

California Energy Commission DOCKETED 09-RENEW EO-1
TN # 75386 FEB 23 2015

February 22, 2015

California Energy Commission
Dockets Office, MS-4
Docket No. 09-RENEW EO-01
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Sent via email and U.S. Mail

RE: Draft Desert Renewable Energy Conservation Plan and Environmental Impact Statement

Please accept and fully consider these comments and recommendations on the draft Desert Renewable Energy Conservation Plan (DRECP) and Environmental Impact Statement (EIS) on behalf of The Wilderness Society (TWS). The mission of TWS is to protect wilderness and inspire Americans to care for our wild places. TWS has a longstanding investment in the protection and conservation of public lands in the California Desert. We are also invested in finding the best places, outside of conservation areas, to develop cleaner energy resources to meet the energy needs of Americans while reducing the impact of climate change. We applaud you on the goals of this landscape level planning effort and look forward to working with the agencies on improving various aspects of the draft plan in order to further advance these goals. We appreciate your consideration of these comments and welcome any questions or feedback you may have.

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I. INTRODUCTION

The California Desert is a remarkable landscape. The stark contrast between its extreme heat and bitter cold, primitive beauty, and surprisingly varied and rich ecosystems make the desert unlike any other natural area in the country. Its unique character also makes it a high profile location for large-scale renewable energy development projects, including wind and solar, which then necessitates development of associated transmission. As a result, the desert hangs in a delicate balance between a developed and an undeveloped landscape. Recognizing the multiple uses and values present in the California Desert, the draft Desert Renewable Energy Conservation Plan (DRECP) makes a strong effort to properly address both the conservation and clean energy needs of California, and sets a valuable precedent for future planning decisions.

The DRECP comes at an important moment for California and the nation. The 2014 National Climate Assessment paints a grim future for the arid southwestern states. “Climate changes pose challenges for an already parched region that is expected to get hotter and, in its southern half, significantly drier. Increased heat and changes to rain and snowpack will send ripple effects throughout the region, affecting 56 million people – a population expected to increase to 94 million by 2050 – and its critical agriculture sector. Severe and sustained drought will stress water sources, already over-utilized in many areas, forcing increasing competition among farmers, energy producers, urban dwellers, and ecosystems for the region’s most precious resource.” These changes are beginning to play out. Last year was the warmest year on record globally, the hottest year on record in California and also the driest year in California since the state started measuring rainfall in 1849, the start of the gold rush and one year before California was granted statehood.

Motivated in large part by the need to take steps to respond to these challenges, Governor Jerry Brown recently announced a goal to move California beyond the current mandate of 33% renewables by 2020 (a goal the state has practically reached, at least on paper) to 50% renewables by 2030. Following on the heels of the Governor’s announcement, state lawmakers introduced a package of bills to help enact the 50% by 2030 target.¹ Meeting the target will rely on a range of options including increased energy efficiency and demand reduction programs, distributed generation including rooftop solar, and some utility-scale renewable energy projects. There will be a continuing need for the California Desert to provide some of the state’s needed new clean electricity.² To ensure new energy resources can be tapped without damaging the region’s most sensitive wildlife, wild lands, recreational opportunities and tourism assets, a sound plan at the right geographic and ecological scale is essential for local, state and federal agencies to help plan for the future of the desert and ensure these projects are sited in the right places.

The DRECP is an opportunity to do just that, by moving beyond the current model of land use planning (which limits the scope of planning to subunits within manmade boundaries) toward a more dynamic, broad, adaptive planning process that takes more factors into consideration to make smart planning decisions. Using this landscape level approach, planning and land use management decisions should be more consistent, compatible, and sustainable over the long-term, and allow agencies to better identify and monitor important resource considerations like ecological integrity, wilderness values, connectivity, areas for climate adaptation, wildlife habitat, restoration opportunities, protection of cultural resources and recreational uses. Similarly, the DRECP initiative illustrates how public land agencies can work together to develop a coordinated, cross-jurisdictional management strategy for both resource conservation and reduced impact renewable energy development.

¹ See <http://sd24.senate.ca.gov/news/2015-02-10-california-climate-leadership-package-announced>. The package also includes bills to reduce carbon emissions.

² See, e.g., <http://www.latimes.com/local/california/la-me-renewable-goals-20150108-story.html>.

In addition, the DRECP is also charting a course for developing new agency policies and can provide a template for future BLM planning decisions. Through its extensive scoping, local, regional and national outreach, webinars, public meetings, and numerous online tools, the DRECP process has been inclusive and substantive, and has resulted in a comprehensive draft plan that covers multiple boundaries, jurisdictions, field offices, and interests. In refining agency policies and finalizing its Planning 2.0 initiative, BLM needs useful examples of what effective landscape level planning looks like and how the agency can be more responsive to environmental and social change. The DRECP planning process offers a valuable framework, which BLM can build and improve on for its future landscape level planning initiatives.

Finally, while the effort to draft the DRECP has been substantial, the plan still must be improved and finalized in a timely manner in order to be effective. Development will move forward with or without the DRECP; and without it, millions of acres sensitive, but unprotected, lands will remain open and subject to unplanned proposals for energy development, wasting years of effort on the part of agencies and stakeholders. In addition, the BLM will miss an opportunity to show how conservation and energy development planning can happen simultaneously and compatibly. Therefore, ensuring the DRECP is finalized and implemented as soon as possible is essential for its success.

Although currently incomplete, inconsistent at times, and in need of revision and improvements, the draft DRECP marks significant progress toward a smarter planning framework where conservation lands are prioritized and renewable energy development is limited to those areas where ecological impacts are low, and production potential high.

We recognize that the DRECP consists of three separate, but coordinated, planning efforts—(1) a set of BLM land use plan amendments, (2) a Federal general conservation plan and incidental take permit issued to the California Energy Commission (and possibly other State agencies or subdivisions), and (3) a California Natural Community Conservation Plan (NCCP). We also recognize that meshing these three separate planning processes is not a simple matter. The following comments and recommendations are primarily focused on the BLM land use plan amendments to the California Desert Conservation Area plan.

II. OVERARCHING LEGAL ISSUES

The DRECP is subject to a number of legal and policy regimes. For federal public lands, the DRECP incorporates both lands within the California Desert Conservation Area (CDCA) and lands outside the CDCA. These comments focus on BLM management decisions on federal lands, including applicable federal law and policy; other comments will be submitted providing detailed analyses of applicable state law and policy, and we defer to the expertise of others in this context.

BLM's overview of its purpose and need frames the manner in which these laws interact, including:

- Meeting the Energy Policy Act's goal of at least 10,000 MW of renewable energy generation on public land, in addition to the President's Climate Action Plan goal of an additional 10,000 MW by 2020;
- Presidential Memorandum dated May 17, 2013, directing agencies to modernize infrastructure review and permitting;

- Department of the Interior’s policy goals (set out in Secretarial Orders 3285 and 3285A1) to identify and prioritize locations for large-scale solar production and prioritize renewable energy and transmission on public lands while protecting natural resources;
- Following the directives in Secretarial Order 3330 regarding use of landscape-scale mitigation;
- Preserving CDCA values;
- Identifying and incorporating public lands managed for conservation purposes within the CDCA as components of the National Landscape Conservation System;
- Making land use allocation decisions outside the DRECP area but within CDCA;
- Amending land use plans consistent with the Federal Land Policy and Management Act (FLPMA) and the CDCA.

A. The Federal Land Policy and Management Act, California Desert Conservation Act and Omnibus Public Land Management Act of 2009 provide authorities and direction for achieving conservation and renewable energy development on public lands through the DRECP.

Governing law on management of federal lands in the planning area supports BLM’s stated purposes to manage for both energy development and conservation. The DRECP will address a planning area of more than 22 million acres in the California Desert. BLM manages ten million acres of public lands within the planning area, which include significant natural resources that must be balanced with other resource uses to fulfill BLM’s multiple use and sustained yield mandate. BLM has a duty to identify, protect, and monitor natural resources under FLPMA. 43 U.S.C. § 1701 *et seq.*, which imposes a duty on BLM to identify and protect the many natural resources found on public lands governed by resource management plans. FLPMA requires BLM to inventory its lands and their resource and values, "including outdoor recreation and scenic values." 43 U.S.C. § 1711(a). FLPMA also obligates BLM to take this inventory into account when preparing land use plans, using and observing the principles of multiple use and sustained yield. 43 U.S.C. § 1712(c)(4); 43 U.S.C. § 1712(c)(1).

Through management plans, BLM can and should protect wildlife, scenic values, recreation opportunities and wilderness character present in the public lands through various management decisions, including by excluding or limiting certain uses of the public lands. *See* 43 U.S.C. § 1712(e). This is necessary and consistent with the definition of “multiple use,” which identifies the importance of various aspects of wilderness characteristics (such as recreation, wildlife, natural scenic values) and requires BLM to consider the relative values of these resources but "not necessarily to the combination of uses that will give the greatest economic return." 43 U.S.C. § 1702(c).

We support the draft DRECP proposing to designate new Areas of Critical Environmental Concern (ACEC) and/or retain existing ACECs throughout the range of alternatives. Under FLPMA, BLM is obligated to “give priority to the designation and protection of areas of critical environmental concern [ACEC].” 43 U.S.C. § 1712(c)(3). ACECs are areas “where special management is required (when such areas are developed or used or where no development is

required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes.” 43 U.S.C. § 1702(a).

Further, FLPMA requires that: “In managing the public lands the [Secretary of Interior] shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation (UUD) of the lands.” 43 U.S.C. §1732(b). BLM’s duty to prevent unnecessary or undue degradation under FLPMA is mandatory, and BLM must, at a minimum, demonstrate compliance with the UUD standard. *See Sierra Club v. Hodel*, 848 F.2d 1068, 1075 (10th Cir. 1988) (the UUD standard provides the “law to apply” and “imposes a definite standard on the BLM.”). DRECP should make management decisions that prevent degradation of the public lands.

We also note that FLPMA requires BLM to manage public lands under multiple-use principles unless an area has been designated by law for specific uses, in which case BLM must manage the land for those specific uses, stating:

The Secretary shall manage the public lands under the principles of multiple use and sustained yield, in accordance with the land use plans developed by him under section 1712 of this title when they are available, *except that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law.*”

43 U.S.C. § 1732(a) (emphasis added). In other words, BLM manages certain lands not under the FLPMA multiple use mandate, but rather under the language of the proclamation or legislation establishing the special area; this specifically includes units of the National Landscape Conservation System (National Conservation Lands).

Within FLPMA, Congress also created the California Desert Conservation Area with the purpose of “provid[ing] for the immediate and future protection and administration of the public lands in the California Desert within the framework of a program of multiple use and sustained yield and the maintenance of environmental quality.” *Id.* at 1781. In the Omnibus Public Land Management Act of 2009 (Omnibus), establishing the National Landscape Conservation System, Congress added “[a]ny area designated by Congress to be administered for conservation purposes, including . . . public land within the California Desert Conservation Area administered by the Bureau of Land Management for conservation purposes.” 16 U.S.C. § 7202(b)(2)(D) (2009). Thus, while there are lands within the CDCA that are administered under the general multiple use standard of FLPMA, there are other lands that are included for the primary purpose of conservation. These National Conservation Lands within the CDCA, including those already identified and any that will be identified under this new process, must be managed to prohibit discretionary uses that are incompatible with the conservation, protection and restoration of their landscapes.

