

DESERT TORTOISE COUNCIL

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Via email only

June 12, 2025

Attn: Ryan Miller Senior Environmental Scientist Specialist Off-Highway Motor Vehicle Recreation Division California State Parks 715 P Street, Sacramento, CA 95814 <u>Ryan.Miller@parks.ca.gov</u> <u>OHMVR.EnvComp@parks.ca.gov</u>

Re: Eastern Kern County Onyx Ranch State Vehicular Recreation Area Soil Conservation Plan Public Review Draft

Dear Mr. Miller,

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 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.

The Desert Tortoise Preserve Committee (DTPC) is a non-profit organization formed in 1974 to promote the welfare of the desert tortoise in its native wild state. DTPC members share a deep concern for the continued preservation of the tortoise and its habitat in the southwestern deserts and are dedicated to the recovery and conservation of the desert tortoise and other rare and endangered species inhabiting the Mojave and western Sonoran deserts. The DTPC has a long track record of protecting desert tortoises and their habitat through land acquisition, preserve management, mitigation land banking, and educational outreach.

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."

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 DTPC (Defenders of Wildlife et al. 2020) to petition the California Fish and Game Commission in March 2020 to elevate the listing of the Mojave desert tortoise from threatened to endangered in California. In its status review, California Department of Fish and Wildlife (CDFW) (2024) stated: "At its public meeting on October 14, 2020, the Commission considered the petition, and based in part on the Department's [CDFW] petition evaluation and recommendation, found sufficient information exists to indicate the petitioned action may be warranted and accepted the petition for consideration. The Commission's decision initiated this status review to inform the Commission's decision on whether the change in status is warranted."

Importantly, in their April 2024 meeting, the California Fish and Game Commission (Commission) voted unanimously to uplist the tortoise from threatened to endangered under the California Endangered Species Act based on the scientific data provided on the species' status, declining trend, numerous threats, and lack of effective recovery implementation and land management. Among other things, this determination means that the Mojave desert tortoise population in California is deemed by the California Fish and Game Commission to be closer to extinction than when it was listed as threatened in 1989. The only status more dire than "endangered" is "extinct," and the state of California has formally determined based on its five-year status review (CDFW 2024) that the desert tortoise is closer to extinction than it was in 1989. The Commission's official ratification of this uplisting to endangered occurred earlier today.

Description of the Proposed Action

The Eastern Kern County Onyx Ranch State Vehicle Recreation Area (Onyx Ranch) was acquired in 2014. Onyx Ranch is a 26,403-acre off-highway vehicle (OHV) recreation area managed by the California Department of Parks and Recreation (State Parks) and located in Eastern Kern County where the Mojave Desert meets the southern end of the Sierra Nevada mountain range. Onyx Ranch acreage consists mostly of one-square mile parcels distributed in a checkerboard pattern with land managed by the Bureau of Land Management (BLM).

In 2020, the Off Highway Motor Vehicle Recreation (OHMVR) Division of State Parks released the Soil Conservation Standard and Guidelines (CDPR 2020) (Standard) that updated the 2008 standards. The Standard states that "Off-highway vehicle (OHV) recreation facilities shall be managed for sustainable long-term prescribed use without generating soil loss that exceeds restorability, and without causing erosion or sedimentation which significantly affects resource values beyond the facilities. Management of OHV facilities shall occur in accordance with Public Resources Code, Sections 5090.2, 5090.35, and 5090.53."

According to the information provided in the Eastern Kern County Onyx Ranch State Vehicular Recreation Area Soil Conservation Plan Public Review Draft (Draft Plan), the Standard does not focus on the health or quality of soils at State Vehicular Recreation Areas (SVRAs) but instead emphasizes soil retention through sustainable management practices that prevent unnatural, accelerated erosion from OHV facilities. The Draft Plan has three main components: 1) an assessment of existing road and/or trail conditions, 2) a description of the routine road and/or trail maintenance that occurs throughout Onyx Ranch, and 3) a monitoring plan.

Comments on the Onyx Ranch Soil Conservation Plan

Conserve and Protect Soils

The mission of the OHMVR Division of State Parks includes working "to ensure quality recreational opportunities remain available for future generations by providing for education, conservation, and enforcement efforts that balance OHV recreation impacts with programs that conserve and protect cultural and natural resources" (<u>https://ohv.parks.ca.gov/</u>). In the Standard, the OHMVR Division identifies that it is directed to implement practices that meet Section 5090.35 of the Public Resources Code including 5090.35 (a)

"The protection of public safety, the appropriate utilization of lands, and the conservation of natural and cultural resources are of the highest priority in the management of the state vehicular recreation areas."

Similarly, the goals and objectives of Onyx Ranch are "to provide quality OHV recreation while conserving and protecting natural and cultural resources" (Draft Plan page 23). However, the subject Plan would not conserve and protect soils at Onyx Ranch. The Standard and the Draft Plan appear to ignore the mission, directives, and goals and objectives to conserve natural resources, which include soils, and limit this protection and conservation to only the physical loss of soils primarily through erosion and sedimentation.

Soils may be physically present but may not be functioning soils. Soil properties and components (e.g., amount of compaction, soil moisture content, intact biological soil crusts, etc.) that comprise healthy functioning desert soils are not addressed and the Draft Plan. This is a major oversight of the Draft Plan that substantially limits the ability of the OHMVR Division to achieve its mission, standard, goals and objectives that are to balance OHV recreation impacts with programs that conserve and protect cultural and natural resources, including soils and their functions.

For example, cyanobacteria and cyanolichens are found in most undisturbed desert soil surfaces as the major component of biological soil crusts. One of the many important functions of soil crusts is to stabilize soil surfaces by linking soil particles together with filamentous sheaths, enabling soils to resist both water and wind erosion (Belnap 2003). They contribute to the biogeochemical cycling of nutrients, serving as nitrogen and carbon sources which are scarce in the Mojave Desert and improve soil – water balance and plant growth (Rodriguez-Caballero et al. 2022). We contend the Draft Plan is not a soil conservation plan but an erosion minimization plan.

Soils provide the basic foundation for most terrestrial life, because they provide structure and determine the availability of water and nutrients to soil biota and plants, which in turn, provide habitat and food for larger animals (Belnap et al. 2008). A holistic focus of soils management is crucial because healthy soils are needed to support healthy native vegetation and wildlife. Soil texture and quantity may be present (i.e., no evidence of erosion), but soil moisture may be too low to result in seed germination of native plants or to sustain established native plants. This would affect the species composition, abundance, and density of vegetation. Vegetation and soils are major components that contribute to healthy functioning wildlife habitat. We recommend that the OHMVR Division revisit its mission, Public Resources Code 5090.35, and goals and objectives for soils and expand the management and monitoring of soils to include collecting data and implementing actions that protect and conserve the various organic and inorganic properties and components of soils at Onyx Ranch.

