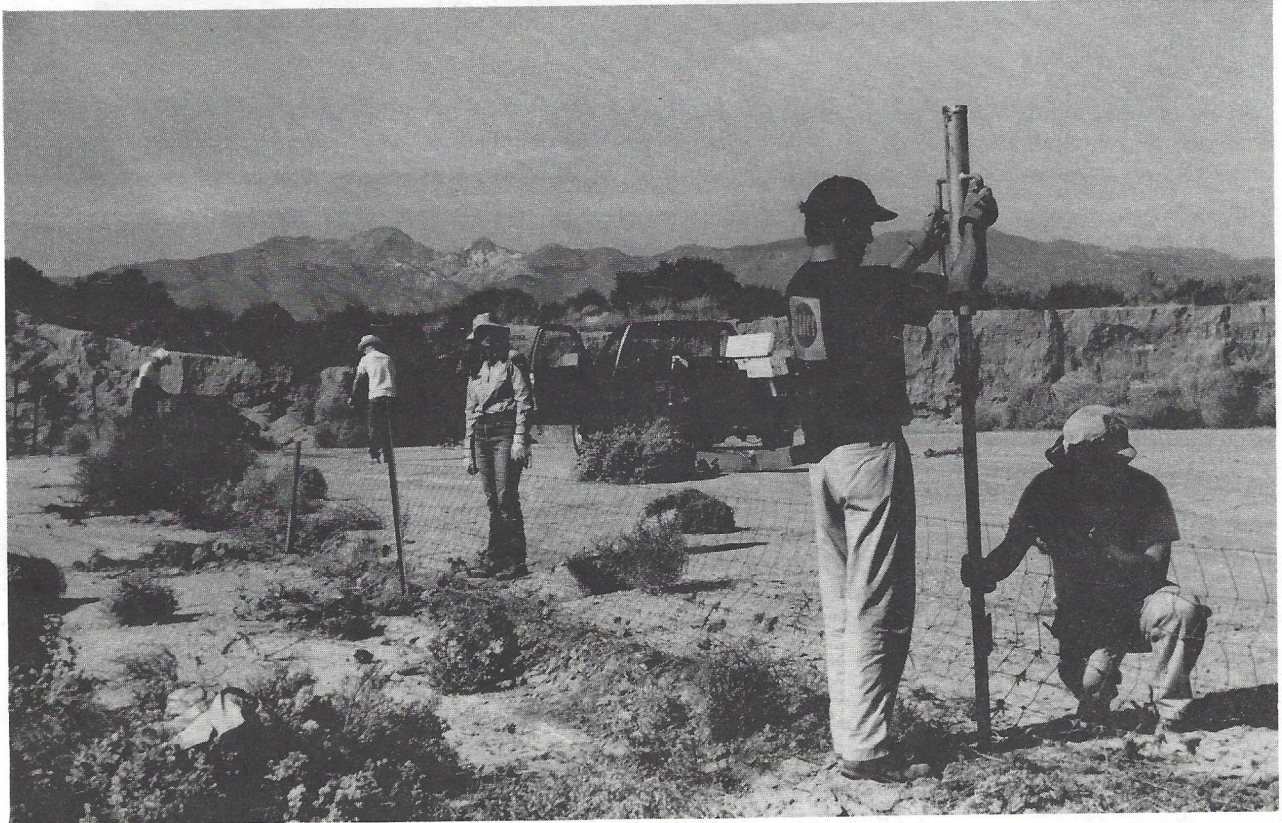


Tortoise Tracks

The Desert Tortoise Preserve Committee, Inc.

Fall 1992
13:3



Preserve Committee and Bureau of Land Management volunteers at November work party repair fence damaged by storms at the Desert Tortoise Natural Area. From left to right the volunteers are George Moncsko (DTPC Vice President), Roger Dale (DTPC President), Cathy O'Connor (BLM Biologist), Richard Allman, and Bob Parker (BLM Biologist).

MATTHEW BROOKS TO SPEAK AT COMMITTEE'S ANNUAL BANQUET

The Committee is pleased to announce that this year's annual banquet will feature an after-dinner address by Matthew Brooks. The banquet will be held on January 30, 1993 at the Green Tree Inn in Victorville.