Recommendations: The draft DRECP recognizes the values and vulnerabilities of natural and cultural resources within the DRECP planning area, as well as the plan’s potential to produce and transport renewable energy. The range of alternatives includes management scenarios that would protect and enhance these resources and identifies critical opportunities for BLM to promote

conservation while also supporting renewable energy on these public lands, consistent with the purpose and need set out above. While FLPMA, the CDCA and the Omnibus provide a legal framework to meet both conservation and development goals, BLM will also need to address compliance with other laws discussed throughout these comments, such as the National Environmental Policy Act.

B. The National Environmental Policy Act requires data and analysis that facilitates meaningful public input and informed decisions in the DRECP.

The National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, requires, among other things, agencies to conduct environmental analysis of the direct, indirect, and cumulative impacts of proposed actions, as well as mitigation measures, consider a range of reasonable alternatives (including an alternative that minimizes environmental impacts), and solicit and respond to public comments.

1. BLM must present environmental analysis and information in a manner that facilitates, rather than impedes, public comment.

NEPA requires BLM to “[e]ncourage and facilitate public involvement in decisions which affect the quality of the human environment.” 40 C.F.R. § 1500.2(d). A critical part of this obligation is presenting data and analysis in a manner that will enable the public to thoroughly review and understand the analysis of environmental consequences. For this reason, NEPA requires the use of high quality data and the disclosure of the methodology underlying proposed decisions, as discussed above, and also explicitly requires that an EIS “be written in plain language” and presented in a way that “the public can readily understand.” 40 C.F.R. § 1502.8. These requirements are specifically reinforced for an EIS; the “primary purpose” of this document is “to allow for informed public participation and informed decision making” so its language must be “clear” and “supported by evidence that the agency has made the necessary environmental analyses.” *Earth Island Inst. v. U.S. Forest Service*, 442 F.3d 1147, 1160 (9th Cir. 2006); 40 C.F.R. § 1502.1.

Therefore, “an EIS must be organized and written so as to be readily understandable by governmental decisionmakers and by interested non-professional laypersons likely to be affected by actions taken under the EIS.” *Oregon Environmental Council v. Kunzman*, 817 F.2d 484, 493 (9th Cir. 1987). Accordingly, where a plan is so unclear as to not permit review and understanding, it may be deemed “incomprehensible” and in violation of NEPA. See, e.g., *California, ex rel. Lockyer v. U.S. Forest Service*, 465 F.Supp. 2d 942, 949-950 (N.D.Cal. 2006) (management plan for Giant Sequoia National Monument was “incomprehensible” because it referenced but did not explain its reliance on certain law and regulations, and because it contained conflicting statements regarding applicable standards for management, which were never clarified).

Where an EIS relies upon existing authority, it must include a sufficient explanation of how such authority actually supports the action taken – especially where such authority (such as the off-road vehicle (ORV) regulations requiring the agency to protect other resources and avoid conflicts with other recreationists) appears to require different actions and where these issues

have already been highlighted to BLM in comments. Similarly, where an EIS includes conflicting information for the same resources (such as acreage or management prescriptions) or conflicting conclusions about how decisions may harm and protect resources at the same time, the agency must not only correct errors, but also fully explain its conclusions and ultimate management decisions.

Numerous inconsistencies in data, conclusions and compliance have been and are raised in these and previous comments on the DRECP, and must be addressed, for instance:

- Acreage figures are not consistent in the plan – such as the acreage of lands identified as having wilderness characteristics, which is presented as 633,000 acres, 643,000 acres and 648,000 acres.
- Clarification is needed on ultimate management where designations such as ACECs, National Conservation Lands (NCL) and/or special recreation management areas (SRMA) overlap.
- Management prescriptions for designations should be set out in a manner that is easy to access, understand and compare. Appendix L contains a lot of detailed information but is unwieldy and does not have a compiled table of contents or other way to navigate the presentation amongst SRMAs, extensive recreation management areas (ERMA) and ACECs.
- The manner in which BLM’s tools for achieving durable conservation designations will be applied should be discussed in detail and incorporated in the DRECP, not just in separate documents.
- A more detailed discussion of how the permitting process will operate should be incorporated; an example would be most helpful to explain both safeguards and benefits.
- A variety of disturbance caps are applied in the DRECP; some for specific resources such as wildlife and others for categories of lands such as National Conservation Lands. The Glossary definition seems to be the only detailed information, but, as set out below, it only addresses the caps for ACECs and NCLs:

BLM disturbance cap. Limit on ground-disturbing activities within BLM ACECs and/or National Conservation Lands (NCLs) as called for in the LUPA alternatives. Expressed as a percentage of total ACEC and/or National Conservation Land unit acreage, and cumulatively considering past, present, and future disturbance. Baseline (past and present) disturbance would be determined by the most current imagery and knowledge at the time of an individual project proposal.

Even for lands covered by this definition, clarity is still needed on how the cap will operate in terms of what “counts” as disturbance, how BLM will track disturbance, how BLM will enforce the cap, and what happens if/when the cap is reached. Similar clarification as well as definitions are also needed for the other disturbance caps incorporated into management alternatives.

We have summarized numerous errors, inconsistencies and gaps in Attachment A. BLM must correct these deficiencies and fully comply with the requirements of NEPA. **We recommend BLM take immediate action to provide updated maps, corrections to errors, clarifications**

of inconsistencies to the public as soon as possible, to provide maximum opportunities for public engagement. While the final plan should also incorporate these necessary improvements, the agency should not delay addressing these issues.

2. BLM must consider a reasonable range of alternatives

NEPA requires that agencies consider a range of management alternatives, which is “the heart of the environmental impact statement.” 40 C.F.R. § 1502.14. NEPA requires agencies to “rigorously explore and objectively evaluate” a range of alternatives to proposed federal actions. See 40 C.F.R. §§ 1502.14(a) and 1508.25(c). “An agency must look at every reasonable alternative, with the range dictated by the nature and scope of the proposed action.” *Northwest Envntl Defense Center v. Bonneville Power Admin.*, 117 F.3d 1520, 1538 (9th Cir. 1997). NEPA requires that federal agencies consider alternatives to recommended actions whenever those actions ‘involve[] unresolved conflicts concerning alternative uses of available resources.’ 42 U.S.C. § 4332(2)(E) (1982).” *Bob Marshall Alliance v. Hodel*, 852 F.2d 1223, 1228 (9th Cir. 1988). This evaluation extends to considering more environmentally protective alternatives and mitigation measures. See, e.g., *Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094 1122-1123 (9th Cir. 2002) (and cases cited therein). The consideration of more environmentally protective alternatives is also consistent with the obligations of the federal agencies to protect the many resources of the public lands.

Further, in defining what is a “reasonable” range of alternatives, NEPA requires consideration of alternatives “that are practical or feasible” and not just “whether the proponent or applicant likes or is itself capable of carrying out a particular alternative”; in fact, “[a]n alternative that is **outside the legal jurisdiction of the lead agency must still be analyzed in the EIS if it is reasonable.**” Council on Environmental Quality, *Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations, Questions 2A and 2B*³; 40 C.F.R. §§ 1502.14, 1506.2(d).

BLM’s range of alternatives requires additional information and analysis in a number of areas.

a. Megawatt goal is the same across all alternatives

All of the alternatives rely on a conclusion that the DRECP is planning for approximately 20,000 MWs of renewable energy generation and associated transmission capacity in the Plan Area by 2040. This prediction drives the decisions on levels of development to permit in the DRECP and the plan should explain in more detail why a different MW goal is not considered and/or evaluate varied MW goals.

b. BLM did not evaluate off-highway vehicle area designations

Although the DRECP looks at numerous methods for achieving conservation, it does not reexamine the designations of areas as open, closed or limited to designated routes for use of off-highway vehicles (OHVs). As discussed in detail below, area designations are a plan level

³ Available at <http://ceq.hss.doe.gov/nepa/regs/40/40p3.htm>

decision, which BLM should have evaluated in this planning process to meet its obligation to minimize impacts to natural and cultural resources and conflicts with other users. *See*, 43 C.F.R. §§8342.1, 8342.2; Executive Orders 11644 and 11989. Decisions such as closing areas to motorized use or changing designations from open to cross-country use would have a significant conservation benefit; alternatives addressing these changes should have been considered.

c. Certain categories of decisions are only considered in the Preferred Alternative.

While all alternatives include special recreation management areas (SRMAs), only the Preferred Alternative incorporates extensive recreation management areas (ERMAs). *See, e.g.*, Draft DRECP at Executive Summary, p. 40. These are fundamentally different designations: Per BLM Manual 8320, SRMAs are managed to enhance a targeted set of activities and experiences, which become the priority management focus. ERMAs are managed to sustain principal recreation activities and associated qualities and conditions, along with management for other resources and uses. There is not a sufficient explanation of why ERMAs should only be considered in the Preferred Alternative and, in addition, for only one field office within the planning area.

In addition, only the Preferred Alternative includes Special Analysis Areas (42,000 acres) as part of Study Area Lands (other alternatives have Future Assessment Areas and/or DRECP Variance Lands) that will be classified for Development Focus Area, Reserve Design or Variance Lands prior to finalizing the plan. *See, e.g.*, Executive Summary, p. 40. While Special Analysis Areas could be seen as part of a range of options for Study Area Lands, the draft plan does not explain why they are limited to the Preferred Alternative or not presented in a range. This issue requires further discussion and analysis in the context of the range of alternatives.

3. Mitigation measures must be described with specificity and must include commitments for action.

NEPA requires that BLM discuss mitigation measures in an EIS. 40 C.F.R. §§ 1502.14, 1502.16. In order for the agencies to rely on mitigation to reduce potentially significant impacts, NEPA requires that the agencies make a firm commitment to the mitigation and discuss the mitigation measures “in sufficient detail to ensure that environmental consequences have been fairly evaluated...” *Communities, Inc. v. Busey*, 956 F.2d 619, 626 (6th Cir. 1992). NEPA defines “mitigation” of impacts to include:

- Avoiding the impact altogether by not taking a certain action or parts of an action;
- Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; or
- Compensating for the impact by replacing or providing substitute resources or environments.

40 C.F.R. § 1508.20. Simply identifying mitigation measures, without analyzing the effectiveness of the measures violates NEPA. Agencies must “analyze the mitigation measures

in detail [and] explain how effective the measures would be . . . A mere listing of mitigation measures is insufficient to qualify as the reasoned discussion required by NEPA.” *Northwest Indian Cemetery Protective Association v. Peterson*, 764 F.2d 581, 588 (9th Cir. 1985), *rev'd on other grounds* 485 U.S. 439 (1988). NEPA also directs that the “possibility of mitigation” should not be relied upon as a means to avoid further environmental analysis. *Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations*. See also *Davis v. Mineta*, 302 F.3d 1104, 1125 (10th Cir. 2002).

- a. Funding for mitigation measures should be discussed in more detail.

Appendix I (Cost and Funding) describes a model used to estimate the costs of mitigation projects, which is very helpful. The appendix discusses a method for assessing costs for long term management and maintenance of lands acquired for mitigation to projects. However, there is not sufficient discussion of where other needed funding will be found, such as for the “pool” of durably protected lands to be created under Phase 1 of the Draft Durability Agreement between BLM and California Department of Fish and Wildlife, which is to be used for mitigation purposes. A discussion of funding for BLM’s commitments should also be included in the main body of the DRECP.

- b. BLM tools for achieving durable conservation should be discussed in detail.

As part of contributing to the (NCCP) Reserve that is a key element of the DRECP, BLM is proposing to use a variety of tools to ensure that conservation management will be durable, such as rights-of-way and easements. However, these tools, the manner in which BLM will be using them, and the durability of these arrangements is not discussed in sufficient detail to meet the standards set out above.

