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February 23, 2015

California Energy Commission
Dockets Office, MS-4
Docket No. 09-RENEW EO-01
1516 Ninth Street
Sacramento, CA 95814-5512
Re: Draft DRECP and EIR/EIS



Submitted via email: docket@energy.ca.gov

Please accept these comments on the Draft Desert Renewable Energy Conservation Plan (DRECP) on behalf of the California Off-Road Vehicle Association (CORVA), our members, member clubs and affiliate members. The submission of these comments does not prevent any of the above entities from the submission of their own comments thereby obtaining legal standing in this EIR/EIS analysis.

CORVA has participated throughout the scoping process for the DRECP as a member of the Stakeholder Committee, representing tens of thousands of off-road and motorized vehicle enthusiasts who engage in a wide variety of recreational activities throughout the desert landscape. People use motorized vehicles as a form of access for everything from traditional off-highway activities to rockhounding and mineral collection, camping, hunting and racing. All forms of recreation deserve protection in the California desert areas, as they provide economic benefits for local communities and health benefits for hard-working citizens looking for opportunities to spend quality time with friends and family away from urban environments. Motorized vehicles also serve as a method of access for the elderly and disabled who are unable to enjoy the desert scenery in any other manner. All in all, motorized vehicles serve a necessary role in the California desert.

We also recognize the competing interests entailed in determining site placement for alternative energy development in the California desert. While the DRECP will ultimately provide a fast-track analysis for companies looking to develop facilities on public land, these companies must be recognized as commercial enterprises motivated primarily, if not exclusively by profit. Conversely people recreating throughout the desert landscape are driven by purer motives, wishing to enjoy the beauty and incomparable landscapes existent in our California desert areas. As such, it is incumbent on all the DRECP partner agencies to put the needs and wishes of the citizens above the profit seeking commercial enterprises whenever possible.

Comments on the DRECP:

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1. Accessibility of the documents provided in the draft DRECP posed a problem for citizens seeking to provide meaningful comment. The sheer volume of the document was disconcerting if not intimidating. At over 10,000 pages not including Appendixes, it appears that the partner agencies involved in the development of the DRECP did not intend for members of the general public to provide substantive comment. High speed internet access was needed to download the DRECP, which is not always available or accessible in rural communities. To members of the alternative energy business community, legal professionals or large organizations this may have posed no barrier; but in the spirit of Environmental Justice we would be remiss for ignoring that the largely rural communities that will bear the brunt of the placement of alternative energy facilities do not have the same access to high-speed internet. The National Environmental Policy Act (NEPA) used to govern the EIS portion of the document, was never intended to keep members of the public *from* commenting substantively on land use plans; on the contrary, NEPA was conceived to allow the public *greater access* to comment substantively on government analyses. This was certainly not the case with the DRECP.

2. CORVA has barely had enough time to analyze the effect of the draft DRECP within the time allotted; therefore we are using these comments to request that the BLM reopen the comment period to allow citizens to submit additional comments. There are over 140 new management areas proposed in the DRECP in the form of Areas of Critical Environmental Concerns (ACEC). In a normal land use plan, each one of these changes in management direction would allow for public comment; however the DRECP consolidates all these changes into one document, expecting the public to be able to decipher how each one of these changes would substantively effect their human environment. The reasons we've been given for expedited public review have centered on the need to ease the planning process for commercial enterprises involved with alternative energy development. However this haste ignores the need for the public to understand what is being proposed. Again, this is not the intent of the NEPA process.

3. Public comment was not considered critical to the success of the DRECP document. As explained in the "Citizens Guide to the NEPA; *Having Your Voice Heard*" Published by the Council on Environmental Quality in December of 2007:

"The environmental review process under NEPA provides an opportunity for you to be involved in the Federal agency decision making process. It will help you understand what the

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Federal agency is proposing, to offer your thoughts on alternative ways for the agency to accomplish what it is proposing, and to offer your comments on the agency's analysis of the environmental effects of the proposed action and possible mitigation of potential harmful effects of such actions. NEPA requires Federal agencies to consider environmental effects that include, among others, impacts on social, cultural, and economic resources, as well as natural resources.

Citizens often have valuable information about places and resources that they value and the potential environmental, social, and economic effects that proposed federal actions may have on those places and resources. NEPA's requirements provide you the means to work with the agencies so they can take your information into account."

