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Via email only

3 August 2023

Attn: California Department of Fish and Wildlife (rcis@wildlife.ca.gov)
San Bernardino County Transportation Authority (jlee@gosbcta.com)

RE: San Bernardino County Regional Conservation Investment Strategy (RCIS)

Dear Agencies,

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.

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."

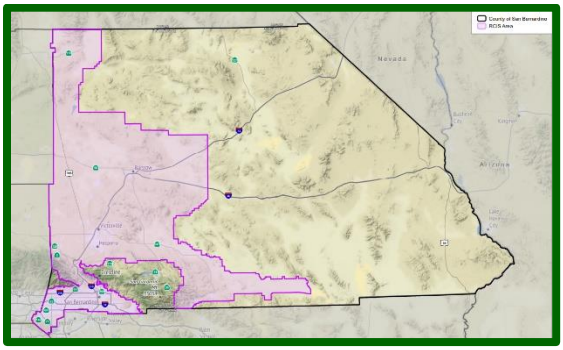
We appreciate this opportunity to provide comments on the above-referenced project. Given the location of the proposed project in habitats known to be occupied by Mojave desert tortoise (*Gopherus agassizii*) (synonymous with Agassiz's desert tortoise), our comments pertain to enhancing protection of this species during activities implemented California Department of Fish and Wildlife (CDFW) and San Bernardino County Transportation Authority (SBCTA) applicable to this planning exercise. 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), "… based on population reduction (decreasing density), habit 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 had 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 Desert Tortoise Preserve Committee (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.

We read the following description of this planning effort in the Executive Summary of the "Public Draft: San Bernardino County Regional Conservation Investment Strategy," prepared by Dudek (2023), dated May 2023: "The San Bernardino County Regional Conservation Investment Strategy (SBC RCIS) is a voluntary, nonregulatory framework for conservation and mitigation actions in key regions of San Bernardino County, California. The San Bernardino Council of Governments, County of San Bernardino, and the Environment Element Group, in collaboration with the Southern California Association of Governments, developed the SBC RCIS based on a set of biological and planning principles that arose from the Countywide Vision planning process. In an effort to streamline mitigation decisions and generate the best conservation outcomes, the SBC RCIS was developed to provide a regional, science-based conservation guidebook for use by public agencies, the development community, environmental groups, other interested entities, and the public when planning and carrying out conservation and mitigation actions in western San Bernardino County." Unless otherwise notes, all referenced pages are from the SBC RCIS document.

The RCIS area is shown in pink in Figure 1-1 in Dudek (2023):



Given the Council's mission statement to protect and conserve Mojave desert tortoise, we necessarily focus on conservation in the "Desert region," depicted in Figure 2-1 (Dudek 2023), located north of Hesperia and Lucerne Valley, which includes the Fremont-Kramer, Superior-Cronese, and Ord Mountain desert tortoise Critical Habitat Units (CHUs) and Bureau of Land Management- (BLM) designated Areas of Critical Environmental Concern (ACECs) of the same names.

The Desert region, located north of Hesperia and Lucerne Valley, shown in yellow in Figure 2-1.

We note on page 2-24 that the following entities are listed as Local Conserved Lands: "These areas are considered permanently protected and managed for resource conservation and include lands managed by The Nature Conservancy, Wildlands Inc., The Wildlands Conservancy, Mojave Desert Land Trust, Wildlife Heritage Foundation, Transition Habitat Conservancy, Inland Empire Resource Conservation District, and Land Veritas," among others.

Please note and amend the next iteration of the RCIS to include 930 of acres on eight parcels managed by the Desert Tortoise Preserve Committee (DTPC; contact Jun Lee at junylee@gmail.com); four parcels comprising 2,318 acres in the established Mojave Desert Tortoise Conservation Bank owned and managed by DETO Inc. (contact Richard Lyons at civicrecords@gmail.com); and 18 parcels comprising 4,088 acres in the Fremont-Yermo Conservation Bank owned and managed by The Lyons Companies (contact Richard Lyons; the bank is being developed in conjunction with Region 6 of CDFW, contact Trisha Moyer at Patricia.Moyer@wildlife.ca.gov).