- c. Surface disturbance caps should be defined and their operation discussed in detail.

As noted above, the draft plan incorporates a variety of disturbance caps to protect different resources and designations. Without clear definitions of these caps, how disturbance will be measured and how the cap will be enforced, the caps cannot be relied upon as effective mitigation.

4. Analysis of environmental impacts must be appropriate to the proposed action and include direct, indirect, and cumulative impacts.

NEPA dictates that BLM take a “hard look” at the environmental consequences of a proposed action and the requisite environmental analysis “must be appropriate to the action in question.” *Metcalf v. Daley*, 214 F.3d 1135, 1151 (9th Cir. 2000); *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 348 (1989). In order to take the “hard look” required by NEPA, BLM is required to assess impacts and effects that include: “ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative.” 40 C.F.R. § 1508.8. (emphasis added). NEPA regulations define “cumulative impact” as:

the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

40 C.F.R. § 1508.7.

To satisfy NEPA's hard look requirement, the cumulative impacts assessment must do two things. First, BLM must catalogue the past, present, and reasonably foreseeable projects in the area that might impact the environment. *Muckleshoot Indian Tribe v. U.S. Forest Service*, 177 F.3d 800, 809–10 (9th Cir. 1999). Second, BLM must analyze these impacts in light of the proposed action. *Id.* If BLM determines that certain actions are not relevant to the cumulative impacts analysis, it must “demonstrat[e] the scientific basis for this assertion.” *Sierra Club v. Bosworth*, 199 F.Supp.2d 971, 983 (N.D. Ca. 2002). A failure to include a cumulative impact analysis of actions within a larger region will render NEPA analysis insufficient. *See, e.g., Kern v. U.S. Bureau of Land Management*, 284 F.3d 1062, 1078 (9th Cir. 2002) (analysis of root fungus on cedar timber sales was necessary for an entire area).

a. Environmental benefits of conservation designations should be evaluated in detail.

The effects to be evaluated under NEPA include both costs (or damages) and benefits. 40 C.F.R. § 1508.8. In addition, when evaluating a range of alternatives, the BLM is required to consider more environmentally protective alternatives and mitigation measures. *See, e.g., Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1122–23 (9th Cir. 2002) (and cases cited therein). The consideration of more environmentally protective alternatives is also consistent with FLPMA's requirement that BLM “minimize adverse impacts on the natural, environmental, scientific, cultural, and other resources and values (including fish and wildlife habitat) of the public lands involved.” 43 U.S.C. §1732(d)(2)(a). The draft plan acknowledges these benefits, stating:

Designations, allocations, and classifications of NLCS lands, ACECs, SRMAs, wildlife allocations, and inventoried lands found to have wilderness characteristics would benefit sensitive cultural and natural resource areas, other sensitive resources (e.g., paleontological, geologic), scenic values, and recreational values. Any reductions in acres of designations, such as ACECs or SRMAs, could result in adverse effects to cultural and natural resource values.

Draft plan, p. IV.14-26. BLM should continue to emphasize these benefits in the DRECP.

b. Analysis of cumulative impacts should be more specific to each alternative.

The cumulative impacts analysis (set out in Section IV.25) uses an appropriate geographic scope, stating:

The DRECP EIR/EIS has identified the Plan Area, portions of the California Desert Conservation Area (CDCA) outside the Plan Area, and areas outside the Plan Area in

proximity to DRECP-related transmission as the geographic areas for analysis of cumulative effects.

Draft plan, p. IV.25-29. However, other portions of the analysis should be refined. For instance, the draft plan provides:

Because the analysis uses a broad geographic area of extent, the past, present, and future foreseeable projects and projections are the same for all alternatives. However, because the Development Focus Areas (DFAs) and reserve design are different for each alternative, the analysis calls out distinctions by alternative as appropriate.

Draft plan, p. IV.25-30. Yet, the alternatives would designate different areas for development and transmission, which would clearly affect the other projects that would move forward in the geographic area. Further, the differences in impacts associated with the various DFAs and reserve designs are not thoroughly evaluated.

In addition, the timeframe for analysis should be expanded. The draft plan provides: “The temporal scope of the cumulative impacts, unless specifically stated otherwise in the resource analysis, is the life of the DRECP—from adoption of the DRECP through 2040.” Draft plan, p. IV.25-30. The impacts of the decisions in the DRECP will extend beyond the life of plan and should be evaluated accordingly.

5. Baseline information must be sufficient to permit analysis of impacts.

Establishment of baseline conditions is a requirement of NEPA; agencies are required to “describe the environment of the areas to be affected or created by the alternatives under consideration.” 40 C.F.R. § 1502.15. In *Half Moon Bay Fisherman’s Marketing Ass’n v. Carlucci*, 857 F.2d 505, 510 (9th Cir. 1988), the Ninth Circuit states that “without establishing . . . baseline conditions . . . there is simply no way to determine what effect [an action] will have on the environment, and consequently, no way to comply with NEPA.” The court further held that “[t]he concept of a baseline against which to compare predictions of the effects of the proposed action and reasonable alternatives is critical to the NEPA process.”

Since BLM has not completed an inventory of lands with wilderness characteristics (as discussed below), analyzing impacts of management alternatives on these values is not currently accurate. Similarly, other baseline resource data that is not fully presented in the plan affects the DRECP’s analysis of impacts. BLM must update analysis as it completes inventory and collection of applicable data.

Recommendations: The data and analysis in the DRECP should be improved as recommended above to ensure compliance with NEPA. BLM should complete the recommended analyses without delay and make it available to the public, in order to provide the maximum opportunity for meaningful participation.

C. Durability of BLM management for conservation should be discussed in detail.

As part of the DRECP, BLM is making important commitments to conservation, including both designations of lands as part of the National Conservation Lands (NCLs) and designation of conservation lands as part of the NCCP Reserve, which may also include NCLs. Designation of NCLs, which is directed by the Omnibus, should not be subject to reversal or change through subsequent BLM administrative action, as discussed in detail below. BLM should confirm the permanence of NCL designations in the DRECP.

Further, BLM lands will be incorporated in the NCCP Reserve. BLM is a party to a number of documents, currently in draft, that set out tools BLM intends to use to make conservation of these lands more durable. The Draft Durability Agreement sets out a number of tools that BLM will employ for conservation lands to be used for compensatory mitigation under the NCCP. As discussed in our comments on the draft, dated November 11, 2014 (incorporated by reference), we recommend these tools apply to all BLM conservation lands that will be part of the NCCP Reserve. The tools discussed in the Draft Durability Agreement – rights-of-way, easements, leases under the Recreation and Public Purposes Act – and the manner in which BLM will structure their use should be discussed in detail in the DRECP, not just in separate documents. Similarly, the information and commitments contained in the Draft Implementing Agreement and Draft Implementation Memorandum of Understanding are important for evaluating conservation on BLM lands; their content should be discussed in detail in the DRECP.

Recommendations: BLM should confirm that designation of NCLs is permanent. Further, conservation tools applicable to BLM lands to be included in the NCCP Reserve should be discussed in detail, as should the content and commitments of the Durability Agreement, Implementing Agreement and Implementation Memorandum of Understanding. These commitments are an important aspect of BLM’s conservation efforts and should be evaluated as part of the EIS, as well.

III. NATIONAL CONSERVATION LANDS ADDITIONS

This year, BLM celebrates the fifteenth anniversary of the establishment of the National Landscape Conservation System (National Conservation Lands). This system is comprised of the nation’s newest collection of protected public lands. The National Conservation Lands bring together approximately 30 million acres of BLM lands, trails and rivers designated for protection by Congress or the President. Managed by the BLM, the units of National Conservation Lands represent the crown jewels of the BLM, a network of some of the last places to experience the beauty, history and adventure of the American West.

We appreciate the unique opportunity that the agency has to formally add units to the National Conservation Lands through special provision in the Omnibus Public Land Management Act of 2009 (Omnibus). The Omnibus makes the National Conservation Lands a permanent system of public lands conservation with the stated purpose “to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations.” 16 U.S.C. § 7202(a). As acknowledged in the draft plan at II.3.2.2.1, the Omnibus defines the lands to be included in the system as “public land

within the California Desert Conservation Area administered by the Bureau of Land Management for conservation purposes.” 16 U.S.C. § 7202(b)(2)(D). Rather than individually identifying those areas in the CDCA that would become part of the National Conservation Lands, Congress deferred to the BLM to decide which lands in the CDCA would be classified as “administered for conservation purposes” and added to the system.

While the statutory directive in the Omnibus does not require BLM to identify National Conservation Lands through a land use planning process, such as the DRECP, we appreciate the opportunity to engage through the DRECP to help identify those conservation lands of the California Desert that will become part of the National Conservation Lands. We believe that BLM’s Preferred Alternative in the draft plan represents a thoughtful approach by the BLM to identify areas with nationally significant ecological, cultural or scientific values, connect habitat and areas of ecological diversity and integrity and protect important cultural and botanical resources. We also support BLM’s recognition of the scenic and recreational values of many of these lands. We appreciate and support the rationale for protecting the subareas as National Conservation Lands in the Preferred Alternative. The following comments provide recommendations for improving the management of the National Conservation Lands in the DRECP as well as other areas that should be added to the National Conservation Lands in this process.

A. BLM should clarify in the DRECP that National Conservation Lands additions cannot be reversed through agency action; and can only be undone by Congress.

The 2009 Omnibus provides that the National Conservation Lands “shall include each of the following areas administered by the Bureau of Land Management,” which explicitly includes “public land within the California Desert Conservation Area administered by the Bureau of Land Management for conservation purposes.” 16 U.S.C. § 7202(b). This includes lands that BLM is currently administering for conservation purposes, such as existing ACECs, DWMA’s and other conservation areas, as well as those lands identified through this planning effort. Once identified, these lands are part of the National Conservation Lands and the statute makes no provision for them to be altered – similar to the other designated lands identified, such as wilderness, national monuments, national conservation areas, wild and scenic river segments, national scenic or historic trail segments, and other identified special areas. The only arguable exception is wilderness study areas (WSA), which are designated pending review by Congress. Per BLM, “Until Congress makes a final determination on a WSA, the BLM manages these areas to preserve their suitability for designation as wilderness.”⁴ Once again, this does not give the BLM unfettered authority to change the status of lands designated as part of the National Conservation Lands.

Further, the purpose of formalizing the National Conservation Lands in the Omnibus is to turn an existing administrative structure into something permanent. The legislation explicitly makes the National Landscape Conservation System permanent. Consequently, creating a category of designation within the National Conservation Lands that can be administratively removed would undercut, and indeed contravene, the purpose of the legislation that BLM is fulfilling.

⁴ http://www.blm.gov/wo/st/en/prog/blm_special_areas/NLCS/wilderness_study_areas.html

In addition, we note that Congress regularly provides direction to agencies to clarify or identify aspects of conservation areas, which does not undercut their permanence. For example, the 2009 Omnibus, for the Dominguez-Escalante National Conservation Area, provided: “[a]s soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of the Conservation Area and the Wilderness...” and that “[t]he Map and legal descriptions filed under subsection (a) shall have the same force and effect as if included in this subtitle.” Public Law 111-11, Section 2404. Similar language appears in relation to the Wild Monongahela Wilderness (Public Law 111-11, Section 1001(b)) and other provisions of the Omnibus. The 2009 Omnibus also provided for the designation of Potential Wilderness, such as the Roaring River Potential Wilderness Area, providing that:

On the date on which the Secretary publishes in the Federal Register notice that the conditions in the potential wilderness area designated by subparagraph (A) are compatible with the Wilderness Act (16 U.S.C. 1131 et seq.), the potential wilderness shall be—

- (i) designated as wilderness and as a component of the National Wilderness Preservation System; and
- (ii) incorporated into the Roaring River Wilderness.

