



**DESERT TORTOISE COUNCIL**

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**Via email only**

29 March 2022

Attn: Elizabeth Moody  
Bureau of Land Management, Las Vegas Field Office  
4701 N. Torrey Pines Drive  
Las Vegas, NV 89130  
[emoody@blm.gov](mailto:emoody@blm.gov)

RE: Arida – Mohave Transmission Line Environmental Assessment (DOI-BLM-NV-S010-2022-0019-EA)

Dear Ms. Moody,

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 likely occupied by Mojave desert tortoise (*Gopherus agassizii*) (synonymous with Agassiz's desert tortoise), our comments pertain to enhancing protection of this species during activities funded, authorized, or carried out by the Bureau of Land Management (BLM), which we assume will be added to the Decision Record for this project as needed. Please accept, carefully review, and include in the relevant project file the Council's following comments and attachments for the proposed project. Also, please note that BLM failed to inform us of this project despite a specific request to be considered an Affected Interest<sup>1</sup>; rather we were informed of this project by a third party, not the BLM.

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<sup>1</sup> <https://www.dropbox.com/s/xx5wmxcae1c1cju/BLM%20Southern%20Nevada%20District%20Managers%20Council%20as%20an%20Affected%20Interest.11-7-2019.pdf?dl=0>

Mojave desert tortoise is now on the list of the world's most endangered tortoises and freshwater turtles. It is in the top 50 species. The International Union for Conservation of Nature's (IUCN) Species Survival Commission, Tortoise and Freshwater Turtle Specialist Group, now considers Mojave desert tortoise to be Critically Endangered (Berry et al. 2021). As such, it is a "species that possess an extremely high risk of extinction as a result of rapid population declines of 80 to more than 90 percent over the previous 10 years (or three generations), a current population size of fewer than 50 individuals, or other factors." It is one of three turtle and tortoise species in the United States to be critically endangered.

Unless otherwise noted, the referenced page numbers are from the undated Draft Environmental Assessment (DEA), titled "Arida – Mohave Transmission Line, Case File Number N-99777, 326FW 8me LLC."

The project is described on page 1 as follows: "Proposed Action, which consists of an approximately 8.8-mile 500kV transmission line between the proposed Arida Substation and the existing Mohave Substation near Laughlin, Nevada referred to as the Arida – Mohave Transmission Line (A-M Transmission Line, A-M Project, or Project). 326FW 8me LLC, a subsidiary of 8minute Solar Energy (the Applicant), has applied for a right-of-way (ROW) for the approximately 7.2 miles of the Project that would cross federal land. Approximately 6.7 miles would cross federal lands managed by the Bureau of Land Management (BLM) and approximately 0.5 miles would cross federal lands managed by the Bureau of Reclamation (Reclamation)."

On page 47, we note that "Standard Stipulations and Mitigation Measures" are listed but the document does not reference the source of these protective measures. We note with regards to the stipulation 2.1.1., "A speed limit of **25** miles per hour shall be required for all vehicles travelling on existing roads [emphasis added]," we often see 15 miles per hour as a standard BLM stipulation, and for this project recommend that, unless otherwise posted, the speed limit on unimproved roads shall be 15 miles per hour.

On page 47, stipulation 2.2. states that "All drivers must check underneath vehicles and equipment before moving to ensure no tortoise has taken cover underneath parked vehicles," but fails to give direction to drivers if tortoises are found. Therefore, we recommend that the following wording, or something similar, be added to the stipulation: "Tortoises are not to be handled by unauthorized construction personnel, so if a tortoise is found, the vehicle should remain motionless until an authorized biologist arrives to assess the situation and remove the tortoise(s) from harm's way."

On page 47, stipulations 2.3 and 2.4 both refer to an existing Biological Opinion but we also read in several places that a new Biological Opinion will be developed specifically for this project and is pending. We recommend that a new stipulation be added to this section that references the pending Biological Opinion and makes a statement similar to the following: "Given that there are multiple Biological Opinions governing this project, where conflicting terms and conditions exist, the proponent is obligated to implement the measures that are most restrictive (e.g., if 15 and 25 miles per hour are given in separate places, the 15 mile per hour limit will be implemented)."

