



Mojave Desert Land Trust

Preserving land to enjoy forever

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California Energy Commission

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RE: Mojave Desert Land Trust comments on Draft Desert Renewable Energy Conservation Plan ("DRECP")

Mojave Desert Land Trust ("MDLT") is a 501c.3 non-profit corporation whose mission is to "Protect the Mojave Desert Ecosystem and its scenic and cultural resource values." Incorporated in 2005, MDLT has been the leading acquisition partner for the three desert National Parks, as well as the Bureau of Land Management wilderness areas in the California Desert Conservation Area. In 2010, MDLT partnered with California Department of Fish and Wildlife ("CDFW") under SB X 34 to acquire habitat for mitigation banks in Chuckwalla, Cady Mountains, and Joshua Tree. Through this program, MDLT acquired over 7,500 acres which is managed today in partnership with CDFW. MDLT has also partnered with the Marine Corps Air Ground Combat Center in 29 Palms through the Department of the Navy's Readiness and Environmental Protection Initiative to protect the installation from urban encroachment. To date, MDLT has acquired over 53,000 acres of land in the California Desert representing roughly 1,300 parcels.

MDLT also collaborated with multiple partners in the creation of the Morongo Basin Open Space Group's Conservation Priorities Report. This multi-year effort resulted in road map for land use in the Morongo Basin accounting for the interests of local cities, agencies, and other stakeholders. MDLT has used this framework to strategically pursue land acquisition in the most meaningful areas. From this effort, we can appreciate the effort that has gone into this Plan.

Our hope is that DRECP can succeed in its fundamental goal of conserving species, biotic communities, and landscapes in the California Desert. Although our review of the Plan was far from exhaustive, we offer these comments. We are most concerned regarding the designation of National Conservation

Lands, land uses in Development Focus Area's, and the over-emphasis we believe is being placed on developing renewable energy in the California Desert through this Statewide planning effort.

General Comments

We appreciate the opportunity to comment of the Draft DRECP. It is obvious from reading the document that REAT Agency staff have worked hard in this document, and we applaud the effort, especially of Bureau of Land Management ("BLM") staff in regards to the designation of National Conservation Lands ("NCL's").

MDLT supports the principle of a planning framework to guide renewable energy to areas of least conflict and simultaneously plan for the conservation of species, communities, and landscapes. We see the urgent need to address climate change and our domestic energy challenges through the development of renewable energy resources. However, we question the assumption made clear in the Acreage Calculator in Appendix F3 that the majority of this development needs to be sited in the California Desert. Our Desert region has incredibly diverse and fragile ecology, rich farmlands, rural communities, scenic vistas, and outstanding recreational opportunities.

Given the fragile and diverse nature of the California desert, the decision to prioritize large scale development in its boundaries creates unavoidable conflict. We note and generally support the comments of the Basin and Range Watch regarding the California Energy Efficiency Strategic Plan outlining our State's published intention to meet the challenge of climate change by first taking all necessary and possible steps towards energy efficiency and rooftop distributed renewable energy. We also understand that when these options are not feasible, there is a need for utility scale development. To avoid impacts to natural resources, this development should be steered to mechanically disturbed lands such as brownfields, fallowed agricultural lands, or former mining sites. These lands are most closely reflected in the Development Focus Areas shown in Alternative 1.

We believe renewable energy development should be a statewide effort, rather than one focused almost solely on the California desert. For instance, there are tremendous opportunities for development of utility scale solar photovoltaics in the Central Valley on land which can no longer be farmed and has few species conflicts, or defunct windmill operations which could be repowered in the San Gorgonio Pass wind area, and the continued statewide potential of geothermal development in and outside of the plan area.

Recent efforts by private enterprise like Kaiser, Google, and Apple to develop their own renewable energy facilities should further reduce the need to site projects on our desert wildlands. A statewide planning effort could identify areas to meet our renewable energy goals with less conflict than the largely pristine and highly diverse communities of the desert region. **A revised DRECP should include a discussion of renewable energy development opportunities outside the planning area as they affect**

the need to develop and disturb the covered species, communities, and landscapes in the Draft DRECP to meet a statewide planning goal.