Public Law 111-11, Section 1202(c). Similar language appears in relation to the Kimberling Creek Potential Wilderness (Public Law 111-11, 1103(d)) and other provisions of the Omnibus. Once made, these designations are unquestionably permanent even though the affected agency must first identify areas or conditions that justify its status after the legislation has been passed.

The establishment of national monuments is a parallel situation that supports the foregoing interpretation of the Omnibus as it applies to identification of National Conservation Lands. Under the Antiquities Act of 1906, Congress delegated its authority to designate national monuments on federal public lands to the President for “the proper care and management of the objects to be protected.” 16 U.S.C. § 431. This is analogous to the Congressional direction to the Executive branch in the Omnibus to include “public land within the [CDCA] administered by the [BLM] for conservation purposes.”

Congress gave the President the authority to establish national monuments, but not the authority to repeal the designation.⁵ For example, when the proposal to repeal the Castle-Pinckney National Monument was sent to President Franklin Roosevelt in 1938, the Attorney General wrote a legal opinion stating the following:

The grant of power to execute a trust, even discretionally, by no means implies the further power to undo it when it has been completed. A duty properly performed by the Executive under statutory authority has the validity and sanctity which belong to the statute itself, and, unless it be within the terms of the power conferred by that statute,

⁵ See, Mark Squillace, *The Monumental Legacy of the Antiquities Act of 1906*, 37 GA. L. REV. 473, 550-567 (2003), for a more in depth discussion of the President’s lack of authority to abolish or modify national monuments under the Antiquities Act.

the Executive can no more destroy his own authorized work, without some other legislative sanction, than any other person can.⁶

The same is true when applied to the delegation of authority under the Omnibus. The BLM has been given the authority to identify and designate BLM lands in the CDCA for conservation purposes, but it has not been given the power to abolish or reduce those areas once established.

The management direction for the National Conservation Lands is also instructive. Secretarial Order 3308 speaks to the management of the National Landscape Conservation System. The Order states in the pertinent part that “BLM shall ensure that the components of the NLCS are managed to protect the values for which they were designated, including, where appropriate, prohibiting uses that are in conflict with those values.” The 15-Year Strategy for the Conservation Lands reinforces this by stating the “conservation, protection, and restoration of the NLCS values is the highest priority in NLCS planning and management, consistent with the designating legislation or presidential proclamation.” National Conservation Lands Strategy, p. 8.⁷ BLM Manual 6100 also provides direction on how the National Conservation Lands should be managed, stating: ‘As required under the Omnibus Act of 2009, the BLM will manage NLCS units to “conserve, protect, and restore nationally significant landscapes.”’ Manual 6100, p. 1-5.⁸

Recommendation: The Omnibus establishes the status of the National Conservation Lands units and does not envision the BLM being able to change that status. Therefore, once the agency designates lands within the CDCA as part of the National Conservation Lands, the BLM cannot change that status through land use plan revisions or amendments. Interpreting these designations otherwise would undermine the purpose of the National Conservation Lands. The fact that BLM is using the ongoing DRECP planning process to identify applicable lands does not mean that the designations are somehow subject to future planning or change the permanence of their status as part of the National Conservation Lands. As a result, we strongly urge BLM to expressly provide within the DRECP that National Conservation Lands designations are permanent in the sense that these designations cannot be undone except through an act of Congress.

B. All National Conservation Lands additions should be recommended and evaluated for a mineral withdrawal.

As mandated by the Omnibus, BLM must manage the National Conservation Lands “in a manner that protects the values for which the components of the system were designated.” 16 U.S.C. § 7202(c). Any uses that are incompatible with the protection of the values of the National Conservation Lands should be prohibited. BLM also has the authority to recommend to the Secretary of the Interior that additions to the National Conservation Lands be withdrawn from mineral development to ensure that these units are adequately protected as required by law.

⁶ 39 Op. Att’y Gen. 185, 187 (1938) (quoting 10 Op. Att’y Gen. 359 (1862)). There have been no proposals by a President to repeal a national monument since this Opinion was published.

⁷ http://www.blm.gov/style/medialib/blm/wo/Communications_Directorate/public_affairs/news_release_attachments.Par.16615.File.tmp/NLCS_Strategy.pdf

⁸ http://www.blm.gov/style/medialib/blm/wo/Information_Resources_Management/policy/blm_manual.Par.64370.File.dat/6100.pdf

Although the National Landscape Conservation System is a diverse network of varying management regimes, one common management thread among National Conservation Lands is the withdrawal from mining activity.⁹ Mining withdrawals are important tools to ensure that the integrity of conservation units is not jeopardized by harmful activities in the future. Just as the National Conservation Lands are excluded from renewable energy development in the draft DRECP, these lands should also be proposed for mineral withdrawal so that the Secretary of the Interior has the chance to study these areas for their compatibility with mining.

Unfortunately, the Preferred Alternative in the draft plan does not recommend that the National Conservation Lands be withdrawn from mining. Instead, these areas are recommended to be treated as “controlled” or “limited” locatable mineral use areas in the CDCA. 43 C.F.R. § 3809.11. *See*, draft plan at II.3.2.2.1.1. However, the draft plan proposes the following approach for Alternatives 2, 3 and 4:

- The BLM would develop priority list of subareas for potential withdrawal.
- Initiate segregation of one subregion annually and complete mineral withdrawal review process (within 2-year time frame for each subregion).

Mining for locatable minerals is inherently incompatible with protection of the National Conservation Lands. The National Conservation Lands additions under all alternatives should be recommended for withdrawal from this use in the DRECP and fully considered by BLM in this process. If BLM does not recommend all of the National Conservation Lands additions for withdrawal in the DRECP, it should commit to a phased approach where all of the subareas are eventually analyzed for potential withdrawal. BLM should commit to completing one subarea per year starting with the highest priority areas.

Recommendations: In order to adequately protect the National Conservation Lands additions from the damage that mining could cause, BLM should consider recommending all of these units for withdrawal of locatable minerals, with the exception of rockhounding and casual use prospecting, as those terms are defined by the BLM. If BLM does not recommend all of the National Conservation Land additions for withdrawal of locatable minerals, it should develop a priority list of the National Conservation Lands units for potential withdrawal and initiate segregation of one subregion annually to complete the mineral withdrawal review process. Withdrawal proposals should be completed within the 2-year segregation timeframe.

⁹ The exception to this general rule is for wilderness study areas. FLPMA provided that mineral surveys be conducted before the agency made recommendations for wilderness designation and that existing mining and mineral leasing continue in the manner and degree as these activities were occurring prior to October 21, 1976. 43 U.S.C. § 1782. FLPMA also states that “Unless previously withdrawn from appropriation under the mining laws, such lands shall continue to be subject to such appropriation during the period of review unless withdrawn by the Secretary under the procedures of section 204 of this Act for reasons other than preservation of their wilderness character.” *Id.*

C. BLM should clarify the intent behind disturbance caps for the additions to the National Conservation Lands.

In the draft plan, BLM sets limits for development in National Conservation Lands, ranging from 0.25% to 1% of the total authorized disturbance, depending on the alternative. Draft plan at II.3.2.2.1.1. As we understand it, we support the intent behind the disturbance caps for the National Conservation Lands. We appreciate BLM considering the cumulative past, present and future disturbance as part of the disturbance cap. However, BLM should clarify how the disturbance caps are supposed to operate through more specific provisions in the plan.

First, as provided in the draft plan, the definition of disturbance caps does not limit the type of disturbance that may occur and fall under the cap. Rather, it is currently ambiguous as to whether BLM intends to allow for new disturbance not currently contemplated in the plan that could be authorized so long as it falls under the disturbance cap. BLM should clarify that activities under the disturbance cap only apply to allowable uses, such as valid existing rights or other authorized development. BLM should make it explicit that human-caused disturbances from recreational activities should also be part of the disturbance cap.

Second, we request that the DRECP clarify that BLM must determine the baseline disturbance level for National Conservation Lands where further disturbance is contemplated, and that the agency cannot authorize any further disturbance if the cap is hit unless and until a net benefit of mitigation or restoration has occurred in the area, bringing the total disturbance back down under the cap. Only after restoration reduces the degree of existing disturbance below the appropriate cap should further permissible disturbances be contemplated by the BLM.

Recommendation: While we support the idea of disturbance caps for the National Conservation Lands with the appropriate provisions, BLM has not provided sufficient enough detail for consistent application of disturbance caps. We strongly urge the agency to add the following requirements for disturbance caps:

- Caps should apply to allowable uses only as set out in the DRECP for National Conservation Lands.
- BLM should commit to determining the existing level of disturbance in each area prior to authorizing any further disturbance. This information should be transparent and readily-available to the public.
- BLM should specify what happens when the cap is hit and how it intends to prevent disturbance from going over the cap.
- BLM should state how it will enforce the disturbance caps.
- BLM must clarify that the percentage of the acreage of ACEC and/or National Conservation Lands means a percentage of each separate unit and not ACECs and/or National Conservation Lands as a whole.
- BLM should show what disturbance means for each area in the amount of acreage as well as baseline information on current disturbance by each area in the DRECP. BLM should propose a range from 0% to 1% of a cap per area based on past, present and future disturbance as well as sensitivity of the resources to disturbance before contemplating further disturbance.

D. ACEC designations should be retained where they overlap with National Conservation Lands.

When developing a land use plan, FLPMA mandates that BLM “*give priority* to the designation and protection of areas of critical environmental concern.” 43 U.S.C. § 1712(c)(3) (emphasis added). ACECs are areas “where special management is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes.” *Id.* § 1702(a).

The draft plan states that if there is overlap of National Conservation Lands and ACECs, “it is the BLM’s expectation that it will identify these areas solely as National Conservation Lands. In general, the National Conservation Lands will be managed as larger ecoregional units to protect landscape-wide values, while the ACECs are targeted towards area specific values. However, the site-specific protections of the individual ACEC units complement the broader landscape protections and would be carried forward for particular areas or zones within the broader National Conservation Lands to ensure that the individual values are protected.” Draft plan at II.3.2.2.1.1.3.

A critical aspect of the statutory language cited above is FLPMA’s requirement that BLM “give priority” to ACEC designation *and* protection. 43 U.S.C. § 1712(c)(3). This cannot be overlooked when thinking about ACECs in the context of the draft plan. Even though BLM is proposing to manage National Conservation Lands at the landscape-level, it still must prioritize designation and protection of ACECs within National Conservation Lands. This means National Conservation Lands cannot subsume ACECs, but are another layer of overlapping management.

