

DISCUSSION PAPER
**THE PRIMARY CONSERVATION ISSUES THAT REQUIRE ADDRESSING IN A
SPECIES MANAGEMENT PLAN AND ANY CHANGES IN STATE AND FEDERAL
RULES AND REGULATIONS**

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INTRODUCTION

The Gopher Tortoise Conservation Initiative (GTCI), a program under the Ashton Biodiversity Research & Preservation Institute, Inc. has submitted a request to the US Fish and Wildlife Service requesting that the gopher tortoise, (*Gopherus Polyphemus*) in Florida be considered for federal listing as a threatened species. In part this request was based on a report by Florida Fish and Wildlife Conservation Commission (FWC) that provided documentation under current state listing requirements to increase its status to threatened. These criteria are not unlike those required by FWS in its listing at the federal level.

FWC staff are preparing a management plan to guide conservation of this species in the state. It has been years in the making. A “task force” of FWC directly involved with current tortoise management is working toward identifying issues and coming up with some solutions to real problems with the current protective rules, guidelines, mitigation, and permitting systems. Both of these activities are positive indications that something is being done under the new Executive Director, Ken Haddad. However, there are major obstacles that face any new plan or recommendations made on the part of staff. They are the fact that anything being done has to go through the mill of which there are still some staff that are stuck on the dogma of the past. Second, it all has to be approved and finally financed in some way.

To assist in this effort, GTCI has offered to coordinate other organizations to sponsor and put on a statewide Roundtable available to all stakeholders to provide recommendations, data and have an open discussion on key issues related to the management plan and the rules that will be used to carry it out. This request was basically rejected by FWC as far as their participation was concerned. This is a proactive method that has been used by other states in the past. It is also a response to what happened nearly 3 years ago when FWC set new policy and rules which were then posted and there was a very backward method of input (which was summarily rejected anyway).

Since the release of the new rules and guidelines by FWC, GTCI has been collecting comments and concerns from the general public, public officials, and individuals (including consultants, government officials, developers, landowners and others). The list below is an accumulation of the major topics suggested that need to be addressed by FWC and FWS while considering restructuring management methods for the tortoise. These are also topics that conservation organizations and others should evaluate and make recommendations to the FWC now and when there is a public forum to discuss what the new rules will guide the conservation of (or demise) of the gopher tortoise over the next 20 years.

KEY ISSUES TO CONSIDER

1. MITIGATION AND INCIDENTAL TAKE

Issue: Currently the issue is that “Take” is being promoted by FWC to encourage the funding of mitigation lands under its management. These lands are not often high grade tortoise habitat nor has there been management plans, monitoring programs of ample management of most sites across the states.

Some Solutions: Require local acquisition of uplands regionally or within counties where “take” is occurring. Tie these efforts into protecting other upland species and local conservation land purchases.

Establish a strong policy regarding land acquisition, that includes percentages of funds going into on going management and a monitoring program. Any second party management such as DOF must consider tortoises and upland species as a priority over any other land management possibilities (e.g. silviculture).

2. RELOCATION

Issue: Currently relocation does not require a thorough evaluation of recipient sites, a conservation easement on the site, a financial commitment of funds that are being accepted to take tortoises for proper management, or an oversight of the relocation before during or after. Consultants are permitted essentially to dump tortoises when there is strong evidence that this is the primary cause of relocation failure.

Some Solutions: Set procedures that will require relocators to establish carrying capacity based on forage availability, require pre-management requirements including burning where no burning had occurred in the past 3 or 4 years, establish fencing to keep tortoises enclosed within the relocation area at a density determined by forage and burrow sites and the size of the area depending on the number of tortoises to be released on site. Keep tortoises enclosed for at least 6 months to assure site loyalty. On sites of 25-100 acres with highways and development surrounding them, require permanent fencing that will keep tortoises inside. All on site relocations should be permanently fenced. Easements should clearly define management responsibilities and should be held by local conservation groups or governments. Where possible relocation mitigation preserves should be purchased locally or regionally by the donor site owners. FWC should use current data on relocation, in print or not.