In the 2024 Eastern Kern County Onyx Ranch State Vehicular Recreation Area Wildlife Habitat Protection Plan (WHPP), the OHMVR Division said that "California Public Resources Code (PRC) has required a WHPP that focuses on sustaining a viable species composition for each SVRA. In 2017, Senate Bill 249 (SB 249) amended the PRC requiring a WHPP that conserves and improves wildlife habitats be developed for each SVRA. SB 249 added other specific WHPP requirements, including considering statutorily required state and regional conservation objectives, applying best available science, and including the annual monitoring undertaken at each SVRA." We commented on this WHPP (see attached letter dated September 2024) and stated that "We request that the methodology used to safeguard wildlife habitat in the Park includes methods that are developed to safeguard the special needs of threatened and endangered species and species of special concern, including the tortoise, so that management of the Park does not contribute to the ongoing precipitous decline of the tortoise in the western Mojave Desert (USFWS 2015, 2016, 2018, 2019, 2020, 2022a, 2022b)."

The tortoise is a fossorial (e.g., burrowing) species that depends on the presence of adequate soil moisture and biological soil crusts to sustain native herbaceous annual and perennial forbs for adequate nutrition and water balance to survive and persist in the desert environment. Thus, the

tortoise is integrally connected with native vegetation and depends on properly functioning soils. We contend that if the OHMVR Division is to sustain a viable wildlife species composition at Onyx Ranch, it must sustain or improve the diversity, abundance, and cover of native annual and perennial vegetation along with healthy soils to support this vegetation. Please revise the Draft Plan to include management and monitoring of all properties and components of soils that support native vegetation and wildlife species composition at Onyx Ranch, especially for threatened and endangered and other special status species such as the tortoise, Mohave ground squirrel (*Xerospermophilus mohavensis*), and Joshua tree (*Yucca brevifolia*).

Although not considered wildlife, most of the species diversity of any ecosystem occurs in the soils (Belnap et al. 2008). Bacteria, fungi, protozoa, nematodes, and microarthropods comprise the subsurface soil biota. These organisms are critical in the breakdown of plant litter and roots in the soil and making the nutrients contained within these materials available to plants and other biota (Belnap et al. 2008). This is another reason to manage soils at Onyx Ranch using a holistic approach including the management of the biota of soils, and not limit management to the physical loss/erosion of soil.

Compliance with Environmental Laws, Regulations, and Codes

In reviewing the Draft Plan, we found one mention of compliance with environmental laws and regulations. "Any identified new project(s) and/or management actions resulting from this SCP [soil conservation plan] implementation will be analyzed using the Department's Project Evaluation Form (PEF) and subject to CEQA review." The Draft Plan lists and summarizes existing plans that overlap/encompass the area of Onyx Ranch (e.g., California Water Resilience Portfolio, Safeguarding California Plan, Desert Renewable Energy Conservation Plan, and West Mojave Route Network Project (WMRNP). However, we found no mention of the environmental laws, regulations, and codes that the OHMVR Division would need to address and ensure compliance before implementing many of the management/maintenance actions described in the Draft Plan. These environmental laws, regulations, and codes include the Federal Endangered Species Act (FESA), California Endangered Species Act (CESA), Western Joshua Tree Conservation Act; California Porter-Cologne Act; and California Fish and Game Codes for streambed alteration, fully protected species (e.g., Swainson's hawk, etc.), protected furbearers (desert kit fox) and other special status species that may use Onyx Ranch.

The Final Plan should include a list of *all* the environmental laws, regulations, and codes that are applicable to Onyx Ranch and a list of special status species that are protected under these authorities. This section should be updated as needed. This list should be included in the Mechanized Construction – Maintenance Checklist (Appendix B) and Trail Condition Evaluation Form (Appendix C). The OHMVR Division states that heavy equipment would be used for some of the maintenance activities at Onyx Ranch.

We recommend adding a paragraph that reminds the manager and field personnel who will be implementing the Final Plan that they need to comply with all relevant environmental laws, regulations, and codes before conducting any surface disturbance or any activity that would result in take of a listed or fully protected species including harm or harassment under FESA. This is especially important because in Section 7 of the Draft Plan (page 32), the OHMVR Division says there is no General Plan for the management of Onyx Ranch. Consequently, compliance with many

of these environmental laws, regulations, and codes has likely not been completed [e.g., Section 2081 incidental take permit (ITP) from CDFW and Section 10(a)(1)(B) ITP from U.S. Fish and Wildlife Service (USFWS)] as a general plan would require California Environmental Quality Act (CEQA) compliance and compliance with all other applicable environmental laws, regulations, and codes. Further, we recommend that a section be added at the beginning of the data sheet where the manager would sign the form that compliance with all applicable environmental laws, regulations, and codes has been obtained prior to implementing the on-the-ground monitoring, management, and maintenance at Onyx Ranch.

We believe that an ITP would be needed if any of the actions implemented in the Draft Plan would likely result in take of a federally listed species (e.g., Mojave desert tortoise). BLM has no management and enforcement authority on the state-owned areas in Onyx Ranch. Therefore, take coverage under a biological opinion issued to BLM would not apply to the state-owned areas of Onyx Ranch.

The OHMVR Division says there is no General Plan for Onyx Ranch. How is OHMVR Division able to develop and implement a comprehensive and effective soil conservation plan when there is no specific guidance on how Onyx Ranch is to be managed? We recommend adding an explanation for how to develop and implement the soil conservation plan prior to formulating a General Plan. When will the General Plan be completed given Onyx Ranch was acquired in 2014 by the OHMVR Division?

Using the Best Science

On page 3 of the Draft Plan, the OHMVR Division indicates, "[t]o ensure compliance with the Standard, SCPs [soil conservation plans] utilize Best Available Science to facilitate the adaptive management framework through setting goals and objectives, monitoring the progress towards achieving those goals, and adjusting management as necessary to make improvements."

We contend that the methods described in the Draft Plan are not descriptions of methods that use the best science. We refer to the information presented above under "Conserve and Protect Soils." The methods that are described in the Draft Plan focus primarily on monitoring and repairing locations where soil loss from erosion occurs. If the OHMVR Division is using the best science, it would manage, monitor, and maintain all the properties and components of desert soils at Onyx Ranch including the biological components.

For example, while the Draft Plan limits its activities to monitoring and repairing the physical loss of soil primarily from erosion, it ignores the role of soil crusts to stabilize soil surfaces by linking soil particles together with filamentous sheaths, enabling soils to resist both water and wind erosion. Thus, the Draft Plan is reactive rather than proactive with respect to managing the soils at Onyx Ranch. We found no actions described in the Draft Plan that would monitor the functions of the soils and their ability to provide an effective foundation to support native vegetation and wildlife.

