



DESERT TORTOISE COUNCIL

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Via email only

17 September 2021

Magdalena Rodriguez
California Department of Fish and Wildlife
3602 Inland Empire Blvd. Suite C-220
Ontario, CA 91764
Magdalena.Rodriguez@wildlife.ca.gov

RE: Arica and Victory Pass Solar Projects Draft Environmental Impact Report Comments

Dear Ms. Rodriguez,

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 and other forms of assistance 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 known to be occupied by Mojave desert tortoise (*Gopherus agassizii*) (synonymous with Agassiz's desert tortoise), our comments pertain to enhancing protection of this species during activities authorized by the California Department of Fish and Wildlife (CDFW). Please accept, carefully review, and include in the relevant project file the Council's following comments and attachments for the proposed project.

We also appreciate that CDFW contacted the Council directly for the opportunity to provide feedback on the draft environmental impact report (DEIR). As an Affected Interest, the Council provided scoping comments on this project on October 31, 2020 (Desert Tortoise Council 2020), which is incorporated by reference, and provided in a link in the footnote¹.

¹ <https://www.dropbox.com/s/q16vjd9qao5k35h/Arica%20Solar%20and%20Victory%20Pass%20Solar%20Projects.10-31-2020.pdf?dl=0>

Unless otherwise noted, all page numbers referenced in the following comments refer to the DEIR with the title in the subject heading, dated August 2021.

Our primary concern with the proposed project is the inclusion of desert tortoise critical habitat on the southern portions of the Victory Pass site within the impact footprint. To our knowledge, this sets a precedent within the California Desert Conservation Area Plan (CDCA Plan) area as the first solar project that would be developed in designated desert tortoise critical habitat. Given the latest available data (particularly Allison and McLuckie 2018), tortoises are declining in all but the northeastern recovery unit. Until such time tortoise populations stabilize and eventually increase, we do not believe that the intentional development of designated critical habitats, which are deemed “essential,” is prudent. We therefore recommend that the southern boundary of the Victory Pass site be reconfigured to exclude designated critical habitat. Otherwise, it is our understanding that the project, as proposed, would result in the irreversible adverse modification of critical habitat, which is unwarranted and would set a dangerous precedent.

We appreciate that most of our concerns described in our scoping comments (Desert Tortoise Council 2020) have been addressed in the DEIR. The few additional comments given herein are helpful suggestions to enhance what already appears to be a sound protection program, intended to further protect tortoises and desert resources.

With regards to Section 2.5.3 Reclamation of Disturbed Areas on page 2-15, the Council produced a comprehensive discussion of best management practices intended to promote successful restoration of desert habitats (Abella and Berry 2106). This document is available in the footnoted link² and is submitted as a supplementary document to this comment letter.

With regards to APM BIO-6 A Worker Environmental Education Program (WEEP; used interchangeably with WEAP in the DEIR) on page 2-21 and 3.4-48, we find that project-specific hard hat stickers given to all workers at the time of the WEEP training will allow biologists to identify those workers who have and have not attended the program. If a sticker is not displayed on a worker’s hard hat, we assume the person has not been trained and arrange for training as needed.

When we tried to open the appendices, we were confronted with an unsolicited advertisement to purchase WinZip software, which we were unwilling to purchase. As such, we were not able to read any of the appendices, which did affect our review of the project, particularly the biological resource inventories and formal translocation plan, assuming one is in the appendices. The inaccessibility to appended documents should be addressed for future projects.

We did not see any specific approaches to either relocating or translocating tortoises, depending on the distance they are displaced from the site (e.g., where *relocation* pertains to tortoises moved less than 300 meters and *translocation* refers to tortoises moved more than 300 meters). Our inability to review these documents is alleviated by the revelation that Ironwood Consulting, comprised of reputable and experienced biologists, was responsible for the surveys and will likely oversee translocation.

² <https://www.dropbox.com/s/nx1b5m2b5ehya12/%23Abella%20and%20Berry%202016.pdf?dl=0>

We appreciate this opportunity to provide input and trust that our comments will help protect tortoises during any authorized project activities. Herein, we ask that the Desert Tortoise Council be identified as an Affected Interest for this and all other CDFW projects that may affect species of desert tortoises, and that any subsequent environmental documentation for this project is provided to us at the contact information listed above. Additionally, we ask that you respond in an email that you have received this comment letter so we can be sure our concerns have been registered with the appropriate personnel and office for this project.

Regards,



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

cc: California State Clearinghouse, state.clearinghouse@opr.ca.gov

Literature Cited

Abella S.R. and K.H. Berry. 2016. Enhancing and restoring habitat for the desert tortoise (*Gopherus agassizii*). *Journal of Fish and Wildlife Management* 7(1):xx-xx; e1944-687X. doi: 10.3996/052015-JFWM-046.

Desert Tortoise Council. 2020. Scoping Comments for Arica Solar (DOI-BLM-CA-D060-2020-0009-EIS) and Victory Pass (DOI-BLM-CA-D060-2020-0010-EIS) Solar Projects. Letter to the BLM and CDFW, dated October 31, 2020. 10 pp.