



DESERT TORTOISE COUNCIL

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Via email only

29 March 2018

William Webster
Bureau of Land Management, Needles Field Office
1303 S. Highway 95
Needles, California 92363
wwebster@blm.gov

RE: Interconnect Towers Ash Hill Communications Site (DOI-BLM-CA-D090-2016-0007-EA)

Dear Mr. Webster,

The Desert Tortoise Council (Council) is a 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 desert tortoise species. Established in 1975 to promote conservation of tortoises in the deserts of the southwestern United States and Mexico, the Council routinely provides information to individuals, organizations, and regulatory agencies on matters potentially affecting desert tortoises within their geographic ranges.

We appreciate this opportunity to provide comments on the above-referenced project. Given the location of the proposed project in habitats occupied by Agassiz's desert tortoise (*Gopherus agassizii*), our comments pertain to enhancing protection of this species during Bureau of Land Management- (BLM) authorized activities.

In reviewing the Environmental Assessment (EA) for this project (Amec Foster Wheeler 2018), we found it to be thorough. We believe that the few additional measures identified below are prudent, should be included in the project, and will enhance protection of tortoises and their habitats, while ensuring that the latest regulatory standards are implemented. Pertinent sections, page numbers, and italicized quotes from the EA are followed by our concerns and/or recommendations.

1. DT-1, page A-4. *“The Authorized Biologist(s) would be responsible for selecting Biological Monitors and ensuring that that they and personnel involved with the Project are sufficiently trained to successfully implement the conservation measures (CM).”* Please note that whereas this approach is acceptable to the U.S. Fish and Wildlife Service (USFWS) and the BLM, California Department of Fish and Wildlife (CDFW) requires that résumés of both Authorized Biologists *and* Biological Monitors be submitted and all personnel are approved by CDFW, not just appointed by Authorized Biologists.

2. DT-2, pages A-4 and A-5. In addition to the six components of the education program identified in the table, the BLM should also require that detailed maps showing the results of the December 2017 survey (Amec Foster Wheeler 2017) show the locations of all tortoise signs found during those surveys. This is particularly important for the 5.77-mile access road, which we assume was surveyed by the consultants (the 2017 tortoise survey report was not made available for our review). The maps should be sufficiently detailed that construction workers can see those locations where extra caution needs to be exercised based on the density and distribution of the tortoise signs. Potential for “take” of tortoise can be minimized by construction taking place when tortoises are inactive, primarily during the winter but also in the summer when tortoises spend much time in their burrows.

3. Section 2.3.1.3. Access Road, page 2-6. We assume that this access road is being used because there is no access from Interstate 40, which appears to be less than 100 meters north of the site? The BLM should closely judge if this is the best access route. We note that it crosses almost six miles of suitable tortoise habitat to access a site within 100 meters of Interstate 40, and that none of the intended routes has been designated as open by the BLM. Tortoise mortality is often due to support vehicles (pickups and other trucks) instead of actual construction equipment such as dozers, graders, etc. because the construction equipment often has Biological Monitors observing. We stress that it is important to maintain speed limits of no more than 15 miles per hour along the access route; that as few vehicle trips as possible be made, which may mean driving construction equipment to the site one time and leaving it there for the duration of the project rather than drive in and out on a daily basis; and that insofar as possible, the proponent immediately returns the routes to their previous conditions so that they are not used for future vehicle travel; i.e., they are supposed to be BLM-designated closed routes. In addition a Biological Monitor might be assigned to monitor the road when tortoises are active.

4. Page 2.2 and elsewhere. Given the presence of tortoises, we appreciate that the facilities will be surrounded by permanent exclusionary tortoise fencing. During the construction period, we strongly recommend that all equipment be parked within this fenced area. If that is infeasible, we recommend that a temporary fence be installed adjacent to the active construction area and all personnel and construction vehicles be parked within that fence when not in use. As shown in Figure 2-3 on page 2-5 of the EA, there are barren and semi-barren areas that should be used for parking, staging, and other areas not directly impacted by the proposed facilities.

5. DT-3, page A-5. *“No desert tortoises shall be handled as part of this Project, except as authorized in 1997 Biological Opinion for Small Projects Affecting Desert Tortoise Habitat in Imperial, Inyo, Kern, Los Angeles, Riverside, and San Bernardino counties, California (6840 CA-063.50) (1-8-97-F-17).”* Although the programmatic biological opinion authorizes the project relative to the Federal Endangered Species Act (FESA), it does not authorize take,

including handling tortoises, under the California Endangered Species Act (CESA). Before any tortoises can be handled, and before any tortoise-occupied habitats can be impacted, the proponent must obtain a Section 2081 incidental take permit (2081 ITP) from the CDFW. For the same reasons, no tortoise can be removed from beneath vehicles, off the site, or off the access road (LUP-BIOIFS-8 on pages A-6 and A-7) until a 2081 ITP is acquired.

6. Appendix B, Desert Tortoise Stipulations, unnumbered page 2. Given that the site is located in the West Mojave Recovery Unit, has the BLM demonstrated that not more than 80 acres has been lost under authorization of the 1997 programmatic biological opinion (USFWS 1997)? If the BLM cannot accurately document the cumulative loss of tortoise habitat attributed to this programmatic biological opinion, the Council maintains that the project cannot be authorized under the existing biological opinion; rather, a separate Section 7 consultation process would be required by the BLM and must be completed before any take of tortoises can legally occur.

7. Appendix B, Desert Tortoise Stipulations. Although it has been noted in several places in Appendix A of the EA that the USFWS (2009) Field Manual will be used for environmental training, fencing, surveys, and tortoise handling, Appendix B includes stipulations and protective measures that are out of date. The BLM must inform the Authorized Biologists and Biological Monitors that the stipulations given in USFWS (2009) supersede stipulations given in USFWS (1997) as outlined in Appendix B.

We appreciate this opportunity to provide input and trust that our comments will further protect tortoises during authorized project activities. Herein, we ask that the Desert Tortoise Council be identified as an Affected Interest for this and all other BLM projects that may affect desert tortoises, and that any subsequent environmental documentation for this particular project is provided to us at the contact information listed above.

Regards,



Edward L. LaRue, Jr., M.S.
Desert Tortoise Council, Ecosystems Advisory Committee, Chairperson

Literature Cited

Amec Foster Wheeler. 2017. Biological Resources Assessment and Desert Tortoise Focused Survey Report, Ash Hill Communications Site Access Route.

Amec Foster Wheeler. 2018. Environmental Assessment Interconnect Towers Ash Hill Communications Site (DOI-BLM-CA-D090-2016-0007-EA).

U.S. Fish and Wildlife Service. 1997. Biological Opinion for Small Projects Affecting Desert Tortoise Habitat in Imperial, Inyo, Kern, Los Angeles, Riverside, and San Bernardino counties, California (6840 CA-063.50) (1-8-97-F-17).

U.S. Fish and Wildlife Service. 2009. Desert Tortoise (Mojave Population) Field Manual: (*Gopherus agassizii*). Region 8, Sacramento, California.