



DESERT TORTOISE COUNCIL

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Via email only

28 June 2017

Randall Porter, Geologist
Ridgecrest Field Office
300 South Richmond Road
Ridgecrest, CA 93555
rporter@blm.gov

RE: Green Planet EA for St. Philip Placer Mine – El Paso Mountains, Kern Co., California

Dear Mr. Porter,

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 geographic range.

First, I'd like to thank you very much for contacting the Council directly with the supporting information and the "Draft Finding of No Significant Impact for Environmental Assessment DOI-BLM-CA-D050-2017-0027" (herein, "EA") received from your office via email on 6/2/2017. The following comments are intended to provide feedback to your office and the proponents to help alleviate or avoid all impacts to the federally-listed, threatened desert tortoise (*Gopherus agassizii*).

At the bottom of page 7 (page numbers are missing from the document) we read: "*Because both the NLCS and ACEC units are over their respective disturbance caps therefore compensation will be required. Compensation for disturbance in an MGS key population center is 2:1, but compensation for projects in undisturbed habitat is 3:1, so the compensation will be 3:1 for this project. Restoration of a similar habitat within the MGS ACEC and NLCS has been determined by BLM staff and will occur off of EP 15. The restoration area will be approximately 1.5 acres (exact size based on project site) and all appropriate Cultural and Biological surveys and protocol will be completed before restoration on the site can commence.*"

Given that BLM is requiring the proponent to restore habitat at the rate of 3:1, we understand that the proponent would restore 1.5 acres of public lands managed by the BLM to offset impacts to 0.5 acres. However, the EA does not identify any success criteria or explain how the proponent would be obligated to meet those criteria. Therefore, we ask that BLM identify restoration success criteria and require remediation activities to be implemented by the proponent should those criteria not be met.

We are concerned that there is no evidence that a protocol-level survey was performed for either desert tortoise (USFWS 2010) or MGS (CDFG 2003, revised 2009). We note that the Desert Renewable Energy Conservation Plan (DRECP) LUPA-BIO-IFS-35 (page II.3-187 in the final EIS) requires MGS protocol surveys, which have not been performed. It appears that some fieldwork was performed as potential MGS burrows were flagged and are to be avoided, however USFWS (2010) requires that all projects below 5,000 feet elevation in suitable desert tortoise habitat be surveyed along transects spaced at 10-meter intervals and that zone of influence transects be surveyed in adjacent areas at 200-, 400-, and 600-meter intervals, both onsite and alongside the access road. Similarly, CDFG (2003, revised 2009) requires 15 days of trapping for MGS between March and July. Again, this is only a 0.5-acre impact (excluding indirect impacts to both tortoises and MGS along the access road), however, we are concerned that this sets an inappropriate precedent to accept lesser survey efforts in lieu of protocol surveys.

The DRECP also introduced a new type of survey for MGS, referred to as a “clearance survey,” as follows (see page II.3-187 in Chapter II of the Final EIS): “*LUPA-BIO-IFS-39: During the typical active season (February 1 through August 31), conduct clearance surveys throughout the site, immediately prior to initial ground disturbance in the areas depicted in Appendix H. In the cleared areas, perform monitoring to determine if squirrels have entered cleared areas. Contain ground disturbance to within areas cleared of squirrels.*” Although the EA (on page 7, first bullet) indicates that activities will not occur during the *dormant* season (August 1 through February 1), it fails to indicate that the DRECP requires clearance surveys during the *non-dormant*, active period identified above in LUPA-BIO-IFS-39. The Council recommends that the BLM enforce the clearance survey requirement for activities during the active period. BLM should confer with California Department of Fish and Wildlife staff at the Region 4 office to identify procedures needed to implement clearance surveys that are in compliance with the Fish and Game Code.

Finally, we understand that the BLM has a commitment to reduce the attractiveness of projects it authorizes in desert tortoise habitats to common ravens. Several means of enforcing this commitment are to require the mining proponent to produce a raven management plan and contribute to the USFWS’ raven management fund. We ask that BLM require the proponent to implement these measures.

Thank you for considering our concerns, which are intended to strengthen the BLM’s commitment to minimize and avoid impacts to habitats of desert tortoises and other rare species.

Regards,



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