



**DESERT TORTOISE COUNCIL**

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RE: Formal comments concerning the Aiya Solar Project Draft Environmental Impact Statement

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 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 note in Appendix B, Page 2 of 2 in Volume 2 that you attempted to contact the Council in November 2014 to allow us to provide scoping comments. Unfortunately that notice was sent to an old mailing address in Beaumont, California. Please note for this and other projects affecting tortoises that our current mailing address is in Palmdale, California as given above and on our current website ([deserttortoise.org](http://deserttortoise.org)).

In our review of the Draft Environmental Impact Statement (DEIS) with particular focus on protection of desert tortoises we are pleased with the level of detail provided. We offer the following few suggestions to the Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (USFWS), and/or future biological consultants implementing protective measures to enhance the measures already identified in the DEIS.

(1) According to Section 4.8.4.1.1.1, Page 4-47 in Volume 1 "Installation of exclusionary fencing at the solar site could result in take of desert tortoises due to equipment operation, removal of tortoise burrows, and subsequent tortoise relocation;" and "All desert tortoises found within the proposed solar site boundary of the Proposed Project would be relocated in

accordance with USFWS protocols to BLM-managed lands or Tribal lands, outside of the nearest fence in suitable habitat.” We feel strongly that any tortoises dying as a result of being relocated into adjacent areas should be applied to the mortality take limit identified in the Biological Opinion issued by the USFWS for this project. If the mortality of relocated tortoises exceeds the mortality take limit in the Biological Opinion, the BLM and/or BIA would then be obligated to reinitiate consultation with the USFWS to determine effective ways of avoiding additional deaths.

(2) Mitigation measure 5, Page 5-7 in Volume 1 indicates, “Under supervision of an authorized biologist, biological monitors will be present at all active construction locations (not including the solar field after it has been fenced with desert tortoise fencing and clearance surveys have been completed).” It is strongly advised that this measure be amended to state that the biologists/monitors will remain within the fenced site until which time it is completely brushed and grubbed. This is prudent to address the earlier statements that eggs and juveniles may be missed during clearance surveys (see Section 4.8.4.1.1.1, Page 4-46 in Volume 1), and will allow one last opportunity to encounter and remove smaller tortoises or eggs that may be exposed by heavy equipment.

(3) Finally, we understand that the cumulative effects analysis pertains to projects within about five miles of the proposed project, but we feel that it is prudent to amend the analysis to assess the cumulative effects to long term recovery of the tortoise within the recovery unit. Following are a few examples of questions we would like to see answered in this amended analysis: (a) How many recent projects (and particularly solar projects) have occurred within the Northeastern Mojave Recovery Unit for desert tortoise? (b) How many acres of occupied tortoise habitats have been developed? (c) How many tortoises have been displaced and accidentally killed by these projects within this recovery unit? (d) How have these projects cumulatively impacted genetic or habitat connectivity of the region? And, (e) would the proposed project contribute to habitat fragmentation on a regional scale?

Again, we offer these comments to enhance what we perceive as a well written assessment with thoughtful protective measures. Thank you for continuing to consider us as an Affected Interest for this and other projects affecting tortoises on public and tribal lands in Nevada.

Regards,

A handwritten signature in blue ink, appearing to read "Ed L. LaRue, Jr.", is written on a light blue rectangular background.

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