Matthew Brooks recently received his master's degree from California State University at Fresno. His master's thesis was a study of the impacts of human activity on desert tortoise habitat in and adjacent to the Desert Tortoise Natural Area. In particular, Mr. Brooks' thesis describes the recovery of desert vegetation within the fenced Natural Area

and contrasts this recovery with conditions on the surrounding unprotected lands.

Mr. Brooks is a high school teacher in Exeter, California and plans to pursue a doctoral program which will enable him to continue studying plant and animal populations in the Mojave Desert.

Join us on January 30 to enjoy Matthew Brooks' slide presentation and lecture about his recent research at the Desert Tortoise Natural Area. Additional information about the annual banquet is provided on the following page.

ANNUAL MEETING AND BANQUET

The Desert Tortoise Preserve Committee, Inc. will host the annual meeting of the corporation and banquet on Saturday, January 30, 1993 at the Green Tree Inn in Victorville. The meeting of the corporation is open to all members and the general public. The price of the dinner is \$16.00 per person, payable in advance, which includes tax, tip, beverage and dessert.

The Green Tree Inn is prominently located along the I-15 freeway in Victorville. We hope that this new location will be convenient to our members and that we attract record attendance to this year's banquet. As always, we look forward to seeing the members we've met in previous years and to meeting new members and guests. The afternoon meeting will offer an opportunity to hear firsthand about the Committee's accomplishments during 1992 and its goals for 1993.

If you cannot be present for the afternoon meeting, we hope you will be able to join us for the evening dinner and program. The schedule of events is as follows:

| | |
|--------------------|------------------------|
| Business Meeting | 2:00 p.m. to 5:00 p.m. |
| Social Hour | 5:00 p.m. to 6:00 p.m. |
| Dinner and Program | 6:00 p.m. to 9:30 p.m. |

Please note that your reservation must be received by January 20, 1993. For your convenience a reservation form has been included in this issue of Tortoise Tracks. For more information please feel free to contact Roger Dale at (909) 883-7970.

Reserve Early by Completing and Mailing Your Registration Form At Your Earliest Convenience. We look forward to seeing everyone!

FALL WORK PARTY FOCUSES ON FENCE MAINTENANCE

Twelve Committee volunteers and BLM staff members dedicated Saturday, November 7 to fence maintenance at the Desert Tortoise Natural Area.

Over 25 miles of the perimeter fence were patrolled by several teams, who replaced faded and vandalized signs; straightened bent fence wire; and re-attached raven proofing on fence posts. A total of 42 signs were replaced.

New fence was stretched both south and east at the northwest corner of the Natural Area on posts previously put in place by BLM staff. This new fence was necessary to replace the fencing that was almost completely buried by blowing sand from abandoned agricultural fields in Cantil. The southwest corner of the Natural Area was the focus of trash removal.

