

DOCKET
09-AFC-9

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STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission

In the Matter of:

APPLICATION FOR CERTIFICATION) DOCKET NO. 09-AFC-9
FOR THE RIDGECREST SOLAR)
POWER PROJECT)
_____)

DATA REQUEST BY
Basin and Range Watch

March 1, 2010

Laura Cunningham
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PO Box 153,
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STATE OF CALIFORNIA

**Energy Resources Conservation
and Development Commission**

In the Matter of:

APPLICATION FOR CERTIFICATION)
FOR THE RIDGECREST SOLAR)
POWER PROJECT)
_____)

DOCKET NO. 09-AFC-9

Nicole Tenenbaum
Senior Project Manager
1625 Shattuck Avenue, Suite 270
Berkeley, CA 94709-1161

**DATA REQUEST BY
Basin and Range Watch**

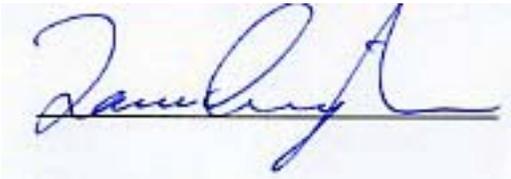
Dear Ms. Tenenbaum,

Basin and Range Watch submits this set of data requests on Biological Issues to the Solar Millennium Ridgecrest Solar Power Project, pursuant to Title 20, section 1716(b), of the California Code of Regulations. The requested information is necessary to: (1) more fully understand the project; (2) assess whether the project will be constructed and operated in compliance with all laws, ordinances, regulations and standards; (3) assess whether the project will result in significant environmental impacts; and (4) assess potential mitigation measures.

Basin and Range Watch reserves the right to submit additional data requests on any topic that requires further information. Pursuant to section 1716(f) of the Energy Commission's regulations, written responses to these requests are due within 30 days.

Please contact us if you have any questions. Thank you for your cooperation with these requests.

Sincerely,



Check box if continuation pages are attached.

We would like to request clarification on the applicant's response to answers provided to Staff for Data

Request: DR-BIO-53 in the Applicant's Responses to CEC Data Request Set 1 & 2, (1 - 262), Data Requests 53 to 74 - Biological Resources.

For DR-BIO-53, Staff requested: "Please provide maps and describe the importance of the project site to the local and regional desert tortoise populations regarding maintaining adequate connectivity for local and regional desert tortoise movement and genetic exchange."

We request clarification on the applicant's following responses:

1. "Tortoise Abundance. There are no readily available DT density data for the project vicinity, but several sampling programs suggest low to very low local DT densities. Estimated DT density at the RSPP site, based on 2009 surveys and prior to reconfiguration, is 8.1 adult DT per square kilometer (km²) using the USFWS calculation (USFWS 2009a) and based on the 23 adult DT found in 702.1 hectares (1734.8 acres) (AECOM 2009)."

The numbers 8.1 adult DT per square kilometer conflict with the numbers listed in the Application for Certification submitted in August, 2009. The numbers listed in that document are 9.8 DT's per km². Please explain why there is a 1.7 margin of difference in these numbers. Were juveniles left off of the most recent list?

2. "More recent transects conducted for the West Mojave Plan (WMP) in 1999 consistently found very low sign counts in the RSPP vicinity and Indian Wells Valley (U.S. Bureau of Land Management [BLM] 2005). On 23 of 25 transects, zero to three sign were observed; on the remaining 2 transects, four to eight sign were observed. During this same sampling program, there were many areas in the WMP planning area that had higher to substantially higher sign counts, indicating that the RSPP vicinity (Indian Wells Valley, Ridgecrest) is a low DT density area."

Please provide Indian Wells Valley rainfall and weather data for the survey years, including 1999.

3. Historically, density transects for the Ridgecrest area, including the Project site, estimated densities at 8-19 DT per km² (20-50 DT per square mile [mi²]) (Berry and Nicholson 1984). This was considered a relatively low tortoise density at the time. During this same sampling program, 7640 km² (2950 mi²) in California were estimated to have over 19 DT per km² and nine areas were estimated to have over 58 DT per km² (150 DT per mi²).

"While the available data are relatively old for the later time periods (early to mid 1990s) and current densities are unknown, these are the most recent available data."

