



SAN GORGONIO CHAPTER

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*Regional Groups Serving Riverside and San Bernardino Counties: Big Bear,
Los Serranos, Mojave, Moreno Valley, Mountains, Santa Margarita, Tahquitz.*

June 22, 2009

Via Electronic Mail

Tom Hurshman
BLM Project Manager
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DOCKET	
07-AFC-5	
DATE	<u>JUN 22 2009</u>
RECD.	<u>JUN 22 2009</u>

Re: Draft Environmental Impact Statement for the Ivanpah Solar Electric Generating System

Dear Mr. Hurshman:

We write to propose a project alternative for incorporation into the BLM's upcoming draft environmental impact statement for the proposed Ivanpah Solar Electric Generating System project ("Project"). We provide this NEPA-based alternative in the spirit of cooperation, and with the goal of achieving timely resolution of the dual-track Project approval processes for the BLM and California Energy Commission so that the project can be under construction by 2010.

We strongly support environmentally responsible renewable energy, including appropriately-sited, large-scale solar development. Specifically, it is the Sierra Club's policy that large-scale, renewable energy be developed, whenever possible, on previously disturbed, preferably privately-held, lands.¹ Unfortunately, the Project as proposed would be built on unspoiled public land presenting significant, unmitigated impacts on the state and federally listed desert tortoise and on sensitive plant communities, some of which are also listed. Concerning desert tortoise, the Energy Commission staff determined:

The applicant's proposed mitigation, acquisition, and enhancement of approximately 4,065 acres would be insufficient to avoid significant direct, indirect, and cumulative impacts to biological resources of the Ivanpah Valley, and fails to meet the California Department of Fish and Game's full mitigation standard for desert tortoise. Staff also believes this proposed mitigation will be inadequate to compensate for cumulatively significant impacts to other special-status plant and animals inhabiting the project site...²

¹ Testimony of Carl A. Zichella, Director of the Sierra Club's Western Renewables Program before the Subcommittee on Energy and Mineral Resources Committee on Natural Resources (May 11, 2009).

² Preliminary Staff Assessment at p. 5.2-2.

Many of the Project's negative effects occur because the proposed configuration was mapped out before anyone had conducted meaningful surveys of the site's biological resources and drainage issues. Indeed, the current footprint is situated on the best habitat for wildlife and special-status plant species, while the most disturbed lands, closest to existing development and Interstate 15 would serve as translocation lands for the listed desert tortoise. From a biological perspective, this is an utterly backward use of public land. Similarly, the Project would be built on lands with the most challenging drainage problems while the translocation lands are relatively flat and pose fewer drainage issues. In short, the lower elevation lands near Interstate 15 appear to be much more suitable for large-scale solar development than the current, upslope habitat where more than 20 desert tortoises and other imperiled species reside. The optimum lower elevation alternative in terms of protecting biological resources is the south end of the Ivanpah Dry Lake. If siting the Project on the dry lake is not feasible, we propose the following.

We request that the BLM include an EIS alternative that (1) relocates the Project's three power blocks closer to the areas adjacent to Interstate 15 currently mapped as translocation sites; (2) leaves the desert tortoise undisturbed and designates its habitat at Ivanpah as an area of permanent protection such as that provided by areas of critical environmental concern (ACEC); and (3) retires the Clark Mountain grazing allotment.

1. Biological Basis for the Sierra Club's Alternative

In a May 13, 2009, Energy Commission filing, the Western Watersheds Project presented evidence showing how the areas along Interstate 15, currently proposed as tortoise translocation areas 1 and 2, have historically supported few desert tortoises.³ In that filing to the Energy Commission, Western Watersheds Project provided survey data from Kristin Berry estimating tortoise density in the Project footprint in the range 50-100 desert tortoises per square-mile; whereas the low lying areas along Interstate 15 supported approximately 20-50 desert tortoises per square-mile or less than half.

It is clear that the lands near Interstate 15 have served as a major sink for tortoises, depleting nearby populations, either as a result of cars colliding with tortoises, predation or possibly due to truck- and automobile-related pollutants in the soil, or all three factors. Translocating the listed tortoise to sites known not to support them simply makes no sense. Even a casual inspection of the Project site and the translocation areas shows that the native plant life at the Project site is much more extensive and varied than at the translocation lands. The areas currently designated as Ivanpah 2 and 3 provide the highest quality tortoise burrowing habitat and food sources. In contrast, due to the dirt road paralleling Interstate 15, and the grazing operations in and around the corral adjacent to the highway, the translocation lands are denuded and contain exotic plants. In short, completely avoiding habitat lands eliminates translocation, thereby, avoiding the Ft. Irwin pattern of desert tortoise mortalities. It is well established that desert tortoise translocation results in very high mortality.

Similarly, there are approximately 2,000 ephemeral washes that occur throughout the project site. The lower elevations adjacent to the highway present far fewer drainage challenges because of the reduced slope. Relocating the three power blocks to the lower elevations would reduce or eliminate drainage issues that arise with heavy rains.

³ Letter to John Kessler, Commission staff project manager from Michael J. Connor, Western Watersheds Project (May 13, 2009) properly filed on or about June 17, 2009.

