



DESERT TORTOISE COUNCIL

P.O. Box 1568
Ridgecrest, California 93556
www.deserttortoise.org

Via email only

Date: 11 April 2013

To: Mike Boyles, <http://parkplanning.nps.gov/>
Rehabilitate Katherine Landing Access Road EA
Lake Mead National Recreation Area, 601 Nevada Way, Boulder City, NV 89005

From: Ed LaRue, Ecosystems Advisory Committee

RE: Rehabilitate Katherine Landing Access Road EA

Dear Mr. Boyles,

The Desert Tortoise Council (Council) is a private, 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 this species. Established in 1976 to promote conservation of tortoises in the deserts of the southwestern United States and Mexico, the Council regularly provides information to individuals, organizations and regulatory agencies on matters potentially affecting the desert tortoise within its historical range.

The following italicized excerpts, which are taken from the Draft Environmental Assessment (Draft EA) with page numbers referenced, summarize available information of potential impacts to the Sonoran Desert tortoise (*Gopherus morafkai*). Our questions, comments, and recommendations with regards to this information follow in regular font.

Page 8, Table 1. *“Though no Sonoran Desert tortoises (a candidate for listing under the Endangered Species Act) ... were observed in the project area during the biologist’s site visit, there is the potential for individual Sonoran Desert tortoises ... and their habitat to be disturbed by project activities.”* We understand from Ray Bransfield of the U.S. Fish and Wildlife Service (USFWS) that Sonoran Desert tortoise, whose listing is “warranted but precluded” at this time, is not formally protected by the Federal Endangered Species Act while the petition is being considered. However, the Council still feels that this petitioned species warrants protection during rehabilitation activities that may adversely affect individual tortoises. Some of the typical protective measures are identified below following the next excerpt.

Pages 17 and 18. “Federally Listed Species and Species of Special Concern

“To protect any unknown or undiscovered threatened, endangered, or special status species, the construction contract will include provisions for the discovery of such. These provisions will require the cessation of construction activities until NPS staff evaluates the project impact on the discovery and will allow modification of the contract for any protection measures determined necessary to protect the discovery.”

We were not able to find any specific “provisions” in the Draft EA how *“To protect any unknown or undiscovered threatened, endangered, or special status species, the construction contract will include provisions for the discovery of such.”* Is there intent to include a biological monitor onsite during construction? The Council recommends that onsite biological monitoring be implemented to assist NPS in discovering if tortoises occur and to determine protective measures to avoid impacts since no specific take authorization has been granted to National Park Service (NPS) for the project.

Based on numerous other projects in tortoise habitat, the Council recommends that, in addition to biological monitoring, the following protective measures, among any others identified by NPS, be implemented: Implement tortoise awareness program(s) to construction workers to make them aware of the following minimization measures; (a) minimize the attraction of common ravens, coyotes, and other predators known to depredate tortoises by prohibiting litter and requiring regular refuse removal in the workplace; (b) prohibit domestic pets (particularly dogs) and firearms on the site unless otherwise authorized as with law enforcement officials; (c) identify and enforce appropriate speed limits; (d) prohibit cross-country vehicle travel in potentially occupied habitats; and (e) flag all impact areas and restrict construction equipment to those delineated areas. Again, these are a few of the many protective measures identified by the USFWS to protect tortoises. Any others that NPS typically requires would be appropriate.

“A desert tortoise education program shall be presented to all personnel on-site during construction. This program will contain information concerning the biology and distribution of the desert tortoise, its legal status, its potential occurrence near the proposed project limits, the definition of “take” and associated penalties, measures designed to minimize the effects of construction activities, the means by which workers can facilitate this process, and reporting requirements if desert tortoises are encountered.” Although the Council understands that a candidate species is not subject to “take” as defined by the Federal Endangered Species Act, we appreciate that NPS intends to administer the education program and have listed some of the measures above we consider would help construction personnel minimize or avoid impacts during road rehabilitation.

Page 27. “Sonoran Desert Tortoise

“Extensive suitable habitat exists for the Sonoran Desert tortoise in the project area, particularly in the Black Mountains. Tortoise surveys throughout the Lake Mead NRA were conducted by NPS personnel from 1995 to 1997. Surveyors found that tortoise densities were low, with little or no sign of tortoise activity detected near the project limits (Michael J. Boyles, environmental compliance specialist, NPS, personal communication). The project limits appear to be near the northern extent of the range of the desert tortoise (Arizona Game and Fish Department 2004), though there are scattered records nearby and to the north. The nearest occurrence record is from approximately 1.5 miles southeast of the project limits, and records become more numerous to the southeast.” No comment.

“In the project limits, there is a potential for individuals to occur. No live tortoises or signs of tortoises (e.g., scat, carcasses) were encountered during the September 10–13, 2010, site survey. Many shallow holes and small caves, which could serve as tortoise burrows or shelter sites, were detected throughout the project limits and immediate vicinity. Each was inspected thoroughly for tortoise use; however, no evidence of tortoise use was at these sites. Many are likely used by other reptiles and small mammals.” As recommended above to facilitate the detection and protection of any tortoises that may occur, it would be prudent to have a biological monitor onsite for those activities that “may affect” tortoises or until which time the authorized biologists determines that monitoring is not warranted.

Page 42. *“Due to the potential presence of Sonoran Desert tortoise, a desert tortoise education program shall be presented to all personnel on-site during construction. It is possible that individuals of a species may be impacted during construction. This impact would be considered direct, localized, short-term, minor, and adverse.”* See previous comment regarding biological monitoring.

We appreciate this opportunity to provide input and wish you best of luck in avoiding impacts during construction of this project.

Sincerely,

A handwritten signature in blue ink, appearing to read "E. LaRue, Jr.", is enclosed in a light blue rectangular box.

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