3. THE RULE OF LOCAL GOVERNMENTS

Issue: FWC rarely recognizes the fact that city and county governments have the right to legislate rules and regulations pertaining to wildlife and habitat as long as these rules do not reduce the level of protection under the Game Commission and, that the rules take into consideration various state statutes regarding rules pertaining to agricultural interests (UF Law School Report at 2003 Gopher Tortoise and Uplands Seminar). There is a

distinct lack of cooperation; especially in a formal fashion which could lead to much better protection of gopher tortoises and other protected species.

Some Solutions: FWC or FWS have no knowledge of the vast majority of lands that are being cleared and developed throughout the state. This is due to the fact that there are no “triggering” mechanisms in place to alert these agencies despite the fact that a wide variety of protected species occur on site. Secondly, neither agency has the staff to enforce or oversee permitting at this level. FWC and FWS could work with county environmental, codes and other agencies involved in the development process to help insure that protected species permits have been obtained before land clearing permits are obtained. Costs for these efforts would be minimal. Such a program could tie into the county efforts to establish conservation lands programs for the protection of habitat and relocation of tortoises

4. TESTING FOR URTD AND DISEASE ISSUES

Problem: Current one time testing has no real foundation for being done. One test on a percentage of the tortoises being relocated does not provide any more protection from spreading the disease than not testing at all (E. Jacobson). Multiple tests over time would have to be run and, there would be a need for tests to work with all strains of the disease causing organism. There is no indication that the disease is not present throughout the population and has been here for a very long time. There are many other diseases that effect tortoises, most we know little about and could be as dangerous to them as URTD. A GTCI poll taken of citizens living in rural areas being developed indicated that more than 50,000 tortoises are being moved by private citizens that do not want them killed on the road or as their developments are being built. Most of these tortoises are taken to parks, forests or other natural areas within a 50 mile radius of where they were picked up. This alone indicates that efforts to control disease by testing have little value.

Solution

Eliminate the URTD testing program as a requirement for relocation. . Do not relocate tortoises that show signs of URTD, herpes infections or other potentially dangerous diseases. Do not relocate tortoises in on or off site locations that do not provide adequate year round forage (based on current data), ample burrow sites, and that will not be managed properly. Do not release tortoises on sites that are not fenced to keep tortoises out of developments or highways.

5. QUALIFICATIONS AND TRAINING OF CONSULTANTS

Problem: Consultants, backhoe operators and others involved with tortoise conservation, mitigation, and management rarely have been trained in the basic methods tortoise management techniques. GTCI surveys of over 500 participants in training programs for tortoise management showed that less than 5% had any hands on training for trapping burrow counts, and excavation of burrows. Less than 2% ever read any information about tortoise natural history or related research except for a field guide and the information provided by FWC (Cox et.al. 199). Less than 2% had a herpetology course in college and less than 15% had a Florida vertebrate course (or similar). It should be pointed out that this poll was taken from people whose company or they personally

paid and took time off to attend a training course. Many in the field do not have this professional ethic and likely either fall into the above percentages or drop them ignorantly. This lack of training and on the job learning (without proper information) has led to massive errors in estimating populations and direct losses of tortoises during trapping and relocation. The fact that it is in the best interest of consultants to not necessarily find or relocate all tortoises since it costs their clients more when they do.

Some Solutions: Require at least one person in any firm carrying out tortoise mitigation activities to be trained in all methods required to survey, capture and relocate tortoises and, these people are present and directly oversee the work being done by field assistants. FWC requires training on the part of other permit holders (nuisance alligator collections, people handling burrowing owls require a federal banding license, etc.) Permit regional or statewide professionals to handle relocations. Backhoe operators should be trained and certified as well.

Bring in local governments that can assist in evaluating reports on all development projects. If there seems to be a problem with the data, reject it and notify the client. Habitual offenders lose the right to obtain permits. Finally, make sure that the permit requires adequate detailed information so it can be evaluated.

6. PERMITTING

Problem: The permitting process has become extremely costly, cumbersome time consuming, and the process itself has replaced the protection of the species. It does not really control the quality of the work or if the species is being protected during permitted actions. This is despite the efforts of a highly motivated and committed FWC staff. The system shows all the symptoms of an overloaded system and important parts of the program, particularly on relocation and follow up have been eliminated.

