



DESERT TORTOISE COUNCIL

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Via email only

26 April 2019

County of San Bernardino, Land Use Services Department
Tom Nieves, Contract Planner
385 N. Arrowhead Avenue, First Floor
San Bernardino, CA 92415
Email: Tom.Nieves@lus.sbcounty.gov

RE: Daggett Solar Power Facility (State Clearinghouse No. 2018041007)

Dear Mr. Nieves,

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 provided scoping comments on this project on 25 April 2018 (Desert Tortoise Council 2018; herein "scoping comments letter") and now appreciate this opportunity to provide comments on the draft Environmental Impact Report (Draft EIR) for the project. Given the location of the proposed project in habitats potentially occupied by Agassiz's desert tortoise (*Gopherus agassizii*) (synonymous with "Mojave desert tortoise"), our comments pertain to enhancing protection of this species during activities authorized by the San Bernardino County Land Use Services Department (County).

We appreciate that the numerous surveys and analyses that we identified in our scoping comment letter were implemented. Furthermore, it is commendable that the proponents have committed to performing pre-construction, clearance tortoise surveys within 45 days of ground disturbance in creosote bush and saltbush scrub communities, as per BIO-1 on page 3.4-20 of the Draft EIR. If tortoise sign is found during these surveys, we understand that the proponent would consult with

U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) and that respective federal and state incidental take permits may be required. The Draft EIR stops short of making this commitment; rather it states that fences would be installed (page 3.4-26). The Final EIR should clearly state that USFWS and CDFW will be consulted if tortoise sign is found to see if permits are required.

The consultant indicates that it implemented the USFWS (2010a) tortoise survey protocol because at the time the USFWS (2017) protocol had not been finalized (Appendix E-3, page 9). However, the consultant failed to perform zone of influence surveys in peripheral areas at 200-, 400-, and 600-meter intervals, which are identified in the 2010 survey protocol. We therefore recommend that when the clearance surveys identified above are completed, that the consultant also performs zone of influence surveys in adjacent areas particularly to the north and east, adjacent to intact creosote bush scrub habitats. If tortoise sign is found in adjacent areas, this information would be shared with USFWS and CDFW to determine if incidental take permits or other measures (i.e., installing desert tortoise perimeter fences) are required.

We appreciate that focused plant surveys were performed and results are included in Appendix E-5. However, as noted on page 17 of Appendix E-5, the rainfall in 2017-2018 was at only 36% normal rain fall. As such, 2018 was a very poor year to detect annual plants, and most of the rare plants listed on pages 15 and 16 of Appendix E-5 are annuals and perennial herbs. Therefore, we recommend that additional plant surveys be performed in creosote bush and saltbush scrub communities under favorable rainfall conditions prior to ground disturbance. 2019 is an ideal year if these surveys can be performed in the next month-or-so. If rare plants are detected, the results would be shared with regulatory agency biologists to see if avoidance or mitigation measures are warranted.

On pages 4 and 5 of our scoping letter, we made the following statement with regards to subsidizing common ravens: “In particular, how will the Project facilities be constructed, operated, maintained, and decommissioned to minimize the attraction and subsidization of common ravens (*Corvus corax*) in the region, which would likely affect tortoises in these nearby essential habitats?” The only mention of common ravens in the Draft EIR is on page 3.4-27 with the following statement relative to measure BIO-1: “Trash and food items shall be contained in closed containers and removed daily to reduce attractiveness to opportunistic predators of desert tortoise (e.g., ravens, coyotes, feral dogs).”

During the phases of construction, operation and maintenance, decommissioning, and site restoration, the proposed Project is very likely to contribute to subsidies of food, water, and/or sites for nesting, roosting, and perching/hunting for ravens. For example, the use of construction equipment will disturb up to 3,500 acres of the soil’s surface, which exposes fossorial and burrowing animals to injury and death from this activity. This exposure, injury, and/or mortality would result in an increase in food subsidies for common ravens. Common ravens are quickly attracted to human activity and able to fly at least 30 miles in search of food and water on a daily basis (Boarman et al. 2006). Given this information, the proposed Project is likely to attract common ravens to/near the Project area and increase the likelihood of common ravens preying on desert tortoises in nearby tortoise habitats, including the Ord-Rodman and Superior-Cronese Critical Habitat Units.

The Final EIR needs to analyze how the proponent will monitor responses of the local raven population and identify/implement mitigation measures to eliminate local subsidies to ravens (e.g., new nesting substrates, food and/or water sources, etc.) in response to project construction, operation and maintenance, decommissioning, and restoration. We reiterate our request that the Project proponent should ensure that all standard measures to mitigate the local, regional, and cumulative impacts of raven predation on the tortoise are included in a predator management plan. The USFWS (2010b) provides a template for a project-specific management plan for common ravens. This template includes sections on construction, operation and maintenance, and decommissioning (including restoration) with monitoring and adaptive management during each project phase (USFWS 2010b). In addition, we reiterate that the applicant should contribute to the National Fish and Wildlife Foundation's Raven Management Fund to mitigate the regional and cumulative impacts associated with this Project and other land uses in the desert to reduce the expansion of raven populations in the range of the tortoise.

On page 6 of our scoping comments letter, we made the following statement: "Finally, with regard to cumulative effects, the Draft EIR must list and discuss all project impacts within the region including future state, federal, and private actions affecting listed species on state, federal, and private lands. Even though the project is not on public lands managed by the Bureau of Land Management (BLM), we ask that the relationship between this proposed private Project and the Desert Renewable Energy Conservation Plan (DRECP) be analyzed. This analysis should also consider ongoing and future projects in the City of Barstow and its sphere of influence that would result in losses of desert habitats from the region."

The only place in the Draft EIR where we could find "cumulative impacts" mentioned is on page 5-10. However, the few statements given there do not constitute a cumulative effects analysis, nor are any of the many projects occurring in the region listed and analyzed in that section. In this respect, we find the cumulative effects analysis to be deficient in the Draft EIR and ask that, at a minimum, the Final EIR provides this analysis by addressing the components listed above from our 2018 scoping comments letter.

We appreciate this opportunity to provide input and trust that our comments will further protect tortoises during authorized project activities. Herein, we ask that the Desert Tortoise Council be identified as an Affected Interest for this and all other County projects that may affect desert tortoises, and that any subsequent environmental documentation for this particular project is provided to us at the contact information listed above.

Regards,



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

Literature Cited

- Boarman, W.I, M.A. Patten, R.J. Camp, and S.J. Collis. 2006. Ecology of a population of subsidized predators: Common ravens in the central Mojave Desert, California. *Journal of Arid Environments* 67 (2006) 248–261.
- Desert Tortoise Council. 2018. Scoping Comments on Notice of Preparation of a Draft Environmental Impact Report for the Proposed Daggett Solar Power Facility, San Bernardino County, CA. Dated April 25, 2018. 8 pages.
- U.S. Fish and Wildlife Service. 2010a. Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*). USFWS Desert Tortoise Recovery Office. Reno, NV.
- U.S. Fish and Wildlife Service. 2010b. Common raven predation on the desert tortoise. USFWS, Ventura Fish and Wildlife Office, Ventura, California.
- U.S. Fish and Wildlife Service. 2017. Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*). USFWS Desert Tortoise Recovery Office. Dated 21 August 2017. Reno, NV.