Federal lands, acquisition of environmentally sensitive land, hazardous fuels reduction, and landscape restoration projects."

"The sale parcels are located throughout the Las Vegas Valley. Of the thirty-five parcels, twenty-six are located in the northwest part of the valley near Interstate 215, U.S. 95, and State Route 157; two are located in the southwest near Blue Diamond Road; one is located in the southeast near South Las Vegas Boulevard and West Roban Avenue; and six are located in the southeast near Burkholder Boulevard and South Racetrack Road. The BLM proposes to offer the 35 parcels of public land totaling 400.815 acres in the Las Vegas Valley by modified competitive sale at no less than each parcel's Fair Market Value pursuant to the SNPLMA. The sale will be processed in conformance with applicable provisions of the Federal Land Policy and Management Act of 1976 [FLPMA] and BLM regulations."

We searched the BLM's eplanning NEPA website, the BLM National NEPA Register, and only found the following project that is similar to the subject action in the BLM press release:

https://eplanning.blm.gov/eplanning-ui/search?filterSearch=%7B%22states%22:%5B%22NV%22%5D,%22offices%22:%5B%22LLNVS00000%22,%22LLNVS01000%22%5D,%22projectTypes%22:null,%22programs%22:%5B%22LANDS_REALTY%22%5D,%22years%22:%5B%222022%22,%222021%22,%222020%22%5D,%22open%22:false,%22active%22:true%7D

¹ <https://www.dropbox.com/s/xx5wmxcae1c1cju/BLM%20Southern%20Nevada%20District%20Managers%20Council%20as%20an%20Affected%20Interest.11-7-2019.pdf?dl=0>

That webpage says the following:

[“SNPLMA Lands Sale](#)

General Information

NEPA Number: DOI-BLM-NV-S010-2021-0004-DNA

Project Name: SNPLMA Lands Sale

Project Status: In Progress - Analysis & Document Preparation

Lead Office: Las Vegas FO

Participation Period(s): 0”

When we opened the following webpage, <https://eplanning.blm.gov/eplanning-ui/project/2003153/510>, it indicated that DOI-BLM-NV-S010-2021-0004-DNA was “Last Updated: 2/25/2021, 13:40:54 MST.”

Since the BLM is “seeking public comments” for this proposal but has not provided an environmental assessment or other documents for review (including a link to the SNPLMA or notification that we could find on the BLM eplanning NEPA website that a public comment period is open), most of our input is in the form of questions.

1. We understand from a local Council member that there are not likely to be any tortoises on the 19 parcels within the 215 loop or to the southwest along Blue Diamond, and that there are tortoises in adjacent areas to the five parcels occurring off Kyle Canyon Road near Interstate 95. If one or more of the parcels do comprise occupied desert tortoise habitats, is BLM facilitating take of tortoises with this proposed land sales? Has BLM conducted any protocol tortoise surveys (USFWS 2019) to ascertain if the parcels are occupied by tortoises or other protected species, like burrowing owl (*Athene cunicularia*), which can be found in degraded habitats such as these parcels may comprise? Will there be stipulations associated with the transactions that require the buyers to perform surveys for tortoises and other BLM-sensitive species, and to participate in the Las Vegas Multiple Species Habitat Conservation Plan (MSHCP) if tortoises are found?

2. Since the BLM is *authorizing* and *carrying out* this project (e.g., in the context of “fund, *authorize*, or *carry out*” a portion of the project), is this land sales covered by a particular biological opinion, and if not, is BLM required to consult either formally or informally with USFWS for this project? Perhaps the BLM consulted with the USFWS for the SNPLMA and there is a programmatic biological opinion? We note that this information is lacking from the press release and no such documents were made available. Has BLM considered potential adverse effects to some of the parcels based on cumulative Section 7 effects?