Some Solutions: The whole system needs revision. Some permitting should be done by County governments as they related to “real incidental take” on small prosperities. Qualified individuals within regions or statewide should be permitted to conduct more complicated aspects of relocation such as the actual relocation (backhoe or trapping), establishing and monitoring relocations. Rules and guidelines should be re-evaluated and based on current data and research, many things should be revised.

7. REVIEW PROCESS FOR (PRE- and POST) PERMITTING DATA

Problem: The FWC permitting office issues permits and receives reports which contain minimal data on which to evaluate whether or not the work has been done properly. Basically the review of permits is handed from those who create the permits (they make sure that the form is filled out correctly and may check some information for accuracy.) to an administrator that may or may not have the time or skills to evaluate the data. Reports required now are so small and ask for nearly useless data (especially for evaluation of actions taken), that consultants can be doing just about anything they want.

Some Solutions: When an individual develops a piece of property and builds a home on it, that landowner must obtain and pay for a wide variety of fees. We have fees or licenses for running a business and we pay to hunt and fish. It makes no sense that permits for protected species cannot cost. Second, establish one permit for each property

not several permits for the same project. This costs time for staff as well as for the developer and there is no proof that requiring a trapping permit, then a relocation or mitigation permit do anything to protect tortoises.

8. THE ROLE OF THE PRIVATE CITIZEN IN GOPHER TORTOISE CONSERVATION

Problem: The combination of massive permitted takes, illegal takes on small developments, lack of county level or regional involvement in working with concerned citizens has caused quite a negative backlash regarding the FWC and the protected species programs. Other species like indigo snakes, burrowing owls and others have little or no apparent protection under the current situation. People are taking the law into their own hands by moving tortoises, setting up their own private tortoise reserves or taking tortoises to other lands. Under the table relocations are undertaken by many animal rehabilitators and even zoos. This situation is similar to those found in France, Spain and Italy where individuals have taken upon themselves to protect the native tortoises. This leads to a whilly nilly relocations of not only resident species but exotics as well. People cannot get permits or it is essentially impossible for them to protect neighborhood tortoises because of the URTD testing and relocation policies causing great frustration, especially if there is a veterinarian or physician involved that knows something about diseases. The FWC and conservation organizations have done a poor job in educating the public about the issues related to upland protection, management of habitat and how they can be positively involved.

Some Solutions: Some mitigation money needs to be spent in counties to purchase or to obtain permanent conservation easements and management arrangements on private land. These lands should be used for planned release of tortoises from the region but local citizens and conservation groups (not developers who should provide funding direct for mitigation lands that can accept their tortoises). Funding should be provided by FWC for on going educational programs for the general public, land managers, consultants, developers or other stakeholders regarding upland conservation and tortoise conservation.

9. STATE AND FEDERAL CONSERVATION LANDS

Problem: Most conservation lands do not have habitat management plans or monitoring programs that have biodiversity or tortoise conservation as their primary goal. Although this is a goal clearly defined in the CARL and Florida Forever Programs, this is not enforced. Most of these lands are being managed by the Department of Forestry and are not being monitored and the management plans are clearly suspect. Case in point, Watermelon Pond CARL Project under management by Goethe State Forest. Because there were severe problems with the management plan draft submitted to the DEP Lands Committee and GTCI and Sierra Club complaints, the management plan was rejected and a Scientific Advisory Committee was appointed to review new plans. The management plan and the proposed monitoring program have, after 3 years, still not been approved. In part, the reason that it has not been approved is the DOF is wanting to "restore" natural uplands with 600 trees per acre and to use methods of management that could be harmful to tortoises and the overall biodiversity of the area.

Most National Forests do not have management plans that clearly define protection of the gopher tortoise or the herbaceous biodiversity required to sustain it and other species. Monitoring programs generally do not exist nor do management plans clearly define

goals that can be measured with an on-going monitoring program. Other conservation lands such as state parks are managed for other primary goals and depending on who is directing the agency or head of state government can determine if and when management is done and rarely is monitoring a priority. Recent commentaries indicate that lands under the Department of Defense may be relieved from following NEPA, including the Endangered Species Act. Even today, whether or not conservation of protected species is a priority often depends on base and regional commanders.