In addition, many of the methods described that would be used to monitor soils are qualitative. They include observational data with the data collector/monitor providing their opinion of the condition for the parameters being observed. They are not measurable and not repeatable; they are not S.M.A.R.T. (specific, measurable, achievable/attainable, realistic, and timely) (page 24,

Section 4.2 SCP Goal and Objectives). Rather they are subjective based on the monitor's opinion (e.g., Appendix C. Trail Condition Evaluation Form).

We request that the methods that are used to collect data be modified so they are measurable and can be analyzed for significance using statistical methods, which is using the best science.

Specific Comments

Title Page: We recommend that the date and the name of the authors be added to the Draft Plan and Final Plan.

Page 3: "The [Soil Conservation] Standard does not focus on the health or quality of soils at SVRAs but instead emphasizes soil retention through sustainable management practices that prevent unnatural, accelerated erosion from OHV facilities."

The OHMVR Division should not ignore public resources codes [e.g., Public Resources Code 5090.35 (a)] and choose to only monitor the physical loss of soils. Please see our comments above under "Conserve and Protect Soils."

Page 3: For the monitoring plan, "[t]o ensure compliance with the Standard, SCPs [Soil Conservation Plans] utilize Best Available Science to facilitate the adaptive management framework through setting goals and objectives, monitoring the progress towards achieving those goals, and adjusting management as necessary to make improvements."

Please see our comments above under "Using the Best Science" that describe a few reasons why we disagree with the assertion that the OHMVR Division is using the best science in its monitoring and management of soils at Onyx Ranch.

Page 4: For the West Mojave Route Network Project (WMRNP), we recommend that this paragraph be substantially revised. It contains inaccurate and outdated information. In October 2024, a federal judge struck down the BLM's WMRNP to manage off-road routes in the Mojave Desert, saying it didn't provide adequate protections for the dwindling desert tortoises in the region.

Page 6: "Onyx SVRA overlaps the BLM designated Jawbone-Butterbredt Area of Critical Environmental Concern (ACEC) as well as the California Desert Conservation Area (CDCA). The ACEC was established to manage and protect cultural and wildlife values."

These wildlife values include special status species such as the tortoise, Mohave ground squirrel, and western burrowing owl (*Athene cunicularia hypugaea*). Please include this information in the Final Plan and a map for this ACEC, distribution of the tortoise, Mohave ground squirrel, and western burrowing owl that overlays the Onyx Ranch.

The western burrowing owl was designated as a candidate for potential listing as a protected species under the CESA by the California Fish and Game Commission in October 2024. As a candidate it receives the same protection as a species listed as threatened or endangered under CESA.

Page 12: "In absence of existing baseline trail condition data for the soil conditions in Onyx SVRA, this section discusses current and historical site conditions of the park and surrounding areas."

We presume that baseline trail condition data for soil conditions will be a priority for the OHMVR Division to collect and analyze, and that these data will be used in future management decisions as the minimum standard that OHMVR Division will apply to manage soils to improve their functions at Onyx Ranch. Please add wording to the Final Plan to indicate whether this is the intent of the OHMVR Division. Please see our comments above on data needed for determining soil functions under "Conserve and Protect Soils."

Page 15 – 18, Geology and Soils: This section provides baseline information that is limited to the origins of soils in Onyx Ranch from parent material, the soil types, and erosion hazard ratings. We were unable to find information on other important characteristics of soils on the quality and function of soils in this SVRA (i.e., see our comments above under "Conserve and Protect Soils"). Please add this information to the Final Plan. If not known, please state that these data will be collected to determine baseline information for comparison to determine whether the management of Onyx Ranch is conserving and protecting soils as directed under Public Resource Code 5090.35.

Page 22, Baseline Trail Conditions: When collecting data on soils to determine baseline trail conditions, we presume that data collection will not be confined to the immediate area of the trail, and that it will include nearby areas, especially those that are up gradient and down gradient from the trail. For example, these trails may already have substantial impacts on soil moisture for locations down-gradient from the trails (Devitt et al. 2022). Dirt roads can decouple up-gradient washes from down-gradient locations. Devitt et al. (2022) reported that the decoupling of the wash system led to a significant decline in soil moisture, canopy level Normalized Difference Vegetation Index (NDVI) values, and mid-day leaf xylem water potentials. Over time especially combined with climate change, this impact may result in reduced plant reproduction, growth, and survival for plants down-gradient of the decoupling sites including plants located much farther down-gradient from the road.

Page 23: "In 2024, Trail Condition Evaluations will be updated to also document locations of where unauthorized user-created trails intersect designated routes. These locations will inform the monitoring and maintenance related to specific objectives for the SCP as well as for the WHPP."

This wording implies that this section of the Draft Plan was written prior to 2024. In reviewing Appendix C, Trail Condition Evaluation Form, we were unable to find information on where the monitor would record where "unauthorized user-created trails intersect designated routes." We conclude that the 2024 updates for the Trail Condition Evaluation Form in Appendix C and the wording in this section of the Draft Plan need to be updated.

Pages 23 and 24, Determining Compliance with the Soil Conservation Standard: "Preventing erosion or sedimentation which significantly affects resource values beyond the facilities. A facility is defined as an OHV trail, track, road, corridor, SVRA, open-ride area, staging area, and/or parking area (excluding structures) (CDPR 2008)."

This definition is unclear. A facility may be as small as an OHV track or as large as the entire SVRA, that is, all of Onyx Ranch. When using "facility" in a management document, the OHMVR Division should define how the term is being used. Otherwise, the document is unclear as to the area that the management of the facilities should be applied to. Is it limited to the ribbons of

authorized roads, tracks, and trails, or is it the entire SVRA? Please clarify the use of this word in the Final Plan.

Pages 23 and 24, Determining Compliance with the Soil Conservation Standard: "To achieve sustainability, soil loss must not exceed restorability (i.e., the ability to be restored) and if trails or portions thereof cannot be maintained to appropriate established standards for sustained long-term use, they shall be closed to use and repaired, to prevent accelerated erosion," and "Preventing erosion or sedimentation which significantly affects resource values beyond the facilities."

We disagree with the "components to consider when assessing compliance with the Soil Conservation Standard." Please refer to our comments above under "Conserve and Protect Soils."

Page 24: "Objective 4: Ensure soil disturbance from large special events held at Onyx SVRA is minimized by keeping all activities confined to public-use areas, assuring no new trails are created, and making sure no new ground disturbance occurs."

Because other objectives have a requirement to develop a prioritized maintenance list upon discovering that the objective has not been met, we request that similar wording be added to this objective that requires implementation of effective measures to correct the new ground disturbance **and** implementation of additional measures to ensure that future special events do not result in additional or ongoing new ground disturbance.