With regards to these stipulations, we are a bit concerned that the only protective measure referenced in this section is the speed limit given above. Although the terms and conditions are referenced as being in the attached Biological Opinion, someone reading the text of the DEA may get the wrong impression that these are the only stipulations. Standard stipulations include tortoise awareness programs for all construction workers; staking all impact areas and confining impacts to the staked areas; prohibitions against littering and proper disposal of trash to prevent subsidies to ravens and other tortoise predators; prohibitions against pets and firearms on the worksite; prohibitions against handling tortoises, and procedures identified when tortoises are encountered; procedures for reporting injured and dead tortoises; etc. We recommend that this section be substantially expanded to include these measures so the reader, perhaps including the proponent, better understands the full scope of protective measures. We note that some of these measures do appear in Appendix B but feel that it would be appropriate to emphasize them here as well.

Among the Applicant Proposed Mitigation and Best Management Practices (BMPs) reported on page 57, we see the following: “Biological monitors or biologists approved to handle and relocate tortoises will be present to relocate all tortoises in harm’s way to outside the permitted ROW.” We ask that the BMP clarify whether all tortoises must be relocated to BLM lands. It is our understanding that tortoises cannot be relocated to private lands where the project is funded, authorized, or carried out by the BLM. Yet, there may be extensive stretches of the project where only private lands occur, so please clarify this issue for the benefit of the proponent.

With regards to the following BMP on page 57, “Revegetation of areas disturbed by construction activities would be done in accordance with the Site Reclamation Plan, and seed mixes will be composed of native plant species,” we offer in the footnote a recent document funded by the Council (Abella and Berry 2016<sup>2</sup>) to help inform the proponent of available restoration techniques in arid habitats occupied by tortoises.

We ask that the following BMP on page 57 be modified with the bold wording as follows: “Biological monitors or biologists approved to handle and relocate tortoises will be present **during all authorized activities** to relocate all tortoises in harm’s way to outside the permitted ROW.” As given above, it is also important to clarify if tortoises can be relocated to private lands or must be restricted to BLM lands.

Also on page 57, we read: “The Applicant will implement the Raven Management Plan (BLM 2014) developed by the BLM for portions of the Proposed Project on BLM-administered lands.” We note that for this and all other protective measures, the proponent cannot restrict implementing measures to BLM-managed lands, only. Where the BLM funds, authorizes, or carries out any portion of a given project, the *entire* project becomes “federalized,” and all terms and conditions identified in the Biological Opinion must be implemented throughout the project, including private lands. So, this sentence needs to read (change appears in italics): “The Applicant will implement the Raven Management Plan (BLM 2014) developed by the BLM *in all project areas*.”

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

The second sentence of this same BMP reads: “The Applicant will inspect transmission structures annually for nesting ravens and other predatory birds and report observations of nests to the BLM and the Service.” Common ravens are likely to nest in the area from about February through August. This BMP needs to clarify the timing of the surveys; annual inspections in November, for example, may find nests but that would be too late to make a difference. These inspections need to occur during the raven nesting period and the proponent needs to secure a depredation permit that will allow them to remove nests, including those that contain eggs. Although surveys during the breeding season for the first three years is identified in the raven management plan given in Appendix G, it is unclear that annual surveys after the third year will also be performed during the breeding season, so please clarify. We request that annual surveys for nesting ravens be conducted beyond the first three years of the project, and suggest this effort be combined with the annual maintenance survey of the transmission line and scheduled during the raven nesting season. Reporting nests to the agencies without removing the nests seems ineffectual, and may result in sufficient delays that the young ravens will have fledged by the time permission to remove the nests is acquired. Consequently, the BMP should require that when nests are found, they should be removed.

We appreciate this opportunity to provide comments on this project and trust they will help protect tortoises during any resulting authorized activities. Herein, we reiterate that the Desert Tortoise Council wants to be identified as an Affected Interest for this and all other projects funded, authorized, or carried out by the BLM 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.

Respectfully,



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

### 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.

Berry, K.H., L.J. Allison, A.M. McLuckie, M. Vaughn, and R.W. Murphy. 2021. *Gopherus agassizii*. The IUCN Red List of Threatened Species 2021: e.T97246272A3150871. <https://dx.doi.org/10.2305/IUCN.UK.2021-2.RLTS.T97246272A3150871.en>