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Tortoise Tracks

Newsletter

JOIN US ONLINE FOR DTPC's ANNUAL MEETING (January 25, 2025)

The Desert Tortoise Preserve Committee will again host its annual meeting [online](#) to facilitate participation by our far-flung membership. The meeting will begin at 10:00 Pacific time on Saturday, January 25, 2025. This year's meeting will feature three guest speakers: Jeff Aardahl, Senior California Representative, Defenders of Wildlife; Lisa Belenky, Senior Counsel, Center for Biological Diversity; and Melissa Brown, BLM Law Enforcement Ranger for the Desert Tortoise Research Natural Area (DTRNA).

No registration is required to participate in the Annual Meeting. Please see Page 3 for log-in details.

JUDGE REJECTS FEDERAL PROJECT THREATENING DESERT TORTOISES

SAN FRANCISCO – A judge has rejected federal agencies' approval of activities in the California Desert Conservation Area, including a vast network of off-road vehicle routes in the West Mojave Desert.

Conservation organizations have a long history of challenging the Bureau of Land Management (BLM) over off-highway vehicle (OHV) route designations on public lands in the 3.1 million-acre West Mojave (WEMO) area. A first lawsuit was filed in 2006, and in response, Federal District Judge Susan Illston determined the BLM failed to comply with its OHV route designation regulations designed to minimize impacts to wildlife and other environmental resources, and that BLM violated the National Environmental Policy Act (NEPA) by failing to analyze a reasonable range of alternatives regarding miles of OHV routes in the WEMO area (i.e., all alternatives analyzed included the same 5,098 mile route network). In 2021, the same conservation organization filed a similar lawsuit against the BLM and the FWS over BLM's 2019 OHV route designations in the same WEMO area and FWS's biological opinion issued to BLM.

Summary of Judge Illston's Decision on BLM's 2019 West Mojave Route Designation Project in the California Desert Conservation Area

Jeff Aardahl
Senior California Representative
Defenders of Wildlife
November 2024

On October 22, 2024, U.S. District Court Judge Susan Illston issued her order on the lawsuit filed by six environmental organizations against the Bureau of Land Management (BLM) and the U.S. Fish and Wildlife Service (FWS) over BLM's approval of amendments to the California Desert Conservation Area (CDCA) Plan that designated off-highway vehicle (OHV) route networks in the Western Mojave (WEMO) Desert. BLM determined that there are 15,235 miles of routes in the WEMO area (including illegal user-created routes and other so-called "trans linear disturbances") and it designated 5,997 miles as available for OHV use when it approved the 2019 route designation amendments to the CDCA Plan. Of those routes available for OHV use, 2,219 miles are located within desert tortoise and Lane Mountain milkvetch (LMMV) critical habitat. (***Continued on Page 5***)



Desert Tortoise
Preserve Committee, Inc.

Dedicated to the recovery and conservation of the Desert Tortoise (*Gopherus agassizii*) and other rare and endangered species inhabiting the Mojave and western Sonoran deserts.

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Founded 1974

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PRESIDENT'S MESSAGE

Roger Dale, DTPC President

As we approach the end of 2024, we want to take this opportunity to sincerely thank our dedicated and generous members – some of whom have supported the DTPC for a remarkable 50 years! We simply couldn't do our work on behalf of the tortoise without you. Our major accomplishments this year include:

- For the 36th consecutive year, DTPC – in partnership with the Bureau of Land Management – funded and staffed a springtime naturalist program at the DTRNA. More than 600 visitors interfaced with the naturalists this year. The naturalist program is our hallmark outreach effort to Off-Highway Vehicle (OHV) recreationists and local schools and communities. Yes, you read that correctly: we engage OHV riders in areas where we can and should have a mutual interest in protecting our lands.
- Our staff completed onsite monitoring of DTPC's 324 parcels (totaling over 7,100 acres) of conservation lands. This annual effort is an essential component of our rigorous stewardship program and is also required to maintain our accreditation with the Land Trust Accreditation Commission.
- More than 30 DTPC volunteers traveled from around California to participate in work parties in April and October at the DTRNA. This critical work included repairing the DTRNA boundary fence, installing new signage along the perimeter, removing invasive plants, and thoroughly cleaning the Interpretive Center kiosk and panels.
- DTPC volunteers also supported raven management efforts this year by monitoring and mapping 118 raven nests and perch sites, enabling our partners (Hardshell Labs) to "oil" 15 raven eggs and thus limit the exponential population growth of these predators.
- New land acquisitions of 733 acres of critical desert tortoise habitat are in progress. These acquisitions (as well as long term management of the acquired lands) are being funded by major development projects needing to protect desert tortoise habitat to mitigate the projects' impacts.

