



**DESERT TORTOISE COUNCIL**

4654 East Avenue S #257B

Palmdale, California 93552

[www.deserttortoise.org](http://www.deserttortoise.org)

[eac@deserttortoise.org](mailto:eac@deserttortoise.org)

**Via email only**

15 April 2021

Ms. Caroline Woods  
Bureau of Land Management  
Ridgecrest Field Office, California Desert District  
Department of the Interior, Region 8 & 10  
760-382-1633 (work cell)  
[cwoods@blm.gov](mailto:cwoods@blm.gov)

RE: Environmental Assessment (DOI-BLM-CA-LLCAD05000-2021-EA) Centennial, Panamint and Slate Range Herd Areas Wild Burro Gather Plan FY2021-FY2031

Dear Ms. Woods,

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, and particularly appreciate that you reached out to the Council directly to inform us of the opportunity to provide input. Given the location of the proposed project in habitats likely occupied by Mojave desert tortoise (*Gopherus agassizii*) (synonymous with Agassiz's desert tortoise), our comments pertain to enhancing protection of this species during activities authorized by the Bureau of Land Management (BLM). Please accept, carefully review, and include in the relevant project file the Council's following comments and attachments for the proposed project. 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. Unless otherwise noted, all page numbers cited herein pertain to the Draft Environmental Assessment (Draft EA) made available in March 2021, and otherwise undated.

Page 26 indicates: “Each proposed capture site within desert tortoise habitat will be inventoried by a biologist or designated BLM representative who has done field work with desert tortoises for tortoise burrows. Temporary structures, vehicles, equipment, helicopter landing sites and other activity shall be located in areas free of tortoise burrows.” To be in conformance with current guidelines, each capture site should be surveyed by the U.S. Fish and Wildlife Service (USFWS 2019) protocol for presence-absence surveys, which is one pass at 10-meter intervals. We understand from the Draft EA that if tortoise burrows are found, an alternate capture site would be selected. If no burrows are found during the initial presence-absence survey, BLM should then require that clearance surveys be performed, which would require two passes at 5-meter intervals (USFWS 2009). All burrows within the capture site that may be potentially inhabited by juvenile tortoises should be excavated, and if a subadult tortoise encountered, the capture site abandoned.

The approach described above indicates that authorized biologists or knowledgeable BLM biologists will perform pre-capture surveys at pen sites but does not indicate any level of biological monitoring during actual capture activities. We recommend that in addition to pre-capture surveys, that at least initial capture activities be monitored by knowledgeable biologists so they may provide constructive feedback on approaches that will minimize impacts to tortoises. This is especially important if new, untrained personnel join the capture crews and will need tortoise awareness training described on page 27. Once the biological monitor has confirmed that the capture crews are performing activities that are least likely to impact tortoises and occupied habitats, they could leave the site, make occasional unannounced visits, and should remain available, on-call throughout all capture activities should an unexpected issue arise.

Tortoise burrows cannot be excavated and tortoises cannot be handled unless a California 2081 incidental take permit is secured. Hence the statement at the bottom of page 27 (i.e., “(d) Only individuals authorized by the U.S. Fish and Wildlife Service shall handle desert tortoises”) must not be implemented until the State incidental take permit is also secured.

As per the following measure on page 28, “(f). Upon locating a dead or injured tortoise, the gather crew is to notify the Ridgecrest Office. The BLM must then notify the appropriate field office (Carlsbad or Ventura) of USFWS by telephone within three days of the finding,” since the tortoise is also listed by the California Fish and Game Commission, it is prudent that the take also be reported to the appropriate office of the California Department of Fish and Wildlife (CDFW).

Our understanding of the Draft EA is that no capture activities will occur within designated desert tortoise critical habitat (USFWS 1994), which occur well south of the capture allotments. We are unsure of the history that identifies why these three allotments have been selected for burro removal, but strongly recommend that future capture activities target burro herds that are in the Fremont-Kramer and particularly Superior-Cronese Critical Habitat Units even where they do not occur within designated allotments. We have recently observed burro scat north of Cuddeback Lake, which is within tortoise critical habitat, and believe that the BLM should target critical habitats to remove this particular threat from these essential habitats. The Council supports removal of burros to levels that do not exceed the appropriate management level (AML) in any given year, and that BLM determine this AML by including the habitat needs of the tortoise.

We could not tell from information in the Draft EA how long burros may be retained within capture pens or corrals, or what sort of fencing materials would be used to corral them. If the burros are to be corralled for longer than a few days, particularly in the spring or fall, it may be prudent to attach

tortoise-proof mesh, one inch wide and two inches tall, to the bottom of the larger fencing material. We note that a 20 mph speed limit is to be enforced relative to air quality (page 26), and suggest that (a) the speed limit be reduced to 15 mph, and if not, (b) that the capture personnel be informed that reduced speeds are also required to avoid crushing tortoises during gather exercises. The BLM biologist should also instruct personnel what to do in the event a tortoise is observed under a vehicle, which cannot be handled in the absence of state incidental take permit authorization. Finally, capture crews should be instructed that there is to be no cross-country vehicle travel and that all associated vehicles must remain on BLM-designated open routes, avoiding all unmarked and closed routes.

Except for the second paragraph on page 27 reporting the nesting season of Inyo towhee from March to August, we were unable to find any discussion of the intended season of capture. Although tortoises may be active anytime of year, heightened activity occurs in the spring and fall, and anytime of year during and after rainstorms, particularly after prolonged dry periods. Therefore, we recommend that BLM conduct the capture activities in July-August and/or December-January to minimize the likelihood of crushing tortoises during capture activities.

We appreciate this opportunity to provide input and trust that our comments will help protect tortoises during any authorized project activities. Herein, we ask that the Desert Tortoise Council continue to be identified as an Affected Interest for this and all other BLM projects that may affect species of desert tortoises, and that any subsequent environmental documentation for this particular project is provided to us at the contact information listed above. We also ask that you acknowledge receipt of this letter as soon as possible so we can be sure our concerns have been received by the appropriate parties.

Regards,



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

### **Literature Cited**

- U.S. Fish and Wildlife Service. 1994. Endangered and threatened wildlife and plants; determination of critical habitat for the Mojave population of the desert tortoise. Federal Register 55(26):5820-5866. Washington, D.C.
- U.S. Fish and Wildlife Service. 2009. Desert Tortoise (Mojave Population) Field Manual: (*Gopherus agassizii*). Region 8, Sacramento, California.
- U.S. Fish and Wildlife Service. 2019. Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*). USFWS Desert Tortoise Recovery Office. Reno, NV.