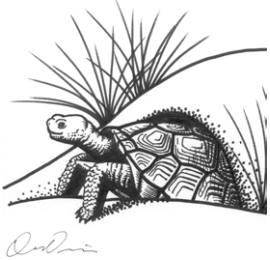


Gopher Tortoise Conservation Initiative

A Project of the Nonprofit Ashton Biodiversity Research & Preservation Institute, Inc.
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Chief, Division of Endangered Species
U.S. Fish and Wildlife Service
1875 Century Blvd., Suite 200
Atlanta, GA 30345

25 March 2004

RE: Petition to List the Florida population of *Gopherus polyphemus* (Gopher Tortoise) as a Candidate Species for listing as a Threatened Species.

The Gopher Tortoise Conservation Initiative is a program of the Ashton Biodiversity Research & Preservation Institute, a nonprofit organization dedicated to research, conservation and education. As knowledgeable researchers and President and Research Advisor to this organization, we are writing the US Fish and Wildlife Service to nominate the gopher tortoise, *Gopherus polyphemus*, within the state of Florida as a Candidate for federal protection under the Endangered Species Act.

There are many indications that this species and its habitat are being decimated at rates far greater than stated in the Florida Freshwater Fish and Game Commission (FWC) staff report entitled "Petition to Reclassify the Gopher Tortoise (*Gopherus polyphemus*) as a Threatened Species in Florida". This petition that was submitted to the FWC in late 2003 is attached.

The reasons why we believe this petition is required are as follows:

1. Development Rates based on County Records and protection by FWC

A Gopher Tortoise Conservation Initiative survey taken last year from general development related permits, zoning changes, GIS mapping and other data provided by county governments in Florida indicated that the most counties with *G. polyphemus* populations and appropriate upland habitats are being developed at a far greater rate than stated in the FWC Petition. In a majority of counties, from Marion County south, most of the available uplands are likely to be developed within the next 20 years. Under state regulations, less than 10% of this development is scrutinized or permitted by the Florida Fish and Wildlife Conservation Commission. Twelve counties have local ordinances that lead to scrutiny of permits or conduct on site inspections to determine the possibility of tortoises or other protected species existing on lands being permitted for clearing.

In addition, to these massive land use changes, there is even greater potential loss of tortoises and tortoise habitat on the remaining agricultural lands. Agricultural lands are essentially exempt from state protected species regulations, even though these lands continue to provide habitat for considerable populations of tortoises. Agricultural lands (including silviculture) are being sold for development at an alarming rate.

2. Status of populations on federal and state conservation lands.

Surveys on state lands (McCoy, Stys and Mushinsky, 2002) have shown a marked decline in gopher tortoises on state and federally managed lands over the past ten years. Similarly GTCI has surveyed many FWC mitigation lands purchased for tortoise conservation and found that the vast majority of these lands are not being managed properly for this species. In some cases the land is marginal habitat at best. A review of management plans (2001-present) for the state CARL (Florida Forever) lands being managed by the state Department of Forestry show that they have given little or no attention given to the habitat management needs for this or other listed species except for the red-cockaded woodpecker.

Recent Federal rule changes by executive order and some federal legislation regarding management of US forests and military lands could lead to further destruction of tortoise populations on government lands. Years of effort to protect resources including protected species appear to be in great jeopardy. Similarly, state lands purchased under the state conservation lands programs are generally managed by the Florida Dept of Forestry. The lack of monitoring of protected species, lack of knowledge on how to manage for protected species, and conflicting roles (management for protected species and biodiversity verses silviculture) have led to poor management and loss of habitat and populations of gopher tortoises.

3. Lack of change in FWC regulations, rules, and guidelines.

The Florida Fish and Wildlife Conservation Commission has had difficulty in creating a statewide management plan for the gopher tortoise and appropriate rules and regulations that protect the tortoise and encourage the general public to support this protection. The impact of this failure to issue a management plan goes beyond the gopher tortoise and extends to many other state and federally listed species that have been listed as commensals that live within the gopher tortoise's burrow. These include the federally listed Eastern Indigo Snake (*Drymarchon corias couperi*) and state listed species such as the Florida burrowing owl, the Florida Mouse, and a wide variety of invertebrates that are only known from gopher tortoise burrows.

4. Public attitude and concern is growing regarding “Take”

There is a growing negative attitude on the incidental take rule and how it is being handled with the development industry and private citizens, particularly in regards to how “Incidental Take” is implemented. Citizen outcry and community actions have led to unregulated efforts to save and relocate tortoises. This has resulted in tortoises being unofficially relocated at a rate far greater than currently permitted by the state. At least three counties have passed rules in the past three years to limit or halt the “take” of gopher tortoises.

In a poll by GTCI in October 2000 conducted of 1,492 citizens living in tortoise habitat, it was found that private citizens are relocating thousands (estimated at more than 50,000) of tortoises every year. This is despite the public’s knowledge that it is illegal under state law. The most frequently expressed attitude was a feeling of total frustration and disenfranchisement. These citizens commonly take the tortoises to federal and state forests and parks. This is leading to a growing demand on the part of animal rights groups and concerned citizens that all tortoises be protected and now local ordinances are beginning to demonstrate this desire.

The gopher tortoise should be considered as a candidate species for future listing. We firmly believe that this species and many of its commensals meet the criteria for threatened status. Without federal protection this species is destined for ultimate extinction.

Thank you for your consideration.

Sincerely,

Ray E. Ashton, Jr.
ABRPI President

Richard Franz
ABRPI Research Advisor

Attachments (2)