Join us (online) for DTPC's 51st Annual Meeting (January 25, 2025)

We invite you to attend our Annual Meeting on Zoom, from 10 a.m. to approximately 12:00 noon Pacific time on Saturday, January 25, 2025. This virtual membership meeting is an opportunity for you to have a front row seat as we review our organization's accomplishments in 2024 and unveil our plans for 2025 and beyond. The meeting will be hosted by DTPC President, Roger Dale. Guest speakers will include Jun Lee, DTPC's Executive Director and Director of Land Acquisition, and Philip DeSenze, Field Manager of the Bureau of Land Management (BLM), Ridgecrest Field Office – a longstanding and highly valued partner to the DTPC. ***The meeting will also feature special presentations by Jeff Aardahl, Senior California Representative, Defenders of Wildlife; Lisa Belenky, Senior Counsel, Center for Biological Diversity; and Melissa Brown, BLM Law Enforcement Ranger for the Desert Tortoise Research Natural Area (DTRNA).***

No registration or password is required to participate in the Annual Meeting. Please use the log-in details below.

51st ANNUAL MEMBERSHIP MEETING Saturday, January 25, 2025, starting at 10:00 a.m. PST via ZOOM	<p><u>NO REGISTRATION OR PASSCODE REQUIRED. JOIN OUR ANNUAL MEETING VIA ZOOM USING THE COMPUTER LINK BELOW OR THE CALL-IN NUMBERS BELOW</u></p> <p>Meeting ID: 812 1755 8429 --- One tap mobile +16699006833,81217558429# US (San Jose) +16694449171,81217558429# US --- Dial by your location</p> <table><tbody><tr><td>• +1 669 900 6833 US (San Jose)</td><td>• +1 507 473 4847 US</td></tr><tr><td>• +1 669 444 9171 US</td><td>• +1 386 347 5053 US</td></tr><tr><td>• +1 719 359 4580 US</td><td>• +1 564 217 2000 US</td></tr><tr><td>• +1 253 205 0468 US</td><td>• +1 646 931 3860 US</td></tr><tr><td>• +1 253 215 8782 US (Tacoma)</td><td>• +1 689 278 1000 US</td></tr><tr><td>• +1 346 248 7799 US (Houston)</td><td>• +1 929 436 2866 US (New York)</td></tr><tr><td>• +1 305 224 1968 US</td><td>• +1 301 715 8592 US (DC)</td></tr><tr><td>• +1 309 205 3325 US</td><td></td></tr><tr><td>• +1 312 626 6799 US (Chicago)</td><td></td></tr><tr><td>• +1 360 209 5623 US</td><td></td></tr></tbody></table> <p>Find your local number: https://us06web.zoom.us/u/krZV0tJip</p>	• +1 669 900 6833 US (San Jose)	• +1 507 473 4847 US	• +1 669 444 9171 US	• +1 386 347 5053 US	• +1 719 359 4580 US	• +1 564 217 2000 US	• +1 253 205 0468 US	• +1 646 931 3860 US	• +1 253 215 8782 US (Tacoma)	• +1 689 278 1000 US	• +1 346 248 7799 US (Houston)	• +1 929 436 2866 US (New York)	• +1 305 224 1968 US	• +1 301 715 8592 US (DC)	• +1 309 205 3325 US		• +1 312 626 6799 US (Chicago)		• +1 360 209 5623 US	
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TRIBUTE TO A LONGTIME FRIEND OF DTPC

Francine Joy Lane is among many dedicated and talented volunteers who have contributed to the successes of the DTPC over the past 50 years.

In 1982 attorneys Joy Lane and Bob Goodrich represented DTPC in a suit against the State Lands Commission (SLC). The SLC actions facilitated the possible development of the California City Second Community by Great Western Cities without conditions to protect the habitat and wildlife of the DTRNA. The Second Community is immediately adjacent to the DTRNA eastern boundary. After 5 years of efforts by the attorneys and DTPC Board members the case was dismissed. The details of the suit and outcome are summarized in the Summer/Fall 1987 issue of Tortoise Tracks that can be accessed on the DTPC website.

DTPC presented Joy with the Golden Tortoise Award in 1987. She continued to donate to DTPC until her recent passing.

Joy was very focused on land use issues. One of the most notable was the 1973 nuclear power plant proposed by the LA Dept of Water and Power near Bakersfield. Among other contributions she was instrumental in getting the Kern County Planning Commission to agree to putting it to public vote. It was voted down by 70% no vote.

