



DESERT TORTOISE COUNCIL

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Via email only to: nancy_christ@blm.gov

Ms. Nancy Christ, Bureau of Land Management

RE: Dry Lake Solar Energy Center (Dry Lake SEZ Parcels 5 & 6) Environmental Assessment
(NEPA#: DOI-BLM-NV-S010-2014-0126-EA; Case file #: N-93337)

The Desert Tortoise Council (Council) is a private, non-profit organization comprised of hundreds of professionals and laypersons who share a common concern for wild desert tortoises and a commitment to advancing the public's understanding of this species. Established in 1975 to promote conservation of tortoises in the deserts of the southwestern United States and Mexico, the Council regularly provides information to individuals, organizations and regulatory agencies on matters potentially affecting the desert tortoise within its historical range.

We appreciate the opportunity to comment on this Environmental Assessment (EA) for the Dry Lake Solar Energy Center (Dry Lake SEZ Parcels 5 & 6), File Number: N-93337, by NV Energy. In the following comments, we have excerpted pertinent portions of the EA, which are shown in *italics*, and followed by our comments.

1. Page 1, Section 1.1: In our experience, the Bureau of Land Management (BLM) typically releases a *draft* EA first and a *final* EA later that incorporates comments and makes necessary modifications. Should we consider this EA to be draft or final? Will there be a subsequent (final) EA that incorporates changes that result from these and other comments submitted to the BLM?

2. Page 18, Section 2.2.5.5: With regards to the following statement, "*Tortoise exclusion fencing would be installed around the 660-acre solar facility footprint prior to desert tortoise clearance surveys being conducted. In addition, plant salvage and geotechnical investigations may occur prior to desert tortoise clearance surveys being completed,*" would it be possible to fit any tortoises discovered during plant salvage and geotechnical investigations with radio transmitters so they may be located later when tortoises are to be removed during the clearance survey? This measure would facilitate finding the tortoises again, and assumes that translocated tortoises would be fit with transmitters for post-translocation monitoring.

3. Page 18, Section 2.2.5.5: With regards to the following sentences, "*Desert tortoises will be relocated from the Project in accordance with an approved Desert Tortoise Translocation Plan for the Dry Lake SEZ...Tortoise would be relocated to a translocation area identified in the*

approved Translocation Plan,” has this translocation plan been completed? In the text, it is cited as “Ironwood 2014” but in the literature section it is cited as “Ironwood 2014 *In Progress*;” does this mean the plan is not available for review? We understand that portions of the translocation area are within the Coyote Springs ACEC. Would those portions outside the ACEC be primarily managed for tortoise conservation, or are there foreseeable threats, like future solar projects, that may affect displaced tortoises? Are these translocation areas outside the ACEC within portions of the Solar Energy Zone that may be developed at a later date?

4. Page 31, Table 5: We see in Table 5 and elsewhere that tortoises are to be displaced from the 660-acre site into a translocation area that would include portions of the Coyote Springs ACEC. In the absence of a translocation plan available for review at the time of this EA was distributed, we feel that the Council cannot adequately assess the proposed displacement of tortoises, particularly as it would impact critical habitat in the Coyote Springs ACEC. What is the estimated population of tortoises inside the translocation area and how may they be affected? How does NV Energy plan to determine (monitor) the success or failure of translocation within tortoise critical habitat? We are unable to answer any of these questions with the information included in the EA and in the absence of the translocation plan.

5. Page 31, Table 5: With regards to the following paragraph, “*The project area is not within an ACEC. However, the Project proposes to displace desert tortoises in accordance with an approved translocation plan. A portion of the translocation area selected by the BLM and U.S. Fish and Wildlife Service is within the Coyote Springs ACEC,*” we understand this ACEC is designated as tortoise critical habitat. Is deposition of displaced tortoises into the Coyote Springs ACEC consistent with goals and objectives of the USFWS 2011 revised desert tortoise recovery plan? Was translocation of tortoises into ACECs envisioned and analyzed in the Final Solar PEIS? Has the population to be affected within this ACEC been studied to determine population densities, existing threats, evidence of disease, etc.?