Page 25, "Objective 6: Within a week following major, non-routine maintenance activities, natural resources staff will perform site visits to ensure maintenance was executed properly and effectively according to the Soil Conservation Standard and Guidelines and ensure the maintenance checklist was implemented and adhered to."

We request that if this maintenance will occur in areas that may be used by the tortoise, Mohave ground squirrel, or burrowing owl, an authorized biologist will conduct appropriate surveys of the project site and surrounding area for the presence of these species <u>before</u> the maintenance is conducted. If these species or their sign are found, maintenance will not be conducted until the OHMVR Division has coordinated with USFWS and CDFW and has obtained incidental take permits for these species from these agencies as needed.

In addition, Table 2 on page 28 should be revised to reflect this pre-maintenance monitoring need.

Page 26, Types of Maintenance Activities and Equipment and Documentation of Maintenance Activities: Please add to these sections when compliance with federal, state, and local environmental laws, regulations, and codes would be conducted (e.g., CEQA, CESA, FESA, etc.). Please see our earlier comments under "Compliance with Environmental Laws, Regulations, and Codes."

"Other equipment can be transported from Hungry Valley SVRA for use in Onyx SVRA if needed" for maintenance. We found no requirement that this equipment would be washed prior to delivery to Onyx Ranch to ensure that seeds and plant parts from non-native plants will not be transported to Onyx Ranch. Please add this as part of maintenance activities for equipment brought from off site to Onyx Ranch.

Page 27, Guidelines for Maintenance Activities: "Conduct any road or trail maintenance objective by moving the smallest amount of soil necessary to meet the objective."

This guideline, which should be a requirement, should be revised to state, "Conduct any road or trail maintenance objective by moving the smallest amount of soil necessary to meet the objective **and avoiding as much as possible adverse impacts to adjacent soils and vegetation**."

Page 28, Management Response: "If red-rated or yellow-rated sections are identified, a prioritized maintenance list will be generated within two weeks to fix any issues and perform immediate maintenance needs."

We reiterate our earlier comments on page 26 that compliance with federal and state environmental laws, regulations, and codes will be completed before **any** on-the-ground maintenance is started.

Management Response: "Problem areas may have photos taken to document before and after images."

Here and at all other sections in the Draft Plan where photographs are suggested, we strongly recommend that photos of the subject area before and after maintenance be taken and included as part of the data collected on soils at Onyx Ranch.

Page 29, Post Storm Event Inspections: "Objective 3: Identify and document red-rated trail sections that emerge in MUs 3, 4, and 5 after storm events with greater than one inch of precipitation falling over the course of 24 hours."

How is the amount of precipitation measured? Where is it measured? Are there rain gauges throughout Onyx Ranch and in up-gradient areas to measure it? While we understand the intent of this objective, we wonder how it would be effectively implemented because of the patchiness of some rainfall events and diverse topography at Onyx Ranch. Rain may occur west of Onyx Ranch, for example, where topography will likely direct surface flow into it.

Page 30 Management Response: "If inspections determine special events are causing issues, resources staff will work with the special event coordinator to mitigate issues and to add verbiage to special event permits that stress the importance of following guidelines."

Please revise this wording to ensure that the mitigation is for both direct and indirect impacts and that these impacts are fully mitigated. If the issues are repeated, the OHMVR Division should deny the permit to that particular entity when they request their next special event.

Page 30, General Field Observation: "Monitoring: Park staff will observe field conditions while in the Park."

When conducting this monitoring, Park staff should record when they observe tortoises, Mohave ground squirrels, or tortoise sign. We suggest adding a space on the Trail Condition Evaluation Form and Mechanized Construction - Maintenance Checklist that says "Special status wildlife species and numbers observed." This information should be entered into the California Natural Diversity Database maintained by CDFW.

Page 31, Monitoring: "There are a couple of special events at Onyx SVRA a year. These events are usually either Sport Rides or film shoots, and often cross between BLM parcels and CDPR parcels, requiring a permit from both entities. Special event permits for Onyx SVRA usually require that plants and animals are fully protected and must not be harmed."

We recommend that for the tortoise, Mohave ground squirrel, burrowing owl, Joshua Tree, and other protected species, the staff at Onyx Ranch should develop and provide the participants of the special events with a brochure or video on the legal status and protections of these species and threats to these species and their habitats. Access to the information would be provided with a URL or QR code on the Onyx Ranch website and included in the permit. It would be distributed before and during the special event by State Park Peace Offices who "are usually required to monitor courses and film events."

Page 31: "Monitoring: Within a week following major, non-routine maintenance activities, natural resources staff will perform site visits to ensure maintenance was executed properly and effectively."

Please apply this requirement to all maintenance activities that occur in the habitats/areas used by the tortoise, Mohave ground squirrel, and burrowing owl.

Page 31: "Management Response: If additional work is needed, resource staff will work with the maintenance staff to address the issue."

We reiterate our earlier comments pertaining to page 26 that compliance with federal and state environmental laws, regulations, and codes will be completed before implementing any on-theground maintenance.

Page 31, Compliance Report and Action Plan: This annual document should include information on the maintenance activities and trail assessment conducted by the OHMVR Division at Onyx Ranch. It should include data collected on unauthorized use and the response that was implemented to halt this use. These data are necessary to determine whether unauthorized use is occurring, the location(s) and frequency of this use, and whether the response action to halt this activity from a soil conservation perspective was effective. This documentation is needed to determine effectiveness of the implemented management actions. Please update the information that is included in the annual Compliance Report to include unauthorized use, response, and effectiveness of the response.

Appendix B, Mechanized Construction – Maintenance Checklist: Some information requested on this form is not standardized. For example, three different types of percent slope data are requested. How is this measured? Choices for soil depth are shallow or deep. What is the delineation point between shallow and deep soils? Soil moisture information is requested but not the metric on how it is measured. Will the person be measuring the moisture content using a soil moisture meter and at what depth? There is a section for weather information with no other guidance. Should it include air temperature, ground temperature, wind speed and direction, cloud cover, relative humidity, precipitation? What information is required here and why? No GPS location data are required to identify the location of the maintenance activity. No "before-and-after" photos are required for the

site that is being maintained. These questions/issues relate to our comments above under "Using the Best Science."

Guideline (chart) 4. "If new, this trail was constructed to guidelines." Are new trails authorized under the operations of the SVRA because there is no General Plan? Has compliance with CEQA and other state and federal environmental laws been completed prior to the construction of new trails?

Appendix C, Trail Condition Evaluation Form: "Enter the location where the rated segment starts. This could be a GPS file designation, a named trail junction, a milepost, etc."

