



DESERT TORTOISE COUNCIL

3807 Sierra Highway #6-4514

Acton, CA 93510

www.deserttortoise.org

eac@deserttortoise.org

Via email and BLM NEPA eplanning portal

September 12, 2022

Brandon Anderson
Assistant District Manager
Bureau of Land Management
1201 Bird Center Drive
Palm Springs, CA 92262
bganderson@blm.gov

RE: Whitewater River Groundwater Replenishment Facility Final Environmental Impact Statement (DOI-BLM-CA-D060-2019-0024-EIS)

Dear Mr. Anderson,

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 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 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 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.

We appreciate that BLM followed the recommendation in the Council's comment letter on the Whitewater River Groundwater Replenishment Facility Draft Environmental Impact Statement and added to the Final Environmental Impact Statement (FEIS) some mitigation measures for the tortoise. However, the measures added do not include all standard mitigation measures for the tortoise that BLM implements routinely for other ground disturbing projects with ongoing operations and maintenance activities. For example, one mitigation measure we were unable to find in the FEIS is not moving/releasing a tortoise unless the ambient temperature is less than 95 degrees F. This is one of several measures that BLM should add to the FEIS for the tortoise and Record of Decision. We request that BLM add (1) all applicable mitigation measures for the tortoise that it routinely requires in its environmental impact statements, (2) measures routinely required in biological opinions and habitat conservation plans for projects with ground disturbing activities (please see USFWS 2009, 2019), and (3) measures routinely required in section 2081 permits from California Department of Fish and Wildlife. In addition, we request that BLM demonstrate in the FEIS how this document complies with BLM's recently reinstated mitigation policy and instructions on its implementation (BLM 2021a, 2021b, and 2021c) with respect to the tortoise.

The Council appreciates this opportunity to provide comments on this project and trust they will help protect tortoises during any resulting authorized activities. In addition, we appreciate that BLM has added the Council to the mailing list for this project, as implementation of this project will affect the tortoise/tortoise habitat. Herein, we reiterate that the Desert Tortoise Council wants to be identified as an Affected Interest for this and **all other projects** [emphasis added] 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

Literature Cited

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>

[BLM] Bureau of Land Management. 2021a. Reinstating the Bureau of Land Management (BLM) Manual Section (MS-1794) and Handbook (H-1794-1) on Mitigation. Instruction Memorandum IM 2021-046. September 22, 2021.

[BLM] Bureau of Land Management. 2021b. Mitigation Handbook (H-1794-1). https://www.blm.gov/sites/default/files/docs/2021-10/IM2021-046_att2.pdf.

[BLM] Bureau of Land Management. 2021c. Mitigation Manual (MS-1794). Bureau of Land Management, September 22, 2021. https://www.blm.gov/sites/default/files/docs/2021-10/IM2021-046_att1_0.pdf.

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.

[USFWS] U.S. Fish and Wildlife Service. 2009. Desert Tortoise (Mojave Population) Field Manual (*Gopherus agassizii*). December 2009. <https://www.fws.gov/sites/default/files/documents/Desert-Tortoise-Field-Manual.pdf>

[USFWS] U.S. Fish and Wildlife Service. 2019. Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*). October 8, 2019.