



DESERT TORTOISE COUNCIL

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Via email only to: nancy_christ@blm.gov

Ms. Nancy Christ, Bureau of Land Management

RE: Playa Solar Project (Dry Lake SEZ Parcels 2, 3, & 4) Environmental Assessment (NEPA#: DOI-BLM-NV-S010-2014-0127-EA; Case file #: N-93306)

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 Playa Solar Project (Dry Lake SEZ Parcels 2, 3, & 4), File Number: N-93306, by Playa Solar, LLC (First Solar). In the following comments, we have excerpted pertinent portions of the EA, which are shown in *italics*, and followed by our comments.

1. Page 1-1, 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 2-18, Section 2.2.13.9: With regards to the following statement, "*If palliatives are used, the Applicant would contribute funds to a BLM study to understand the effects of dust palliatives on the health of desert tortoises,*" is this BLM study already underway or would these funds be used to initiate that study? In either case, the Council would appreciate receiving a copy of the study when it becomes available.

3. Page 2-28, Table 2-7: We see in this table that a translocation plan is supposed to be prepared for the BLM. Has this plan already been written? In the absence of the plan, 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 the proponent plan to determine (monitor) the success or failure of translocation within tortoise critical habitat? Will those portions of the translocation area outside the ACEC be subject to development that may affect the translocated tortoises? We are unable to answer any of these questions with the information included in the EA and in the absence of the translocation plan.

4. Page 3.4-2, Section 3.4.5.1: We disagree with the following statement: “*the Proposed Action would not cause direct effects to specially designated areas including ACECs,*” as placing tortoises into this critical habitat area will directly impact the recipient population. We note that the companion EAs for the Harry Allen Solar Energy Center and Dry Lake Solar Energy Center both identify impacts to recipient populations of tortoises, particularly within the Coyote Springs ACEC, as being direct, so it is not clear why this EA fails to do so.

5. Page 3.4-2, Section 3.4.5.1: In the last paragraph on this page, you indicate that “*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.*” How much of the proposed translocation area is outside 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? 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 3.4-3, Section 3.4.5.1: With regards to the following statement “*Because no new significant impacts related to specially designated areas would occur as a result of the Proposed Action, no mitigation measures are recommended,*” are we to assume that the EA does not consider the introduction of tortoises into critical habitat within the Coyote Springs ACEC to be a significant impact? We note that the Solar PEIS did not envision displaced tortoises to be translocated into critical habitat, so that it is the burden of the EA to assess impacts associated with this action. Where are those impacts fully analyzed in the EA? For example, how many tortoises occur on the 1,500-acre translocation area and how much of that is critical habitat? Aren’t the measures identified in the translocation plan considered mitigation?

7. Page 3.9-2, Table 3.9-1: We note in Table 3.9-1 that the Project area is identified as 2,150 acres although elsewhere it is identified as 1,700 acres with 1,550 acres of impact (Pages 2-32 and 2-33). Further, you indicate that an estimated 44 adult tortoises would be affected within the Project area. Is this the 1,700-acre area, the 2,150-acre survey area, or some other acreage? It is not clear as currently presented.

8. Page 3.9-6, Section 3.9.5.1: We disagree with the following statement: “*Direct effects are limited to the boundaries of the Project area;*” as direct effects would occur within both the Project Area and Translocation Area. However, we acknowledge that the author of the EA incorrectly considers the translocation of tortoises to be an *indirect effect*, and that those impacts are addressed in the next paragraph.

9. Page 3.9-6, Section 3.9.5.1: The discussion given in the last full paragraph on this page seems a bit one-sided, as it considers only the transmission of disease from translocated tortoises to the host population. Have any disease studies been conducted on the host population to see if the translocated tortoises may be exposed to pathogens harbored by the resident tortoises?

10. Page 3.9-12, Section 3.9.5.1: With regards to the following statement, “*The BLM will decide as part of the decision record for this Project if fees will be collected, and if so, the amount of those fees,*” the Council feels that, not only should these fees be required, they should be applied to the Coyote Springs ACEC, which is most likely to be affected by the proposed action. We note earlier on the same page that these fees “would also be required,” so perhaps the above wording should be modified in the Final EA?

11. Page 3.9-13, Section 3.9.5.1: With regards to the following sentence, “*However, the incorporation of BMPs and adherence to measures described in the Desert Tortoise Translocation Plan such impacts would be minimized to the extent possible,*” where is the list of BMPs that are to be implemented? In the absence of an actual translocation plan, we are unable to determine if these BMPs will function or to suggest new measures to enhance them.

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,



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Desert Tortoise Council, Ecosystems Advisory Committee, Chairperson