Data entry is not standardized on this form. We recommend that only GPS coordinates be used, and that specific units be identified (e.g., UTM and the specified datum versus latitude/longitude). The name of a trail junction could change over time, a milepost may be missing/removed, etc. GPS locations are the most accurate measurement and should not change over time, which reflects Best Science.

"Give a generic description of the site and soil-related conditions that exist along the trail." We suggest providing an example of the types of information needed to ensure that the person completing the form provides the appropriate information.

"Enter a brief description of the primary vegetation present in the vicinity of the trail." Same comment as immediately above. Do you want information on perennial native vegetation, annual natives, non-natives, conditions of special status plants such as Joshua trees, etc.? An example of the information to be recorded should be included, otherwise little or no useful information is likely to be provided.

"Enter your name or initials as the rater." More than one person can have the same initials on a field crew or in an office. Please require the person's first and last name and delete "or initials."

"Enter the date the field observations were made and recorded." Please provide the format to use when entering the date. This will provide standardized data entry.

"Enter the slope (grade) of the tread surface for the section evaluated as a percent." Please provide information on how percent slope is calculated.

"Where variable conditions are encountered, the rater will have to use good judgment using the condition codes as an overall guide." This is an example of subjective data collection (see "Using the Best Science" above).

"Column 7 – Comments." Please change the title of this section to "Observations and Recommendations." This provides the person completing the form with information on what to include in this section. "Comments" is vague.

"Column 8 – Photograph Number(s). Enter the identification number(s) for photographs taken of the evaluated section. As a minimum, one photo should be taken for each section given a Red condition code. If the entire trail segment."

We recommend that, as a minimum, one photo should be taken for each section facing up gradient first and a second facing down gradient, for a minimum of two photos. Taking photographs of areas is easy, inexpensive, and if taken with a cell phone, should have GPS information embedded in them. Criteria should be provided on how to take photographs (e.g., distance from the trail feature being photographed, etc.), and how to download, name, link the photos to the Trail Condition Evaluation Form, and store the photos on a server.

Cause Codes C9 and C20 should be reworded to ensure they have the opposite meanings and do not overlap in meaning.

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 and DTPC want to be identified as Affected Interests for this and all other projects funded, authorized, or carried out by the California State Parks and its OHMVR Division that may affect desert tortoises, and that any subsequent environmental documentation for this project is provided to us at the contact information listed above. Additionally, we request that you notify the Council (eac@deserttortoise.org) and DTPC (roger.dale@tortoise-tracks.org) of any future proposed projects that California State Parks or the OHMVR Division may authorize, fund, or carry out in the range of the desert tortoise in California.

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,

6022RA

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

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Roger Dale President Desert Tortoise Preserve Committee

Attachment: Comment Letter, Onyx Ranch State Vehicular Recreation Area Draft Wildlife Habitat Protection Plan

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- Peter Sanzenbacher, Mojave Desert Division Supervisor, Palm Springs Fish and Wildlife Office <u>peter_sanzenbacher@fws.gov</u>
- Philip DeSenze, Field Manager, Bureau of Land Management, Ridgecrest Field Office <u>BLM CA Web RI@blm.gov</u>

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From Desert Tortoise Council and Desert Tortoise Preserve Committee Dated September 26, 2024



DESERT TORTOISE COUNCIL

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Via email only

September 26, 2024

To: Matthew Poonamallee Senior Environmental Scientist (Specialist) Dept. Parks and Recreation, OHMVR Division matthew.poonamallee@parks.ca.gov

Re: Onyx Ranch State Vehicular Recreation Area Draft Wildlife Habitat Protection Plan

Dear Mr. Poonamallee,

The Desert Tortoise Council (DTC) 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 DTC routinely provides information and other forms of assistance to individuals, organizations, and regulatory agencies on matters potentially affecting desert tortoises within their geographic ranges.

The Desert Tortoise Preserve Committee (DTPC) is a non-profit organization formed in 1974 to promote the welfare of the desert tortoise in its native wild state. DTPC members share a deep concern for the continued preservation of the tortoise and its habitat in the southwestern deserts and are dedicated to the recovery and conservation of the desert tortoise and other rare and endangered species inhabiting the Mojave and western Sonoran deserts. The DTPC has a long track record of protecting desert tortoises and their habitat through land acquisition, preserve management, mitigation land banking, and educational outreach.

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."

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 DTC to join Defenders of Wildlife and DTPC (Defenders of Wildlife et al. 2020) to petition the California Fish and Game Commission in March 2020 to elevate the listing of the Mojave desert tortoise (tortoise) from Threatened to Endangered in California. In its status review, California Department of Fish and Wildlife (CDFW) (2024a) stated: "At its public meeting on October 14, 2020, the Commission considered the petition, and based in part on the Department's [CDFW] petition evaluation and recommendation, found sufficient information exists to indicate the petitioned action may be warranted and accepted the petition for consideration. The Commission's decision initiated this status review to inform the Commission's decision on whether the change in status is warranted."

Importantly, in their April 2024 meeting, the California Fish and Game Commission (CDFW 2024b) voted unanimously to uplist the tortoise from threatened to endangered under the California Endangered Species Act based on the scientific data provided on the species' status, declining trend, numerous threats, and lack of effective recovery implementation and land management. Among other things, this determination means that the Mojave desert tortoise population in California is deemed by the California Fish and Game Commission to be closer to extinction than when it was listed as threatened in 1989. The only status more dire than "endangered" is "extinct," and the state of California has formally determined based on its status review (CDFW 2024a) that the desert tortoise is closer to extinction than it was in 1989.

The DTC and DTPC learned about this project through a third party on August 26, 2024, later

asked the California State Parks Off-Highway Motor Vehicle Recreation Division (OHMVRD) to identify us as "affected interests," were contacted by OHMVRD with an opportunity to participate on September 3, 2024, and were able to attend the virtual public meeting on September 9, 2024.

Unless otherwise noted, page numbers and text cited in this letter are taken from a document entitled, "Eastern Kern County Onyx Ranch State Vehicular Recreation Area," dated 2024. It is our understand that this document represents a draft of the WHPP, that OHVMRD will use public comments to amend the draft WHPP, and will circulate the final WHPP to affected interests to inform them of how comments did or did not result in changes reflected in the final document. Unfortunately, the current title of the document does not identify the purpose of the document. We suggest that the title be changed to "Wildlife Habitat Protection Plan for the Eastern Kern County Onyx Ranch State Vehicular Recreation Area."

On page 6, we read, "The goal of the 2024 Eastern Kern County Onyx Ranch (Onyx) State Vehicular Recreation Area (Onyx SVRA, the Park) Wildlife Habitat Protection Plan (WHPP) is to present the full picture of an SVRA's wildlife and habitat management effort and is to act as a dynamic working document that provides land managers with guidance for the management of habitat, along with short-and long-term habitat goals and the methods to achieve these goals. Each WHPP utilizes scientific literature, expert opinion, and staff expertise in setting goals and describing land management activities. The scope of a WHPP encompasses the full spectrum of land management and visitor use activities that affect wildlife habitat at an SVRA. It includes existing settings, goals and objectives, management actions, and a plan for why and when management actions are implemented, among other items."

We read, also on page 6, that "Onyx SVRA does not currently have an approved General Plan. Once a General Plan is completed, the WHPP will be amended, if needed, to be consistent with the General Plan." Please note herein that the DTC and DTPC would like to receive the draft General Plan when available so that we may make comments that strengthen conservation of the desert tortoise within the Park. We also read on page 7 that the WHPP will be updated every five years, and as identified "affected interests," ask that DTC and DTPC receive these and any other updated materials for opportunities to comment.

Page 9 describes the area as, "Onyx SVRA is a 26,403-acre off-highway vehicle (OHV) recreation area owned and managed by CDPR [California Department of Parks and Recreation] and located in Eastern Kern County, where the Mojave Desert meets the southern end of the Sierra Nevada mountain range (Figure 3). Onyx SVRA acreage consists mostly of one-square mile parcels distributed in a checkerboard pattern, intermixed with land owned and managed by the United States Bureau of Land Management (BLM). Most of the BLM land is also managed as an OHV recreation area. The Park is approximately 40 miles southwest of Ridgecrest, California and 21 miles northeast of Mojave, California. The main access to Onyx SVRA is via Jawbone Canyon Road off State Route 14. Within the park boundaries, there are approximately 21 miles of CDPRmanaged trails, all of which are accessible by 4x4 vehicles. The Pacific Crest Trail (PCT) crosses a northwestern parcel of Onyx SVRA. Adjacent land use includes a wind farm to the southwest, Red Rock Canyon State Park to the northeast, and cattle grazing to the west. In addition to BLM land, some private parcels are owned within the checkerboard land ownership pattern that includes Onyx SVRA (Figure 4)," which is reproduced on the next page.



As per Figure 10 below, our specific comments will pertain to the MU 3-Trail Only Area portion of the SRVA and the eastern portions of MU 6, including southeastern areas that extend beyond MU-3 (see MU 6 map on the next page):





With regards to the MU 3- Trail Only Area (page 27), we read, "This area is designated for trail only OHV use and often requires erosion and fence repair. There are 17.2 miles of trails within this MU which were inherited when the property was acquired." As given below, we have many concerns with how the BLM manages its overlapping vehicle Open Area versus how CDPR plans to, which appears to be more proactive. How will recreation vehicle users recognize when they are passing from public lands with essentially unrestricted vehicle use onto State lands where restricted vehicle use is intended, and how will this be enforced? Please include his information in the WHPP including monitoring efforts to determine the effectiveness of CDPR's management.

With regards to vehicle recreation (page 15), "Jawbone Canyon Open Area is over 8,500 acres of mostly BLM land, but there are 3,064 acres of parcels owned by Onyx SVRA. Additionally, Dove Springs Open Area is approximately 3,600 acres of mostly BLM land, with a very small overlap with the northeast parcel of Onyx SVRA. In areas where park parcels fall within or overlap with the BLM designated Open Riding Areas, *the state parcels maintain the designated use standards of the Open Riding Areas* [emphasis added]," we note that the term, "Open Riding Areas," is NOT a technical term used by the BLM as implied in the statement. "Open Areas," without "Riding," is the accepted term. We suggest using consistent terms for clarification purposes.

Aside from semantics, our main concern here is with the italicized statement, "... the state parcels maintain the [BLM's] designated use standards of the Open Riding Areas..." To our knowledge, except for requiring helmets, the BLM has minimal, if any, use, operations, or law enforcement standards in its designated Open Areas. There are no speed limits; no requirements for vehicles to remain on established trails, so that cross country vehicle travel is unrestricted; no restrictions to the types of vehicles, except that they must display Green Sticker decals; no publicly available documents reporting monitoring use within designated Open Areas; limited law enforcement staff assigned to Open Area

management, including organized events such as "King of the Hammers;" no requirement for users to report injured or crushed tortoises; etc. We read on page 9 that "...there are approximately 21 miles of CDPR-managed trails," but we are unaware of any such BLM-managed trails in designated Open Areas. In any case, we request that OHVMRD takes a much more proactive approach to vehicle management on its State lands than the BLM does on our public lands.

With regards to grazing statements made on pages 17 and 18, we are dismayed to read that while the BLM (2020) is cited as concluding that "Grazing in desert tortoise habitat may increase competition for forage and has the risk trampling individuals and crushing burrows (BLM 2020)," the WHPP then minimizes this impact by providing the following pro-grazing statements without acknowledging there are numerous publications on the adverse impacts of grazing on desert tortoises and their habitats:

• "In some instances, careful, highly managed cattle grazing can achieve a management target, either by benefiting a species, reducing vegetation structure, or changing fire behavior (Davies et al. 2015, Hayes et al. 2003)" [see pages 75 through 79 of the WHPP for these and other cited references].

• "For example, grazing can benefit native wildlife by reducing invasive grasses (Barry et al. 2015, Geramano 2011) [note that *Geramano* is misspelled, and should be *Germano*; it is spelled correctly on page 77 in Section 9]."

• "Rangeland Health Studies and implementation of the BLM standards will safeguard habitat in the Park during the grazing lease."

With respect to the literature cited in the Plan that supports grazing, for the first bullet, the research conducted by Davies et al. (2015) was in eastern Oregon in vegetation and climate conditions very different than found in the western Mojave Desert of the Park. The Hayes et al. (2003) citation is a paper that analyzes the impacts of grazing on mesic grasslands in California. These grasslands are not present in the Park. The authors clearly state in this paper the "clear negative effects of grazing in arid systems." The Park is in an arid ecosystem.

For the second bullet, the Barry et al. (2015) paper discusses annual rangelands in California, that is, rangelands dominated by annual plants. The vegetation associations in the Park are not annual rangelands so this citation is not relevant. Additionally, Barry et al. (2015) make this statement with no supporting data in the publication. The Germano et al. (2011) conducted their research and made their recommendations from data collected in the San Joaquin Valley, not the western Mojave Desert where the Park is located. The Park has a different climate, soils, and vegetation composition than the San Joaquin Valley. We conclude that the references use in the WHPP to support grazing in the Park are not relevant and do not support grazing. We request that they be removed from the document.