Some Recommendations: State conservation lands should be managed by an arm of the agency who is responsible for them. The same agency should manage FWC tortoise mitigation lands. This department should be made up of personnel that understand biodiversity conservation and appropriate management methods and monitoring programs to insure that the primary goal is carried out. Or, if DOF is going to be responsible for conservation lands, then it should be clearly mandated and enforced that these are not just more lands to put into silviculture. An audit should be conducted to determine how much natural lands have been turned into silviculture and those lands restored.

It is difficult to off set the long-term impacts of political change. One method is to spread the distribution of tortoise colonies in counties and regions (see Ashton, 2004) to create conservation lands that are governed by cities, counties, state and federal government. All lands set aside for the protection of a species or habitat should be managed and monitored to insure that those goals are being met. Funding should be such that proper management and monitoring are not curtailed at any time in perpetuity.

10. PRIVATE LAND CONSERVATION

Problem: FWC has not encouraged programs for nongame conservation on private lands. The Forest Stewardship program emphasizes silviculture and game management over biodiversity. FWC does not buy perpetual conservation easements on private land for tortoise mitigation. There is little information to private landowners to be involved in management of protected species (FWS does provide some of these services in Florida), nor do they encourage such activities. There is a need for sites to relocate tortoises; to reduce the negative effects of Take in areas where tortoise populations have been greatly reduced. Also, when developing land for hunting, with a little more effort and information, landowners could be encouraged to manage lands for tortoises.

Some Solutions: All agencies, federal to local should encourage private landowners owning both natural and farmlands to sustain tortoise populations. This can be done through tax incentive programs, conservation easements, Safe Harbor arrangements and establishing proper relocation programs that insure that income comes with the tortoises for proper management by the landowner. Information is sorely needed so landowners whether they are silviculturists, ranchers or have other economic efforts being undertaken on their property, they can at the same time, maintain tortoise and other protected species on their property.

11. FWC SHOULD USE CURRENT DATA AND FINDINGS (PUBLISHED OR NOT)

Problem: A number of researchers and research projects have been conducting long term research projects over the past few years. Many of these projects may not be completed in the next year or two. If they are, the time between completions of the

project and getting the results in press may well be 3-5 years. . Currently pertinent research directly relative to proper regulations, rules and guidelines are taking place now. If FWC does not use this information, the

Most researchers would be more than happy to provide interim results and information for FWC to review and use to make rules and regulations based on the most current information. A public forum to discuss the science and issues of the proposed new policies should be held, before the FWC actually drafts proposed policy. When there is a draft policy in the past, FWC staff simply responds well after the fact, the information is ignored and the rules and regulations are rarely altered in a meaningful way.

12. RESEARCH PRIORITIES

Problem: There are large gaps in our knowledge about even basic natural history of gopher tortoises. Just recently it was found that we cannot age gopher tortoises by size, scute rings, or annuli in the bones. Growth and maturity varies with food and probably latitude. We have found over these past few years that tortoise use of burrows is far different than that explained in the literature these changes how we can estimate populations by burrow counts. Completed tortoise burrows usually end at the ground water table. It appears that something was there. This is the first stop for pesticides, herbicides, petroleum products and anything else our society pours out on the surface. These have got to have impacts on the health of the tortoises, which spend about 80% of their time. We have found that tortoises are eating more than 400 species of plants. Which plants provide which nutrients? Antibiotics? Relocation has been one of the hottest topics in tortoise management and biology but FWC has provided no funding for research in this area.

Some Solutions: FWC work with and help researchers conducting research with obtaining funds to do priority research that is directly related to managing and sustaining tortoises in the various sized protected areas that will be left in the state after the next two decades. Funding should go to those things that will provide the most important information related to management such as understanding forage, burrow contaminants and how this might affect overall health and reproduction and the other topics previously mentioned. Although very important, the amount of funding it will take to provide the tools and cures for chelonian diseases would seem to make it less a priority than it has been in the past. .