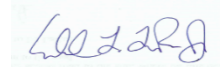
3. We see in the press release that BLM intends to sell these parcels on May 3, 2022, which is a month after the close of solicitation of public comments. As such, we assume that BLM does not intend to perform any analysis of the potential impacts to the affected environment or identify environmental consequences. Since the press release states that the project “will be processed in conformance with applicable provisions of FLPMA,” isn’t there a requirement for an environmental assessment to be completed to document the analysis of the proposed action to comply with NEPA? Because the land sale would be authorized and carried out by the BLM and apparently BLM has been considering this proposed action since February 25, 2021, when was BLM going to make a determination on how to comply with NEPA for this proposed action? If BLM was not going to comply with NEPA, what is the purpose for soliciting public comments?

If BLM previously complied with NEPA for this and other land sales but it has been a few years since compliance was completed, we remind BLM that information from the USFWS and scientific papers on the status of the tortoise in the past few years have reported the ongoing declining density of the tortoise throughout most of its range (Allison and McLuckie 2018;USFWS 2016, 2018, 2019b, 2020, 2022a, 2022b), populations in most tortoise recovery units are below the minimum viable population density (e.g., USFWS 1994), and there are persisting concerns about managing for connectivity between tortoise populations (Dutcher et al. 2020), which may not be happening. Thus, past NEPA and Endangered Species Act analysis of proposed land sales may not have adequately considered this information in its analysis or developed appropriate mitigation and minimization measures.

We read the following statement in the press release: “In accordance with the SNPLMA, 85 percent of the funds generated by this sale will be used throughout Nevada for projects such as the development of parks, trails, and natural areas, capital improvements on Federal lands, acquisition of environmentally sensitive land, hazardous fuels reduction, and landscape restoration projects.” If there is any likelihood that the sale of these parcels will result in the take or tortoises or the irreplaceable loss of suitable habitats, we ask that BLM designate a proportionate amount of the income to support recovery actions including educating the public about the plight of the tortoise, as one appropriate mitigation measure.

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 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.
Desert Tortoise Council, Ecosystems Advisory Committee, Chairperson

cc: Director, Bureau of Land Management, tstonemanning@blm.gov

Literature Cited

- Allison, L.J. and A.M. McLuckie. 2018. Population trends in Mojave desert tortoises (*Gopherus agassizii*). *Herpetological Conservation and Biology* 13(2):433–452.
- Averill-Murray, R.C., T.C. Esque, L.J. Allison, S. Bassett, S.K. Carter, K.E. Dutcher, S.J. Hromada, K.E. Nussear, and K. Shoemaker. 2021. Connectivity of Mojave Desert tortoise populations—Management implications for maintaining a viable recovery network. U.S. Geological Survey Open-File Report 2021–1033, 23 pages. <https://doi.org/10.3133/ofr20211033>.

- 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>
- Dutcher, K.E., A.G. Vandergast, T.C Esque, A. Mitelberg, M.D. Matocq, J.S. Heaton, and K.E. Nussear. 2020. Genes in space: what Mojave desert tortoise genetics can tell us about landscape connectivity. *Conservation Genetics* 21:289–303(2020).
- [USFWS] U.S. Fish and Wildlife Service. 1994. Desert tortoise (Mojave population) Recovery Plan. U.S. Fish and Wildlife Service, Region 1, Portland, Oregon. 73 pages plus appendices.
- [USFWS] U.S. Fish and Wildlife Service. 2016. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2015 and 2016 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada.
- [USFWS] U.S. Fish and Wildlife Service. 2018. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2017 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada.
- [USFWS] U.S. Fish and Wildlife Service. 2019a. Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*). USFWS Desert Tortoise Recovery Office. Reno, NV.
- [USFWS] U.S. Fish and Wildlife Service. 2019b. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2018 Annual Reporting DRAFT. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada.
- [USFWS] U.S. Fish and Wildlife Service. 2020. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2019 Annual Reporting DRAFT. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. 42 pages.
- [USFWS] U.S. Fish and Wildlife Service. 2022a. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2020 Annual Reporting DRAFT. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada.
- [USFWS] U.S. Fish and Wildlife Service. 2022b. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2021 Annual Reporting DRAFT. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada.