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California Energy Commission
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1516 Ninth Street
Sacramento, CA 95814-5512

California Energy Commission

DOCKETED

09-RENEW EO-1

TN 74760

FEB 22 2015

Dear Sir/Madam:

American Bird Conservancy (ABC) appreciates this opportunity to comment on the Desert Renewable Energy Conservation Plan and Draft Environmental Impact Statement/Environmental Impact Report, California (DRECP).

ABC respectfully requests that the DRECP be withdrawn and revised in order to provide a broader range of alternatives that include an option for distributed generation/energy efficiency, to include analysis how the revised draft relates to the Bureau of Land Management (BLM) final West Mohave Plan Amendment (WEMO), to consider the final designation of critical habitat for the Western Yellow-billed Cuckoo, and to provide additional protective measures to address potential wind and solar energy development's impacts on federally-protected bird species.

Threatened and Endangered Bird Species at Risk

There are five listed bird species in the 22 million acre project area including California Condor, western Yellow-billed Cuckoo, Least Bell's Vireo, Southwestern Willow Flycatcher, and Yuma Clapper Rail. In addition there are birds of conservation concern including Bendire's Thrasher, Burrowing Owl, California Black Rail, Gila Woodpecker, Golden Eagle, Greater Sandhill Crane, Mountain Plover, Swainson's Hawk, and Tricolored Blackbird which was recently petitioned for Endangered Species Act (ESA) protection.

The western Yellow-billed Cuckoo (WYBC) was listed as a threatened species in 2014, and the U.S. Fish and Wildlife Service is currently in the process of finalizing its critical habitat designation. Until it is known where the critical habitat will be and what management stipulations will apply later in 2015, it is difficult to fully assess the potential impact of the DRECP. The draft alternatives were developed prior to the WYBC's ESA listing and none ensure adequate habitat protection or threat reduction.

We recommend that revised alternatives exclude all occupied western Yellow-billed Cuckoo habitat and designated critical habitat from potential energy development or associated power lines or towers. WYBC's are particularly vulnerable to tower collisions and this problem has been identified as a threat to be addressed in the proposed critical habitat designation.

Of great concern is the California Condor which numbers only 230 birds in the wild. Any potential mortality from solar reflectors, wind turbines and associated power lines and towers needs to be avoided within the range of the California Condor. The estimate of zero take over the life of the project is overly optimistic and a more cautious approach is warranted. Therefore, these types of developments which are known to cause bird mortality should be prohibited by the DRECP in areas of high risk.

Significant Cumulative Impacts to Watchlist Birds and Habitats

The draft reveals significant impacts to bird species of conservation concern and their habitats, and reflects what appears to be a general lack of concern and adequate conservation measures for migratory birds which are protected under the Migratory Bird Treaty Act. On the positive side it shows a clear intention to conserve birds of conservation concern, and through the CMAs to avoid, mitigate and compensate for unavoidable losses.

Despite the proposed mitigation measures, thousands of acres of habitat for priority species would be lost under the preferred alternative and there remains great uncertainty about the effectiveness of the CMA process and proposed mitigation measures which for some technologies do not currently exist. Grasslands lose 6,000 acres, and wetlands lost 8,000 acres. In total 208,000 acres of priority wildlife habitat would negatively impacted by planned development.

Of particular concern are habitat loss and direct mortality of Bendire's Thrasher which is on the U.S. Redlist of Birds of Highest Conservation Concern. As the draft notes, loss of grassland habitat will have a negative impact as will loss of suitable habitat in the West Mojave and Eastern Slopes subarea, Cadiz Valley and Chocolate Mountains subarea, and the Imperial Valley subarea. An estimated 6,000 acres of habitat would be impacted. We recommend projects avoid habitat of Bendire's Thrasher.

Two other Redlist species, the California Condor and Mountain Plover would also experience significant habitat loss under the preferred alternative. Condors are projected to experience habitat impacts on 20,000 acres, and Mountain Plover to 56,000 acres. Another Redlist species, the Tri-colored Blackbird, would see 8,000 acres impacted including suitable habitat in the West Mojave and Eastern Slopes subarea and the Imperial Valley subarea.

In terms of habitat percentages, only Bendire's Thrasher would receive significant protection with 77% of its available habitat in the planning area put into conservation designations. For the three other Redlist species, the percentage is astonishingly low. For Mountain Plover, only 3% of its habitat would be protected (IV.7-298). California Condors see just 24% protected, and Tricolored Blackbirds only 12%.

In addition, potential impacts to the threatened western Yellow-billed Cuckoo, both in terms of habitat loss and collisions mortality, as well as the acreage figure under Available Lands have all been significantly underestimated.