The goals of NEPA as described above envision a scenario where members of the public have easy accessibility to the documents in question and the analyses are written in simple language. Between the difficulties in downloading the document to the complexity of the analysis, the DRECP does not bear a resemblance to this description. Therefore the DRECP violates the intent of NEPA in regards to public comment.

4. CORVA recognizes that the DRECP recommends locating renewable energy projects primarily on private land through identified Development Focus Areas (DFA) in the Preferred Alternative. We further request that all solar energy sites be located solely on Solar Energy Zones on federal land as established by the 2012 Solar PEIS and recommend that wind energy sites should be sited solely on non-federal land within the Development Focus Areas.

CORVA supports the goal of keeping alternative energy development on private land whenever possible to preserve the special characteristics of public land. Once public land has been developed, restoration to the previous condition is impossible, and it is the public who bear the burden of that loss. We support preserving the access of public land for future generations.

5. CORVA supports the emphasis on protection for recreation in the Preferred Alternative, and the development of two new recreation designations; Special Recreation Management Area (SRMA) and Extensive Recreation Management Area (ERMA). We request these designations continue to be supported in the Final DRECP.

We strongly endorse the designation of land into SRMA's and ERMA's, however find that access for some areas has been overlooked and thoroughfares needed for ingress into off-road areas have not been included in these designations. We request that access roads into

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Razor and Dumont Dunes OHV Open Areas include thoroughfare corridors within SRMA or ERMA designations, and request that all OHV Open Areas be analyzed for access road needs and those road corridors also included in SRMA or ERMA designations.

The Preferred Alternative of the DRECP introduces the concept of ERMA in areas managed by one BLM Field Office. However the ERMA designation is not recommended in any of the other alternatives, which calls into question the dedication of the BLM to support this new designation and seems like an oversight. CORVA supports the ERMA designation and asks for the adoption of ERMA's into the Final DRECP document.

6. CORVA finds that a number of important recreation areas have been omitted from SRMA or ERMA designation, and ask that they are included:

- a) Cargo Muchacho Mountains, including the Tumco mining site.
- b) Dale SRMA, including Humbug Mountains and Pinto Mountains.
- c) Hauser Geode Beds area, which is currently managed under MOU between the BLM El Centro Field Office and the California Federation of Mineralogical Societies.
- d) Kramer Hills Gem and Mineral Collecting SRMA.
- e) Silurian Valley SRMA, including the T&T Railroad Trail, the Riggs townsite, cabins and mining ruins, Kingston Wash Road and Silurian Lake Road.
- f) Vinagre Wash SRMA, including Milpitas Wash, approximates Senator Feinstein's proposed Vinagre Wash Special Management Area.
- g) Yuha Desert SRMA, includes gem and mineral collecting sites and a strong network of designated route for street-legal vehicles.

7. The following areas must be removed from consideration from DFA designation due to recreation needs and incompatibility with alternative energy development:

- h) The DFA in Alternative 2 that straddles Highway 14 north of Red Rock Canyon. This area contains important recreational values that are incompatible with utility scale renewable energy development.
- i) The DFA in the Preferred Alternative that encroaches on the Mountain Pass Dinosaur Trackway ACEC due to existing values in the area that are incompatible with utility scale renewable energy development.
- j) The Fremont Valley DFA be scaled back so as not to encroach on the Desert Tortoise Natural Area and the adjacent ACEC.
- k) Any portions of a DFA that overlaps SRMA's and ERMA's, for example the incursion on the Stoddard/Johnson SRMA in the Preferred Alternative and Alternatives 3 and 4.

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This also includes eliminating exceptions in all action alternatives that allows geothermal energy development in the Ocotillo Wells East SRMA.

- l) The Brown Buttes / Lonely Buttes gem and mineral collecting sites, east of Mojave and south of Highway 58.

8. Conservation Planning Areas (CPA): Recreation and access roads leading to off-road areas may be located on public or private land in the California desert, as the two intersect seamlessly in many parts of the DRECP planning area. There is a strong possibility if private land is acquired as part of proposed Conservation Planning Areas with developer fees, those much-needed access roads will be closed, leading to the disruption of a trail system. We therefore request that if and when private land is purchased with developer fees as CPA's, that these routes be inventoried and remain open to public travel. It must be recognized that routes on private property may serve as access road to campsites, hunting areas and collecting sites throughout the desert and been in use by the public for many years, creating a de facto public easement.