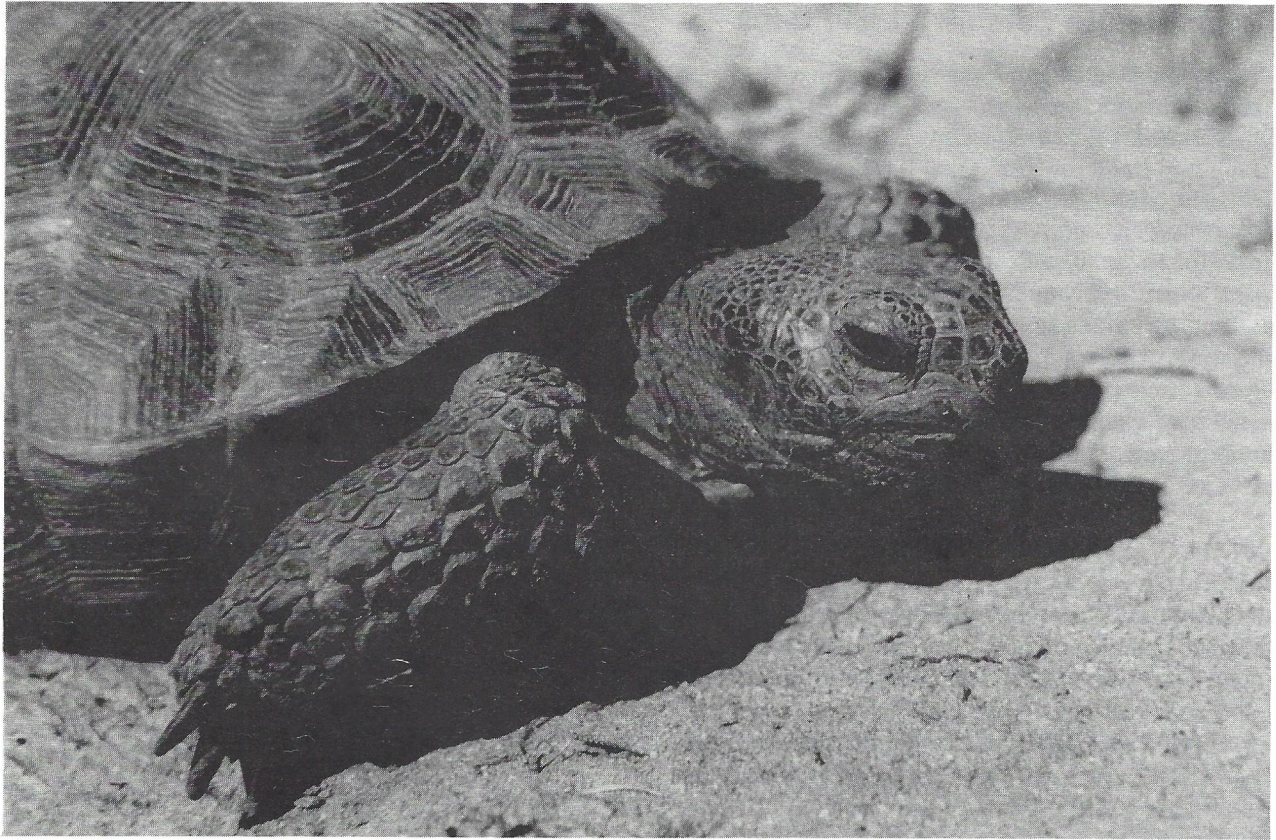
Thank you to Richard Allman, Roger Dale, Rick Duball, Chris Geyer, Mary Ann Henry, Ron Henry, Barbara Maxwell, George Moncsko, Kathy O'Connor, Bob Parker and Mary Wartens for a job thoroughly and well done.

For those who missed the fall work party, we will be calling on you to help with the Annual Spring Work Party. The spring party will include Interpretive Center maintenance as well as additional fence repair work.

The Desert Tortoise Preserve Committee

Officers

| | |
|---------------------|----------------|
| Roger Dale | President |
| Tom Dodson | Vice President |
| George Moncsko | Vice President |
| Laura Stockton | Vice President |
| Jayne Chavez-Scales | Secretary |
| Carol Panlaqui | Treasurer |
| Bev Steveson | Board Member |
| Dr. Kristin Berry | Board Member |



Special Thanks to Our Members

This fall the Committee launched a direct mail fundraising campaign to finance planned innovations in our education, land acquisition and stewardship programs. The first phase of the campaign was a request for special assistance from the core of our support base, our own members. Later phases of the campaign will be aimed at attracting new members from the ranks of other organizations with similar interests.

We have been overwhelmed by our membership's generous and enthusiastic response to our funding request. Your support will enable us to continue a variety of activities which are all crucial components of our overall strategy to promote recovery of desert tortoise populations and habitat.

This year alone we have acquired nearly 140 acres of prime desert tortoise habitat, provided

educational tours to 1,200 visitors to the Desert Tortoise Natural Area, and educated 5,500 elementary school students about responsible use of the desert. The much needed funding donated by our members will assist in continuing these programs into 1993.