She was also very dedicated to and effective in her work as prosecuting attorney in the narcotics unit of the Kern County District Attorney's Office. She worked there for several years.



Welcome Madison Eklund!

We are delighted to welcome Madison Eklund who has joined the DTPC as an Ecologist. Since August, Madison has dedicated herself to monitoring our conservation lands in and around the DTRNA. Madison has impressive experiences combining her love of nature and conservation. In the summer of 2022, for instance, she completed a Hudson Bay Solo kayak expedition involving over 1,600 miles from Minneapolis, Minnesota to York Factory MB to promote river conservation and a water sampling project for the ND Department of

Environmental Quality. Closer to home, she is an active volunteer with the Tehachapi Mountain Rescue and Desert clean-up efforts in and around Rosamond, CA. Madison is currently studying Conservation Biology and Ecology at Barret Honors College at the Arizona State University.

Photo: Madison Eklund monitoring DTPC's Pilot Knob conservation lands

JUDGE REJECTS FEDERAL PROJECT THREATENING DESERT TORTOISES (continued from cover page)

In her ruling, Judge Illston concluded the following:

- BLM's 2019 WEMO OHV route network did not comply with OHV impact minimization criteria regulations for the desert tortoise and the LMMV. The OHV impact minimization criteria were established through regulations in 1979 (43 Code of Federal Regulations Section 8342.1), some of which include:
 - Areas and trails shall be located to minimize damage to soil, watershed, vegetation, air, or other resources of the public lands, and to prevent impairment of wilderness suitability.
 - Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats. Special attention will be given to protect endangered or threatened species and their habitats.
 - Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands.
- BLM compiled voluminous information on OHV routes and considered how the minimization criteria could be applied to each to reduced impacts, but failed to show how the minimization criteria were used in designating the open route network.
- BLM improperly relied on optional, post-route designation impact mitigation measures to satisfy its legal obligation to designate OHV routes that minimize adverse impacts to the desert tortoise and LMMV and their habitats. Additional impact mitigation measures would only be considered by BLM if monitoring showed that there were further declines in their populations.
- FWS violated the Endangered Species Act (ESA) by relying on the BLM's optional mitigation measures to avoid jeopardizing the desert tortoise and LMMV and ignoring the best available science when reaching its no jeopardy determination. Judge Illston also recognized the dire status of the desert tortoise in the WEMO area by including this statement from the biological opinion (BiOp) issued by the FWS: "The FWS's 2019 BiOp states that between 2014 and 2024, the FWS estimated a loss of approximately 50% of the adult desert tortoises in the Western Mojave Recovery Unit, the area for the 2019 Route Network."
- Education, enforcement, increased compliance, OHV route maintenance, and compliance monitoring may reduce impacts, but they do not meet the requirement for the BLM and FWS to document how those post-decision actions could result in minimizing the impacts of the specific OHV routes that were designated.
- BLM's assumption that OHV use will remain constant from 2017 to 2035 was not supported by its analysis and, therefore, it was arbitrary and capricious for the BLM to rely on that assumption in its analysis of air quality impacts.
- FWS violated its obligation to insure that its no jeopardy determination was based on the best scientific and commercial data available – specifically the Tuma (2012) and Berry (2014) studies – on the desert tortoise in the WEMO area.
- The Tuma study found that in the Superior-Cronese Critical Habitat Unit, the human presence threat model, which included off-highway vehicle use, caused the most precipitous and significant

decline in the desert tortoise population because, in part, of the proliferation of roads and off-highway vehicle routes in and adjacent to the study area. Tuma recommended that BLM reduce human access and make the area more remote, particularly in areas with higher desert tortoise occurrence potential, by closing and restoring OHV routes, limiting recreational permits, increasing law enforcement to prevent illegal activities, and prohibiting OHV events.

