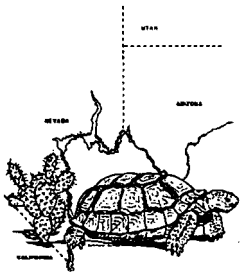

DESERT TORTOISE COUNCIL
P.O. Box 3273
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www.deserttortoise.org

January 21, 2010

Via Email and U.S. Mail

BLM California Desert District
22835 Calle San Juan de los Lagos
Moreno Valley, California 92553
Attn: Janet Eubanks

California Energy Commission
1516 Ninth Street, MS–15
Sacramento, California, 95814
Attn: Eric Solorio

RE: Notice of Intent to prepare an Environmental Impact Statement and Staff Assessment for the proposed Solar Millennium Ridgecrest Solar Power Project

Dear Ms. Eubanks and Mr. Solorio:

The Desert Tortoise Council welcomes the opportunity to offer comments in response to the notice that the Bureau of Land Management (BLM) and the California Energy Commission (CEC) intend to prepare an Environmental Impact Statement /Staff Assessment as well as an amendment to the California Desert Conservation Area Plan of 1980 for the proposed Solar Millennium Ridgecrest Solar Power Project in Kern County.

The Desert Tortoise Council is a private, non-profit organization made up of hundreds of professionals and lay-persons who share a common fascination with wild desert tortoises and a common commitment to advancing the public's understanding of the desert tortoise. Established in 1976 to promote conservation of the desert tortoise in the deserts of the southwestern United States and Mexico, the goal of the Desert Tortoise Council is to assure the perpetual survival of viable populations of desert tortoise within suitable areas of its historical range.

Based on the preliminary findings in the biological sections of the Application for Certification, it is evident that the Ridgecrest Solar Power Project (Ridgecrest SPP) will directly and indirectly impact several of the desert's most sensitive and valued species. Our comments and recommendations will focus largely on the desert tortoise because a primary objective of the Desert Tortoise Council is to serve in a professional advisory manner on matters involving the management, conservation and protection of desert tortoises. Potential impacts to the Mohave ground squirrel and burrowing owl are of concern as well.

The fundamental issue that the Environmental Impact Statement/Staff Assessment (EIS/SA) must address is the large number of desert tortoises resident on the proposed Ridgecrest SPP site. The Application for Certification (AFC) states that a total of 50 desert tortoises were observed within the biological resources survey area, 40 of which were detected within the disturbance area (p. 5.3-35). Based on U.S. Fish and Wildlife Service (USFWS) approved methodology, the estimated abundance of adult desert tortoises within the disturbance area is 69. The proposed site is obviously high-quality desert tortoise habitat and, therefore, should not be considered for energy generation.

To place this recommendation in context, the AFC calculates an adult desert tortoise density within the Ridgecrest SPP disturbance area of 0.040 tortoise per acre or 9.8 tortoise per square km. The population density at the proposed site is twice the average density of 4.7 desert tortoise per square km within the West Mojave Desert Tortoise Recovery Unit as recently reported by USFWS in its *Range-Wide Monitoring of the Mojave Population of the Desert Tortoise* (2009). Relative to the Recovery Unit as a whole, the population at the proposed Ridgecrest SPP site is too important to move and the habitat is too good to be converted to energy generation.

The Mojave Desert Tortoise was listed as a "threatened species" under the Federal Endangered Species Act in 1990 because of the precipitous decline in desert tortoise numbers due largely to human-caused mortality and the destruction and fragmentation of desert tortoise habitat. The construction of the Ridgecrest SPP on occupied desert tortoise habitat as proposed by Solar Millennium would contribute to the continued decline of the Mojave Desert Tortoise. Given that desert tortoise populations have been extirpated or almost extirpated from large portions of the western and northern parts of their geographical range in California, it is reasonable, as recommended above, that the EIS/SA urge that the high quality habitat at the proposed site be protected for desert tortoise conservation rather than for energy generation.