9. Similar to the concerns above, recreation and access roads leading to off-road areas may also be contained within a proposed DFA, thereby jeopardizing public ingress to known recreation sites. We support mitigation to maintain routes of travel through DFA's. Some of these routes have been designated during previous land use analyses; therefore the loss of these routes must be mitigated. This may require a boundary adjustment which should not prove difficult since renewable energy installations rarely if ever occupy the entire footprint of their development area. Guidelines for mitigation or changes of route placement in DFA's should be included in the Final EIR/EIS.

10. One of the most disconcerting aspects of the DRECP is the inclusion of approximately 4,400,000 acres of land into the National Land Conservation System (NLCS). As members of the off-road recreation and motorized vehicle community, it is unclear in the DRECP how this designation will affect our access. Although the DRECP was touted as a landscape level plan, the inclusion of NLC designations indicates the potential of closures to recreational access as an unintended future consequence.

The analysis on page II.3-317 states; *"Future travel management planning will emphasize travel on routes that provide for the enjoyment and enhancement of the ecological, cultural, and scientific values for which individual units are designated, or necessary administrative access to conserve, protect and restore area values."*

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According to the sentence above, it is clear that recreational interests were not considered, and there is a strong possibility that this could cause widespread misinterpretation in future land use planning efforts. Unless this sentence is changed, there is an increased likelihood that a push would be made to limit access to routes that only serve the stated; "ecological, cultural and scientific" values which recreation values would be summarily ignored. This is unacceptable to the off-road and motorized access communities, and is counter to congressional intent portrayed in previous land declarations as illustrated below.

The Omnibus Public Land Management Act of 2009 [PL 111-11, Sec. 2002], which established the NLCS, states;

Subsection (c):

"The Secretary shall manage the system—

(1) in accordance with any applicable law (including regulations) relating to any component of the system included under subsection

(b) [NOTE: i.e. FLPMA relating to CDCA]; and

(2) in a manner that protects the values for which the components of the system were designated [NOTE: i.e. CDCA]."

Subsection (d):

"(1) IN GENERAL.—nothing in this subtitle enhances, diminishes, or modifies any law or proclamation (including regulations relating to the law or proclamation) under which the components of the system described in subsection (b) were established or are managed, including— (E) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)"

In establishing the California Desert Conservation Area (CDCA) within the Federal Land Policy and Management Act of 1976 Congress recognized; *"the California desert contains historical, scenic, archeological, environmental, biological, cultural, scientific, educational, recreational, and economic resources that are uniquely located adjacent to an area of large population..."*

Therefore **recreation is a congressionally recognized value** for which the CDCA was designated, and Congress sought to protect these values into which NLCS components were originally designated. To comply with congressional intent, CORVA strongly requests that the word "**recreation**" be added to the array of values to be emphasized in future travel management planning.

In numerous places in the DRECP the statement is made in regards to NCLS that; *"Where this ruleset differs from the plan-wide NLCS rulesets, the more restrictive rules will apply"*.

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CORVA finds it difficult to understand what result this will have on motorized access since NCLS designations overlay many recreation sites. It would seem necessary to further explain the cumulative effects of these changes, or which actions will apply on areas with numerous designation overlays. This one sentence will most certainly lead to misunderstanding in future land use planning efforts, and may force the partner agencies into a legal battles where a judge may end up with the final interpretation. Since legal efforts do not benefit either the partner agencies involved in the creation of the DRECP or members of the general public, a supplemental document that fully explains this vision may be necessary to clarify the above statement.

However CORVA also strongly supports adding the word "**recreation**" to the values for NCLS lands, which could also serve as the fix to the potential for the above controversy. Adding the word "**recreation**" clears up the potential for misinterpretation in future land use planning efforts. If "**recreation**" is not added to the language in regards to important values of NLCS land in the Final EIR/EIS, it will be conflict with agency assurances given throughout the DRECP Stakeholder Committee meetings to recreation stakeholders that designated motorized routes would not be closed by the DRECP. Should the agencies not meet this request, then COVRA requests the reduction in NLCS designations to the smallest amount of acreage possible.