We are extremely grateful for your generosity during these recessionary times. We were especially touched by donors who indicated that they would have liked to give more but could not due to the present economy. Your consideration has again shown that when times are at their worst, our members are at their best. A sincere thanks is extended from the Committee's Board. We would also like to extend our best wishes for an enjoyable holiday season and prosperous New Year.

Roger Dale
DTPC President

Committee to Establish Land Bank

Background

The State and Federal laws which protect the desert tortoise as a threatened species make it unlawful to "take" a desert tortoise or the habitat upon which it depends. In this context, "take" is defined as harassing, harming, pursuing, hunting, shooting, wounding, killing, capturing, or collecting a protected species. This restriction applies to all activities that might impact a listed species or its habitat regardless of whether the activity occurs on private or public land.

Given the need to balance protection of threatened species with economic growth demands, laws protecting endangered species do allow for taking of listed species if the taking is incidental to an otherwise lawful activity. In these instances, known as "incidental takes," the person or company involved in the take is generally required to compensate for the lost habitat by purchasing and protecting viable habitat somewhere besides the disrupted project area. This process of "mitigation/compensation" often requires that the amount of land purchased for protection is larger than the parcel being taken by the development activity. For example, a residential developer building homes on one acre of desert tortoise habitat might be required to provide five acres of mitigation/compensation land elsewhere.

The provision of incidental takes allows for development to occur in areas facing growth pressures while at the same time providing a means of funding the acquisition and protection of desert tortoise habitat in areas targeted for preservation.

The Committee's Role

Given our extensive experience in the acquisition and management of desert tortoise habitat, the Preserve Committee is in a unique position to assist in the purchase and subsequent protection of mitigation/compensation land. Currently, firms required to purchase mitigation land must go through the rather lengthy and costly process of

(1) Identifying suitable habitat which is available for purchase, (2) Carrying out the real estate negotiations and transactions necessary to purchase the land, and (3) Arranging to dedicate the land to an agency qualified to ensure its long-term protection as desert tortoise habitat. The Committee is currently establishing a program which will enable it to assist firms in fulfilling their mitigation/compensation obligations more expediently and at reduced cost.

In a nutshell, the program will work as follows. Firms required to purchase mitigation land for incidental takes of desert tortoises will pay the Committee a fee based on the number of acres they are required to purchase. The fee will include sufficient funds to purchase the required land (including escrow and title fees) as well as additional funds to be set aside to cover the long-term costs of managing the land as protected habitat. The firm will then have fulfilled its mitigation requirements. The Committee will then serve as the firm's agent in purchasing the required desert tortoise habitat. And, more importantly, the Committee will be responsible for long-term stewardship of the protected land. In this capacity, the Committee will be responsible for reporting to the State and Federal agencies requiring the mitigation. The Committee will thus serve as an intermediary between firms required to mitigate lost desert tortoise habitat and the regulatory agencies responsible for enforcing the mitigation requirements.

This proposed program will have three major purposes:

- (1) To aggregate land purchased with mitigation monies into functional habitat preserves;
- (2) To provide a funding mechanism for the long-term management and enhancement of acquired habitat in a manner consistent with recovery of desert tortoise populations; and
- (3) To enable the Committee to expediently assist firms in fulfilling mitigation requirements and simultaneously continue its on-going acquisition efforts.

The Land Bank Concept

As a central part of its mitigation/compensation program, the Committee plans to establish a Land Bank of desert tortoise habitat. The Land Bank will provide a pool of habitat which the Committee can, in effect, "sell" to firms requiring mitigation assistance. All funds accepted into the Committee's Land Bank program will be used for subsequent purchases to augment the Land Bank or for management and enhancement of the acquired land. Although the Committee will retain title to the property "sold" to program participants, no land will be "double sold" (i.e., used to fulfill mitigation requirements for more than one party). Accordingly, all mitigation money coming into the system will result in a net increase in protected desert tortoise habitat.

The Committee is currently assisting two churches in the Yucca Valley which are being required to purchase ten acres of tortoise habitat to compensate for the loss of five acres being developed with new church facilities. The two-to-one compensation ratio being applied in this case is relatively low compared to other projects and is based on the finding that the land which will be disturbed is only marginal tortoise habitat.

