



**DESERT TORTOISE COUNCIL**

3807 Sierra Highway #6-4514

Acton, CA 93510

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**Via email only**

13 September 2022

Attn: Ms. Jessica Headen  
Bureau of Land Management  
Southern Nevada District Office  
4701 North Torrey Pines Drive  
Las Vegas, NV 89130

[BLM\\_NV\\_SND\\_EnergyProjects@blm.gov](mailto:BLM_NV_SND_EnergyProjects@blm.gov), [jheaden@blm.gov](mailto:jheaden@blm.gov)

RE: Townsite Solar 2 Project

Dear Ms. Headen,

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.

As of June 2022, our mailing address has changed to:

Desert Tortoise Council  
3807 Sierra Highway #6-4514  
Acton, CA 93510

Our email address has not changed. Both addresses are provided above in our letterhead for your use when providing future correspondence to us.

First, we would like to thank you and the Bureau of Land Management (BLM) for contacting the Council directly via email on 12 August 2022 providing us this opportunity to comment on the above-referenced project. Given the location of the proposed project in habitats that may 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 funded, authorized, or carried out by the BLM, which we assume will be added to the Decision Record for this project if it is developed. Please accept, carefully review, and include in the relevant project file the Council's following comments and attachments for the proposed project.

In the press release for this action, dated 12 August 2022, we read the following, which leads us to believe that the BLM is seeking *scoping comments* for this potential project: "As we take the next steps in evaluating the application for the Townsite Solar 2 Project, we look forward to input from the public and our partners in local, state, federal and Tribal governments," said Shonna Dooman, Las Vegas Field Office Manager. "Input we receive provides critical information to support BLM's review as we decide how to move forward with this right-of-way application to ensure that we can help meet the nation's needs for renewable energy while we continue to sustain the health, diversity and productivity of public lands." And "The information forum is being held as part of the solar application evaluation process and information gathered during the public input period will inform BLM's determination on whether to continue to process or to deny the Townsite Solar 2 Project right-of-way application."

The Mojave desert tortoise is among the top 50 species on the list of the world's most endangered tortoises and freshwater turtles. The International Union for Conservation of Nature's (IUCN) Species Survival Commission, Tortoise and Freshwater Turtle Specialist Group, now considers the Mojave desert tortoise to be Critically Endangered (Berry et al. 2021), as 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), population size fewer than 50 individuals, other factors." It is one of three turtle and tortoise species in the United States to be critically endangered. This status, in part, prompted the Council to join Defenders of Wildlife and Desert Tortoise Preserve Committee (Desert Tortoise Council 2020) to petition the California Fish and Game Commission in March 2020 to elevate the listing of the Mojave desert tortoise from threatened to endangered in California.

Comments Specific to the Plan of Development: Unless otherwise noted, the following page numbers reference the "Plan of Development, Skylar Energy Resources LLC, Townsite Solar 2 Project," prepared by the BLM, and dated May 22, 2022 (herein "POD"). We note in Section 1.2 on page 14 that the 9<sup>th</sup> bullet indicates that a "Desert tortoise exclusion fencing around the Project perimeter" will be installed. Please be sure that the fence follows the specifications given on pages 8-4 and 8-5 of the U.S. Fish and Wildlife Service (USFWS) Field Manual (USFWS 2009).

Section 5.4.1 on page 46 includes the following mitigation measure: "If trenches are needed, trenches would have tortoise escape ramps built to USFWS standards placed at least every 1 mile." It follows current management to have open trenches checked a minimum of three times per day (more frequent checks are advisable). It has been our experience that if escape ramps are to be used, intervals of 300-to-500 feet are appropriate; certainly, escape ramps at one-mile intervals are too far apart. In fact, open trenches that are that long tend to entrap numerous animals, not just tortoises, and should be avoided; backfilling immediately after pipe placement is the recommended approach.

We concur that the five bulleted mitigation measures listed on page 46 are a good start. However, we expect that the BLM will significantly supplement this abbreviated list with numerous other stipulations that reflect current management. Some of these additional, standard protection measures include: delineating the impact area and restricting all impacts to that area; prohibiting pets and firearms on the site; identifying local qualified veterinarian(s) in case tortoises are harmed and identifying procedures to report tortoises accidentally injured or killed; implementing measures intended to minimize attraction of tortoise predators, including common ravens and coyotes, to the site by avoiding ponding of water and disposing of all food and trash items in containers with lids. These are a few of the protective measures that BLM should identify along with any others typically required in USFWS biological opinions and BLM stipulations.

General Scoping Comments for the Future Environmental Document: We assume that the appropriate National Environmental Policy Act (NEPA) document for this project will be an Environmental Assessment (EA), and ask that as an affected interest, the Council be provided with a copy of that document upon its release.

Although the POD anticipates performing tortoise surveys within a perimeter fence, we believe that the EA should be developed based on the best available information, which requires that a protocol presence/absence survey (USFWS 2019) be performed *before* any fencing activities. Then, if tortoise sign is found, a clearance survey should be performed within the fenced area, which requires that transects are surveyed at 5-meter intervals and that if tortoises are found during the second pass, a third survey is warranted (see Chapter 6 of USFWS 2009).

Although not mentioned elsewhere, the note in Section 5.3 on page 45 referencing the Solar Programmatic Environmental Impact Statement Record of Decision (therein, “Solar PEIS ROD (BLM 2012”)), suggests that the Townsite Solar 2 Project is subject to stipulations, restrictions, and guidelines set forth in the 2012 ROD.


On 12 August 2022, the Council submitted a comment letter to Ms. Angelita Bullets, Energy & Infrastructure Team of the BLM’s Pahrump Field Office, entitled “Proposed Solar Energy Development on Public Lands in Northwest Area of Pahrump Field Office<sup>1</sup>.” That letter is herein incorporated by reference, provided in the footnote, and provided as a separate attachment to this letter. Beginning on page 2 with the subheading, “Scoping Comments,” and ending on page 18, the Council lists requisite components of future environmental documents, which are applicable to the current project and should be applied to the project-related environmental document.

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.

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<sup>1</sup> <https://www.dropbox.com/s/543ibywgme8ck4x/Solar%20Development%20in%20BLM%E2%80%99s%20Pahrump%20Field%20Office%20Area.8-12-2022.pdf?dl=0>

Respectfully,



Edward L. LaRue, Jr., M.S.

Desert Tortoise Council, Ecosystems Advisory Committee, Chairperson

### **Literature Cited**

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>

BLM, 2012. Approved Resource Management Plan Amendments/Record of Decision (ROD) for Solar Energy Development in Six Southwestern States. October 2012. [solareis.anl.gov/documents/docs/Solar\_PEIS\_ROD.pdf].

Desert Tortoise Council. 2020. A Petition to the State of California Fish and Game Commission to change the status of *Gopherus agassizii* from Threatened to Endangered. Formal petition submitted on 11 March 2020.

[USFWS] U.S. Fish and Wildlife Service. 2009. Desert Tortoise (Mojave Population) Field Manual: (*Gopherus agassizii*). Region 8, Sacramento, California.

### **Attachment**

Desert Tortoise Council. 2022. Proposed Solar Energy Development on Public Lands in Northwest Area of Pahrump Field Office. Formal scoping comment letter submitted to Ms. Angelita Bullets, Energy & Infrastructure Team of the Pahrump office of the BLM on 12 August 2022.