In regard to "Pressures on Conservation Elements in the RCIS Area," in Table 2-4, on page 243, we note that the following elements are not checked relative to desert tortoise but should be: Dams and Water Management/Use; Garbage, Solid Waste, Household Sewage, Urban Waste Water, and Airborne Pollutants; Industrial and Military Effluents; Mining and Quarrying; and Parasites/ Pathogens/Disease. Given the following information, the applicable boxes should be checked in Table 2-4 in the next iteration of the SBC RCIS.

With the heavy rains in the winter of 2022, Los Angeles Department of Water and Power (LADWP) found it necessary to inundate adjacent desert areas on an emergency basis to protect their infrastructure in Kern and Inyo Counties, and the Cadiz Land Company is currently considering using an existing pipeline through the center of the RCIS planning area. Although these two particular projects are affecting tortoise habitats in adjacent regions, they are examples of foreseeable project types that may occur in the RCIS planning area, warranting a check in the box pertaining to Dams and Water Management/Use.

Garbage, Solid Waste, Household Sewage, Urban Waste Water, and Airborne Pollutants are all existing, serious impacts associated with the urbanizing communities of Apple Valley, Victorville, and Barstow that are all found within the RCIS planning area. Similarly, the new use of expanded operations of Fort Irwin westward into the Superior Valley, China Lake Naval Air Weapons Station into lands east of Cuddeback Lake, and the recent expansion of the Twentynine Palms Marine Corps Base into Johnson Valley are examples of military exercises that will undoubtedly result in introducing new effluents into desert tortoise habitats. Mining and Quarrying activities throughout San Bernardino County and the RCIS planning area and their documented impacts (Chaffee and Berry 2006) warrant checking that box in Table 2-4. Finally, upper respiratory tract disease is a significant, widespread factor resulting in tortoise population declines at the Desert Tortoise Research Natural Area (Brown et al. 1999) and may be introduced to tortoises adjacent to urban areas where infected captive tortoises are common (Berry et al. 2015).

We note in Table 3-3 on page 3-25 that desert tortoise is restricted to "Desert Scrub" communities. Given the description of "Transitional Scrub, Chaparral, and Woodland" communities on page 3-21, we suggest that this community also be identified for desert tortoise in Table 3-3. There are anecdotal accounts of desert tortoises in these communities up to 5,500 feet elevation (LaRue, personal observation) and these higher elevation community types may also be important if climate change effects result in lateral movements of tortoise populations into adjacent, higher elevation areas.

Under Objective DS-1.2. on page 3-46, intended to protect important Desert Scrub habitats, we ask that USFWS-designated critical habitat be added to the list, and that the future iteration of the SBC RCIS document the overlap between BLM-designated ACECs and USFWS-designated critical habitat, which may be similar but not necessarily the same, pending results of this analysis. We believe that this is important because, although DS-1.3 focuses on protecting Desert Scrub communities on private lands then lists desert tortoise critical habitat as one of the conservation priority areas, we note that critical habitat designation applies to all lands but only those actions with a federal nexus (e.g., on private land those actions funded, authorized, or carried out by a federal agency).

With regards to the following objective on page 3-47, where Coyote and Cuddeback dry lakes are listed, "**Objective DP-1.2**: Implement targeted conservation actions to increase or improve protection and/or management in the 47,700 acres of public land designations not considered conserved that support DP habitats in the following conservation priority areas, primarily BLM ACECs and other BLM lands," we note that with its 2019 record of decision, BLM (2019) introduced unrestricted recreational use of these two dry lakes, which are located within desert tortoise critical habitat, and will undoubtedly result in heightened degradation of critical habitat by

