

DESERT TORTOISE COUNCIL

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Via email and BLM NEPA eplanning portal

October 28, 2022

Katie White Bull, Acting Field Manager
Bureau of Land Management
Phoenix District Office
2020 E. Bell Road
Phoenix, Arizona 85022
kwhitebull@blm.gov
BLM_AZ_SDNMtargetshooting@blm.gov

RE: Scoping Comments – Sonoran Desert National Monument Target Shooting Resource Management Plan Amendment Environmental Assessment (DOI-BLM-AZ-P040-2022-0001-RMP-EA)

Dear Ms. Bull,

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 addresses are provided above in our letterhead for your use when providing future correspondence to us.

We appreciate this opportunity to provide comments on the above-referenced project. Given the location of the proposed project in habitats likely occupied by Sonoran desert tortoise (*Gopherus morafkai*) (synonymous with Morafka's desert tortoise), our comments pertain to enhancing protection of this species during activities funded, authorized, or carried out by the Bureau of Land Management (BLM), which we assume will be added to the Decision Record for this project as needed. Please accept, carefully review, and include in the relevant project file the Council's following comments and attachments for the proposed project.

The Council reiterates it has continuously requested that the BLM contact us directly as an Affected Interest for all projects that may affect tortoises. This project was brought to our attention by one of our members, and not by the BLM. Our formal request of November 12, 2019 to Leon Thomas, District Manager of the BLM's Phoenix District is attached as a reminder. We are copying this comment letter to BLM Arizona State Director, Raymond Suazo, with the expectation that his office will be responsive to our persisting requests and provide the Council with notification of proposed actions that may affect desert tortoises on lands managed by the BLM in Arizona. We note that BLM offices in Nevada and California have significantly improved in contacting us in response to analogous letters we sent to those offices.

In response to BLM's publication on August 24 of a Notice of Intent to prepare an Environmental Assessment (EA) to amend the Sonoran Desert National Monument (NM) Resource Management Plan (RMP) for Target Shooting, the Council provides the following comments during the public scoping period. We request that the issues presented below and data provided be presented and analyzed in the EA.

1. *Results of Monitoring Impacts to Resources from Target Shooting*: Currently, dispersed recreational target shooting is allowed on 435,700 acres of the Sonoran Desert NM and not allowed on 52,000 acres of the Juan Bautista de Anza Recreation Management Zone. BLM adopted a framework for monitoring to identify, avoid or minimize recreation impacts on monument objects and ensure goals and objectives are being met. We request that BLM provide the data it has collected from implementing this monitoring and demonstrate how the design and implementation of this monitoring "plan" is scientifically valid and statistically robust.
2. *Compliance with the Administrative Procedures Act to avoid decisions that are/appear to be arbitrary or capricious*: In BLM's Preferred Alternative for the Lower Sonoran and Sonoran Desert National Monument Proposed Resource Management Plan and Final Environmental Impact Statement (BLM 2012), BLM said, "A diversity of recreational opportunities would be provided, with increased non-motorized recreation. Uses *likely to cause resource damage such as recreational target shooting* [emphasis added], paintball, and wood collecting for campfires would not be allowed." We understand the Proposed RMP and Final EIS to not authorize recreational target shooting in the Sonoran Desert NM was changed in the Record of Decisions for political reasons despite data available at the time documenting resource damage and other impacts from recreational target shooting to resources. In addition, BLM does not allow target shooting in Ironwood Forest National Monument that it manages, and target shooting is not allowed on Arizona State Lands, demonstrating that authorizing target shooting in the Sonoran Desert NM is inconsistent with current management.