Both the original Recovery Plan for the desert tortoise (USFWS 1994) and the Revised Recovery Plan (USFWS 2011) identified cattle grazing as a significant impact to tortoises and their habitats and encouraged withdrawal from then-designated Desert Wildlife Management Areas, which are now referred to as "Tortoise Conservation Areas" or "TCUs" (BLM 2016). With regards to the

first two bullets, USFWS (2011) states, "Livestock grazing (sheep and cattle as well as horses and burros) is known to have direct and indirect impacts on desert tortoises and their habitats through trampling that results in direct mortality, either while above ground or in burrows, and degradation of vegetation and soils, *including the spread of non-native plants or the displacement of native plants* (Brooks 1995; Avery 1998; Boarman 2002)" [emphasis added; See U.S. Fish and Wildlife Service (2011) for literature cited in the text].

Although we understand that OHVMRD intends to implement BLM's Rangeland Health Standards on Park lands, we also understand that BLM's management of cattle in the area may affect proper functioning of the WHPP. With regards to the third bullet, it is our understanding that BLM has not kept pace with mandated requirements to perform Rangeland Health Studies, or effectively implemented remedial activities to address impact problems. It would be appropriate for the WHPP to document if Rangeland Health Studies on adjacent BLM lands have been performed and identify remedial actions, if any, taken to address impacts.

We have serious concerns about the scientific validity and relevance of the results of BLM's Rangeland Health Standards. When developing and implementing Rangeland Health Standards, we have not found information on how BLM "connects the dots" between areas meeting standards for rangeland health/livestock grazing and areas meeting the ecological needs of wildlife particularly species of special concern and protected under the California Endangered Species Act (CESA) such as the endangered Mojave desert tortoise. BLM should provide citations from the scientific literature that the Land Health Evaluation (LHE) and Desired Plant Community (DPC) methods that BLM implements are collecting and analyzing relevant data that the endangered tortoise, other endangered or threatened species, and other species of special concern require for persisting in the Park. This would include but is not limited to data on the species composition, frequency/abundance, and phenology/structure of annual and perennial plants that tortoises consume to ensure these species are available and providing the necessary nutrition and water requirement for all size classes of tortoises. The current LHE and DPC studies implemented by BLM do not collect these data. Rather these studies focus on general soils and perennial vegetation parameters with the plant species focused on livestock forage needs. We request that the methodology used to safeguard wildlife habitat in the Park includes methods that are developed to safeguard the special needs of threatened and endangered species and species of special concern, including the tortoise, so that management of the Park does not contribute to the ongoing precipitous decline of the tortoise in the Western Mojave Desert (USFWS 2015, 2016, 2018, 2019, 2020, 2022a, 2022b).

It concerns us that in making these three bulleted, pro-grazing statements, the WHPP is misleading the public that grazing may ostensibly benefit the environment as implied by the first bullet. If the OHVMRD is truly committed to providing scientifically sound information in the final WHPP (which it claims will occur by having "the Natural Resource Division (NRD) [make a] Best Available Science determination" on page 8), we provide the footnoted link to an annotated bibliography (Berry et al 2016) that lists only peer-reviewed, scientifically credible literature on all forms of impacts associated with vehicles and, pertinent to this particular discussion, grazing¹. In that document, there are 81 specific references to how grazing adversely affects desert tortoises

¹ <u>https://www.dropbox.com/scl/fi/cf3ualp4gh7bt4gvaahs4/Berry-s-Annotated-Bibliography.2016.pdf?rlkey=pmanjla40f5bz9ji7lt1vgucj&dl=0</u>

and their habitats. Chapter 10, Section III specifically annotates impacts associated with grazing. In Chapter 10, Section IV, which reports on "Invasive or Alien Annual Plants," there are several dozen papers that document how domestic livestock grazing results in the proliferation of these plants, which is overwhelming contrary information to what is attributed to the Barry and Germano references.

We request that the WHPP should be substantially revised. The analysis of the effects of various uses of the Park (e.g., livestock grazing) should include *relevant* data [emphasis added] from peer-reviewed scientific publications. The analysis should include the effects on the biological resources of the Park including the soils, vegetation, and wildlife, with an emphasis on threatened and endangered species and species of special concern. A science-based monitoring plan should be implemented to determine whether the management actions implemented are effective in meeting their desired outcomes, and if not, management action should be changed promptly to achieve these outcomes for wildlife habitat.

With regards to hunting (page 18), we read, "Hunting is popular in the area, especially for chukar and quail, and permitted within the SVRA and surrounding BLM parcels (CDPR 2013)." The USFWS (1994) reported that "Between 1981 and 1987, 40 percent of desert tortoise found dead on a study plot in Fremont Valley, CA [which is found less than 10 miles east of the Park] were killed by gunshot or vehicles travelling cross-country or on trails." To address such impacts, the WHPP should include hunter education as part of its conservation strategy, which may not discourage intentional vandalism but may teach hunters to check under their vehicles before driving away to be sure they don't crush a tortoise seeking shade beneath their trucks.

We request that the second table on page 20 be augmented by including the West Mojave Coordinated Management Plan (West Mojave Plan; BLM 2005, 2006). Like the Desert Renewable Energy Conservation Plan (DRECP; BLM 2016) that *is* included in the table, the record of decision for the West Mojave Plan (BLM 2006) also amended the California Desert Conservation Area Plan (CDCA Plan; BLM 1980) in ways that were not entirely replaced by the DRECP. There are pertinent parts of both plans that are still applicable to management of BLM lands within the Park area.

Under desert tortoise (page 45), please note that the following sentence needs to be changed as indicated to be accurate: "Desert tortoise (*Gopherus agassizii*) is federally listed as threatened and state listed as threatened endangered (CDFW 2017 2024)." The reference is provided in the Literature Cited section of this letter. The California Fish and Game Commission upgraded the State listing to endangered in April 2024.² This change also needs to be made on page 205 in Appendix 1.

Note that the IUCN designation for the tortoise is incorrect. The designation shown is "Vulnerable," which is the designation for the Sonoran desert tortoise (*G. morafkai*). As provided in fourth paragraph of this letter, the IUCN lists the Mojave desert tortoise as "Critically Endangered." Please make these corrections to the WHPP and revise the management of the Park that reflects the urgent need to manage the Park for the tortoise and other special status species.

 $^{^{2}}$ Note that this information is in error. The formal state listing of the desert tortoise as endangered is expected to be confirmed by the California Fish and Game Commission on June 12, 2025.

On page 46, you indicate "A survey for desert tortoise in 2012 detected presence in the eastern parcels north of the Jawbone Canyon OHV Open Area where there is good habitat and the rugged topography (badlands) limits OHV access," which is attributed to (Leatherman Bioconsulting, Inc. 2012). Are these the only surveys that have been performed in the region to describe tortoise densities in the area? In the absence of surveys, OHVMRD is encouraged to review models that estimate tortoise densities based on variable factors (Nussear 2009, Gray et al. 2019).