Overlapping designations are common in BLM land use planning, including for the National Conservation Lands. For example, just a few of these include:

- Perry Mesa and Larry Canyon ACECs in the Agua Fria National Monument
- High Rock Canyon and Soldiers Meadows ACECs in the Black Rock Desert—High Rock Canyon Emigrant Trails NCA
- Cow Creek ACEC in the Upper Missouri River Breaks National Monument
- Appelton-Whittell ACEC in the Las Cienegas NCA
- Scotch Creek and Oregon Gulch ACECs in the Cascade-Siskiyou National Monument
- Vekol Valley Grassland ACEC in the Sonoran Desert National Monument
- Watermelon Mountains ACEC in the Ironwood Forest National Monument
- San Rafael RNA, San Pedro River RNA and St. David Cienega RNA ACECs in the San Pedro Riparian NCA

In the RMP for the Monticello Field Office, BLM responded to resistance to layering designations in the following appropriate way:

“Layering” is planning. Under FLPMA’s multiple use mandate, BLM manages many different resource values and uses on public lands. Through land use planning BLM sets goals and objectives for each of those values and uses, and prescribes actions to

accomplish those objectives. Under the multiple use concept, BLM doesn't necessarily manage every value and use on every acre, but routinely manages many different values and uses on the same areas of public lands. The process of applying many individual program goals, objectives, and actions to the same area of public lands may be perceived as "layering". BLM strives to ensure that the goals and objectives of each program (representing resource values and uses) are consistent and compatible for a particular land area. Inconsistent goals and objectives can lead to resource conflicts, failure to achieve the desired outcomes of a land use plan, and litigation. Whether or not a particular form of management is restrictive depends upon a personal interest or desire to see that public lands are managed in a particular manner. All uses and values cannot be provided for on every acre. That is why land use plans are developed through a public and interdisciplinary process. The interdisciplinary process helps ensure that all resource values and uses can be considered together to determine what mix of values and uses is responsive to the issues identified for resolution in the land use plan. Layering of program decisions is not optional for BLM, but is required by the FLPMA and National BLM planning and program specific regulations.

Monticello Proposed RMP, Response to Comments, at 7-48.

Recommendation: In order to meet the statutory requirement of prioritizing the designation and protection of ACECs, BLM must clearly outline the boundaries of each ACEC in the DRECP, and apply special management to protect the values identified for each of the ACECs. BLM will not meet its duty under FLPMA to prioritize ACECs if the designation is subsumed by overlapping National Conservation Lands; and layering to protect the meaning of both designations is consistent with applicable law and policy.

E. All National Conservation Lands should be VRM Class I or II, with minimal exception.

Visual and scenic resources are an important component of the National Conservation Lands. The general principles for management of the National Conservation Lands state that "[t]he BLM recognizes that NLCS units encompass some of the West's most scenic and iconic landscapes and will emphasize the conservation, protection, and restoration of these scenic values." Manual 6100 at 1.6(A)(7). More specifically, "[t]he BLM will designate visual resource management classes for all NLCS units through its land use planning process, and manage them accordingly, in order to ensure protection of scenic values and the aesthetic character of the landscape, to the extent consistent with the designating legislation or proclamation and other applicable law." Manual 6100 at 1.6(M)(3).

The draft plan specifically discusses the National Conservation Lands overlapping with all four VRM classes:

NLCS: The management of these lands that have nationally significant ecological, cultural, and scientific values would offer additional protection of intactness and scenic quality, particularly to the VRI Class I, II, III, and IV lands (3.6 million acres) with which they coincide. Draft Plan at IV.20.3.2.2.2

While most of the National Conservation Lands additions are designated as VRM Class II in the Preferred Alternative, there are a few National Conservation Lands additions that are designated as VRM Class III and even Class IV. There are VRM Class III designations over National Conservation Lands additions in several of the subareas. The only place where there appear to be VRM Class IV designations over National Conservation Lands additions is in the Lake Cahuilla subarea adjacent to the North Algodones Dunes Wilderness Area.

Due to the conservation-oriented designation of the National Conservation Lands, these areas should be protected from moderate or heavy modifications of the scenic resources on the landscape. The only exception where a Class III may be acceptable might be for grandfathered uses, such as existing utility transmission corridors that may allow for additional facilities in units of the National Conservation Lands and mining on valid existing rights.

Recommendation: To be consistent with current policy regarding the National Conservation Lands, BLM should be designating National Conservation Lands additions as either VRM Class I or II. The only exception to this rule may be for existing grandfathered uses, such as transmission corridors and rights-of-way, where additional facilities may be permitted.

F. Recreation on National Conservation Lands

The BLM's approach is limited to using the language in the Omnibus to describe the types of values for which individual units of the National Conservation Lands. The Omnibus specifically states that lands administered for *conservation* purposes in the CDCA would be part of the National Conservation Lands and ONLY identifies "ecological, cultural, and scientific values" for these units. While the Federal Land Policy and Management Act, including the portion addressing the California Desert Conservation Area, identifies a broader range of values, the designation of units as part of the National Conservation Lands will ultimately be the governing standard for key values and management. This is consistent with FLPMA's exception to the multiple use and sustained yield where public land has been dedicated to specific uses through other laws.¹⁰

However, we recognize that experiencing the National Conservation Lands is a vital part of management for the system. As BLM policy states: "National Conservation Lands are part of an active, vibrant landscape where people live, work and play. They offer exceptional opportunities for recreation, solitude, wildlife viewing, exploring history, scientific research, and a wide range of traditional uses." BLM policy (Manual 6100 at 1.6(M)(1)) also ensures that the National Conservation Lands "will be available for a variety of recreation opportunities, to the extent consistent with the designating legislation or proclamation and other applicable law." While the BLM cannot administratively change the governing law in the DRECP, the agency can acknowledge the importance of recreation in these lands, how recreational access is in many instances essential to appreciating the ecological, cultural, and scientific values for which

¹⁰ 43 U.S.C. § 1732(a) provides that "the Secretary shall manage the public lands under principles of multiple use and sustained yield . . . *except that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law.* (emphasis added).

individual units are designated, and how recreation can be addressed in making travel management decisions.

Recommendation: We propose that the BLM use the following language in the section pertaining to Comprehensive Trails and Travel Management within NCLs (Section II.3.2.2.1.1):

Comprehensive Trails and Travel Management
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. Recreation and providing access to experience the values of the National Conservation Lands will be an important consideration in travel planning.

G. National Conservation Lands area-specific recommendations

We applaud the BLM for its generally thorough analysis of lands within the CDCA for potential designation as National Conservation Lands. We support all of the lands recommended by the BLM in the Preferred Alternative for addition to the National Conservation Lands system. However, there are many important land units in the CDCA that are not recommended for inclusion as National Conservation Lands units in the Preferred Alternative. Some of these lands are outside the DRECP boundary but within the CDCA.¹¹ In other areas, we propose expanding on the concept of connectivity between desert land masses to ensure sufficient desert land conservation as climate change further impacts key desert habitats and movements by desert plants and animals including Joshua trees, Mohave ground squirrel, desert bighorn sheep and other iconic species.

1. Specific areas meeting the criteria for National Conservation Lands but excluded from BLM's Preferred Alternative

We ask the BLM to improve the Preferred Alternative of the DRECP by including the following places, in their entirety, in the National Conservation Lands.

The lands described below meet the criteria set forth by the BLM for adding National Conservation Lands units in the CDCA to the NLCS. These criteria include three primary criteria and five additional criteria which are:

“Ecological

- Species habitat – High quality habitat for multiple native species; or critical habitat for a federally listed species
- High level of ecological diversity
- Illustrates a significant natural value or phenomenon that is exemplary in the physiographic region

¹¹ In fact, we could not find a map of proposed National Conservation Lands outside of the DRECP planning area but within the CDCA in the DRECP. We had to get the data from the BLM State Office in order to make the attached map, which was prepared by Greg Suba of the California Native Plant Society. See Attachment B.

Cultural

- Contains a nationally significant prehistoric or historic cultural site that is eligible for the National Register of Historic Places.
- Contains a nationally significant cultural landscape that provides context and setting for historic properties or is of religious or cultural importance to Indian Tribes.

Scientific

- Area that has been the focus for significant scientific study or has a natural or cultural value, natural process, or other occurrence of high scientific value for potential future study.

Development pressure – Area has natural or cultural values representative of other areas under development pressure, or adjoins DFAs.

Landscape intactness – Relatively undisturbed features, unmodified natural environment of fairly large size, and not impacted by numerous developments (e.g. absence of extensive road network, multiple physical facilities such as communication sites, power lines etc.)

Scenic quality – Higher levels of scenic quality as determined by the BLM Visual Resources Inventory process.

BLM jurisdiction – Primarily large blocks of BLM lands (may include interspersed lands managed by other agencies for conservation purposes).

Landscape Linkages – Habitat and landscape-scale linkages to existing National Conservation Lands and other conservation units such as Wilderness Areas, Wilderness Study Areas, Wild and Scenic Rivers, National Trails, etc.
The Preferred Alternative emphasizes habitat connectivity and cultural-botanical

DEIR/DEIS at II.3, 315-316.

Our proposed additions to BLM’s National Conservation Lands in the CDCA are listed in alphabetical order. Please note that on the maps included below, proposed National Conservation Lands under the Preferred Alternative are shown with yellow diagonal lines, and our recommended additions to the National Conservation Lands are shown in red or blue.

Argos (Route 66)

The Argos area, consisting of approximately 10,450 acres, is located in San Bernardino County, southwest of Ludlow. According to the California Department of Fish and Wildlife’s (CDFW) Natural Diversity Database (NDD), the area is habitat for the Alverson’s foxtail cactus,



American badger, burrowing owl, desert tortoise, Emory's crucifixion thorn, Le Conte's thrasher, Mojave fringe-toed lizard, and white-margined beardtongue flower.¹² CDFW recognizes the area as a wildlife migration corridor and data from the agency indicates that it has eight distinct plant communities.¹³ Due to its close proximity to historic Route 66, the area is also an important part of the Route 66 viewshed. While most of the area is included in National Conservation Lands under the Preferred Alternative, we request that the area shown in red be included as well in order to fully protect the area and its important values.

Ash Hill (Route 66)

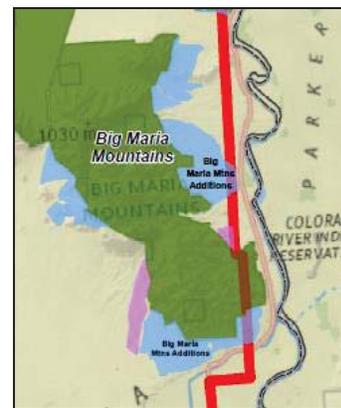
The Ash Hill area, consisting of approximately 19,150 acres, is located in San Bernardino County, south of Ludlow. According to the CDFW's NDD, the area is habitat for Alverson's foxtail cactus, American badger, burrowing owl, desert tortoise, desert bighorn sheep, Emory's crucifixion-thorn, Le Conte's thrasher, and the Mojave fringe-toed lizard.¹⁴ The area also has five distinct plant communities.¹⁵ Archaeologists have found Native American artifacts¹⁶ and remains of Ice Age animals in this area.¹⁷



The region is also an important part of the Route 66 viewshed, due to its close proximity to the route. While most of the area is included in National Conservation Lands under the Preferred Alternative, we request that the area shown in red be included as well in order to fully protect the area and its important values.

Big Maria Mountains

The Big Maria Mountains are located in Riverside County, north of Blythe. CalWild surveyed the region and identified several roadless areas that are contiguous with the Big Maria Mountains Wilderness. These areas, shown in blue, have a combined acreage of 17,260 acres. According to the CDFW's NDD, the Big Maria Mountains area is habitat for several endangered species, including the elf owl, Gila woodpecker, gilded flicker, western yellow-billed cuckoo and Yuma clapper rail. The area is also habitat for the desert tortoise and



¹² http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

¹³ GIS analysis completed by Kurt Menke of Bird's Eye View GIS on 12/10/13.

¹⁴ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

¹⁵ Menke, 12/10/13.