Energy and Acreage Calculations

The Acreage Calculator states that the DRECP effort should assume up to 20,000 MW of renewable energy development will occur in the Plan area by 2040. Since the planning effort began in 2010, over 11,000 MW have been permitted or constructed in the Plan area. Appendix O contains a listing of projects built or under construction, but should be amended to include permitted projects as well. **We request that the REAT agencies make a real time calculator available on the DRECP website showing progress towards the forecast amount in terms of both megawatts by technology and acreage.** Currently, the best available calculation given is a listing in the Cumulative Impacts Analysis section from 2013 that appears incomplete.

Given the rapid advancement towards the state’s renewable energy forecast, DRECP should adopt the strongest avoidance and minimization actions possible. High conflict areas like the Cadiz Valley Future Assessment Area, Johnson Valley Development Focus Area, and Silurian Valley Special Analysis Area should be removed from further consideration in the Draft. Further discussion of the areas we believe should be removed from further consideration for Development Focus Areas are included below.

Land Use Authorization and Land Tenure

MDLT currently acquires land in partnership with the BLM inside federally designated wilderness areas. Our acquisition program provides a public-private partnership, is supported by private donations, completed in coordination with agency objectives, and creates a grassroots community understanding of the importance of our Parks and National Conservation Lands through our active membership. This partnership has several additional key benefits for BLM:

1. MDLT negotiates with private landowners, acquires title, completes initial cleanup and restoration activities, and “bundles” multiple parcels into a single sale to BLM. .
2. MDLT donates land to BLM in strategic areas.
3. Much of MDLT’s funding to acquire land and administer the program is from private grant support. This creates an acquisition fund match for BLM and allows for efficient use of program monies.
4. All Land and Water Conservation Funds (“LWCF”) MDLT receives are “revolved” back into the acquisition program to acquire additional lands in the project area, creating an added benefit program benefit.

However, MDLT is currently limited to acquire land in partnership with BLM inside designated Wilderness because other BLM Land Use Designations are not strong enough to ensure long-term conservation, and BLM will not accept properties with deed restrictions.

To meet DRECP objectives throughout the Plan area, we are requesting that BLM pursue a waiver with the Department of Justice to allow acceptance of a standard set of deed restrictions on land acquired for conservation by the BLM from third party partners. Title on most BLM acquired lands, such as those acquired with LWCF monies in the Chuckwalla Bench ACEC, already contain some deed restrictions pursuant to the original intent of the federal funding. We are asking that a similar mechanism be identified for lands acquired in partnership with non-profit and other private partners given the emphasis on land acquisition as compensation in the DRECP.

II.3.2.4.1 Multiple Use Classes

Multiple Use Classes are a fundamental planning tool in the California Desert Conservation Area Plan. Given the importance of Class designation in terms of what uses are permitted on public lands, the Draft provides insufficient information on reallocation of multiple use classes. This section of the Draft is unclear to the reader in its scope and effect. For example, the Draft states “Lands in the Limited MUC under the No Action will be placed in a ‘conservation focus’ land use allocation. The CMA’s for conservation focus lands will be the same as the current CDCA plan MUC limited guidelines.” However, no visualization is given to show what lands this would include. There is insufficient information in the Draft DRECP to properly understand what lands will continue to be included in the “conservation focus lands”, and how that overlaps with other proposed uses. This same verbage is not carried over to the table which follows (Table II.3.50), nor does it appear on any maps.

Furthermore, the BLM LUPA appears to be reclassifying large acreage of “Class L” lands as to “Class I” Development Focus Area’s, as listed in Table II.3-50. No evidence is presented to support this reallocation of large amounts of lands managed for 34 years to protect resource values to an Intensive Class of use. Lands in the McCoy Wash are a perfect example of the lack of clarity involved with this section. Historically, these lands have been Class L lands, to be managed to protect sensitive resources, while allowing for development of energy facilities. Much of the McCoy wash continues to be sensitive microphyll woodland habitat proposed to be covered by specific CMA’s. In the Draft DRECP, much of these lands are reallocated to Class I under management as a Development Focus Area without apparent justification and no discussion on the effect of this move on the CMA’s for those lands, which differ between Class L and DFA Class I lands. We understand the need to bring BLM’s Land Use Plans and allocations up to date and in line with Agency standards. **However, given the importance of Multiple Use Classes to previous management decisions and the original CDCA Plan being amended by the DRECP, we request a revised and detailed discussion and presentation of reallocation and final classification of multiple use classes under the DRECP.**

National Conservation Lands and Areas of Critical Environmental Concern

We strongly support the implementation of the Omnibus Public Land Management Act of 2009 (PL 111-11) and the designation of lands being managed for conservation in the California Desert Conservation Area (CDCA) as National Conservation Lands ("NCL's"). This designation should include a mineral withdrawal request and detailed travel management plans for all lands to ensure long term conservation management.