Applications for the State and Federal incidental take permits necessary for the church construction have been prepared by Tierra Madre Consultants (hired by the churches) and incorporate the Committee's Land Bank concept. The applications are currently being reviewed by the U.S. Fish and Wildlife Service and the California Department of Fish and Game. These agencies, which are responsible for issuing incidental take permits, have indicated preliminary approval of the Committee's proposed program.

We are hopeful that our experience with the Yucca Valley churches will serve as a precedent for an expanded role in handling mitigation monies. In this manner we can also take a more active role in determining the location of acquired preserve lands and in assuring that these lands are managed in a manner which promotes long-term recovery of desert tortoise populations.

Due to the special donations of our members for innovative programs the Preserve Committee is able to develop this ground-breaking conservation strategy. A special note of appreciation to all members who contributed funding for innovative approaches to desert tortoise conservation.

Another Record Year of Accomplishments

This year has been another record year of accomplishments for the Preserve Committee. Briefly, we implemented our mission to protect the desert tortoise by:

1. Acquiring 140 acres of prime desert tortoise habitat within the Desert Tortoise Natural Area;
2. Implementing our Pilot Educational Outreach Program to teach 5,500 elementary school students about the value and sensitivity of desert wildlife resources;
3. Continuing our spring-time Naturalist Program at the DTNA, providing educational tours to over 1,200 visitors to the Natural Area;
4. Expanding our outreach efforts at turtle and tortoise club and herpetological society shows;
5. Continuing our on-going stewardship of the DTNA including our popular spring and fall work parties;
6. Providing public input to a number of government planning forums including the West Mojave Coordinated Management Plan, the Rand-Fremont Steering Committee, and committees overseeing designation of off-road vehicle routes;
7. Designing an environmentally-sensitive and functional educational outreach and research center for the Desert Tortoise Natural Area;
8. Expanding our funding base to include greater participation in congressional funding for desert tortoise habitat acquisition and a higher profile in state funding for wildlife habitat protection.

Sheep Producers Sue BLM

By Marc D. Graff, M.D.

There is a fight underway which may affect some of the basic underpinnings of desert tortoise conservation and which may adversely impact the federal Endangered Species Act of 1973 as well.

The California Desert Sheep Producers recently filed suit against the Bureau of Land Management (BLM), appealing multiple decisions suspending sheep grazing in the western Mojave.

Because of the desert tortoise's threatened status, the United States Fish and Wildlife Service (USFWS) has performed biological investigations of the impact of sheep grazing on desert tortoise habitat and welfare.

The USFWS has found that sheep grazing negatively impacts the desert tortoise. Because this opinion has been adopted by the Bureau of Land Management, grazing has been prohibited in high density tortoise habitat (so-called category I and category II). This is known as a "jeopardy" opinion, meaning that the tortoise's continued existence would be placed in jeopardy by continued grazing.

The sheepherders have filed a legal appeal stating that the jeopardy opinion is "arbitrary and capricious" and has demanded that grazing take place as usual. Their arguments basically state that the biological information is inaccurate and incomplete, that alternatives were not properly evaluated, and that property and grazing rights would be adversely affected.

The Taylor Grazing Act of 1934 regulated grazing in public lands, and regulates grazing in the desert to some extent. The fees have been set extremely low for both sheep and cattle grazing. Thanks to this low rate, operators have found this to be an economic incentive to continue grazing in these otherwise remote areas. According to a General Accounting Office report 9 to 10 percent of the state's sheep use the Mojave desert every year.

After the sheepherders filed their appeal on April 22, 1992, a number of environmental organizations moved to intervene. On September 1, 1992 a pre-hearing conference took place in which a number of environmental organizations moved to intervene in this matter. They are the Natural Resources Defence Council, the Sierra Club, the Desert Protective Council, the Humane Society of the United States, and Defenders of Wildlife. The Desert Tortoise Council, represented by Tom Dodson, also applied for and was granted intervenor status. Although not a official litigant, the Preserve Committee has committed limited legal funds in support of these groups.