At the bottom of page 45 and top of page 46, we read, "In the most densely populated areas, one tortoise may be found per 2.5 acres. Typically, current tortoise densities are closer to one tortoise per 100 acres (USFWS 2014)." Owing to precipitous recent declines (Allison and McLuckie 2018), we recommend that you revise this information with data given in USFWS (2022b). For your use, we also provide links to Berry et al. (2008, 2014, 2020a, 2020b) and Keith et al. (2008) in the literature section, each of which report on tortoise densities in the Plan area, on Red Rock Canyon State Park, and in adjacent areas.

The information given for Objective 1 for conserving desert tortoises (page 51) lists three ways in which desert tortoise habitat may be degraded; states that, "All but 46 acres of the entire 29,654 acres of MU 3" comprise tortoise habitat; says, "Preventing new off-trail OHV use within the entire MU 3 will conserve the habitat;" and that data collected in 2023 and 2024 will be used to develop S.M.A.R.T. ("specific," "measurable," "achievable/attainable," "realistic," and "timely") format principles by 2025.

The one management action given in Table 3 (page 59) is to "Repair and install fence lines." The two management actions intended to achieve Objective 1 are given in Table 4 (page 62), and include (1) "Prevention and naturalization of unauthorized and redundant trails through placement of straw bales, signage, fencing, and/or vertical mulching" and (2) "Maintenance of existing fence lines."

In the absence of a map, we are unsure where any of these management actions would be implemented or where existing fencing occurs. As stated above, one of our major concerns is the interfaces between CDPR and BLM lands, and how relatively lax vehicle management on BLM lands will continue to facilitate adverse habitat impacts that undermine more restrictive management on State lands. May we assume that only the existing 21 miles of CDPR-managed trails are to be maintained and that all others are to be discontinued by the use of straw bales, signage, fencing, and/or vertical mulching? The final WHPP should document existing law enforcement and discuss how future enforcement personnel will be used and perhaps supplemented to achieve the goals and objectives of the WHPP.

Under desert tortoise monitoring (page 69), we read, "Onyx SVRA will be surveyed in 2024 as part of a larger study on desert tortoise demographics on public and state lands in the western Mojave Desert." It is our understanding that this information is erroneous; due to OHVMR administrative and budgeting issues, tortoise surveys intended for 2023 and 2024 were delayed and are now planned beginning in 2025. Please correct this information in the draft WHPP and be sure that the results of these surveys are published in the final WHPP. Please be sure results of these studies are used to derive specific management actions to facilitate the objective to conserve desert tortoises.

Similar to our concerns expressed above about the three bullets published in the draft WHPP, the following statement is both misleading and inaccurate: "Multiple stressors are known to impact desert tortoise and its habitat, including OHV recreation, but the importance of these impacts on populations at the landscape level is not well understood." We believe that the importance of these impacts is well documented in both the original and revised Recovery Plans (USFWS 1994 and 2011), in Dr. Berry's annotated bibliography (see Chapter 10, Section VI on Off-Road Vehicles), and in many of the papers included in the footnoted bibliography³, which includes 148 references describing recreational vehicle impacts that we provide for the benefit of OHVMRD in completing its final WHPP.

With regards to the following statement (page 69), "...limited region-wide data exists on the causes of these declines and the relative contribution of different anthropogenic activities," we refer OHVMRD to Boarman (2002) and Tuma (2016).

With regards to tortoise monitoring (page 69), we question whether three years of data collection (including data collected in 2024 that were not made available in the draft WHPP) will be sufficient to develop a statistically robust baseline to which future studies may be compared. Nor does the draft WHPP identify if future surveys will be performed or commit OHVMRD to perform them, which should be clarified in the final WHPP. Such surveys and other actions are needed to collect relevant data to determine whether the objectives of the WHPP are being achieved.

We find that the five bullets given on page 69 list *what* will be measured (e.g., establish ranges, estimate densities, determine burrow locations, quantify habitats, and identify stressors) but there are no methods presented for *how* these variables will be measured. When we checked Appendix 3 for more information on how tortoises would be monitored, we found survey methods for common reptiles there, but there is no mention of tortoises in Appendix 3. Is this an oversight, or does OHVMRD believe that sufficient information is given on page 69 to explain how tortoises will be monitored? We recommend coordinating with the USFWS's Desert Tortoise Recovery Office to help determine that best methods to implement to monitor tortoises. We also ask that Appendix 3 be modified in the final WHPP to provide information missing from the body of the WHPP as to how tortoises would be monitored, which is the function of that appendix.

Regarding the review process outlined in Section 7.2.1 on page 73, an effective review process should involve outside entities, perhaps including universities and other agencies. Based on our review of the draft WHPP, we do not believe that the best available science has been used, and have endeavored to provide additional resources that would help OHVMRD improve the final WHPP. Has NRD already been consulted to ensure that the best available science was used to develop the draft WHPP, or is that review to be applied to the final WHPP? If they are to review the final WHPP, what latitude is there to develop a post-final WHPP? Except for mention of the NRD, Section 7.2.1 describes internal review methodologies, only. If not already, we ask that, at a minimum, the knowledgeable scientists from following agencies be asked to review the draft WHPP so that their comments may improve the final WHPP: CDFW, U.S. Geological Survey, USFWS Desert Tortoise Recovery Office, and BLM.

 $[\]label{eq:linearized_states} $$ https://www.dropbox.com/scl/fi/bl221ei0ved0tmridfts5/Road-Impacts-Bibliography.pdf?rlkey=91w1zlkjzc7w6ifi4tn7h8yrv&dl=0 $$ https://www.dropbox.com/scl/fi/bl221ei0ved0tmridfts5/Road-Pibliography.pdf?rlkey=91w1zlkjzc7w6ifi4tn7h8yrv&dl=0 $$ https://www.dropbox.com/scl/fi/bl221ei0ved0tmridfts5$

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 DTC and DTPC want to be identified as Affected Interests for this and all other projects funded, authorized, or carried out by the CDPR that may affect desert tortoises, and that any subsequent environmental documentation for this project is provided to us at the contact information listed above. Additionally, we request that you notify the DTC (eac@deserttortoise.org) and DTPC (roger.dale@tortoise-tracks.org) of any future proposed projects that CDPR may authorize, fund, or carry out in the range of the desert tortoise in California.

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,

Lee 22RA

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

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Roger Dale President Desert Tortoise Preserve Committee, President

- cc. Michelle Shelly Lynch, District Manager, California Desert District, Bureau of Land Management, <u>BLM CA Web CD@blm.gov</u>
- Philip DeSenze, Field Manager, Ridgecrest Field Office, Bureau of Land Management, p desenze@blm.gov
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