3. *Compliance with the National Environmental Policy Act (NEPA) and implementing regulations:* In the NEPA document, BLM should ensure that it complies with the Council on Environmental Quality's (CEQ) regulations and guidance for implementing NEPA. We are particularly interested in how BLM is using the most recent scientific data when analyzing impacts and using these data as the foundation for making decisions. According to NEPA's implementing regulations, accurate scientific analysis is to be used when implementing NEPA; statements in NEPA documents will be based upon the analysis and supporting data from the natural and social sciences; a summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment; the agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community; identify any methodologies used and make explicit reference to the scientific and other sources relied upon for conclusions; and whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

BLM's analyses in the NEPA document should implement the CEQ's (1997) guidance on analysis of cumulative effects. "Determining the cumulative environmental consequences of an action requires delineating the cause-and-effect relationships between the multiple actions and the resources, ecosystems, and human communities of concern. The range of actions that must be considered includes not only the project proposal but all connected and similar actions that could contribute to cumulative effects." The analysis "must describe the response of the resource to this environmental change." Cumulative impact analysis should "address the sustainability of resources, ecosystems, and human communities."

The CEQ provides eight principles of cumulative effects analysis (CEQ 1997, Table 1-2). These are:

1. Cumulative effects are caused by the aggregate of past, present, and reasonable future actions.

The effects of a proposed action on a given resource, ecosystem, and human community, include the present and future effects added to the effects that have taken place in the past. Such cumulative effects must also be added to the effects (past, present, and future) caused by all other actions that affect the same resource.

2. Cumulative effects are the total effect, including both direct and indirect effects, on a given resource, ecosystem, and human community of all actions taken, no matter who (federal, non-federal, or private) has taken the actions.

Individual effects from disparate activities may add up or interact to cause additional effects not apparent when looking at the individual effect at one time. The additional effects contributed by actions unrelated to the proposed action must be included in the analysis of cumulative effects.

3. Cumulative effects need to be analyzed in terms of the specific resource, ecosystem, and human community being affected.

Environmental effects are often evaluated from the perspective of the proposed action. Analyzing cumulative effects requires focusing on the resources, ecosystem, and human community that may be affected and developing an adequate understanding of how the resources are susceptible to effects.

4. It is not practical to analyze the cumulative effects of an action on the universe; the list of environmental effects must focus on those that are truly meaningful.

For cumulative effects analysis to help the decision maker and inform interested parties, it must be limited through scoping to effects that can be evaluated meaningfully. The boundaries for evaluating cumulative effects should be expanded to the point at which the resource is no longer affected significantly or the effects are no longer of interest to the affected parties.

5. Cumulative effects on a given resource, ecosystem, and human community are rarely aligned with political or administrative boundaries.

Resources are typically demarcated according to agency responsibilities, county lines, grazing allotments, or other administrative boundaries. Because natural and sociocultural resources are not usually so aligned, each political entity actually manages only a piece of the affected resource or ecosystem. Cumulative effects analysis on natural systems must use natural ecological boundaries and analysis of human communities must use actual sociocultural boundaries to ensure including all effects.

6. Cumulative effects may result from the accumulation of similar effects or the synergistic interaction of different effects.

Repeated actions may cause effects to build up through simple addition (more and more of the same type of effect), and the same or different actions may produce effects that interact to produce cumulative effects greater than the sum of the effects.

7. Cumulative effects may last for many years beyond the life of the action that caused the effects.

Some actions cause damage lasting far longer than the life of the action itself (e.g., acid mine damage, radioactive waste contamination, species extinctions). Cumulative effects analysis need to apply the best science and forecasting techniques to assess potential catastrophic consequences in the future.

8. Each affected resource, ecosystem, and human community must be analyzed in terms of its capacity to accommodate additional effects, based on its own time and space parameters.

Analysts tend to think in terms of how the resource, ecosystem, and human community will be modified given the action's development needs. The most effective cumulative effects analysis focuses on what is needed to ensure long-term productivity or sustainability of the resource.

This document is referenced as guidance to be used in the BLM's NEPA Handbook (2008a) in section 6.8.3 on cumulative effects. For the tortoise, numbers 5 through 8 are especially important and relevant given the tortoise's slow growth, which is 12 to 20 years to reach sexual maturity, and the slow growth of desert vegetation.

Please ensure these eight principles are analyzed in the NEPA document for each alternative for the tortoise.