Broader Range of Alternatives

The DNECP overview states the process will create a framework to streamline renewable energy permitting by planning for the long-term conservation of threatened and sensitive species and other

resources on more than 22 million acres. In general, the draft appears to be imbalanced in that adequate protection for species of conservation concern is not provided for.

While ABC supports the concept of identifying areas where energy development impacts should be avoided or minimized, we believe the public should be offered the opportunity to assess a full range of renewable energy development alternatives. The draft focuses on facilitating large, industrial-scale renewable energy projects but does not consider potential alternatives including distributed solar generation of renewable energy on existing structures (e.g., buildings, parking lots, homes) that do not harm wildlife, degrade pristine habitat or require the construction of new power lines and towers.

The renewable's goals in the plan are not consistent with current market trends or California State Law that requires that energy efficiency (i.e. distributed solar) be utilized before other types of energy production is considered. Rapid expansion of solar installations on residential homes and businesses has altered the renewables landscape, rendering many of the projections in the draft plan outdated, and more importantly, the draft plan slants the public's choice in this matter by failing to consider an alternative with considerably less environmental impacts.

In the analysis of impacts, the negative consequences of the No Action Alternative are being overstated, in part because projections for future energy demands are not accurate, and the assumption of strong demand for industrial scale development through 2040 is inconsistent with current market trends favoring distributed solar.

ABC recognizes the many benefits of the preferred alternative's proposed added conservation areas, a science-based reserve design, the intention to direct and constrain development to less important habitats, and to require mitigation measures for potential impacts to birds. However, these potential benefits cannot be fully assessed because of the lack of an adequate of alternative which assumes a much lower level of development on federal public lands. Moreover, the No Action Alternative appears to assume that there will continue to be unsustainable and uncoordinated development on federal lands.

West Mohave Plan Amendment (WEMO)

The 9.3 million acre area covered by the West Mohave Plan Amendment largely overlaps with the DRECP planning area. Because energy development and vehicle routes which is a focus of WEMO have many points of intersection, it is difficult to fully assess the impact of DRECP without also understanding how much road construction to expect and its location within the planning area. The Alliance for Desert Preservation provides a good example of this problem in assessing the effectiveness of 150 proposed new Areas of Conservation and Environmental Concern because data on their planned access routes is not yet available.

Bird-Smart Wind Energy Development

The wind industry is now operating under "voluntary" instead of mandatory regulatory guidelines. These optional operating sideboards have paved the way for widespread disregard of the legal mandates the FWS is entrusted to enforce including take of federally-protected species of concern and the siting of thousands of turbines in sensitive areas for birds.

The ABC petition supports “Bird-Smart” wind energy, which requires independent, science-based risk assessment leading to careful siting; effective mitigation; independent, transparent post-construction monitoring of bird kills; and compensation if public trust resources are being taken. Bird-Smart wind energy is therefore designed to reduce and redress any unavoidable bird mortality and habitat loss.

ABC has filed a formal petition with the U.S. Department of the Interior calling for the agency to establish new regulations governing the impacts of wind energy projects on migratory birds. The [ABC petition](#) identifies environmental impacts of wind development, and calls for wind industry regulatory action that would reduce the projected 1.4-2 million bird deaths expected to be caused by the industry when it is fully built out.

Despite claims by the wind industry that it knows how to reduce bird and bat deaths, mitigation methods for wind energy development are still unproven, a fact that was recently recognized by the Department of Energy. ABC strongly agrees with their recent statement that “...technologies to minimize impacts at operational facilities for most species are either in early stages of development or simply do not exist.”

Birds at Risk from Solar Reflectors

Recent studies and field tests indicate a large number of birds will be incinerated or fatally disabled as a result of crashing into the solar arrays (which they perceive as bodies of water) or flying through the extreme heat generated by solar reflectors (<http://sanfrancisco.cbslocal.com/2014/08/18/birds-bursting-into-flames-above-solar-farm-stirs-calls-to-slow-expansion-streamer-solar-field-central-valley-heat-streamer-fire-burn/>). One facility recently killed over 130 birds in a single day (<http://www.kcet.org/news/define/rewire/solar/concentrating-solar/scores-of-birds-killed-during-test-of-solar-project-in-nevada.html>), and there are serious concerns about endangered species being affected (<http://www.pe.com/articles/solar-748681-wildlife-agencies.html>). Additionally, there currently are no known mitigation measures available, making this technology highly questionable for this sensitive habitat of the endangered California Condor.

Thank you again for this opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Holmer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Steve Holmer
Senior Policy Advisor