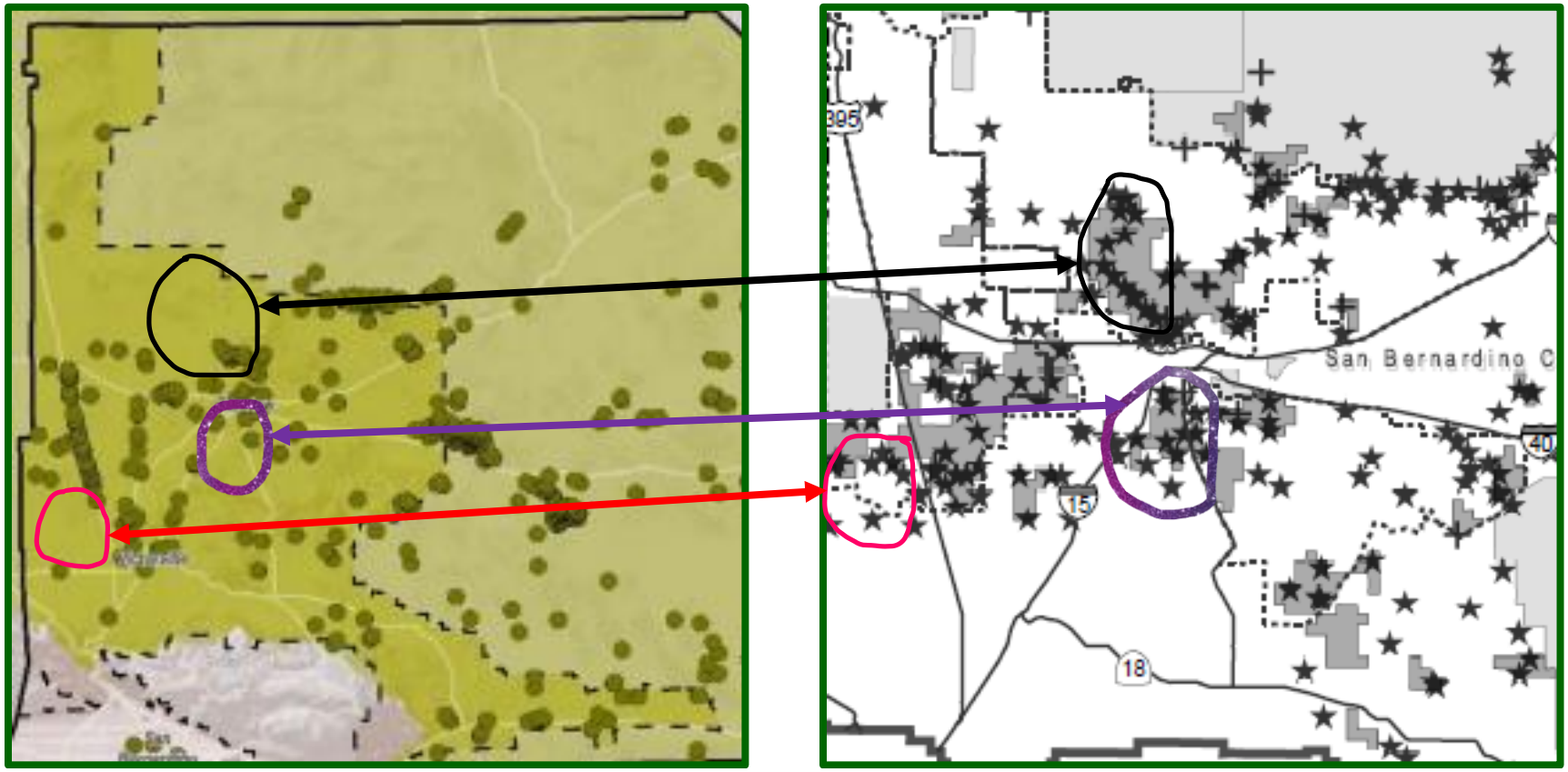
physical impacts from increased human/vehicle access and spillover use, and windblown dust into vegetation in adjacent critical habitat. We contend that, given the significant population declines of the tortoise throughout the West Mojave Desert and RCIS area (Allison and McLuckie 2018), these decisions should be reversed, these dry lakes should retain their Limited Use designation, and unrestricted vehicle use not be allowed.

