

## Legal Alert

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### **U.S. FISH AND WILDLIFE SERVICE FINDS LISTING OF SONORAN DESERT TORTOISE NOT WARRANTED**

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After a long-awaited process based on a review “of the best available scientific and commercial information,” the U.S. Fish and Wildlife Service announced today that it has reversed its 2010 finding that the Sonoran Desert Tortoise is a candidate species under the Endangered Species Act, thus removing the species from the list.

The Sonoran desert tortoise can be found in portions of western, northwestern, and southern Arizona in the United States, and the northern two-thirds of the Mexican state of Sonora. The Service’s decision is based on the results of 30 years of “proactive efforts between federal agencies, Arizona Game and Fish Department, in identifying and addressing the primary threats to the tortoise.” These agencies included the State of Arizona, Bureau of Land Management, Department of Defense, and National Park Service.

The Service worked with many public and private stakeholders utilizing the Species Status Assessment tool that included advanced geospatial and population viability modeling and forecasting of the current and future threats to the tortoise over the next 100 years. Specifically, the assessment “showed that there are presently 470,000 to 970,000 adult desert tortoises rangewide on approximately 38,000 square miles (24 million acres, 9.8 million hectares) of potential tortoise habitat (64% in the U.S. and 36% in Mexico). The tortoise has not experienced any significant reduction in its overall range and past population losses are presumed to be limited to urbanization in historical tortoise habitat.”

Although many real estate developers and other stakeholders are relieved at the Service’s finding, there may likely be challenges by others. It is important to note that the State of Arizona will continue to provide protections of the Sonoran desert as a “Species of Greatest Conservation Need,” and the species is still listed as threatened under the Mexican equivalent to the Endangered Species Act. It is also prohibited to collect wild Sonoran desert tortoises in the United States.

Gammage and Burnham will continue to follow this issue to provide the most up-to-date information and advice to our clients. The official U.S. Fish and Wildlife Service news release can be found [here](#).

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