The Sierra Club's Project alternative stems from a deep concern for the remaining tortoises in the California portion of the Northeastern Mojave Desert Tortoise Recovery Unit. This particular unit is one of six recovery units designated in the U.S. Fish and Wildlife Service's recovery plan.⁴ Because the Mojave Desert tortoise is listed as a threatened species under state and federal law, and because the entire California population of this particular unit is found within the Ivanpah area, protecting these individuals must be a high priority for all of the approving agencies, including the BLM. A simple reconfiguration of the Project along with an ACEC designation for the most densely populated portions of Ivanpah Valley would significantly protect this recovery unit, and stands to facilitate timely resolution of Project approval.

2. The BLM Should Consider Analyzing the Designate Portions of the Current Project Footprint as Areas of Critical Environmental Concern

The BLM should include in the EIS an analysis of designating the portions of Ivanpah Valley currently proposed for development as Ivanpah 2 and 3 as areas of critical environmental concern. The Sierra Club seeks permanent protection for these lands because a reconfiguration of the Project footprint only makes sense if the habitat protected by the change remains off limits to development permanently.

A critical factor for whether an ACEC designation is appropriate in terms of species protection is whether the area contains wildlife resources, including habitat for endangered or threatened species, or habitat essential for maintaining species diversity. The area bounded on the west by the eastern portion of the Clark Mountains, on the north by the Nevada State line and on the south and east by I-15 fulfills this criterion. Project surveys to date document the presence of wildlife resources, namely desert tortoise, other wildlife of concern, and special-status plant species. The PSA is clear that the Project area is excellent tortoise habitat, with a low level of disturbance and high plant species diversity.⁵ In addition, the BLM designated portions of the valley as Category I desert tortoise habitat in its documentation for the Northern and Eastern Mojave Desert Management Plan (NEMO).⁶ Although the NEMO boundary for the nearby Desert Wildlife Management Area excluded the Northern Ivanpah Valley Unit, an ACEC designation is necessary to protect the important biological resources throughout the higher elevation portions of the valley.

Permanent protection via an ACEC designation is further warranted because the desert tortoise population in Ivanpah Valley is unique given that the individuals residing there are at the highest elevation known anywhere in the state. The elevations range from approximately 3,150 to 2,850 feet above mean sea level. Given new impacts based on climate change affecting food availability and other vital factors, it has become increasingly important to protect higher elevation habitat.

3. The BLM Should Retire the Clark Mountain Grazing Allotment

Finally, the BLM should retire the Clark Mountain grazing allotment as a component of the ACEC designation. Grazing is simply not compatible with protecting wildlife and plant species in the Ivanpah Valley. This particular allotment is rarely used based on the records at the Needles Office. Those records reveal that no animal unit months were billed for the allotment

⁴ Desert Tortoise (Mojave Population) Recovery Plan.

⁵ PSA, at 5.2-30.

⁶ NEMO Appendix A.

from 2007 to 2009 (to the end of March). And it appears from the Moon's letter of September 4, 2008 to Sterling White of the Needles BLM Office that the permit holders are willing to accommodate a retirement of the allotment were the BLM to issue a right-of-way in connection with the Project.

4. Conclusion

NEPA requires the BLM to include a reasonable range of meaningful alternatives in its Project EIS. Specifically, BLM must "study, develop, and describe appropriate alternatives to recommend courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources."⁷ A full analysis of alternate siting scenarios is warranted for the Project given the potential conflict from developing renewable solar energy on intact desert public lands supporting imperiled plant and wildlife species. The Sierra Club believes such a conflict can be avoided in the Ivanpah Valley by situating the Project in a manner that completely avoids much of the highest quality desert tortoise habitat while keeping the Project at its proposed scale, thereby maximizing solar generation.

Respectfully Submitted

A handwritten signature in cursive script that reads "Sid Silliman" followed by a stylized monogram "BS".

Sidney Silliman

Sierra Club San Gorgonio Chapter and Desert Committee

....To explore, enjoy and preserve the nation's forests, waters, wildlife, and wilderness.

⁷ 42 U.S.C. § 4332(2)(E).



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
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**APPLICATION FOR CERTIFICATION
FOR THE *IVANPAH SOLAR ELECTRIC
GENERATING SYSTEM***

DOCKET No. 07-AFC-5

**PROOF OF SERVICE
(Revised 5/27/09)**

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DECLARATION OF SERVICE

I, Violet Lehrer, declare that on June 22, 2009, I served and filed copies of the attached letter, dated June 22, 2009. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [\[www.energy.ca.gov/sitingcases/ivanpah\]](http://www.energy.ca.gov/sitingcases/ivanpah). The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

(Check all that Apply)

FOR SERVICE TO ALL OTHER PARTIES:

sent electronically to all email addresses on the Proof of Service list;

by personal delivery or by depositing in the United States mail at Sierra Club
85 2nd St., 2nd Floor
SF, CA 94105 with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

AND

FOR FILING WITH THE ENERGY COMMISSION:

sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (**preferred method**);

OR

depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 07-AFC-5
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I declare under penalty of perjury that the foregoing is true and correct.

Violet Lehrer