



DESERT TORTOISE COUNCIL

4654 East Avenue S #257B
Palmdale, California 93552

www.deserttortoise.org
eac@deserttortoise.org

Via email only

14 May 2018

Nicollee Gaddis
Bureau of Land Management, Southern Nevada District
4701 North Torrey Pines Drive
Las Vegas, NV, 89130
blm_nv_sndodle_dla@blm.gov

RE: Dry Lake East Designated Leasing Area DOI-BLM-NV-S010-2017-0131-EA

Dear Ms. Gaddis,

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 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 Agassiz's desert tortoise (*Gopherus agassizii*), our comments pertain to enhancing protection of this species during activities authorized by the Bureau of Land Management (BLM).

We understand that the purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the process for developing the Resource Management Plan Amendment/Environmental Assessment for the designation of a Designated Leasing Area (DLA) for renewable energy. As per the BLM map provided for scoping comments, which is attached to the end of this letter, the site is located approximately 10 miles northeast of Las Vegas, and immediately east of the Dry Lake Solar Energy Zone (Dry Lake SEZ), on approximately 1,800 acres.

BLM will provide a site specific analysis under the National Environmental Policy Act (NEPA) to fully analyze the impacts of the proposed action. For that analysis to be complete, the Council advises the BLM to collect baseline data on the relative density and distribution of Agassiz's desert tortoise within the 1,800-acre planning area. Accordingly, a U.S. Fish and Wildlife Service (USFWS) protocol-level survey (USFWS 2017) of the area must be performed prior to ground disturbance, which will determine an estimated density of tortoises within the DLA.

BLM personnel have indicated they will work with project proponents to retain as much vegetation as possible to allow tortoises to potentially reoccupy the site following development. We understand that the Biological Opinion will require a perimeter fence to be installed that will be permeable to tortoise movement on and off the site. Once in place, resident tortoises would be removed and held in USFWS-approved pens or a holding facility. Since the entire 1,800 acres would presumably become available for solar development and possibly accommodate more than one solar facility, where will these temporarily-held tortoises be placed? Would they be placed back into adjacent areas that may be developed later, or moved to a distant location? In any case, the Draft Environmental Assessment (Draft EA) should clarify these issues.

There is insufficient information in the materials provided by the BLM and in the associated Federal Register Notice (Vol. 83, No. 72 / Friday, April 13, 2018, page 16117) to fully understand the relationship of this proposed DLA to the existing Dry Lake SEZ, which occurs immediately west of the DLA. Does this proposed DLA represent an expansion of the Dry Lake SEZ? Please be sure the Draft EA describes the relationship between the existing Dry Lake SEZ and this proposed DLA.

On 7 January 2015, the Council provided a comment letter on the following project: *Dry Lake Solar Energy Center (Dry Lake SEZ Parcels 5 & 6) Environmental Assessment (NEPA#: DOI-BLM-NV-S010-2014-0126-EA; Case file #: N-93337)*. Have these parcels been developed? How many tortoises were displaced and what was the result of tortoise translocations? Are translocated tortoises still being monitored? Have those portions of Interstate 15 adjacent to the proposed DLA been fenced to prevent mortality of displaced tortoises? It is essential that the BLM perform a thorough baseline analysis of the action area, including other solar projects affiliated with the Dry Lake SEZ. As part of the cumulative effects analysis, we expect that the Draft EA will document the impacts on tortoises of recently authorized solar development in the Dry Lake SEZ and elsewhere on both private and public lands in the region. This analysis should include the numbers of displaced tortoises and the relative success of authorized translocations documented in monitoring data.

The translocation of tortoises from the proposed DLA must be considered in the Draft EA and in a formal translocation plan. The translocation or disposition plan should describe what actions will be taken to ensure displaced tortoises will not be harmed or killed by existing threats including casual and BLM-permitted off highway vehicle activities, roads, utility development, etc. The Council assumes that translocated tortoises cannot be placed into the Dry Lake SEZ on the west side of I-15 since those areas are already developed for solar development. As such, where will displaced tortoises be translocated?

With regards to translocation, at a minimum the Draft EA must (1) identify where tortoises would be translocated, including the estimated numbers of animals to be displaced and occurring within the recipient area; (2) provide baseline density estimates and habitat conditions of the proposed translocation area to facilitate success of translocated tortoises while minimizing impacts to resident animals in the recipient population; and (3) document existing and new permits that would authorize the effort.

We understand that a separate Biological Opinion would be drafted for each new solar development resulting from this proposed action, which would require a BLM and UFWS-approved translocation plan to facilitate repatriation of tortoises to the site with appropriate monitoring. We trust that both the Draft EA and associated Biological Opinion(s) will document the successes and failures of recent translocation efforts to avoid known problems associated with those efforts.

The Federal Register Notice indicates that designation of the proposed DLA would allow the BLM to conduct a competitive lease auction for solar development on 1,800 acres but fails to document how much of the existing Dry Lake SEZ has been developed. It is our understanding that no lands remain available within the Dry Lake SEZ for solar development. Three projects were approved, each of which has a Biological Opinion. BLM proposes this DLA (which is similar to a SEZ) to expand solar development in the BLM district. BLM is running out of sites for solar development that avoids important environmental areas. The Council expects that tortoise densities and distributions within the Dry Lake SEZ and proposed DLA would be documented in the Draft EA to determine the relative impacts of development within the two areas.