¹⁶ <http://www.jstor.org/discover/10.2307/27825521?uid=3739560&uid=2&uid=4&uid=3739256&sid=21103278388277>

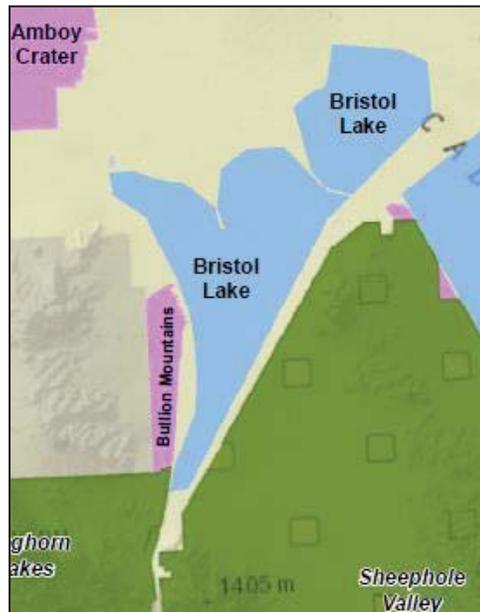
¹⁷

<http://books.google.com/books?hl=en&lr=&id=tfUGeBLNip0C&oi=fnd&pg=PR9&dq=%22ludlow+cave%22+and+%22san+bernardino+county%22&ots=fhKXPV6r7T&sig=WGkM1HSyG52WZkdoGWO2KqumXPc#v=onepage&q=%22ludlow%20cave%22%20and%20%22san%20bernardino%20county%22&f=false>

numerous other species that are protected or of special concern.¹⁸ The region is also noted for its cultural resources. For example, the BLM notes that “Important site complexes have been recorded on the flanks of the Big Marias and aboriginal trails are known to run into the mountains from both the east and west.”¹⁹ Furthermore, the southeastern portion of the Big Maria Mountains is less than two miles away from the famous Blythe intaglios. The Big Maria Mountains Wilderness area abuts a sizable proposed DFA proposed in the Preferred Alternative. We therefore recommend that lands in this region identified by us as qualifying for NCL designation within the Riverside East SEZ that was designated as part of BLM’s Western Solar Plan (Solar PEIS) be classified as non-development zones within the SEZ. With respect to the proposed East Riverside DFA, which expands upon the original SEZ, proposed DFA boundaries should be modified to exclude any lands that qualify for NCL designation.

Bristol Lake

The Bristol Lake area, consisting of approximately 39,540 acres, is located in San Bernardino County, south of Amboy and Cadiz. According to the CDFW’s NDD, this area is habitat for the cheeseweed owlfly, desert beardtongue, desert bighorn sheep, desert tortoise, Harwood’s eriastrum, Mojave fringe-toed lizard, and Orocopia Mountains spurge.²⁰ According to the BLM, the dunes around the ancient lake bed are also home to the Mojave fringed-toed lizard.²¹ The area has seven distinct plant communities. The CDFW also recognizes the area as a wildlife corridor.²² Scientists consider the sediments in Bristol Lake to be important in determining the structural, hydrological, and paleo-climatic development of the Mojave region since the Pliocene.²³ This key natural area would make an excellent addition to the NLCS and should be included as National Conservation Lands.



Cadiz Valley/Iron Mountains

The Cadiz Valley-Iron Mountains region, consisting of approximately 188,540 total acres, is located in both San Bernardino and Riverside Counties, south of the town of Cadiz. The region is undoubtedly one of the most scenic and undeveloped areas remaining in the California Desert. In fact, the region includes



¹⁸ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

¹⁹ USDI-BLM, *California Wilderness Study Report*, Part 4, Volume 6, Big Maria Mountains CDCA-321, page 6.

²⁰ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

²¹ http://www.blm.gov/ca/pdfs/cdd_pdfs/fringe1.PDF

²² Menke, 12/10/13.

²³ Michael R. Rosen, “Sedimentology, Stratigraphy, and Hydrochemistry of Bristol Dry Lake, California, USA,” in EH Gierlowski-Kordesch and KR Kelts, eds., *Lake basins through space and time: AAPG Studies in Geology* 46, page 597.

the largest remaining unprotected roadless area in southeastern California. According to the CDFW's NDD, the Iron Mountains area is habitat for desert bighorn sheep, desert tortoise, Emory's crucifixion-thorn, Harwood's eriastrum, hepatic tanager, Mojave fringe-toed lizard and prairie falcon.²⁴ In 1999, a Gila monster was also seen in the area.²⁵ The region has 12 distinct plant communities, including wetlands, and the CDFW recognizes the area as a wildlife migration corridor.²⁶ Desert bighorn sheep have been found to migrate between the Iron Mountains and the Old Woman Mountains to the east, and scientists have noted the importance of maintaining this migratory path in order to ensure the continued viability of bighorn in the region.²⁷ Only the northern portion of the Cadiz Valley-Iron Mountain region is included in the National Conservation Lands in the Preferred Alternative. It is critically important that, with the exception of salt mines, the Colorado River Aqueduct and other developments, the remainder of this highly scenic, ecologically important and still largely wild region be included as well. If the portion indicated in red on the map above is also added to the National Conservation Lands, then this area will be fully represented in the system.

Danby Lake area

The Danby Lake area, consisting approximately 35,600 acres, is located in San Bernardino County, north/northeast of the intersection of Highways 62 and 177. The area is dominated by Danby Dry Lake. According to the CDFW's NDD, the area is habitat for desert bighorn sheep, Harwood's eriastrum, Harwood's milk-vetch, hepatic tanager, prairie falcon, slender cottonheads and small-flowered androstephium.²⁸ The area contains five distinct plant communities, including wetlands that are important to migratory birds. The CDFW recognizes the area as a wildlife migration corridor.²⁹ This region is of utmost importance to local indigenous people. This area abuts Ward Valley, a sacred area for five local Native American tribes. Ethnographic accounts tell of trails, including the "Salt Song Trail" that followed the Colorado River, passed east through the Chemehuevi Valley and connected early Native Americans with water sources at Mopah Spring and the salt mines at Danby Lake.³⁰ The Lake's ancient shoreline has also yielded several meteorite fragments.³¹ If the portion indicated in red on the map above for Cadiz Valley/Iron Mountains is also added to the National Conservation Lands, then this area will be fully represented in the system.

²⁴ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

²⁵ [http://www.bioone.org/doi/abs/10.3160/0038-3872\(2007\)106%5B39:AHOGMH%5D2.0.CO%3B2](http://www.bioone.org/doi/abs/10.3160/0038-3872(2007)106%5B39:AHOGMH%5D2.0.CO%3B2)

²⁶ Menke, 12/10/13.

²⁷ Epps, Clinton W., "Status of bighorn sheep in California," *Desert Bighorn Council Transactions*, Volume 47, page 24.

²⁸ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

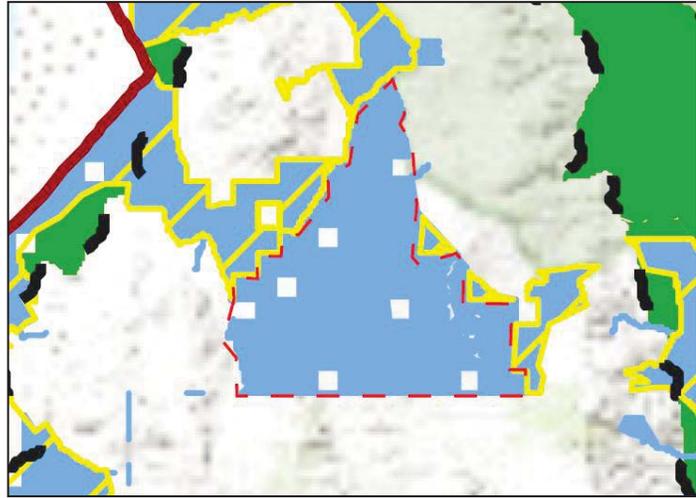
²⁹ Menke, 12/10/13.

³⁰ <http://www.scahome.org/publications/proceedings/Proceedings.24Musser-Lopez1.pdf>

³¹ <http://www.starcatching.com/mets.htm?danbydrylake>

Lower Centennial Flat

Lower Centennial Flat is located in Inyo County, about 13 miles east/northeast of Olancho. According to the CDFW's NDD, Lower Centennial Flat is habitat for Joshua tree, black-chinned sparrow, Brewer's sparrow, caespitose evening-primrose, Coso Mountains lupine, Costa's hummingbird, curved-pod milk-vetch, Darwin Mesa milk-vetch, Death Valley sandpaper-plant, Dedecker's clover, desert bird's beak, golden eagle, gray cryptantha, Great Basin onion, intermontane lupine, Inyo hulsea, Inyo



onion, Inyo rock daisy, King's eyelash grass, Le Conte's thrasher, Lincoln rockcress, loggerhead shrike, Mohave ground squirrel, Mojave fish-hook cactus, Mono County phacelia, Pinyon Mesa buckwheat, pinyon rockcress, prairie falcon, Tidestrom's milk-vetch, Townsend's big-eared bat, Watson's oxytheca and yellow warbler.³² This area also provides a habitat connection for bighorn sheep populations between the Coso Range and mountain ranges to the north.³³ While Lower Centennial Flat is proposed as a Mohave ground squirrel ACEC in the DRECP it is also worthy of National Conservation Lands designation. A recent study in Joshua Tree National Park provides strong evidence that Joshua tree regeneration at higher elevations reflects the population's response to climate change (Barrows et al. 2012). Greg Suba, Conservation Program Director for the California Native Plant Society, has noted that the many young Joshua trees present throughout Centennial Flat are likely 10-15 years old and could be exhibiting a similar response to climate change, underscoring the importance of conserving Joshua tree in this transitional habitat at the northwestern periphery of its range. When TWS staff visited the region on January 17, 2015, and CalWild staff visited the area on January 28, 2015, we were struck by the significant number of young Joshua trees in the area, especially as we drew closer to the Coso Range where a mature Joshua tree forest also thrives. The Timbisha Shoshone Tribe now owns 640 acres in this area. Although the Timbisha Shoshone Tribe was federally recognized in 1983, they did not receive a land base. In 2000, the Timbisha Homeland Act was signed into law, which authorized the Secretary of Interior to take into trust over 7,000 acres of land for the Tribe, including the 640 acres at Centennial Flat. The rock group U2 photographed the area heavily and used the pictures to adorn the cover of their 1987 album, *Joshua Tree*.³⁴ This area was originally proposed for renewable energy and associated transmission development by Inyo

³² http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

³³ While bighorn sheep have not been documented moving into and out of the Coso Range since China Lake Naval Weapons Center constructed a perimeter fence around the base after 9/11/2001, they were seen near Little Lake about ten years ago which attests to their continuing presence in the greater region. Dr. John Wehausen, pers. comm., 2/19/2015.

³⁴ <http://basementgeographer.com/just-where-is-u2s-joshua-tree/>

County as part of its Renewable Energy General Plan Amendment (REGPA), but the County dropped its proposal due to substantial objection by the public and local tribes. If the portion indicated in red on the map above is also added to the National Conservation Lands, then this area will be fully represented in the system.