In summary, for compliance with NEPA, please ensure that the analyses of resource impacts from target shooting includes direct, indirect, interdependent, synergistic, and cumulative impacts, especially for the Sonoran desert tortoise, its habitat, and linkage habitats across flats and bajadas needed to connect tortoise populations and ensure genetic diversity and population viability. These impacts are likely to increase in the future because of the growing human population in the Phoenix to Gila Bend area, the location of the Sonoran Desert NM, availability of less expensive ammunition, and increasing popularity of automatic weapons (e.g., see Short and Finney 2022).

4. *Compliance with Presidential Proclamation 7397—Establishment of the Sonoran Desert National Monument:* In this proclamation, President Clinton used his authority under the Antiquities Act of 1906 (Act) to establish the Sonoran Desert National Monument. Section 2 of the Act authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

In his proclamation that established the Sonoran Desert National Monument, President Clinton stated Federal land and interests in land reserved consist of approximately 486,149 acres, which is the smallest area compatible with the proper care and management of the objects to be protected. Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument. The President specifically named numerous objects including the Sonoran desert tortoise, diverse plant communities that support a wide variety of wildlife, individual saguaro cactus plants, packrat middens, and historic and prehistoric sites.

Please analyze in the NEPA document how allowing target shooting would comply with the management directive given by the President in his Proclamation to protect the biological and cultural objects named and their proper care and management. How is target shooting not injuring or destroying any of these objects and how would future target shooting not injure or destroy any of these objects?

We refer BLM to its analysis of the impacts of target shooting on objects in the Sonoran Desert NM, which is Appendix G Sonoran Desert National Monument Recreational Target Shooting Analysis in the Final EIS (BLM 2012). We request that BLM update this analysis with additional data reported in the scientific literature (e.g., Short and Finney 2022 , etc.) and use these data and analyses to reach a decision on the proposed action.

5. *Compliance with the Sonoran Desert Tortoise Candidate Conservation Agreement:* As a signatory to this Candidate Conservation Agreement (CCA) (USFWS et al. 2015), BLM acknowledged that the primary threats to Sonoran desert tortoise in Arizona are habitat destruction, fragmentation, and degradation. Causes of these threats include, but are not limited to invasive nonnative plant establishment, an altered fire regime, urbanization and development, human-constructed barriers to movement, off-highway vehicle use, and livestock grazing.

In the CCA, BLM states, “The SDT [Sonoran desert tortoise] is designated as a BLM Sensitive Species and is managed according to BLM Manual Section 6840 (2008b), Special Status Species Management. The 6840 Manual directs BLM to implement measures to conserve the SDT and its habitat” and “SDT conservation is a priority when evaluating discretionary activities.” Please evaluate in the NEPA document how each of the alternatives in the NEPA document complies with this commitment.

6. *Analyses of a range of alternatives.* In the NEPA document, please analyze one alternative that does not allow recreational target shooting/similar discharge of firearms/hand-held explosives in the Sonoran Desert NM. For all alternatives analyzed, include a scientifically robust, statistically valid monitoring plan that BLM will fund and implement to determine (1) the efficacy of compliance, and (2) impacts on resources including the tortoise and tortoise habitat used for breeding, feeding, shelter, and connectivity.

7. *Analyses of all direct, indirect, interdependent, synergistic, and cumulative impacts from the authorization and use of target shooting:* The analyses should include the following impacts to the objects BLM has been ordered to protect in the Sonoran Desert NM, including the Sonoran desert tortoise, the diverse plant communities that support the tortoise and other wildlife – intentional and accidental mortality from discharge of firearms (Berry et al, 2006, Berry et al. 2008, Berry et al. 2014,), littering of cartridges, cases, and shotgun shells (Keith et al. 2008), littering of food during shooting, attraction of predators to discarded food, littering of traditional shooting targets, littering and dumping of abandoned household refuse used as targets (BLM 2012, Stern 2015) (e.g., glass bottles, to appliances and engine parts of vehicles), ingestion by tortoises of trash/litter left by target shooters (Berry et al. 2008), authorized and unauthorized travel and the road effect zone, transport of invasive non-native plant species, wildfires cause by vehicles (Brooks and Esque 2002), shooting (Short and Finney 2022, Stern 2013), and smoking.