With regards to the Specific Conservation Actions (SCA) listed in Table 3-7 for DS-CA1-05: Habitat Monitoring and Management and DS-CA1-06: Habitat Enhancement we ask that the next iteration of the SBC RCIS specifically target the identification and restoration of habitats that have been adversely affected by illegal marijuana grow sites. Our personal observations suggest that these "hoop houses" have been identified and dismantled, however most of them still contain residual debris like wood, PVC pipes, irrigation tubing, and Visqueen plastic sheeting and all of them resulted in barren lands where the vegetation had been cleared. We ask that either these SCAs be modified or (our preference) that a SCA be newly identified to restore, remediate, revegetate, etc. each of these sites and that desert tortoise critical habitats and ACECs be identified as high priority areas for these efforts.

Concerning Figure 3-4a on page 3-119, which depicts Moderate and High Habitat Value in pink, please explain why wilderness areas and (presumably) private lands are not designated by the pink color. Perhaps the explanation is in one of the referenced documents? In any case, we believe that habitat value should be determined without concern for land ownership, and that those clear (presumably) private lands surrounded by pink should also be depicted as Moderate to High Habitat Value. If not, please explain why not in the next iteration of the SBC RCIS.

With regards to Appendix C, Focal Species Summaries, for the desert tortoise we read that there are only 242 occurrences of the desert tortoise in the RCIS based on post-1990 records. There are undoubtedly many more records than this that have not been accessed and many more sightings that are not recorded. Given that USFWS (Brian Croft) is included in the List of Preparers and Reviewers in Section 5 on page 5-1, we suggest that he be contacted so that the next iteration of the SBC RCIS include tortoises that have been detected in the RCIS by the USFWS-sponsored distance sampling surveys performed since year 2000. Additional sources of tortoise occurrences that may not have been accessed are BLM permanent study plots, including hundreds of tortoises detected on the Johnson Valley, Lucerne Valley, Stoddard Valley, Kramer Hills, and Fremont Peak study plots and tortoise occurrences from the West Mojave Plan (BLM 2006). Note for example on the next page the pattern of tortoise occurrences in the left hand map from the SBC RCIS compared to the occurrence pattern in the right hand map from the West Mojave Plan.

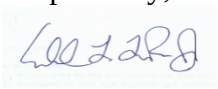
In this same section, whereas we prefer the term "brumation" to "hibernation," the table should be modified to show that tortoises are generally active by late February in this area, so the month of March should not be checked. And since most hatchlings emerge from their nests in September or even early October, the months of August, September, and October should also be included in the nesting period for tortoises. Finally, those three records of tortoises in the Valley region are undoubtedly of pet tortoises, so we suggest removing that statement from the next SBC RCIS.



The linear distribution of tortoise occurrences shown as circles in the left map from the SBC RCIS suggest California Natural Diversity Data Base (CNDDB) records and do not appear to show the tortoise occurrences shown as stars in the West Mojave Plan (BLM 2006). Note the regions where missing circles in the RCIS map corresponding to the regions where stars indicate tortoise occurrences in the BLM (2006) map.

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 CDFW and SBCTA 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

cc. Brian Croft, USFWS, Palm Springs, brian_croft@fws.gov
Mark Massar, BLM, Palm Springs, mmassar@blm.gov
Patricia Moyer, CDFW Region 6, Patricia.Moyer@wildlife.ca.gov
Richard Lyons, Mitigation Bank Manager, civicrecords@gmail.com
Jun Lee, Desert Tortoise Preserve Committee, junylee@gmail.com

Literature Cited

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[BLM] Bureau of Land Management. 2019. Record of Decision. West Mojave Route Network Project Decision to Amend California Desert Conservation Area Plan and Implement Nine Travel Management Plans Department of the Interior Bureau of Land Management California Desert District October 2019.

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Defenders of Wildlife, Desert Tortoise Preserve Committee, and Desert Tortoise Council. 2020. A Petition to the State of California Fish And Game Commission to move the Mojave desert tortoise from listed as threatened to endangered. Formal petition submitted 11 March 2020. https://defenders.org/sites/default/files/2020-03/Desert%20Tortoise%20Petition%203_20_2020%20Final_0.pdf.