



**DESERT TORTOISE COUNCIL**

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**Via email only**

12 December 2022

Attn: Mayra Martinez, Carrie Sahagun  
Bureau of Land Management  
661 S 4th St., El Centro, CA 92243

[mymartinez@blm.gov](mailto:mymartinez@blm.gov), [csahagun@blm.gov](mailto:csahagun@blm.gov)

Michael Abraham

Imperial County Planning & Development Services

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RE: Oro Cruz Exploration Project Environmental Assessment (DOI-BLM-CA-D070-2022-0012-EA; IS #21-0029)

Dear Ms. Martinez, Ms. Sahagun, and Mr. Abraham,

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.

As of June 2022, our mailing address has changed to:

Desert Tortoise Council  
3807 Sierra Highway #6-4514  
Acton, CA 93510

Our email address has not changed. 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 that the Bureau of Land Management (BLM) and Imperial County Planning Department (ICPD) email to us future correspondence, as mail delivered via the U.S. Postal Service may take several days to be delivered. Email is an "environmentally friendlier way" of receiving correspondence and documents rather than "snail mail."

We appreciate this opportunity to provide comments on the above-referenced project. Given the location of the proposed project in habitats known to be occupied by Mojave desert tortoise (*Gopherus agassizii*) (synonymous with Agassiz's desert tortoise), our comments pertain to enhancing protection of this species during activities funded, authorized, or carried out by the BLM and authorized by ICPD, 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.

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), as 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), population size fewer than 50 individuals, other factors." It is one of three turtle and tortoise species in the United States to be critically endangered. This status, in part, prompted the Council to join Defenders of Wildlife and Desert Tortoise Preserve Committee (Desert Tortoise Council 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.

The BLM's press release indicates, "SMP Gold Corp. [Proponent] has submitted a Plan of Operations (Plan) to conduct exploratory drilling activities at the Oro Cruz historic mining area located in the Cargo Muchacho Mountains in eastern Imperial County, California. The BLM will analyze the proposed project and either approve, approve with conditions, or deny the Plan. The proposed project includes approximately two miles of existing road improvements and construction of 6.2 miles of new roads, up to eight helicopter landing pads, 65 drill pads, and a 2.8 acre staging area. The proposed exploration activities would occur within the Picacho Area of Critical Environmental Concern, approximately seven miles north of Ogilby. The surface disturbance on BLM-managed land from the proposed exploration activities is approximately 20.5 acres. Environmental Analysis of this project will include publication of a joint National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) document. The BLM is the lead for compliance with the NEPA and Imperial County is the lead for CEQA."

Unless otherwise noted, referenced page numbers below refer to the November 2022, "Environmental Assessment/Mitigated Negative Declaration (EA/MND) Oro Cruz Exploration Project."

We note on page 2, "Pursuant to requirements under CEQA and the California Surface Mining and Reclamation Act of 1975 (SMARA) for projects that would entail over one acre of surface disturbance, a Reclamation Plan is also required to address the reclamation activities that would be undertaken following completion of the proposed exploratory drilling activities." We would like to offer a document for your use (Abella and Berry 2016), entitled "Enhancing and restoring habitat for the desert tortoise (*Gopherus agassizii*)" that identifies best management practices to facilitate success of restoration activities in arid environments.

We note in the above description and on page 5 that the Proponent intends on “...constructing approximately 6.2 miles of new, temporary 12-foot-wide exploration drilling access roads” and the “...exact location of proposed surface disturbance may change based on exploration results as exploration operations progress; therefore, the full extent of the disturbance locations has not been defined,” which we interpret to mean that even more roads may be created that could result in more than the 20.5 acres of disturbance. Although the project is identified as exploratory in nature, is it true that the eventual mine is a foregone conclusion? Either way, will there be a future EA that covers development of the mine, which is connected to exploratory activities, but likely to be a much larger impact? These questions should be answered in the EA and decision document.

We question the Proponent’s need to create so many linear miles of new temporary roads and ask that, if not already, the BLM geologist work with the Proponent to reassess the locations of existing roads and insofar as possible restrict travel to those roads. Alternatively, the Proponent utilizing experienced tortoise biologist(s), could travel cross-country to drill sites without creating roads that will predictably be used by the public and may not ever be needed again for future mining activities. We strongly recommend that these temporary roads not be bladed with heavy equipment across our public lands; it will be very difficult to remove them from public use and restored to their previous condition after their construction. We also ask that if the number of linear miles cited in the EA is met, that the Proponent be required to consult with the BLM before any additional roads are created. So, even though “...the full extent of the disturbance locations has not been defined,” there must be some BLM-imposed limit, a cap, to these undefined impacts by the Proponent.

We question the math used to derive the acreages of impact predicted for “New Access Roads (Temporary and Permanent),” which is given as 3.32 acres in Table 2-1. We note that 6.2 linear miles of 12-foot-wide temporary roads equals 9.01 acres ( $6.2 \times 5,280 \times 12 = 392,832/43,560 \text{ ft}^2/\text{acre} = 9.01 \text{ acres}$ ) and 1.8 miles of 15-foot-wide permanent roads = 3.27 acres ( $1.8 \times 5,280 \times 15 = 142,560/43,560 \text{ ft}^2/\text{acre} = 3.27 \text{ acres}$ ), for a total of 12.28 acres, not 3.32 acres as given in Table 2-1 on page 5. These calculations need to be reconsidered and published in the record of decision or another subsequent BLM document. We note that the total impact of 20.5 acres will likely need to be changed throughout this and subsequent documents.

Furthermore, we question the BLM/ICPD’s assertion that these roads will be “temporary.” We note on page 5 that “Roads and drill sites would be reclaimed using a bulldozer and/or CAT excavator or equivalent,” which is similar to the machinery to be used to create the roads. Given the persistence of even a single pass by Patton-era tanks over this same area of the desert in the 1940s, we expect that these “temporary” roads will create “permanent” impacts that no additional use of heavy equipment will eradicate. We request that the permanent direct impacts of these roads and the indirect impacts to the tortoise and tortoise habitat be fully mitigated and the mitigation be monitored for effectiveness. Please see our April 4 comment letter regarding this issue<sup>1</sup>.

On page 9, we read the following: “Roads not needed for post-closure access would be reclaimed. The abandoned road surfaces would be scarified by ripping, if necessary. Where necessary, rock or earthen berms and water bars would be placed to prevent vehicular access and reduce erosion.” We strongly discourage the use of heavy equipment for “ripping, if necessary,” as such treatment of these “temporary” roads will predictably create more disturbance than they will eliminate. Where necessary, the interface between existing roads and temporary roads should be camouflaged with vertical mulching or other appropriate methods. We also provide for your use Abella and Berry (2016<sup>2</sup>), which present best management practices for revegetation in arid habitats.

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<sup>1</sup> <https://www.dropbox.com/s/u2acfv33q9vsfvt/EI%20Centro%20Mining%20Exploration.4-3-2022.pdf?dl=0>

<sup>2</sup> <https://www.dropbox.com/s/nx1b5m2b5ehya12/%23Abella%20and%20Berry%202016.pdf?dl=0>

We strongly oppose the italicized wording in the following sentence given at the top of page 100: “Project activities would be monitored throughout the life of the Project to avoid potential impacts to Mojave Desert tortoise habitat, *should Project activities be conducted during the Mojave Desert tortoise active season (March 15 through November 1).*” The implication here is that activities would not be monitored from November 1 through March 15, which we strongly oppose and is not supported by scientific research. Although adult tortoises are typically *less active* during this time of year, they are not *inactive*; both adult tortoises and particularly juvenile tortoises may be active on warmer days and definitely during rainy days.

Additionally, biological monitors are responsible to monitor *all* construction activities, including those that are not related to tortoise activities, such as maintaining litter-free conditions, containing all construction impacts within designated areas, and educating new construction workers as they enter the site. Also, who will be on hand to move a tortoise from harm’s way if one is found under a construction vehicle between November 1 and March 15? Construction workers are not allowed to handle tortoises; and given the remoteness of the project area, there would be no immediate remedy to move such animals out of harm’s way.

Given the above information, we strongly recommend that BLM require that *All* exploratory activities, regardless of the season, be monitored.

Conversely, we do not recognize the following requirement as either feasible or reflecting current management: “The FCR [field contact representative] would be required to be onsite during all Project activities during the active season.” Often, in practice, FCRs are office managers or supervisors who are not field-based, so to require them to be onsite may prove to be unrealistic depending on their job responsibilities. Our suggestion is to drop this requirement.

We request that the Project Proponent contribute to the National Fish and Wildlife Foundation’s Raven Management Fund for regional and cumulative impacts of ravens on tortoises that are not addressed in the EA. BLM usually requires this mitigation, but we did not see this requirement in the EA.

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.  
Ecosystems Advisory Committee, Chairperson  
Desert Tortoise Council

## Literature Cited

- Abella S.R. and K.H. Berry. 2016. Enhancing and restoring habitat for the desert tortoise (*Gopherus agassizii*). *Journal of Fish and Wildlife Management* 7(1):xx–xx; e1944-687X. doi: 10.3996/052015-JFWM-046.
- 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>
- Desert Tortoise Council. 2020. A Petition to the State of California Fish and Game Commission to change the status of *Gopherus agassizii* from Threatened to Endangered. Formal petition submitted on 11 March 2020.