6. Page 42, Section 3.4.1: With regards to the following statements, “*...approximately 1,500 acres of the proposed desert tortoise translocation area identified by the BLM and the USFWS occurs partially within the southern end of the Coyote Springs ACEC (Figure 5). The Coyote Springs ACEC is designated as critical habitat for desert tortoise and is being managed by the BLM for the recovery of the species,*” how much of the proposed translocation area is inside the ACEC? Did BLM consider that displaced tortoises may occupy more than a two-square-mile area and, unless the translocation area is fenced, not be contained within the intended 1,500-acre area? Have disease studies been performed on the tortoises to be translocated and those within the portions of the tortoise critical habitat located within the translocation area?

7. Page 45, Section 3.4.4: With regards to the following statement, “*All appropriate and feasible design features outlined in Volume 4, Section 11.3.10.3 and in Section A.2.2 of Appendix A in the PEIS (BLM and DOE 2012) would be implemented,*” we feel that the EA should be required to identify which “appropriate and feasible” measures are to be implemented. Referring to a large document and stating that feasible portions will be implemented does not adequately describe those measures that NV Energy plans to implement. For example, if there are 100 measures identified in the Solar PEIS of which you consider only 30 to be “appropriate and feasible,” we would need to know which ones would be implemented to analyze NV Energy’s ability to protect tortoises.

8. Page 45, Section 3.4.5.1.2: The latter half of the following sentence, “*There is a potential to impact the critical habitat through translocation if it results in exceeding the carrying capacity of the area, **although this impact is likely to be small,***” implies that the carrying capacity of the translocation area is known. How many tortoises currently occur there, how many will be introduced, and how was the carrying capacity of the translocation area determined?

9. Page 45, Section 3.4.5.1.3: Similar to Comment 7 above, we note that Section 3.4.4., which is referenced in this subsection, does not provide the design features that are intended to address impacts to the ACEC; rather it refers to appendices in the Solar PEIS without specifically identifying which measures will be implemented. Do the mitigation measures, for example, require long-term monitoring of displaced tortoises to determine the success of the translocation effort? If so, how does it define “long term?”

10. Page 60 and 61, Section 3.9.1: Whereas Table 8 reports that as many as 11 and as few as 1 adult desert tortoises occur on the 660-acre subject property, where are the data indicating how many tortoises occur within the translocation area? We note that the following sentence, “*Desert tortoise surveys were completed for the translocation area between September 8 and October 17, 2014*” indicates the surveys were performed, but where in the EA are the results reported?

11. Page 63, Section 3.9.5.1.2: We see in this section that Ironwood (2014) was cited as the translocation plan to be used for this project. However, that plan was not attached to the EA for our review. At a minimum, we stress that both displaced tortoises and resident tortoises within the translocation area be monitored a sufficient amount of time to determine efficacy of the translocation, and we ask that the results be made available to the Council upon publication. We also believe that any translocated tortoises that subsequently die be tallied against the USFWS’ incidental take statement in the biological opinion issued for this project.

12. Page 64, Section 3.9.5.1.3: We see in the following statement that a Biological Assessment is required: “*Each proposed project within the SEZ boundary will require a Biological Assessment that outlines project actions and avoidance and minimization measures to protect the species.*” Has the BA been completed and is it available for review?

We thank you for the opportunity to review this EA and trust that you will address the comments given above. We also ask that the Desert Tortoise Council be considered an Affected Party for this and other environmental documents affecting tortoises by BLM projects in Nevada. Finally, neither the Biological Assessment nor the Translocation Plan for the proposed action was made available as an attachment or appendix to this EA. Given how much the EA refers to the translocation plan, we find that our ability to effectively analyze the approach is undermined, and we ask that these documents be provided when they become available.

Regards,



Edward L., LaRue, Jr., M.S.

Desert Tortoise Council, Ecosystems Advisory Committee, Chairperson