We note that for monitoring impacts of OHV activity on BLM land, BLM has an abysmal record for quantifying OHV occurrence and impacts to soils, vegetation, wildlife, and surface hydrology and for enforcement. This lack of adequate management and monitoring is usually attributed to inadequate funding that appears to be an ongoing issue. Consequently, we are hesitant to believe that BLM would implement a scientifically robust, statistically valid monitoring plan to quantify the impacts from target shooting and associated activities to the tortoise, its habitat, other wildlife species, and their habitats, which are numerous. Similarly, we are hesitant to believe that seasonal closures of areas to shooting would be effectively enforced.

Because of the numerous impacts documented by BLM in their Final EIS (BLM 2012) and additional ones described above, the Council opposes BLM authorizing target shooting in the Sonoran Desert National Monument, which may result in mortality to tortoises and destruction of plant communities from shooting-related fires. These losses would take several decades to restore, if at all. Authorizing an activity that can cause such large-scale and long-term destruction of objects that BLM has been charged with protecting is inappropriate and unacceptable.

We appreciate this opportunity to provide comments on this project and trust they will help protect tortoises during any resulting authorized activities. Herein, we reiterate that the Desert Tortoise Council wants to be identified as an Affected Interest for this and all other projects funded, authorized, or carried out by the BLM that may affect species of desert tortoises, and that any subsequent environmental documentation for this project is provided to us at the contact information listed above. Additionally, we ask that you respond in an email that you have received this comment letter so we can be sure our concerns have been registered with the appropriate personnel and office for this project.

Respectfully,



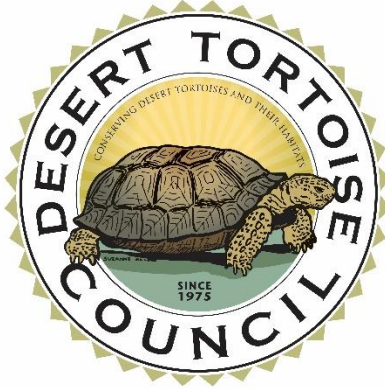
Edward L. LaRue, Jr., M.S.
Desert Tortoise Council, Ecosystems Advisory Committee, Chairperson

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BLM Deputy Director of Policy, Nada L. Culver, nculver@blm.gov
BLM Assistant Director, Resources & Planning, David Jenkins, djenkins@blm.gov
BLM Arizona State Director, Raymond Suazo, rsuazo@blm.gov

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DESERT TORTOISE COUNCIL

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CERTIFIED MAIL

November 12, 2019

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Manager
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Michael Herder, District Manager
Arizona Strip District
Bureau of Land Management
345 East Riverside Drive
St. George, UT 84790-6714

RE: Reiteration of the Desert Tortoise Council's Previous Requests as An Affected Interest for
Notification of Bureau of Land Management Proposed Actions Affecting the Desert Tortoises
or Habitats

Dear Mr. Feldhausen, Mr. Thomas, Mr. Mack, and Mr. Herder:

The Desert Tortoise Council (Council) is a non-profit organization comprised of hundreds of professionals and laypersons throughout the United States and other countries. Council members share a common concern for wild desert tortoises and a commitment to advancing the public's understanding of the three species of desert tortoises. 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.

The Council has submitted written comments on numerous proposed actions by the Bureau of Land Management (BLM) within the range of two species of desert tortoises (i.e., *Gopherus agassizii* synonymous with "Mojave desert tortoise" and *Gopherus morafkai* synonymous with Sonoran desert tortoise).