A hearing may occur as early as November 30, 1992, in or near Rancho Cucamonga, California, with attorneys from Sacramento, Portland, and San Francisco facing off.

Why is this so crucial?

First of all, if the ban on sheep grazing on prime desert tortoise habitat is lifted, it is reasonable to assume that USFWS biological opinions for other issues will not withstand challenge (e.g. off-road vehicle use, development, etc.).

Secondly, the consultation process (so-called section 7 section 10 consultations) in the Endangered Species Act may be weakened and perhaps damaged beyond repair, thus tremendously weakening this key legislation which has served to protect the desert tortoise and other species.

Thirdly, this entire issue must be seen as an economic and political attack on the environmental movement, and an attempt to influence the BLM and the USFWS and render them compliant to vested economic interests.

Dr. Graff is Chairman of the Executive Board of the California Turtle and Tortoise Club. This article is reprinted with permission from The Tortuga Gazette.

RESERVATION FOR ANNUAL BANQUET

Please make checks payable to the Desert Tortoise Preserve Committee, Inc. and send to:

Roger Dale
 President, DTPC
 P.O. Box 2910
 San Bernardino, CA 92406

Questions? Please feel free to call Roger Dale at (909) 883-7970.

CHECKS AND RESERVATION FORMS MUST BE RECEIVED BY JANUARY 20, 1993

Please make a reservation for _____ person(s) in my name, for the Desert Tortoise Preserve Committee Annual Banquet at the Green Tree Inn, Victorville, California, to be held Saturday, January 30, 1993. I understand that the dinner will be \$16.50 per person, including tax, tip, beverage, and dessert. Please indicate if you prefer a vegetarian meal.

I am enclosing a check for \$ _____, as full payment.

Name: _____ Phone Number: _____

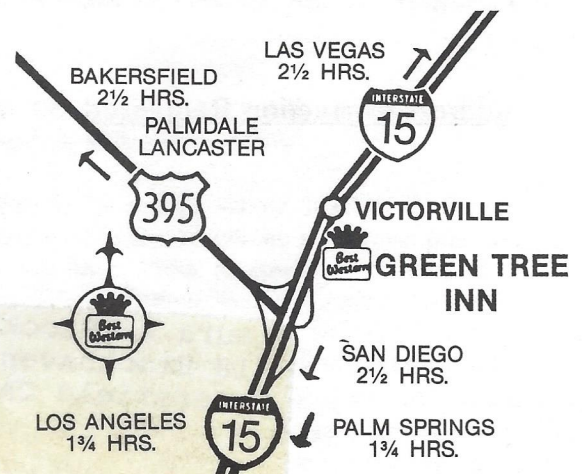
Address: _____

City: _____ State: _____ Zip: _____

Organization (if any) _____

I plan to attend the afternoon business meeting: Yes ___ No ___

For your convenience, a vicinity map for the Annual Meeting and Banquet is provided below. For overnight guests, the Green Tree Inn is offering rooms at special discount rates ranging from \$45.00 to \$48.00 per night. Please make your reservations early and mention the Desert Tortoise Preserve Committee, Inc. for the special rate. Call (619)245-3461.



18th Annual Desert Tortoise Council Symposium

In response to many requests by participants the Desert Tortoise Council has changed venues for its 18th Annual Symposium on the desert tortoise. Held for the past few years in Las Vegas, Nevada, the location this year for the annual event will be Palm Springs, California. This year's symposium will also be held later in the year than in the past. The symposium is scheduled for May 14-16, 1993 at the Spa Hotel, Palm Springs, California.

The Council has made special hotel arrangements for participants. Please call the Spa Hotel toll-free reservation desk at either (800) 472-4371 or (800) 854-1279. The hotel recommends that you make your reservation no later than April 14, 1993.

For information about the upcoming symposium, write to the Desert Tortoise Council, P.O. Box 1738, Palm Desert, CA 92261. You may also call (619) 341-8449.

A later edition of Tortoise Tracks will include a more detailed agenda and schedule of events for the Council's Symposium.

DESERT TORTOISE PRESERVE COMMITTEE, INC.
P.O. BOX 2910, SAN BERNARDINO, CA 92406

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