The EIS/SA should incorporate an analysis of the genetic diversity of the Mojave Desert Tortoise and a recommendation that priority should given to maintaining that diversity.
The West Mojave Desert Tortoise Recovery Unit is one of six Desert Tortoise Recovery Units designated in the *Desert Tortoise Recovery Plan* (1994) These populations were appropriately identified based on genetics, behavior, ecology, geographic isolation, and morphology. Since the Recovery Plan was published, a number of studies have compared tortoises between different Recovery Units and confirmed biological differences among the populations. Most recently, "*A Genetic Assessment of the Recovery Units for the Mojave Population of the Desert Tortoise...*" (Murphy, et. al. 2007) presents new evidence that desert tortoises in the Recovery Units constitute distinct populations, confirming the validity of the 1994 Plan's six Recovery Units. Each of these evolutionary significant population units faces a distinct suite of past and ongoing impacts to tortoises and supporting habitat, and each Unit must be protected for its genetic diversity. The Murphy study identifies, as well, at least three genetically diverse desert tortoise populations within the West Mojave Recovery Unit. This finding should be incorporated into the EIS/SA analysis.

The EIS/SA should include a recommendation that the Applicant must adhere to "Appendix B: Guidelines for Translocation of Desert Tortoises" in the Desert Tortoise Recovery Plan (1994) if the CEC should mandate the relocation of tortoises. Translocation is an experimental process that

carried high risk for the animals. The consensus of the Desert Tortoise Science Advisory Committee is that "...translocation is fraught with long-term uncertainties...and should not be considered lightly as a management option" (2009). As evidence of the risk carried by translocations, the relocation of tortoise in 2008 in connection with the southern expansion of Fort Irwin resulted in the tragic deaths of an unacceptable number of tortoises, some 38 percent of the monitored animals. Relocating tortoises also carries the risk of disease transmission from one group of tortoises to a healthy population of tortoises. The "Guidelines" stipulate that all desert tortoises that might be relocated be medically evaluated for indications of disease using the latest available technology before they are moved.

The EIS/SA should address the layer of problems that the Ridgecrest SPP design presents for the number of special-status species on the proposed site. Western burrowing owls are present and will be negatively impacted. The Desert Kit Fox is common in the area. Over 800 acres of the proposed project are located within the Mohave ground squirrel conservation area delineated in the 2006 West Mojave Plan. In addition, the Ridgecrest SPP, if constructed, would block the movement of Mohave ground squirrels between the Indian Wells population and the population to the south. This adverse impact to the Mohave ground squirrel corridor is not mitigable and the EIS/SA should state that in no uncertain terms.

What follows logically from our assessment is that the EIS/SA should include an analysis of at least one alternative that would avoid direct and indirect impacts to special status species by siting the Ridgecrest SPP on disturbed lands. These lands might be in the Ridgecrest area or elsewhere, but the lands must be more suitable to energy generation than desert tortoise conservation and recovery. Former agricultural lands are likely to meet this criterion. This alternative should be the Preferred Alternative as it would avoid the occupied, high-quality desert tortoise habitat at the site proposed by Solar Millennium and avoid negative impacts to the other species on the site. Avoidance of environmental harm is the most appropriate NEPA resource protection in this case. Minimization, even those detailed in the AFC, will not significantly reduce impacts to the special-status species at the site. No amount of compensatory mitigation can be adequate in this case as there are too many desert tortoise to be relocated and too many uncertainties regarding successful translocation.

The Desert Tortoise Council appreciates the opportunity to submit scoping comments on the proposed solar power project. Please contact me by telephone at (909) 946-5027, by e-mail at gssilliman@csupomona.edu, or by U.S. mail at the address below.

Sincerely,

Sidney Silliman
Board Member, Desert Tortoise Council
1225 Adriana Way
Upland, CA 91784

References

Desert Tortoise Recovery Team, U.S. Fish and Wildlife Service. *Desert Tortoise (Mojave Population) Recovery Plan.* Portland: U.S. Fish and Wildlife Service, 1994.

Murphy, R.W., K. H. Berry, T. Edwards, and A.M. McLuckie. "A Genetic Assessment of Recovery Units for the Mojave Population of the Desert Tortoise, Gopherus Agassizi." *Chelonian Conservation and Biology* 6, no. 2 (2007): 229-251.

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U. S. Fish and Wildlife Service. *Range-Wide Monitoring of the Mojave Population of the Desert Tortoise: 2007 Annual Report.* Reno, Nevada: Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, 2009.