In the last few years, the Council provided written comments on numerous BLM proposed actions in the range of the Mojave and Sonoran desert tortoises. Some of these proposed actions in Arizona are listed below:

In 2019:

- 2019/8/16 - Environmental Assessment (DOI-BLM-UT-C030-2017-0063-EA) for Rocky Mountain Power Powerline Upgrade Project and City of St. George Waterline Development Project Red Cliffs National Conservation Area

In 2018:

- 2018/11/29 - Ten West Link Draft Environmental Impact Statement (DEIS) and Draft Resource Management Plan Amendments (DEIS) (DOI-BLM-AZ-C020-2016-0010-EIS)
- 2018/5/08 - Draft Buckeye Hills Travel Management Plan, Pinal and Maricopa Counties, Arizona
- 2018/3/07 - Scoping Comments for the Lower Colorado River Travel Management Plan 03/07/18
- 2018/2/13 - Environmental Assessment (EA) for the Lower Centennial Complex

In 2016:

- 2016/2/12 - Pakoon Springs Public Use Environmental Assessment (DOI-BLM-AZ-A030-2016-0004-EA)
- 2016/9/22 - Pakoon Springs Public Use Environmental Assessment (DOI-BLM-AZ-A030-2016-0004-EA)

In each comment letter to the BLM, the Council asked “that the Desert Tortoise Council 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 Project is provided to us at the contact information listed above.” The contact information is contained in the letterhead of these comment letters, eac@deserttortoise.org.

The Council believes this language was clear to the BLM and that the Council as an Affected Interest was to be notified of BLM proposed actions that may affect species of desert tortoises. However, the Council did not learn about any of these proposed actions from the BLM, but from several third parties. Given the numerous requests the Council has submitted to project officials at BLM field offices in Arizona in the last few years to be identified as an Affected Interest, we are puzzled as to why we did not (and do not) receive notification from the Gila District Office, the Phoenix District Office, Colorado River District Office, Arizona Strip District Office or any of the field offices within these Districts of any proposed actions on BLM lands in Arizona. Consequently, we are elevating our request to you as the District Managers in Arizona.


Our request for the BLM to notify the Council of these proposed actions is based on federal regulations and BLM’s handbook. According to 40 CFR 1500.2, “federal agencies shall to the fullest extent possible encourage and facilitate public involvement in decisions which affect the quality of the human environment.” This public involvement is further discussed in 40 CFR 1506.6, which says, “Agencies shall make diligent efforts to involve the public in preparing and implementing their National Environmental Policy Act (NEPA) procedures. The agency should request comments from the public and should *affirmatively solicit comments* [emphasis added] from those persons or organizations who may be interested or affected.”

The BLM NEPA Handbook states, “A primary goal of public involvement is to ensure that all interested and affected parties are aware of your proposed action. Knowing your community well is the first step in determining the interested and affected parties and tribes. You may already have a core list of those interested in and potentially affected by the BLM's proposed actions; this may provide a good starting point” (section 6.9.1). The Handbook also states under Environmental Assessments “The EA must list tribes, individuals, organizations, and agencies consulted (40 CFR 1508.9(b))” (section 8.3.7).

We urge the BLM to comply with these directives. With this letter, the Council requests that you ensure that the BLM notifies the Council in a timely manner (e.g., prior to the first day of the public comment period) of any proposed action in the Gila District, Phoenix District, Colorado River District, or Arizona Strip District that may affect the Mojave desert tortoise, Sonoran desert tortoise or their habitats. This includes any action that may affect, either directly or indirectly, these species. If the BLM is unwilling or unable to do this, we request that it provide a written response to the Council explaining why it is unable to honor this request to comply with federal regulations and the BLM NEPA Handbook.

Should you have any questions regarding this request, please contact me at the contact information on the Council’s letterhead above.

Regards,



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

cc: Jayme Lopez, Field Manager – Tucson Field Office
Ed Kender, Field Manager – Lower Sonoran Field Office
Angie Meece, Acting Field Manager – Hassayampa Field Office
Amanda Dodson, Field Manager – Kingman Field Office
Aron King, Field Manager – Yuma Field Office
Jason West, Field Manager – Lake Havasu Field Office
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Mark Wimmer, Manager – Grand Canyon-Parashant National Monument

Literature Cited

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