11. Conservation Management Actions (CMA) are confusing, ill-defined, and impossible to understand how different actions will apply to overlapping land designations. CMA's may have one definition to ACEC designations and another for NLCS designations. Because of the overlap of designations including SRMA's and ERMA's and ACEC's, it is impossible for the public to know when more restrictive actions may apply to an area, or less restrictive actions may be prescribed. The end result of this confusion for the off-road recreation and motorized access community could mean a serious restriction or loss of access opportunities, which CORVA finds unacceptable. Please clear up this language in a Supplemental EIR/EIS or stipulate that future site specific analyses will take into account all uses and needs for the area in question. The unilateral statement that; "*Where this ruleset differs from the plan-wide NLCS rulesets, the more restrictive rules will apply*" has the potential to be too easily abused.

12. Please remove Panamint Valley and the Slate Range from inclusion into NLCS designation due to the numerous recreation opportunities, scheduled events, and important access sites in both areas.

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13. The inclusion of numerous new Areas of Critical Environmental Concern in the DRECP is problematic because of the blanket management approach so often employed in regards to motorized access with these designations. There are widespread motorized activities in almost all the areas proposed for ACEC designations, and the descriptions contained in the ACEC worksheets are insufficient to allow the public to understand if their favorite use will still be allowable or accessible within the new ACEC.

Ideally, a Supplemental Draft EIR/EIS document would be released to the public going into further detail about allowable activities in specific ACEC's. Barring that release, CORVA requests a number of changes in the ACEC designations:

- m) Coolgardie Mesa ACEC must include rockhounding as one of the allowable activities.
- n) Change the CMA for Mesquite Lake ACEC to allow access to NN408, which was designated as open to motorized vehicles in the Northern and Eastern Mojave Plan (NEMO).
- o) Define the closure proposed in Amargosa South ACEC that close a route that is unidentified in any manner, including route number of current designation.
- p) Remove the proposed CMA to; *"Keep routes out of streams and significant riparian areas where good alternatives exist, i.e. Pleasant Canyon"*. It is unclear that this CMA would most certainly close Pleasant Canyon Road, a very popular route that would greatly affect motorized recreation and off-road enthusiasts. The lack of certainty about this closure, and the oblique manner in which this recommendation is framed is confusing to the public and does not allow the public opportunity to make meaningful comment.
- q) Proposal to withdraw Corn Springs ACEC from future mineral entry does not state what process would be used to accomplish this recommendation, and therefore does not give an opportunity to the public to make meaningful comment.
- r) Rather than close Ayres Rock ACEC to motorized access, a requirement to keep motorized vehicles on designated trails will preserve access while protecting sensitive cultural resources.
- s) Keep motorized vehicles to designated routes within the Cerro Gorco-Conglomerate Mesa ACEC rather than eliminating access.
- t) Recognize that there is no further need to restrict access in the Sierra Canyons ACEC as routes within this area have already been restricted by NEMO, and there is evidence of off-route travel.

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14. There is an error in computation in regards to the proposal to remove 3,000 acres from the Spangler Hills OHV Area to create the new Christmas Canyon ACEC. Because recreation representatives were promised numerous times that motorized recreation would not see a reduction in access acreage in the DRECP, there must be a commensurate increase of 3,000 acres in access acreage to compensate for the creation of this new ACEC that we are unable to locate in the document. CORVA hereby requests an addition to the Spangler Hills OHV Area of 3,000 acres to mitigate the loss of Christmas Canyon.

Summary

In closing, CORVA recommends that the errors in language and confusion with competing and overlapping designations be corrected with a Supplemental EIR/EIS. Failing that, the partner agencies involved with the DRECP must recognize that there is a need for more interaction with the public to clarify numerous issues in the proposal that have remained too nebulous for meaningful public comment.

Unless these issues are clearly resolved, there may be increased user conflict, as all parties may interpret the new designations to their own benefit, rather than recognizing the intent of the DRECP to maintain motorized recreation opportunity. Also, the BLM must build into the DRECP the requirement to sign, manage and maintain motorized routes so the public can follow the new rules and regulations once the DRECP is adopted. Without adequate dollars for maintenance, signage and education, the public will not have the tools necessary to contribute to the success of the plan.

The DRECP represents many hours of work by individuals dedicated to producing the best possible product for the public. However the complexity and sheer enormity of the project is serving to overwhelm even the best intentions. While CORVA has tried to submit the best possible comments on the document, we are aware that we have just analyzed the tip of the iceberg of the DRECP, and many issues may still arise. We hope that the partner agencies recognize this likelihood, and will continue to interact with CORVA and all members of the public into the future and accept their recommendations on the DRECP.

On behalf of the Board of Directions of CORVA,

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