"Recent sampling near Red Rocks State Park, west of the RSPP, suggested very low DT densities, fewer than four adult DT per km² (Keith et al. 2005). Even using the USFWS-calculated estimate of 8.1 adult DT per km² presented in the RSPP AFC, this would be considered a historically low density. Table DR-BIO-53 shows the five trend plots studied by BLM in the western Mojave Desert that historically had the highest DT densities. Adult DT densities from the period 1979 to 1982 ranged from 36 to 92 adult DT per km². The three plots closest to the RSPP (the Fremont Valley plot and the

two Desert Tortoise Natural Area [DTNA] plots), approximately 18 to 75 km away, respectively, had the highest densities. The other high-density plots in California had 38 to 83 adult tortoises per km².”

The applicant’s biologist is making assumptions about Indian Wells Valley population density by using outdated, off site survey data, some of which is decades old. Red Rock State Park is over 20 miles from the project site. Please provide more recent survey data that gives a more accurate population estimate of desert tortoise density in Indian Wells Valley. Please compare current DT density in Indian Wells Valley to range-wide DT densities for 2009 and 2010.

4. “Connectivity Issues. Based on the above analysis and aerial photographs, development of this site would not appear to impair connectivity within the population. First, there is no evidence that there are important population segments to connect given the low DT densities at the RSPP and a location that is already impacted by anthropogenic factors. Second, with the updated Project footprint refinement (Figure DR-ALT-49) connections to the El Paso Mountains Pass to the south would be conserved by minimizing impacts to the El Paso Wash assuming that Project mitigation also ensures that (a) DT are not funneled onto the highway and Brown’s Road along these corridors, and (b) off-highway vehicles (OHV) traffic does not increase in these washes.”

Please provide peer reviewed references or other evidence besides an aerial photograph that support the assumption that tortoises in Indian Wells Valley are not important to the connectivity of the species. If this is not an important population, please explain why an updated project footprint is necessary to maintain connectivity.

5. “It does not appear that development of the RSPP would result in a level of fragmentation that would reduce surrounding habitat to unusable fragments. From aerial photographs, there appears to be ample habitat, even if somewhat degraded by anthropogenic activities, in the surrounding area to support the use of the area by DT should the RSPP be built.”

There appear to be conflicting opinions about the importance of connectivity on the RSPP and to what level anthropogenic activity has influenced this population. At one point, the applicant’s biologist suggests that urbanization, off highway vehicle activity, Highway 395 and subsidized predators have impacted this population to the point of being hopelessly fragmented, yet the last paragraph suggests that anthropomorphic activity has not substantially disrupted this population. We would like to request that additional studies on how anthropomorphic activity has influenced the overall health and connectivity of the desert tortoise population in Indian Wells Valley.

6. All staff of the California Department of Fish and Game, US Fish and Wildlife Service, the Bureau of Land Management and the California Energy Commission have stated that the RSPP site is home to an important population of desert tortoise.

From the December 28, 2009, Memorandum from CEC to Commissioners Boyd and Levin. Ridgecrest Solar Power Project (09-AFC-9) Issues Identification Report. Docketed: **“The Project Schedule Will Be Problematic For The Applicant and Permitting Agencies Considering How Much Additional Information Is Needed.** The extent of high quality habitat loss for two listed species and several

species of concern for this project will be difficult to mitigate.”

Please explain why the opinion of the applicant’s biologist is so radically different from the opinions of the several biologists working for the various agencies that have been given the responsibility of mitigating this project.

7. Please provide copies of all desert tortoise survey field data observation sheets. These could be posted on the CEC website for easiest access.

**California Energy Resources Conservation
and Development Commission**

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DECLARATION OF SERVICE

We, Laura Cunningham and Kevin Emmerich, declare that on March 1, 2010, served and filed copies of the attached **data request by Basin and Range Watch**, dated March 1, 2010. 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: [http://www.energy.ca.gov/sitingcases/solar_millennium_ridgecrest/Ridgecrest_POS.pdf]. The document has been sent to 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 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);

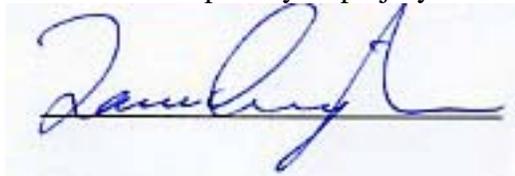
OR

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

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 09-AFC-9
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct.



Laura Cunningham, Kevin Emmerich

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV**

**APPLICATION FOR CERTIFICATION)
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POWER PROJECT)
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**Docket No. 09-AFC-9
PROOF OF SERVICE
(Revised 2/23/2010)**

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Desert Tortoise Council

ENERGY COMMISSION

