CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
SACRAMENTO, CA 95814-5512

April 28, 2009

DOCKET
07-AFC-5
DATE 04/28/09
RECD. 04/28/09

Mr. John Woolard, Chief Executive Officer
Solar Partners, LLC
1999 Harrison Street, Suite #500
Oakland, California 94612

Dear Mr. Woolard:

SUBJECT: Ivanpah Solar Electric Generating Station Application for Certification (07-AFC-5) – Comments to the Draft Desert Tortoise Translocation/Relocation Plan by Energy Commission, California Department of Fish and Game, U.S. Bureau of Land Management, and U.S. Fish and Wildlife Service

Thank you for submitting the Draft Desert Tortoise Translocation/Relocation Plan (Plan) on March 19, 2009 for the Ivanpah Solar Electric Generating System Project. This Plan was submitted as part of the Supplemental Data Response, Set 2A, in response to staff's and cooperating agency's questions raised at the January 9, 2009 workshop in Primm, Nevada and in earlier discussions.

California Energy Commission staff have completed their review of the draft Plan, as have biologists from the California Department of Fish and Game (CDFG), U.S. Fish and Wildlife Service (USFWS), and the U.S. Bureau of Land Management (BLM). Based on our review, we believe the draft Plan provides a good start for the desert tortoise translocation/relocation effort that will be needed for this project, but biologists from all four agencies are in agreement that additional information and details are needed to ensure that take of desert tortoises would be minimized. We have attached specific comments from CDFG and from our staff, as well as comments contained in an e-mail communication from USFWS that were sent on April 7, 2009. BLM has also carefully reviewed the Plan as well as the attached comment letters, and has indicated that these comments capture their concerns and recommendations for revisions.

Please contact me if you would like to discuss our review of the draft Plan, and you may directly contact biologists from the other reviewing agencies if you have questions on their comment letters. We look forward to working with you on finalizing the Plan. We will need you to address these comments and submit a revised Plan before we can consider concluding in our analysis for the Final Staff Assessment/Draft Environmental Impact Statement a premise that the take of desert tortoises associated with translocation/relocation would be minimized. If you have any questions, please call me at (916) 654-4679, or email me at jkessler@energy.state.ca.us.

Sincerely,

John Kessler
Project Manager

Enclosure
cc: Dockets 07-AFC-5
Webworks
POS

PROOF OF SERVICE (REVISED 4/16/09) FILED WITH
ORIGINAL MAILED FROM SACRAMENTO ON 4/28/09
MS

IVANPAH SOLAR ELECTRIC GENERATING STATION (07-AFC-5)

California Energy Commission Comments for the Draft Translocation Plan

California Energy Commission Comments on the Draft Desert Tortoise Translocation/Relocation Plan for the Ivanpah Solar Electric Generating System, prepared by CH2MHill, dated March 2009 (Supplemental Data Response, Set 2A, Attachment BR5-1A)

The Energy Commission staff concur with comments provided by the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS) on the March 19, 2009 Draft Desert Tortoise Translocation/Relocation Plan. In addition, we have the following comments:

Section 1.2 Plan Goals

- Minimizing stress, disturbance, and injuries to translocated desert tortoise should be explicitly included as one of the goals of the Plan.

- Please note that Plan Purpose and Plan Goals are both identified with the same header number of 1.2.

- Please revise the third bullet from "*Assess the success of the relocation effort*…" to "*Assess the success of the translocation/relocation effort*…."

Section 2.1 Fencing

- Monitoring and maintenance of permanent desert tortoise-exclusion fencing is recommended at least monthly in addition to that performed following high rainfall and wind events. Substantial flows from off-site areas following normal rainfall events and potential for other sources of potential fence damage/failure warrant this increased monitoring/maintenance frequency.

- Please define a "major rainfall event" and provide criteria that would trigger an inspection, and specify how soon after such events the fence inspection and repair would occur.

- Please provide some documentation of coordination with California Department of Transportation, Bureau of Land Management (BLM), and CDFG on the feasibility of coordinating fencing for this project with the proposed Joint Point of Entry project.

Section 2.2 Clearance Surveys

- This section indicates that once areas are cleared of desert tortoises, vegetation salvage may be completed if a program is deemed necessary by BLM, apparently referring to cacti and yucca salvage. However, salvage and seed collection would also be necessary to mitigate special-status plant impacts. Special-status plant salvage would need to occur prior to the vegetation clearing for fence installation and other ground disturbance that could remove special-status plants. Please specify "cacti and yucca" salvage in this section and that

fence installation and associated clearing would occur after special-status plant salvage and seed collection.

Section 2.3 Transportation and Release

- Please specify that desert tortoises should be kept upright. Include a section on rehydration as per USFWS guidance item II.B.3. Also include guidelines for safely transporting tortoises by vehicle.

- Please describe what measures would be taken if tortoises overheat despite the precautions taken.

- Please describe how relocation/translocation of juveniles would be handled. Please add a section on methods to address and protect juvenile desert tortoises found during clearance surveys that are too small for transmitters. Also, please discuss how desert tortoise eggs would be handled.

Section 2.5 Scheduling

- On page 5, Scheduling, late August is listed under "fall." Temperatures in August are likely to be too high for translocation. Some areas of the desert experience summer temperatures into September. Why not list fall as September-November? Please address all comments by CDFG and USFWS on the scheduling of translocation. The Energy Commission agrees with these agencies on not translocating desert tortoise during summer and winter months. However, if conditions are suitable and rainfall is normal, translocation could include late November in this part of the Mojave Desert.

- Please include the language from item 1F of the December 12, 2008 USFWS Guidance, which specifies that the applicant must: "*obtain approval of the translocation area and timing of the translocation activities from the Service, CDFG, and the Bureau prior to imitating any translocation activities. Translocations shall not be permitted if these agencies determine that environmental conditions such as an extended drought might significantly reduce the survival of the translocated desert tortoise*."

Section 2.6, Translocation/Relocation Area

- This section states that the proposed area meets the guidelines provided by the Service but does not provide the details that led to this conclusion. Habitat quality and suitability should be priorities in selecting the translocation/relocation area. Please describe the specific habitat or other characteristics that explain how the proposed areas are the most suitable option for translocation/relocation. As detailed in the USFWS guidance (item 1C), please include in the habitat description and analysis a discussion of the translocation site's precipitation,

soils, vegetation community, vegetation density and abundance, perennial plant cover, forage species, geomorphology and slope.

Section 2.8 Monitoring and Reporting

- Please revise the monitoring frequency for translocated desert tortoises to be consistent with the USFWS guidance (item III.1) of once a month for at least 3 years. Also, the plan should specify that all transmitters will be removed at the end of this monitoring period.

- Please add more detail on how to affix transmitters properly (see Boarman et al. 1998, and CDFG comments). Transmitters and antennae must be mounted so as not to impede growth or the daily activities of the desert tortoise such as burrow construction, righting of overturned desert tortoises, and mating.

- Please add a section under monitoring and reporting to address the adaptive management and remedial action plan suggested by the USFWS guidance, item III.2.

IVANPAH SOLAR ELECTRIC GENERATING STATION (07-AFC-5)

United States Fish and Wildlife Service Comments for the Draft Translocation Plan

From: Brian_Croft@fws.gov
Sent: Wednesday, April 08, 2009 1:27 PM
To: John.Cleckler@CH2M.com
Cc: george_meckfessel@blm.gov; tom_hurshman@blm.gov; Amy_Fesnock@ca.blm.gov; colin_grant@ca.blm.gov; Larry_LaPre@ca.blm.gov; Susan Sanders; 'Bruce Kinney'; 'Kevin Hunting'; MBRITTAIN@dfg.ca.gov; 'Scott Flint'; 'Tonya Moore'; Dale Edwards; Dick Ratliff; John Kessler; Rick York; Becky Jones; Mward@energy.state.ca.us
Subject: USFWS Comments on ISEGS Desert Tortoise Translocation Plan

I thought an e-mail with my comments would be the most efficient way to get something out to the applicant and the group.

Section 2.1, Paragraph 1 - In your discussion of permanent I-beam barriers for use as desert tortoise guards across roads please indicate a program for monitoring and adaptive management of this approach. I am aware that this approach has been used on projects in Nevada, and I have heard that it is effective from anecdotal reports. However, no studies have been done to look at its effectiveness or to identify any flaws that are not readily apparent. Therefore, we need to plan for contingencies and indicate that these barriers will be replaced with another means of exclusion with input from the permitting agencies if monitoring of the facility indicates that they are needed.

Section 2.1, Paragraph 2 - You indicate that survey crew vehicles would stay on existing roads. We should also identify a speed limit for these vehicles once they leave I-15 and enter desert tortoise habitat. This would reduce the potential for road kills by survey crews that are accessing the sites. I would recommend 35 mph on paved roads and 20 to 25 mph on dirt roads.

Section 2.1, Paragraphs 5 and 6 - You should indicate that fence installation will be monitored by a desert tortoise monitor and an authorized biologist would be available to move any desert tortoises that are within the path of the fence line work.

Section 2.1, Paragraphs 7 - While it is crucial to monitor the permanent desert tortoise fencing following major rain events, Brightsource should do regular monitoring of the fencing more that once a year. This will ensure that the fencing has not been damaged by events that are not related to water flow. This could be especially important along the highway. It is hard to say how often is often enough, but I think a check of the fencing every other month would probably be the minimum needed to ensure its integrity.

Section 2.2, Paragraph 2 - You indicate that tortoise monitors will be used on clearance surveys. Authorized biologists should be used on clearance surveys. This is an activity that requires a degree of experience that an authorized biologist would have. Desert tortoise monitors would not be authorized by the Service, so we would have no ability to determine their skill level in identifying burrows during a clearance survey. Desert tortoise monitors may work on a clearance survey under the direct supervision of an authorized biologist in order to gain experience performing clearance surveys. However, the applicant should ensure that an adequate number of authorized biologists is available to perform the actual transects during the clearance survey.

Section 2.2, Paragraph 4 - You allude to the potential for clearance and relocation/translocation of desert tortoises during the summer months. Translocation during the summer months would likely result in poor survival of translocated/relocated animals. Lack of available water during a stressful relocation that is likely to result in desert tortoises voiding their bladders would likely result in mortality of individuals. Desert tortoises are usually inactive during summer months to avoid harsh temperatures. While you may be proposing to move the animals when temperatures are acceptable, the animal is unlikely to take immediately to a new home range or to an existing or artificial burrow that it is placed in. This will likely result in the exposure of translocated/relocated desert tortoises to high temperatures at some point following release even if the temperature is not high at the exact release time. Movement of desert tortoises during this time period would also result in activity during a typically inactive period, which will require energy from annual plants that would likely be senesced during summer months.

Section 2.3, Paragraph 3 - You indicate that all desert tortoises will be examined to determine if they have clinical signs of disease. You should also indicate that the person performing these exams would be required to have experience identifying the clinical signs of URTD and herpes virus in desert tortoises.

Section 2.3, Paragraph 4 - You indicate that no shell notching will be performed to mark translocated/relocated desert tortoises. Please identify what method will be used for marking these animals (epoxy numbered tags?).

Section 2.3, Paragraph 4 - Please indicate that a 20% bleach solution will be used to sterilize equipment used to handle desert tortoises.

Please note that your document jumps from Section 2.3 to Section 2.5.

Section 2.5, Paragraph 2 - Translocations during summer months are likely to result in poor survival for the reasons described above. Winter translocations are also not recommended because this is typically a less active period for desert tortoises due to low temperatures. Movement of animals during this time period would result in desert tortoises becoming active during a time of year when conditions do not favor its survival.

Section 2.6, Paragraph 1 - You indicate in the last sentence that the density limit of 39 individuals per square kilometer is the primary constraint and that all desert tortoises would ideally be located within 1000 meters of the project site. This diminishes the importance of habitat quality. Habitat quality should be the first priority in identifying any location for translocation/relocation.

Section 2.8, Paragraph 1 - You indicate that desert tortoises would only be located twice a year during the last two years of post-translocation monitoring. This is not a safe practice because transmitters may die during the intervening time resulting in loss of the desert tortoises location. The animal would then be stuck with a transmitter on its back for the rest of its life, which could hinder appropriate shell growth over the long term. More frequent monitoring as you propose for the first year of the post-translocation monitoring program is needed in the 2nd and third year to

prevent this from happening.

I hope these comments help in finalization of the translocation plan.

Brian Croft
Ventura Fish and Wildlife Office
Phone: (951) 697-5365
Fax: (951) 697-5299

IVANPAH SOLAR ELECTRIC GENERATING STATION (07-AFC-5)

California Department of Fish and Game Comments for the Draft Translocation Plan

April 22, 2009

Mr. John Kessler
Project Manager
California Energy Commission
1516 9th Street, MS 15
Sacramento, CA 95814-5504
SUBJECT: Department of Fish and Game's Comments on the Draft Desert Tortoise Relocation Plan for the Ivanpah Solar Electric Generating System (07-AFC-5)

Dear Mr. Kessler:

The Department of Fish and Game (Department) has reviewed the Draft Desert Tortoise Relocation Plan (Plan) submitted to the California Energy Commission (CEC) as part of the Ivanpah Solar Electric Generating System Supplemental Data Reponse, Set 2A. The Department believes the Plan has a solid foundation but lacks enough detail to ensure that the take of desert tortoises has been minimized.

The Department is providing comments on the Draft Desert Tortoise Relocation Plan as the State agency which has statutory and common law responsibilities with regard to fish and wildlife resources and habitats. California's fish and wildlife resources, including their habitats, are held in trust for the people of the State by the Department (Fish and Game Code §711.7). The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitats necessary for biologically sustainable populations of those species (Fish and Game Code §1802). The Department's Fish and wildlife management functions are implemented through its administration and enforcement of Fish and Game Code (Fish and Game Code §702). The Department is a trustee agency for fish and wildlife under the California Environmental Quality Act (see CEQA Guidelines, 14 Cal. Code Regs. §15386(a)). The Department is providing these comments in furtherance of these statutory responsibilities, as well as its common law role as trustee for the public's fish and wildlife

Translocation/relocation of endangered species requires a very detailed plan that establishes what will be accomplished and how any foreseeable events will be dealt with. This allows the agencies that have some jurisdiction over the project to determine the effects that translocation/relocation will have on the animal but more importantly it gives the project proponent clear direction of what should occur on the ground. The vagueness of this Plan allows for various interpretations and in some cases may be detrimental to the species.

The document states that "The Bureau will seek California Department of Fish and Game (CDFG) concurrence on the plan prior to initiating formal consultation, and will obtain CDFG input during plan implementation."; however, the Department would like to take this opportunity, while the Plan is still in draft form, to discuss where the document

is lacking in detail for State concurrence and give ideas and suggestions on how to update the information while keeping to the United States Fish and Wildlife Service's (Service) Guidelines for Clearance and Translocation of Desert Tortoises (Guidance) for the Ivanpah project.

The Department believes the Plan should be a stand alone document that shows how each Guideline for the Service will be met. Thus, stating a guideline will be met without stating how is inadequate.

The Department reviewed the report and translocation sites as presented but could not determine, at this time, if the locations are suitable since no habitat assessment has been completed for the translocation areas. A habitat assessment of the translocation sites must be completed in order to determine if the areas are suitable especially related to habitat quality and species density. Also, it should be shown that there are no foreseeable future projects that would impact the translocation sites.

The Department made the following assumptions when evaluating this information: (1) the translocation/relocation sites will be determined suitable habitat for the desert tortoise, (2) the authorized biologist and the monitors will be approved by the Department prior to use, (3) changes within this Plan supersedes and/or modifies existing guidelines or protocol requirements: such as tortoises will be moved 1000 meters away from collection site instead of the 1000 feet and (4) that all other aspects of desert tortoise requirements that were outlined in the documentation for the Ivanpah project will be implemented (i.e desert tortoise training of all personnel, trash collection, etc.). Using these assumptions the following are the Department's general comments on the draft Plan:

General comments about Draft translocation/relocation Plan:

> **Animals with potential disease**: This document states that the authorized biologist will examine tortoises to determine if the individual is showing signs of disease most notably URTD. If the tortoise does have the clinical signs the biologist would call the Service to decide on how to dispose of the animal. Observing a tortoise that may have visible signs of an illness does not mean it does. Tortoises like other animals have various pathogens that have the same clinical signs. This is why the Department usually requires all translocated animals be diseased tested. Since this project is not translocating desert tortoises outside of the existing population's home range, testing all tortoises may not be required; however, any tortoises that appear to have signs of illness should be tested to determine if they actually have a disease. Tortoises that do not actually have the disease should be translocated/relocated and ones that have been shown through testing to be sick should go to either research, homing and or be euthanized (as last resort). The method to be utilized should be detailed within this Plan. It should be noted here, an authorized biologist should also be able to determine if the tortoises have visible signs of the herpes lesions and cutaneous dyskeratosis.

Since disease testing is a foreseeable action, this Plan should discuss where individually quarantined animals will be located and how they will be taken care of until test results came back. Also, since blood testing would be a component of this Plan a discussion on how the blood would be taken and by whom, who it would be shipped to and the type of testing it would get would need to be identified.

Transmitters: It is not appropriate to have desert tortoise roaming in the wild with transmitters on them that no longer serve a purpose due to the end of the monitoring time or the fact hat the batteries have died. The use of transmitters is important to determine the success of implementing the Plan but could also cause foreseeable problems if not utilized correctly. Thus, the Plan needs to give more detail on the type of transmitters that will be used, how they will be attached to the tortoises and if there are any tortoises that will not be able to have transmitters attached (i.e. juveniles). The monitoring of the transmitter batteries and how and when the transmitters will be removed needs to also be discussed in more detail.

Fencing: The fencing section needs to include the following, at the least:

(1) Equipment and vehicle speed limits
(2) Authorized biologist on site at all times until site as been fenced and cleared and on call other times
(3) Give more detail on how burrows will be determined unoccupied (scoping, digging out etc.) and the temperatures required to perform this action
(4) Discuss what will happen to tortoises discovered during fence installation (Reminder: Tortoises relocated adjacent to the site prior to fence installation may try to reenter area.)
(5) Clearance surveys 24 hrs prior to initiation of fence installation may not be enough. Discuss how the fencing sites will be quickly reexamined prior to installation each morning and how the will be required to be reexamined in greater detail after any 24 hours delays due to situations like the weather and holidays
(6) Discuss how desert tortoise monitors and at least one authorized biologist will be required to be on site anytime the fencing or survey crew are there and how more then one monitor may be required if fencing, surveying or clearing are occurring in multiple locations.
(7) A discussion on temporary fencing and its location through out this project should be discussed in detail. What will happen to desert tortoises found within a temporary construction area?
(8) Discuss fencing of any roads and how that will differ from site fencing. An example: A ten foot swath should not be required in road fencing or in temporary fencing locations.
(9) Discuss the need for extra fencing material to be kept on site to fix the any damaged fencing and how fencing should be

monitored after major storm events and at least monthly during construction.

Site Clearance Surveys: An assumption that seems to be made in this Plan is that the entire enclosed site will be surveyed and tortoises translocated/relocated in one day. Although this maybe possible in smaller site locations within this project it is foreseeable that this would not be the case on the larger sites. Clearance surveys done correctly are performed slower than normal surveys to ensure as many animals as possible are located. When the temperatures, burrow collapsing and numbers of desert tortoises being moved (many on some sites) are taken into consideration, it is foreseeable that the surveys may not finish in one dawn to dusk time period. A method of what to do if clearance surveys do not finish in one day should be discussed in detail in this document.

The guidelines provided by the Service state "Brightsource must perform all clearance survey and translocation procedures for any portion of the project site during the spring (i.e., March –May) or fall (i.e., late August to early October) to avoid extreme temperatures." and "Translocations shall not be permitted if these agencies determine that environmental conditions such as an extended drought might significantly reduce the survival of the translocated desert tortoise." The Department agrees with the Service on both of these points that seem to have been left out or modified within the Plan. The Plan states that both summer and winter translocations would be permitted. Both of these times are not usually permitted due to temperature, lack of food source, impacts on tortoises in estivation/hibernation and unpredictable weather that could substantially reduce animal survival. Thus, the Department does not support translocation/relocation during summer and winter months; however, we would support, if all other conditions are met, extending the fall season to late November since in the east Mojave this time of year may still have good conditions during normal rain years. The Department would, also, like discussed the possibility of not allowing any translocation/relocation if environmental conditions develop that might significantly reduce the survival rate of the translocated/relocated tortoises.

Also, the Plan states under the fencing section that transects will be no more than 30-feet wide but the Guidance states that transects should be no wider than 10-feet. The Department supports the 10-feet wide transects on clearance surveys. Also, it should be noted that the second survey according to the Guidelines states that it should be perpendicular to those of the first not in the opposite direction as stated in the Plan.

In addition, there should be a time period specified between when the fence is installed and the initiation of clearance surveys. Also, this section should include fitting tortoises with transmitters and how the adaptive management of surveys will occur as suggested in the Guidance document.

Data gathered on desert tortoise during clearance surveys: The list on data gathered for desert tortoise is different in the clearance survey section and the transportation and release section. Except for desert tortoises that do not require

handling the data collected should be what is outlined in the *Guidelines for Handling Desert Tortoises during Construction Projects* (Revised July 1999 or any updated version) referenced in the Plan; however, pictures can be digital and locations should be GPSed.

This section states that tortoises will be placed 300 feet away from the fence, the Department supports this; however, this could mean that more tortoises would be translocated, especially on Site 3, since 1000 meters away from the capture location could be within the 300 feet swath around the fence.

This section should discuss how the biologist would know that the active burrows are unoccupied. Also, it seems that the burrows will be constructed while the tortoise is waiting in a card board box. Discuss how you will ensure the desert tortoise will not get overheated, how long you anticipate it will take to construct the burrows, and how the constructed burrows will be monitored to ensure their integrity. It is foreseeable that automobiles will need to be used discuss this and how getting to each translocation site may differ.

Discuss the handling of desert tortoise during information gathering a little more, include temperature constraints, what to do if tortoise dies during processing, how will processing juveniles, if encountered, differ from adults (if it will).

A detailed discussion on what will occur if eggs are found is important. Desert tortoise eggs within the Mojave Desert can be found during the spring and early fall months not just in the summer season as the document implies. It is important to know what will occur if eggs are found using the Egg Handing Protocol as a guideline.

Translocation Sites: The translocation sites should be surveyed, as described, prior to finalization of this translocation plan. The survey results and proposed individual translocation locations should be part of the document in order to determine if the proposed translocation sites are appropriate for translocating desert tortoise (habitat, predators and host tortoise population health). If not, then alternative sites may have to be evaluated. The Department cannot concur with any Plan does not contain this basic information.

It should also be noted that the relocation area should be surveyed to determine the density and habitat quality to ensure that locating tortoises 1000 meters away from capture is appropriate. The Department believes that this area was included in the survey data for past years so that that information could be used to estimate density but may not have been enough detail to determine habitat quality. This information should, also, be included in this document.

Tortoises during Translocation/Relocation: Discuss how the tortoises will be transported to relocation and translocation sites, how tortoises be provided water since card board boxes and not plastic totes will be used, how long it is anticipated to transport and if this could cause a tortoise due to temperatures or weather (rain) not to

be translocated/relcoated, and discuss or refer to section that discuss attaching transmitters to the tortoises.

Once the tortoises are translocated/relocated they will need to be monitored until they exhibit normal behavior, as per *Guidelines for Handling Desert Tortoises during Project Construction Projects* referenced in this Plan, discuss who will do this and how "normal behavior" will be determined.

The Plan states that shell notching will not be used, then please discuss what will be used and how it will be done.

Monitoring and Reporting: As stated above, transmitters have batteries that will go out if not monitored often. It would be inappropriate to only monitor tortoises with transmitters once a year and impossible to find individuals without the transmitters. The Department requires desert tortoise to be monitored monthly or more frequently if warranted. This process should not require unburying desert tortoise unless transmitter batteries are showing signs of weakness. Each animal encountered should be described as completely as possible without handling and harassing the animal. It should be discussed how transmitters will be removed the third year following translocation/relocation, how long will an animal be searched for before it is considered lost, how the information will be used for active adaptive management and what will be included in both monthly/yearly and final reports to the agencies.

Authorized Biologist and Tortoise Monitor: At this time the Department has not concurred with the Service's Ventura office guidelines (November 2008) on approving authorized biologist and monitors that states "Authorized Biologist are responsible for approving desert tortoise monitors, if monitors are needed for the project." The Department is required to concur that an authorized biologist and all tortoise monitors have meet the qualifications needed to perform the task.

The Department requires that all tortoise monitors have some basic level of desert tortoise and survey protocol. This usually is accomplished by the monitors taking the Desert Tortoise Council Tortoise Handling Workshops; however, other ways of being trained are acceptable as long as approved by the Department ahead of time. Monitors used on clearance surveys should have extensive working knowledge on presence/absence surveys before assisting on clearance surveys. The monitors are not authorized to handle the desert tortoises, except when being trained by an authorized biologist that is responsible for the tortoises. When the monitor is handling the tortoises the authorized biologist must be within sight distance of the monitor to intervene if necessary. Due to these requirements, this Plan should delete all references to tortoise monitors relocating desert tortoises inside or outside of the fences.

Caltrans/JPOE: The document states that the north side of the I-15 will be fenced by either the project proponent or California Department of Transportation (Caltrans) and coordination on the location of the proposed Joint Point of Entry (JPOE) in locating the fence. This needs to have more detail. The Department would not be in favor of

translocating desert tortoise into an area where they may have to be relocated later due to a foreseeable project or located next to a freeway without desert tortoise fencing. Figure BR5-3 included in the Plan shows the location of the JPOE and shows Translocation Areas 1 and 2 being impacted by it. Thus, the coordination between the project proponent and Caltrans needs to happen prior to any translocation of desert tortoise. The applicant should discover if this area is the JPOE's relocation site and if any coordination for desert tortoise should be completed. To the greatest extent possible, this information should be included in the Plan. This data could modify or change the use or location of the translocations sites.

Miscellaneous Comments:

(1) The permanent I-beam design for desert tortoise guard needs to have maintenance and monitoring programs outlined within the Plan. Standard requirements require maintenance quarterly and after rain events to prevent compaction and soil erosion. For this area wind events that may fill up the guard should also be included.

The Department assumes that even though the top of the guard specifications state it is temporary the permanent method on the specifications will be used and the temporary method of putting the "I" beams right on top of the soil will not. (Please verify) The permanent type of approach will need to be coordinated very well with the desert tortoise fence installation. The desert tortoise fence needs to abut the beams so that there is no gap between the fence and beam.

(2) There are no sections 2.4 or 2.7 in the Plan.
(3) In this document, plant salvaging is mentioned but does not seem to be associated with any plant salvaging plan. There should be a plant salvaging plan for the Ivanpah project.
(4) This Plan needs to state that any actions taken that were unforeseeable during the drafting of this document should be approved by all agencies involved prior to implementation.
(5) The Department needs to be included on any plan changes, adaptive management change or any other items in which other agencies are included.

In conclusion, this Plan lacks enough detail for the Department to concur that it is adequate for desert tortoise translocation or relocation. The items discussed in this letter should be included in the next draft of the Plan.

The Department appreciates this opportunity to make comments on the draft. We look forward to working and guiding you through this process. If you have any questions please feel free to call me at (760) 955-8139.

Sincerely,

Tonya Moore
Senior Environmental Scientist

Cc: Bruce Kinney, CDFG
Becky Jones, CDFG
Brain Croft, USFWS

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
FOR THE *IVANPAH SOLAR ELECTRIC GENERATING SYSTEM*

DOCKET NO. 07-AFC-5

PROOF OF SERVICE
(Revised 4/16/09)

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DECLARATION OF SERVICE

I, Maria Santourdjian, declare that on April 28, 2009, I served and filed copies of the attached Ivanpah Solar Electric Generating Station (07-AFC-5) Comments for the Draft Translocation Plan. 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]. 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:

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

__x__ by personal delivery or by depositing in the United States mail at Sacramento, CA 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:

__x__ 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
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.

Original Signature in Dockets
Maria Santourdjian