PL 111-11 was intended to properly classify and further strengthen BLM's conservation management in the CDCA. To the reader of the DRECP, it seems the designation of National Conservation Lands is coordinated with the flexibility given to renewable energy development areas. While the decision regarding what lands are managed for conservation in the CDCA by BLM must be made through careful study, we do not feel the Plan presents sufficient evidence to explain why each Alternative should seem to propose tradeoffs between renewable energy development and implementation of PL 111-11. For instance, Alternative 1 provides the least flexibility and least compensation mitigation, but also has the smallest designation by acreage of National Conservation Lands, while the opposite is true in Alternative 2. While the DRECP LUPA may be an appropriate exercise for including this designation, National Conservation Lands should be chosen based on adherence to BLM's conservation management rather than as an apparent tradeoff with DFA acreage.

It is unclear to the reader in the Draft document how National Conservation Lands and Areas of Critical Environmental Concern overlap with the Special Recreation Management Areas designated in the Plan. While the BLM intends that these designations should be co-equal, and one designation won't control over another, it is unclear in the Draft how these overlaps will harmonize. We request a more thorough discussion or maps section showing these overlaps and management considerations.

The designation of National Conservation Lands is weaker than most lands in the National Landscape Conservation System— it is being accomplished by a Land Use Plan Amendment rather than legislated by Congress or signed into law by the President under the Antiquities Act. **We feel strongly that the DRECP must clearly identify the mechanism which assures the permanent conservation designation of these areas.**

The amount of information presented in designation of the National Conservation Lands is tremendous. The comment period has allowed insufficient time to review these designations, and very little groundtruthing by BLM staff. The following areas should be should be amended in the BLM's NCL designation under DRECP Preferred Alternative:

1. Property currently owned by Mojave Desert Land Trust adjacent to the Big Morongo Canyon Area of Critical Environmental Concern, attached here as Figure 1. This land is central to the landscape linkage between Joshua Tree National Park, Big Morongo Canyon Area of Critical Environmental Concern, and the San Gorgonio Wilderness. It is identified as a Conservation Planning Area currently. Designation of this property as a National Conservation Land will facilitate coordinated management and possible transfer to BLM.

2. The area currently shown as a Special Analysis Area in Silurian Valley due to its adherence to stated criteria in the Preferred Alternative in section II.3.2.2:
 - a. Cultural: proximity to the Old Spanish Trail.
 - b. Ecological: Aside from being ecologically intact, the area lies a desert tortoise habitat linkage as identified by US Fish and Wildlife Service.
 - c. Landscape Intactness: Silurian Valley is highly intact.
 - d. Scenic Quality: Silurian Valley has outstanding scenic quality, and is along an entrance highway to Death Valley National Park.
 - e. BLM Jurisdiction: BLM owns nearly all the land in Silurian Valley
 - f. Landscape Linkages: Silurian Valley lies between the Hollow Hills wilderness, and the Avawatz and Soda Mountains WSA's, and is nearby to the Kingston Range Wilderness.
3. Iron Mountains/Cadiz Valley: Given the intactness, role as a desert tortoise linkage, scenic quality, and majority BLM jurisdiction, the Iron Mountains/Cadiz Valley NCL designation should be increased in the Preferred Alternative to encompass a much greater amount of public land north of Highway 62, east of the Sheephole Mountains, and west of the Iron Mountains.
4. Portions of the Santos Manuel proposed ACEC adjacent to Highway 62 and north of Dale Dry Lake to further secure landscape intactness and protect against development pressure on sensitive resources.
5. Whitewater Canyon: Whitewater Canyon NCL unit contains an active wind farm – Mesa- under the configuration of the unit in the Preferred Alternative. This wind farm area should be removed from the NCL designation.
6. Mule McCoy Linkage, McCoy Wash, Palen Dry Lake, McCoy Valley: Amend ACEC designation to withdraw land from Riverside East DFA in accordance with the multiple species linkages, sand transport, and microphyll woodlands represented in Figure H-1 and add these resource areas to ACEC designation. In these areas, Alternative 1 represents a development focus area more consistent with the Plan's Biological Goals and Objectives relating to these resources. This region was identified as a critical desert wide linkage by both South Coast Wildlands California Desert Connectivity study and the California Essential Habitat Connectivity study. Because of the high impact from the presence of Interstate 10, further development in these areas would undermine the connectivity of the larger region.
7. Pipes Canyon NCL - We strongly support inclusion in the National Conservation Lands. In addition to cultural resources listed in the ACEC Worksheet, this region includes significant biological resources which should be included in management considerations, including Robison's Monardella and Parish's Daisy. Springs and ephemeral streams provide groundwater for cottonwood trees, willows, and migrating birds. Golden Eagle nests have been documented in the past.

8. Ibex Hills Cherry Stem – A cherry stem exists in the center of the Ibex Hills wilderness to allow access to the Eclipse patented mining claims and the unpatented Liberty Lode claim. The Conservation Fund owns all interest in these claims, and intends to hold them for conservation purposes until such a time that BLM is ready to accept them. We are requesting this cherry stem be considered for addition to the National Conservation Lands.

Development Focus Areas, Future Assessment Areas, Special Analysis Areas, and DRECP Variance Lands

While CMA's require stronger avoidance and minimization actions for certain resource values found inside of Development Focus Areas, resource conflicts in the following areas should necessitate removal from DFA designation entirely:

1. Silurian Valley Special Analysis Area – see resource concerns in NCL section above.
2. Bristol Dry Lake Future Assessment Area – This area has not been inventoried under the current Draft for Lands with Wilderness Characteristics. We believe lands in this area contain Wilderness Character, and should be inventoried before a Record of Decision if made. It is also a crucial visual resource from National Trails Highway and areas surrounding the Cadiz/Bristol/Fenner Valleys.
3. Sand Transport Corridors, Multi-species linkages, and the McCoy Wash area in the Riverside East DFA as outlined above.
4. Portions of the Johnson Valley and Lucerne Valley DFA's that lie inside desert tortoise linkage areas as identified by the US Fish and Wildlife Service.

Migratory Bird Treaty Act

While Volume 1 outlines the regulatory authority and obligations of the Service under the Migratory Bird Treaty Act (MBTA), the General Conservation Plan requires a Bird and Bat Conservation Plan to be submitted by each applicant for impacts of covered activities to be covered under the Endangered Species Act.

In II.2.3 and II.3.1.2.5 and Appendix I, the proposed scope and frequency of biological monitoring is inadequate to assess impacts of covered activities on species and habitats. Funding for these actions are therefore also understated. Similarly, no proposals for funding or gathering baseline data on avian migration and performing ongoing annual monitoring of this migration are identified in the Draft. Current monitoring and adaptive management techniques for avian mortality caused by wind and solar thermal plants are insufficient or non-existent. Conclusions regarding significance of mortality caused by these impacts on migrating birds lack a basis of substantial evidence.

Conservation Management Actions are weak or lacking regarding impacts from covered activities on migratory birds. For instance, AM-LL-4 provides insufficient measures for avoidance and minimization to migrating birds from solar power towers and wind turbines. The specific measure in the Preferred Alternative calls for the use of the best available technology at the time of construction to detect and deter migrating birds. However, no technologies currently exist that demonstrably achieve this purpose.

Furthermore, II.3.1.2.5.7 details Compensation CMA's for siting, construction, and decommissioning, as well as during operation. Operational impacts are to be fee based and calculated depending on the annual operational effects on birds and bats. However, there are no standard methods for measuring and calculating annual operational impacts, as noted above. Therefore Compensation CMA's are too weak to be effective in the Plan.

We appreciate the opportunity to comment on this planning effort, and the months and years of diligent work put in by the REAT agency staff.

Frazier Haney
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Figure 1 – Area Requested to be added to Big Morongo Canyon National Conservation Land