Mule Mountains

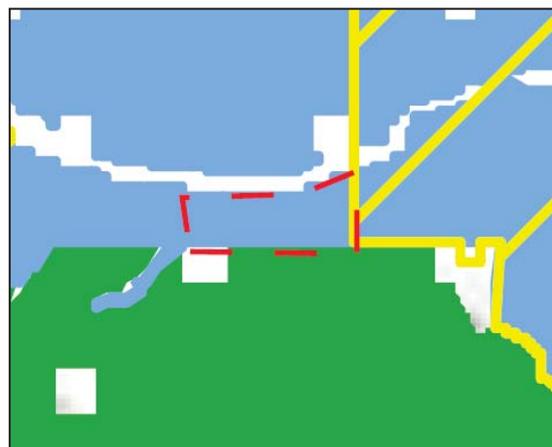
The Mule Mountains area, consisting of a total of approximately 24,580 acres, is located in Riverside County, north/northwest of Palo Verde and south/southwest of Blythe. According to the CDFW's NDD, the area is habitat for the endangered Gila woodpecker, and many other species, including Abrams' spurge, American badger, bitter hymenoxys, black-tailed gnatcatcher, burrowing owl, California leaf-nosed bat, California mellitid bee, cave myotis, Colorado River cotton rat, Colorado Valley woodrat, Couch's spadefoot, Crissal thrasher, desert beardtongue, desert tortoise, dwarf germander, Emory's crucifixion-thorn, gravel milk-vetch, Harwood's eriastrum, Harwood's milk-vetch, hoary bat, Le Conte's thrasher, loggerhead shrike, merlin, Mojave fringe-toed lizard, pallid bat, pallid San Diego pocket mouse, pink



fairy-duster, prairie falcon, Townsend's big-eared bat and vermilion flycatcher.³⁵ The area has been designated as critical habitat for the desert tortoise and it contains eight distinct plant communities.³⁶ The area also has extensive woodlands along its washes. These woodland thickets are a haven for songbirds and other creatures. There is also some evidence that bighorn sheep use the mountains.³⁷ Due to its remoteness, this area is also considered one of the best locations for astronomy studies in the low desert. We request that roadless portions of the Mule Mountains that overlap with the original Riverside East SEZ be classified as non-development areas within the SEZ/DFA. Any roadless portions of the Mule Mountains that are outside the original SEZ boundaries but within expanded East Riverside DFA boundaries should be excluded from the proposed DFA and managed as National Conservation Lands. These lands are indicated in blue on the map at right.

Palen-McCoy/Rice Valley

This area, consisting of approximately 23,800 acres, is located in Riverside and San Bernardino Counties, to the north of the existing Palen/McCoy Wilderness. According to the CDFW's NDD, this area is habitat for Abrams' spurge, Alverson's foxtail cactus, California leaf-nosed bat, desert bighorn sheep, desert tortoise,



³⁵ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

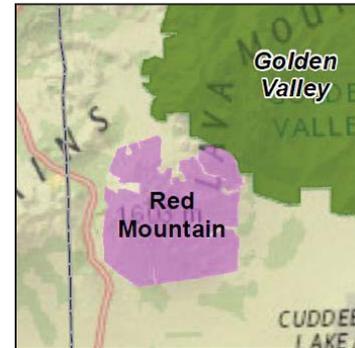
³⁶ Menke, 12/10/13.

³⁷ Clinton W Epps, "Population Processes in a Changing Climate: Extinction, Dispersal, and Metapopulation, Dynamics of Desert Bighorn Sheep in California" (Ph.D. diss., University of California, Berkeley, 2004), page 19.

Emory's crucifixion-thorn, Harwood's eriastrum, Harwood's milk-vetch, Las Animas colubrine, pallid bat, prairie falcon, slender cottonheads and small-flowered androstephium.³⁸ The area contains seven distinct plant communities, including ecologically important ironwood thickets. The area is also recognized as a wildlife migration corridor by the CDFW.³⁹ While the vast majority of the region is covered by National Conservation Lands in the DRECP Preferred Alternative, if the portion indicated in red on the map at left is also added to the National Conservation Lands, then the area will be fully represented in the system.

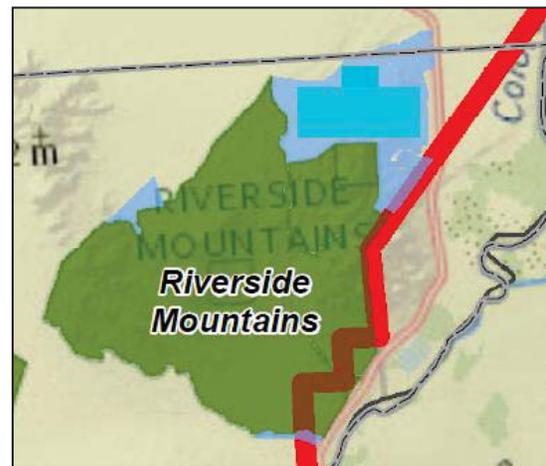
Red Mountain

The Red Mountain area is located in San Bernardino County, east of Johannesburg. According to the CDFW's NDD, the Red Mountain area is habitat for the Barstow woolly sunflower, desert cymopterus, desert tortoise, long-eared owl, Mojave ground squirrel, Mojave fish-hook cactus, and solitary blazing star.⁴⁰ The area is an important part of California's mining history. Nearby Atolia was the sight of a tungsten mine that was established in 1905 and officially ceased operations in 2007. Numerous ruins remain from this mine and other abandoned mines in the area. Red Mountain itself is largely roadless, and deserves protection given that most of the non-wilderness BLM lands in that portion of the desert are heavily roaded. The proposed National Conservation Lands unit is shown in purple on the map at right.



Riverside Mountains

The Riverside Mountains area, consisting of approximately 5,360 acres, is located in both Riverside and San Bernardino Counties, north of Blythe. According to the CDFW's NDD, this area is habitat for several endangered species -- the elf owl, Gila woodpecker, and western yellow-billed cuckoo.⁴¹ The area is also habitat for the American badger, California barrel cactus, California leaf-nosed bat, cave myotis, Crissal thrasher, desert tortoise, elf owl, foxtail cactus, gilded flicker, prairie falcon, Townsend's big-eared bat, pallid bat, vermilion flycatcher, and white desertsnailed.⁴² The area contains seven distinct plant communities.⁴³ This area's close proximity to the Colorado River increases the probability that it possesses critical cultural resources. CalWild identified a roadless area contiguous with the existing Riverside Mountains Wilderness and we request that the BLM include the roadless area (shown here in blue) in the National Conservation Lands.



³⁸ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

³⁹ Menke, 12/10/13.

⁴⁰ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

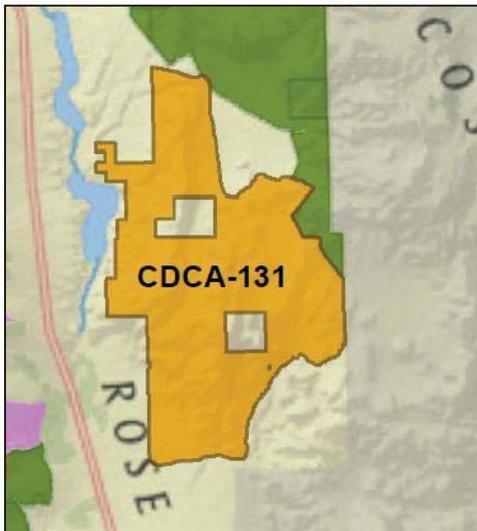
⁴¹ Ibid.

⁴² Ibid.

⁴³ Menke, 12/10/13.

Rodman Mountains

The Rodman Mountains area, consisting of a total of approximately 18,400 acres, is located in San Bernardino County, south/southeast of Newberry Springs. According to the CDFW's NDD, the Rodman Mountains area is habitat for Boyd's monardella, creamy blazing star, Darlington's blazing star, desert bighorn sheep, desert tortoise, golden eagle, Mojave menodora, Mojave monkeyflower, prairie falcon and purple-nerve cymopterus.⁴⁴ This area is designated critical habitat for the desert tortoise and is recognized as a wildlife migration corridor by the CDFW.⁴⁵ It also contains nine distinct plant communities.⁴⁶ The Rodman Mountains are an extremely important stronghold for the imperiled desert tortoise. Desert tortoise population surveys found a density of 3.8 tortoises per square kilometer in the Rodman Mountains in 2008.⁴⁷ This was the fourth highest population density found of the 17 sites sampled in the Mojave Desert (densities in the 17 sites ranged from five per square kilometer to 0.4).⁴⁸ In 2009, the Rodman Mountains were found to have a population density of 7.1 tortoises per square kilometer, which was the fifth highest of the 15 sites sampled in the Mojave Desert.⁴⁹ CalWild staff visited this area in early 2014 and encountered petroglyphs there. While the vast majority of the region is covered by National Conservation Lands in the DRECP Preferred Alternative, if the portion indicated in red on the map above is also added to the National Conservation Lands, then the area will be fully represented in the system.



Rose Valley/McCloud Flat

The Rose Valley/McCloud Flat area is located in Inyo County, north of Little Lake. The BLM surveyed this area and determined it to have wilderness characteristics. According to the CDFW's NDD, the area is habitat for the endangered Owens Valley checkerbloom, Amargosa beardtongue, American badger, black-tailed gnatcatcher, Booth's evening-primrose, Brewer's sparrow, burrowing owl, Coso Mountains lupine, Costa's hummingbird, creamy blazing star, Darwin Mesa milk vetch, desert bighorn sheep, desert bird's-beak, desert tortoise, golden eagle, gray cryptantha, Kern Canyon clarkia, Kern ceanothus, Le Conte's thrasher, loggerhead shrike, Mohave ground squirrel, northern harrier, northern sagebrush lizard, Owens Valley vole, pallid bat, Panamint kangaroo rat, Pinyon Mesa buckwheat, prairie falcon, San Emigdio blue butterfly, sanicle cymopterus, silver-haired bat, Swainson's hawk, Townsend's big-eared bat, winged cryptantha and Wong's springsnail.⁵⁰ Scholarly reports conclude that the introduction of the bow and arrow

⁴⁴ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

⁴⁵ Menke, 12/10/13.

⁴⁶ Ibid.

⁴⁷ USFWS, Range-Wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2008 AND 2009, Reporting Prepared by Linda Allison, Desert Tortoise Monitoring Coordinator, September, 2012, page 57.

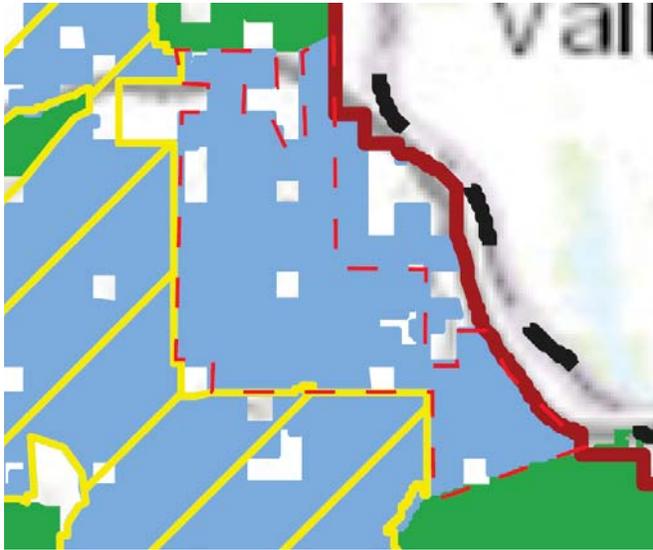
⁴⁸ Ibid.

⁴⁹ USFWS, page 58.