We understand that the BLM will need to revise the 1998 Las Vegas Resource Management Plan (RMP) to accommodate the proposed DLA, and in so doing, BLM would need to formally consult with USFWS under Section 7 of the Federal Endangered Species Act (FESA). We remind BLM that in revising the RMP, it is incumbent on the agency to ensure that mitigation and conservation commitments made in previous EAs and associated Decision Records are not undermined by any future revisions to the RMP.

The Draft EA should include a thorough analysis and discussion of the status and trend of the tortoise in the action area, tortoise conservation area, recovery unit, and range wide. Tied to this analysis should be a discussion of all likely sources of mortality for the tortoise and degradation and loss of habitat from implementation of the leasing the area for solar development including construction, operation and maintenance, decommissioning, and restoration of the leased lands.

The Draft EA should include appropriate mitigation for these adverse effects to the tortoise and its habitats; the mitigation should use the best available science with a commitment to implement the mitigation commensurate with or before the impacts to the tortoise or its habitats. Mitigation should include a fully-developed desert tortoise translocation plan, raven management plan, weed management plan, fire management plan, compensation plan for the degradation and loss of tortoise habitat to protect the acquired, improved, and restored habitat in perpetuity for the tortoise from future development and human use, a plan to protect tortoise translocation area(s) from future development and human use in perpetuity, and habitat restoration plan when the

lease is terminated and the development is decommissioned. These mitigation plans should include an implementation schedule that is tied to key actions of the construction, operation and maintenance, decommissioning, and restoration phases of each solar lease. The plans should specify success criteria and identify actions that would be required if the mitigation measures do not meet the success criteria.

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 BLM projects that may affect species of desert tortoises, and that any subsequent environmental documentation for this particular project is provided to us at the contact information listed above.

Regards,



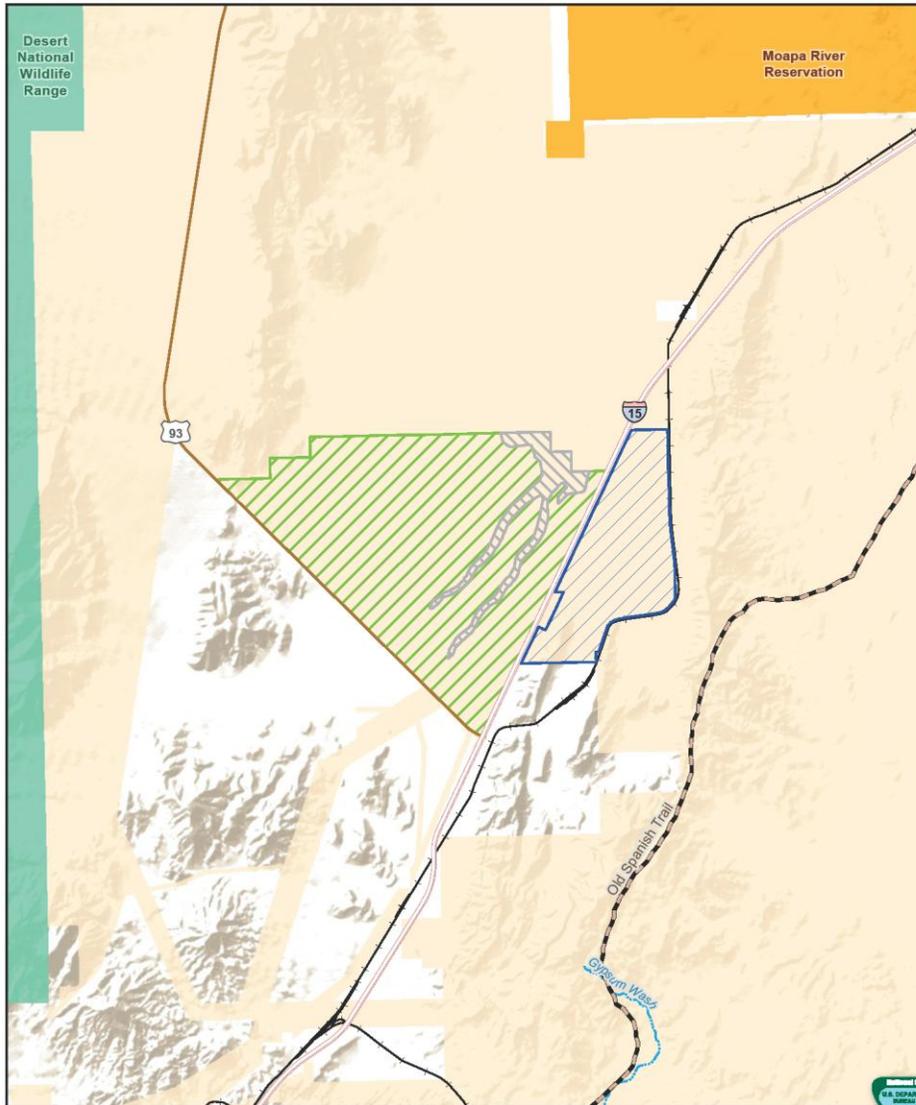
Edward L. LaRue, Jr., M.S.
Desert Tortoise Council, Ecosystems Advisory Committee, Chairperson

Literature Cited

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.

Dry Lake East Designated Leasing Area

Proposed Action Area Map



Data Sources: NAIP 2017

- Proposed Dry Lake East Designated Leasing Area (DLA)
- 2012 FINAL SEZ
- Developable
- Non-developable
- Interstate Highway
- Major Road
- Old Spanish Trail
- Railroad
- Intermittent Stream
- Bureau of Land Management
- Fish and Wildlife Service
- Tribal Lands
- Private

