



DESERT TORTOISE COUNCIL

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Via email only

20 December 2020

Lake Mead NRA
Attention: Margaret Goodro
c/o Willow Beach Road EA
601 Nevada Way
Boulder City, NV 89005
margaret_goodro@nps.gov

RE: Willow Beach Road Improvement Environmental Assessment (EA)

Dear National Park Service,

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. 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 authorized by the National Park Service (NPS). 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.

First, we would like to express our concern about the seemingly unnecessary restriction that limits submittal of comments through the NPS portal or by U.S. Postal Service. As per the screen shot at the end of this letter, when we tried to access your portal, we received a notice that the site could not be reached. Here in my hometown, it is a 30 minute wait in line, while wearing a mask, to see a postal clerk for registration of the letter. During current times when the governor of California has issued a stay-at-home order, it seems like unnecessary and inappropriate bureaucracy to require interested parties to break that order. Several clerks have been diagnosed as COVID-positive at my local Post Office, thus to satisfy this (unheard of) submittal requirement I would need to expose myself rather than remaining safely at home and clicking the send button.

Secondly, your notice says that the letter must be postmarked by December 20, which is a Sunday. Assuming we could submit our comments electronically, we are writing this letter Saturday, December 19. Although the letter can be placed in the mail Sunday, December 20, it will not be postmarked until December 21, on Monday. So, we hope you grant us the latitude of accepting this letter with a postmark that may be one day late.

Finally, we note that, although the Desert Tortoise Council is listed as an affected interest on page 40 of the EA, NPS did not provide us with the notice or any of the documents for review. We heard about your project from one of our members. While this is not the reason for such a late submittal, we note that we would not even be aware of the project but for one of our members.

We understand from page 1 of the EA that, “The purpose and need of this proposed project is to rehabilitate, reconstruct, resurface, and realign a badly deteriorated roadway, reduce hazards associated with flash flooding, minimize costs related to frequent flood damage, and improve safety for the public traveling on Willow Beach Road in Lake Mead National Recreation Area (Lake Mead NRA or park).”

All of the information pertinent to tortoises for the project is contained in several paragraphs on page 5 of the 57-page EA. The EA does not acknowledge that the Sonoran desert tortoise was formally designated as a Candidate species for federal listing in July 2020. If there is any evidence that tortoises occur within the project area, along designated access road(s), or within the “action area” (50 CFR §402.02) surrounding the site, then we recommend that protective measures appropriate for a Candidate species be implemented, particularly if they supplement those protections provided by the Candidate Conservation Agreement for the Sonoran desert tortoise (U.S. Fish and Wildlife Service, et al. 2015) referenced on page 5 of the EA.

On page 5, we appreciate that “Park biologists would conduct a survey for the Sonoran desert tortoise prior to construction, although biologists have not observed signs of this species to date during multiple site visits throughout the project area. If signs of Sonoran desert tortoise are identified *within the project area*, mitigation measures to avoid impacts to the tortoise would be employed (*emphasis added*).”

Upon reading these statements, we are concerned how the “project area” will be determined, when in fact, as per 50 CFR §402.02, it is the “action area” that should be considered. Although the project area could be construed as an area as narrow as shoulder-to-shoulder width within the existing right-of-way, roads may have indirect effects from as few as 400 meters (Boarman and Sazaki 2006; Hughson and Darby 2013) up to 4,000 meters either side of the road (von Seckendorff Hoff and Marlow 2002). As such, we believe that it would be prudent to perform presence-absence surveys out to a minimum of 100 meters both sides of the road using U.S. Fish and Wildlife Service (2019) survey protocol.

Also on page 5, we appreciate that the following mitigation measures would be implemented if tortoise sign is found within the project area (= action area): “These mitigation measures would include—but would not be limited to—restricting construction to periods of tortoise inactivity (typically November 1 through March 1) to the extent possible; relocating any tortoises found within the project area to other suitable habitat; vehicle use would be limited to existing or designated routes; and project features would be designed to prevent entrapment of tortoises.”

According to the EA, these measures would be implemented, “If signs of Sonoran desert tortoise are identified within the project area.” We believe that it is prudent for these measures to be implemented even if no tortoise sign is found, because tortoises “...could potentially occur within the project area” (EA on page 5).

Additionally, we suggest that the following standard measures be implemented:

- All construction personnel will be given a tortoise awareness program and asked to sign a statement that they are willing to abide by all protective measures.
- All construction work remain within the right-of-way.
- All trash and litter will be contained in appropriate disposal bins and removed daily from the work area. The road contractor will be responsible for maintaining a litter-free workplace; i.e., remove refuse that is generated by road improvement activities but not necessarily deposited by members of the public.
- Appropriate NPS personnel or third-party contractors will be utilized as biological monitors to ensure all protective measures are implemented.

An additional mitigation measure should include designing the proposed action so it does not impede the movement of or trap hatchling or adult tortoises. For example, we are concerned that the proposed grate may be of a size or location that may inadvertently trap tortoises. We are concerned that the proposed ditch along the road may be too steep for tortoises to exit from it. We request that these and other features of the proposed action be designed to avoid the possibility of entrapment or impeding movement

Finally, there is no indication that any protective measures would be implemented following road improvement activities. Page 1 of the EA indicates, “Willow Beach Road has reached the end of its serviceable life, the pavement of the roadway has settled in places creating an uneven surface containing potholes, cracks, and flood debris making driving problematic,” which may predictably result in slower, more cautious driving on the road. Upon improvement, it is likely that traffic will travel at faster speeds and that tortoises crossing the road could be crushed by unwary drivers. As such and assuming such signs do not already exist, we recommend that NPS, with input from knowledgeable biologists, install tortoise-crossing signs at appropriate intervals along the improved roadway during or following improvement 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 be identified as an Affected Interest for this and all other NPS 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, particularly since we will not be able to postmark it by December 20, 2020.

Regards,



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

Literature Cited

- Boarman, W.I. and Sazaki, M. 2006. A highway's road-effect zone for desert tortoises (*Gopherus agassizii*): Journal of Arid Environments, v. 65, p. 94–101.
- Hughson, D.L. and Darby, N. 2013. Desert tortoise road mortality in Mojave National Preserve, California: California Fish and Game, v. 99, p. 222–232.
- U. S. Fish and Wildlife Service and Cooperating Agencies comprising the Arizona Interagency Desert Tortoise Team. 2015. Candidate Conservation Agreement for the Sonoran Desert Tortoise (*Gopherus morafkai*) in Arizona. Phoenix AZ.
- 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.
- von Seckendorff Hoff, K. and Marlow, R.W. 2002. Impacts of vehicle road traffic on desert tortoise populations with consideration of conservation of tortoise habitat in southern Nevada. Chelonian Conservation and Biology 4:449–456.

Attachments

Screen shot at 19:00 on 12/19/2020 when we tried to access NPS' portal given in the November 2020 EA at <http://parkplanning.nps.gov/LAKE>:

