



DESERT TORTOISE COUNCIL

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DOCKET	
07-AFC-5	
DATE	OCT 25 2010
RECD.	OCT 27 2010

October 25, 2010

Via Email at doCKET@energy.state.ca.us and U.S. Mail

California Energy Commission
Dockets Office, MS-4 Re: Docket No. 07-AFC-5
1516 Ninth Street
Sacramento, CA 95814-5512

Re: Petition For Reconsideration Of ISEGS Final Decision (Docket No. 07-AFC-5, Order No. 10-0922-15) By Intervenor Basin And Range Watch (October 4, 2010)

Dear Commissioners:

The Desert Tortoise Council is a private, non-profit organization established in 1976 to promote conservation of the tortoise in the deserts of the southwestern United States and Mexico. Consistent with the goal of the Council to assure the perpetual survival of viable populations of desert tortoise within suitable areas of its historical range, we strongly urge that the California Energy Commission grant the Basin and Range Watch petition for reconsideration of the Commission's approval of the Ivanpah Solar Electric Generating System (ISEGS).

With all due respect, we believe the Energy Commission errors in its conclusion in the *Errata To The Presiding Member's Proposed Decision* that the genetic uniqueness of the desert tortoises in the Ivanpah Valley and the consequent concern for and the desire to protect these tortoises is "speculative" (2010, 33). The desert tortoises in the Ivanpah Valley are part of a significant evolutionary unit (ESU) designated as the Northeastern Mojave (NEMO) Desert Tortoise Recovery Unit in the *Desert Tortoise Recovery Plan* (1994). These tortoises must be of concern to all and must be protected as a "threatened species" under State and Federal law. The desert tortoises at the ISEGS site warrant a heightened level of concern and protection because the entire California population of the NEMO Recovery Unit is resident in the Ivanpah Valley and is unlikely to survive as a viable population unit under the adverse impacts of ISEGS and the other industrial-scale projects proposed for the Valley.

In designating the NEMO Recovery Unit (and five other significant evolutionary units) as warranting special concern and protection, the *Desert Tortoise Recovery Plan* states: "These ESUs consist of

populations or groups of populations that show significant differentiation in genetics, morphology, ecology, or behavior...and thus are important components of the evolutionary legacy of *Gopherus agassizii*" (1994, 20). 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. The *Draft Revised Recovery Plan* continues to recognize that the Recovery Units for the desert tortoise are geographically identifiable and are essential to the recovery of the entire listed population, "*i.e.*, recovery units are individually necessary to conserve the genetic, behavioral, morphological, and ecological diversity necessary for long-term sustainability of the entire listed population" (2008, 38). With the entire California population of the NEMO Recovery Unit in the Ivanpah Valley, it seems obvious that those tortoises warrant heightened concern and protection to ensure the population's survival within the Valley.

We urge you to grant the petition for reconsideration so that the Commission might correct its error and properly consider the importance of protecting the Ivanpah desert tortoises.

Sincerely,

Glenn R. Stewart


Glenn R. Stewart, Ph.D.
DTC Board of Directors
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References

Bryon, Jeffrey D., Commissioner and Presiding Member, and James D. Boyd, Vice Chair and Associate Member, California Energy Commission. *Errata to the presiding member's proposed Decision. Application for certification for the Ivanpah Solar Electric Generating System (07-AFC-5)*. September 20, 2010.

Murphy, R.W., K. H. Berry, T. Edwards, and A.M. McLuckie. 2007. A genetic assessment of recovery units for the Mojave population of the desert tortoise, *Gopherus agassizii*. *Chelonian Conservation and Biology* 6, No. 2: 229-251.

U.S. Fish and Wildlife Service. 1994. *Desert tortoise (Mojave population) recovery plan*. Portland, Oregon.

_____. 2008. *Draft revised recovery plan for the Mojave population of the Desert Tortoise (Gopherus agassizii)*. U.S. Fish and Wildlife Service, California and Nevada Region, Sacramento, California.