- The Berry study found that the Desert Tortoise Research Natural Area (DTRNA), the management area with the longest history of protection – a fence to exclude livestock and vehicles – had significantly more live tortoises ($10.2/\text{km}^2$) compared to the adjacent Fremont-Kramer Critical Habitat Unit in the Rand Mountains and Fremont Valley ($2.4/\text{km}^2$), and that the DTRNA also had lower tortoise death rates.
- If FWS had considered the Berry study's findings about the significant positive effect of excluding OHVs and livestock grazing in the DTRNA, and the low tortoise density and high death rates in the adjacent Fremont-Kramer Critical Habitat Unit, it may have concluded that a smaller and/or differently configured OHV route network was required to avoid jeopardy to the desert tortoise and impacts to its critical habitat. In particular, this was because the 2019 OHV route network included thousands of miles of routes in desert tortoise critical habitat and that a significant portion of those routes were located in areas with a higher probability of supporting desert tortoises.
- FWS's approval of a surrogate or substitute desert tortoise mortality monitoring approach was arbitrary and capricious because the rationale was not supported by the record. FWS adopted the surrogate monitoring approach based on a lower number of tortoises found dead because it accepted BLM's claim that it could not monitor the route network in a practical or reasonable manner that would allow it to find most desert tortoises that die because of collisions with vehicles, both because scavengers remove the carcasses of dead animals and because the network is too large. But the Court found that FWS's failure to require any type of monitoring and instead relying solely on incidental finding of a smaller number of tortoises during other management activities was unreasonable.
- FWS's no jeopardy determination was flawed because it was premised on unenforceable, non-specific commitments by the BLM regarding mitigation and minimization measures through BLM's adaptive management program, as well as enforcement by BLM.
- FWS's decision to exclude terms and conditions in the Incidental Take Statement (ITS) for the desert tortoise and reasonable and prudent measures to minimize the incidental take was contrary to the ESA, the implementing regulations, case law, and FWS's Consultation Handbook. Thus, the ITS was arbitrary and capricious and contrary to the ESA.
- BLM also violated the ESA by relying on FWS's legally flawed biological opinion.
- FWS never explained how the 2019 OHV route network would not jeopardize recovery of the desert tortoise as required by the ESA and its implementing regulations.

Literature Cited

Berry, K.H., L.M. Lyren, J.L. Yee and T.Y. Bailey. 2014. Protection Benefits Desert Tortoise (*Gopherus agassizii*) Abundance: The Influence of Three Management Strategies on a Threatened Species. *Herpetological Monographs*, 28 2014, pp. 66–92.

Tuma, M.W. 2012. Conservation Plan for the Bureau of Land Management's Superior-Cronese Desert Tortoise Management Area. Prepared for the Bureau of Land Management National Office, Washington, D.C. 10036. Prepared by SWCA Environmental Consultants, Pasadena, California. 99 pp.

DTPC Welcomes Tom Astle as Newest Board Member

We are excited to announce that renowned photographer and longtime DTPC volunteer, Tom Astle, has recently joined the DTPC Board of Directors.

Tom grew up in Montana but has lived in Southern California since the early 1980s. He made his living as a writer and producer in the entertainment industry, from which he is now (semi) retired. Tom is a lifelong nature photographer. His specialty is macro photography, and he has presented both Zoom and in-person talks on the subject for the DTPC.

Tom first visited the Desert Tortoise Research Natural Area (DTRNA) thirty years ago and counts it among his favorite places. He's been a volunteer for spring and fall work parties and took photos for last year's 50th Anniversary events. He has also provided photographs and text for new DTRNA brochures that are currently in the works. Tom has always been fascinated by reptiles, and his particular interest in the desert tortoise was cemented when he inherited two long-term captive adult male tortoises many years ago. Tom is passionate about conservation, and the Mojave Desert these remarkable animals call home.

We're sharing below some photos from Tom's recent trip to Brazil. The first picture is of tegu – a big (4-foot long!) cousin of the whiptail lizards (same lizard family, Teiidae) found at the DTRNA. Tom's trip was carefully scheduled to see a particular region's bioluminescent termite mounds, which are only visible for a couple of weeks a year. The outside of some termite mounds have tiny, predatory, bioluminescent click beetle larvae living in crevices; they glow to attract prey like flying termites and ants. Tom says, "It was a remarkable sight!"



CHECK OUT DTPC'S NEW WEBSITE!



The DTPC has revamped its website, Check out our new online look at <https://tortoise-tracks.org/>. The website upgrade is a work in progress, so we'll be continuing to add new content in the coming months. Be sure to visit us online often.



Tortoise Tracks

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DTPC MEMBERSHIP/CONTRIBUTION FORM

1. YES, I want to help save the threatened desert tortoise and its habitat! Here is my tax-deductible membership contribution of:

<input type="checkbox"/> \$40 Individual	<input type="checkbox"/> \$100 Sponsor	<input type="checkbox"/> \$400 Patron
<input type="checkbox"/> \$75 Family	<input type="checkbox"/> \$200 Benefactor	<input type="checkbox"/> \$2000 Life/Corporate

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3. I'd like to help you grow the DTPC Permanent Endowment. Please accept an additional donation of:

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Marketable Securities (Stock): Contact DTPC Investment Chairperson, Greg Lathrop at
2redgrey@gmail.com or (415) 637-7187 for assistance

Let's grow the Permanent Endowment!

I would like my contribution to remain anonymous I would like to receive *Tortoise Tracks* **ONLY**

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Thank you.

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