⁵⁰ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

to North American indigenous people likely occurred in the Rose Valley area.⁵¹ Similar to the Coso Range, the Rose Valley area constitutes an extremely significant cultural landscape, with many important cultural and historical resources and sites. Fossil Falls was once a major village site for local tribes, with much evidence of occupation remaining today, and the Little Lake-Fossil Falls area is probably the densest site for Indian rock art in the Highway 395 corridor. While the majority of the area shown in yellow as CDCA-131 at left is covered by National Conservation Lands in the DRECP Preferred Alternative, we request that appropriate additional portions of the area be included as well to better protect its superlative values.

Sacramento Mountains



The Sacramento Mountains are located in San Bernardino County, south/southwest of Needles. The region is noted for its fascinating rock formations and diverse terrain. Despite their proximity to Needles and the Colorado River and the presence of four-wheel drive routes in the area, the Sacramento Mountains are still somewhat undiscovered by visitors. While the area is accessed by vehicle routes, CalWild identified six roadless areas in the Sacramento Mountains with a combined size of 81,570 acres. According to the CDFW's NDD, this area is habitat for the endangered Arizona Bell's vireo, Gila woodpecker,⁵² desert bighorn sheep, desert

tortoise, Le Conte's thrasher, mountain plover, narrow-leaved psorothamnus, pallid bat, prairie falcon, spiny-hair blazing star, vermilion flycatcher and yellow-breasted chat.⁵³ A portion of the region has also been designated critical habitat for the desert tortoise.⁵⁴ While the majority of the region is covered by National Conservation Lands in the DRECP Preferred Alternative, if the portion indicated in red on the map above is also added to the National Conservation Lands, then this unique and deserving area will be fully represented in the system.

⁵¹ Yohe, Robert M., "THE INTRODUCTION OF THE BOW AND ARROW AND LITHIC RESOURCE USE AT ROSE SPRING (CA-INY-372)," *Journal of California and Great Basin Anthropology*, Vol. 20, No. 1, pp. 26-52 (1998).

⁵² http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

⁵³ Ibid.

⁵⁴ Menke, 12/10/13.

Silurian Valley/Kingston Range/Silurian Hills

The Silurian Valley/Kingston Range/Silurian Hills region is located in San Bernardino County, south of Dumont Dunes OHV Area and east of Highway 127. According to the CDFW's NDD, species that have habitat in this area include the black-tailed gnatcatcher, Borrego milk-vetch, Brewer's sparrow, burrowing owl, California horned lark, Clark Mountain buckwheat, desert bighorn sheep, desert pincushion, desert tortoise, golden eagle, Great Basin onion, Le Conte's thrasher, loggerhead shrike, Mojave fringe-toed lizard, New York Mountains cryptantha, pallid bat,



Providence Mountains milk-vetch, ribbed cryptantha, small-flowered androstephium, Tidestrom's milk-vetch, white bear poppy and winged cryptantha.⁵⁵ Silurian Valley provides an essential hydrologic link in the Amargosa Watershed. Salt Creek drains the extensive basin formed by Silurian Valley, capturing relatively high amounts of run-off from the entire south and west slopes of the Kingston Range (through Kingston Wash) and the east face of the very high Avawatz Mountains. The relatively large amount of water flowing through the aquifers here becomes apparent at the large and well-watered Salt Spring. Only a few miles below Salt Spring, Salt Creek meets the Amargosa River on its journey to Death Valley. Designating this region as National Conservation Lands would protect the critical hydrologic resources of the Amargosa watershed. Furthermore, the Silurian Valley is now something that is quite rare: A relatively undisturbed California Desert landscape. From the Boulder transmission lines in the south to Ibex Pass in the north, there are few signs of modern industrial development. The Old Spanish Trail passed through Silurian Valley. This Trail is an important part of our nation's history. The Old Spanish Trail became the fifteenth national historic trail when Congress adopted it and President George W. Bush signed the bill in December, 2002. The Old Spanish Trail linked two provinces of Mexico, separated by such difficult topography and climatic extremes that, despite attempts beginning as early as 1776, a route was not successfully opened until 1829.⁵⁶ The route was then combined with other existing trails, and this allowed for international trade between the United States and Mexico via Santa Fe.⁵⁷ While the majority of the region is covered by National Conservation Lands in the DRECP Preferred Alternative, if the portion indicated in red on the map above is also added to the National Conservation Lands, then this scenic, ecological and cultural jewel will be fully represented in the system. A decision to add these lands to BLM's National Conservation Lands will also be consistent with BLM's recent decision to deny a variance application for solar development in this area due to its superlative values.

⁵⁵ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

⁵⁶ http://www.oldspanishtrail.org/learn/trail_history.php

⁵⁷ Ibid.

Valley Mountain

The Valley Mountain area, consisting of approximately 15,060 acres, is located in San Bernardino County, northeast of Twentynine Palms.

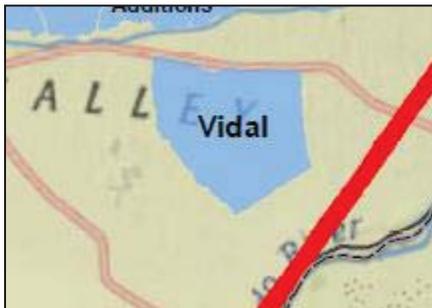
According to the CDFW's NDD, species that have habitat in the area include the burrowing owl and desert tortoise.⁵⁸ The region has six distinct plant communities, which include the barrel cactus and smoke trees.⁵⁹ The area is in a rapidly-urbanizing region



with a very high average road density. Valley Mountain and the adjacent Cleghorn Lakes Wilderness form an island of roadless open space that can help to serve as a wildlife connection between protected areas such as the Pinto Mountains Wilderness and Joshua Tree National Park to the south. The area is shown in blue above.

Vidal

The Vidal area, consisting of approximately 7,520 acres, is located in San Bernardino County, west of Parker. According to the CDFW's NDD, the area is habitat for the endangered Yuma clapper rail and the endangered western yellow-billed cuckoo.⁶⁰ It is also habitat for the American badger, and desert tortoise.⁶¹ CalWild's surveyor witnessed about a dozen burro deer in the area when he visited. The area is designated critical habitat for the desert tortoise and it contains four distinct plant communities.⁶² One can also find ecologically-significant ironwood



thickets in some of this area's many washes. These woodlands teem with songbirds (including the beautiful western bluebird) and other life. The area's close proximity to the Colorado River increases the probability that it contains important cultural resources. As the only roadless area between the Whipple Mountains Wilderness and Riverside Mountains Wilderness, Vidal can help to provide habitat connections in an increasingly fragmented region. The area is shown in blue at left.

⁵⁸ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

⁵⁹ Menke, 12/10/13.

⁶⁰ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

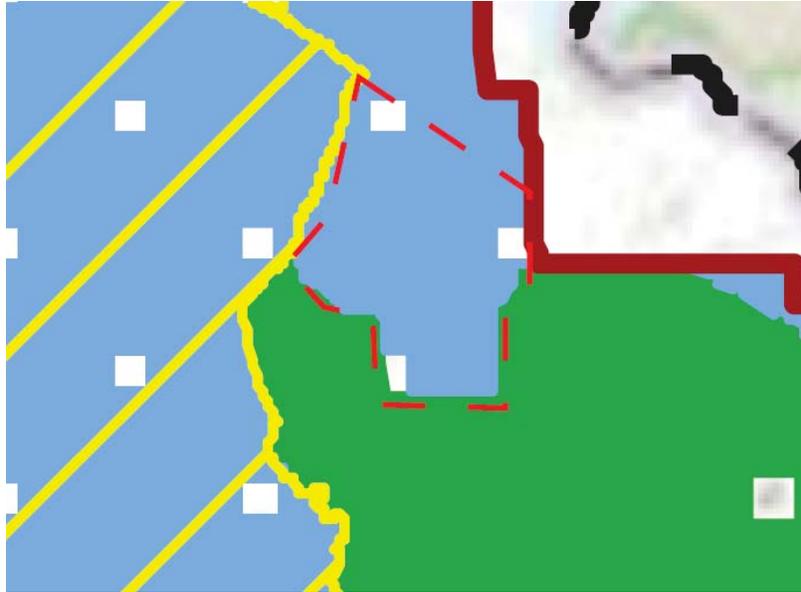
⁶¹ Ibid.

⁶² Menke, 12/10/13.

Whipple Mountains

The Whipple Mountains area, consisting of a total of approximately 103,670 acres, is located in San Bernardino County, northwest of Parker. CalWild staff surveyed the region and identified eleven roadless areas that are either near, or adjacent to, the existing Whipple Mountains

Wilderness. According to the CDFW's NDD, the area is habitat for several endangered species, including the Arizona bell's vireo, California black rail, elf owl, Gila woodpecker, gilded flicker, western yellow-billed cuckoo and Yuma clapper rail.⁶³ The area also provides habitat for the American badger, bald eagle, Bendire's thrasher, brown-crested flycatcher, California leaf-nose bat, cave myotis, Colorado River cotton rat, Colorado Valley woodrat, Crissal thrasher, desert bighorn



sheep, desert tortoise, loggerhead shrike, northern cardinal, pallid bat, Townsend's big-eared bat, vermilion flycatcher, western mastiff bat, white desert snail, yellow-breasted chat and Yuma myotis.⁶⁴ The Whipple Mountains provide superior nesting and foraging habitat for several raptors including the prairie falcon, golden eagle, red-tailed hawk, and Cooper's hawk.⁶⁵ Most of the eleven roadless areas units in this region are critical habitat for the desert tortoise.⁶⁶ The CDFW also recognizes this area as a wildlife migration corridor.⁶⁷ The region hosts many types of plants and plant communities, including Abrams' spurge, Arizona pholistoma, Aven Nelson's phacelia, bare-stem larkspur, bitter hymenoxys, Cove's cassia, creosote bush scrub, Darlington's blazing star, desert beardtongue, desert pincushion, Emory's crucifixion-thorn, glandular ditaxis, iron wood, Kofa barberry, palo verde, smoke tree, small-flowered androstephium, spear-leaf matelea, spiny-hair blazing star, wand-like fleabane daisy, and many types of cactus, Arizona fishhook, foxtail, prickly pear, saguaro and Wiggins' cholla.⁶⁸ Several portions of this area extend into the Chemehuevi Valley, known ancestral land for early Native Americans. The area is very close to the Colorado River and the Colorado River Reservation. Ethnographic accounts tell of trails, including the "Salt Song Trail" that followed the Colorado River and passed through the Chemehuevi Valley.⁶⁹ Ethnographies suggest as many as four trails traversed these lands and went directly through the Whipple Mountains from the Turtle Mountains to the Colorado

⁶³ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

⁶⁴ Ibid.

⁶⁵ California BLM description of Whipple Mountains Wilderness

http://www.blm.gov/ca/st/en/fo/needles/wilderness/whipple_mountains.html

⁶⁶ US Fish and Wildlife Service Critical Habitat portal <http://ecos.fws.gov/crithab/>

⁶⁷ Menke, 12/10/13.

⁶⁸ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

⁶⁹ Musser-Lopez, Ruth Arlene and Steve Miller, ARCHAEOLOGICAL TRAILS AND ETHNOGRAPHIC TRAILS: CAN THEY MEET?, SCA Proceedings, Volume 24, 2010, pages 6, 7, 8.

River.⁷⁰ Several trails over the Whipples from Chemehuevi Valley to Parker have been described by Native American tribal members in interviews.⁷¹ A portion of the Whipple Mountains is designated as an ACEC and, according to the BLM's 1989 description, "The area contains a large series of sensitive cultural resources."⁷² A private report lists the following cultural resources found within the ACEC: rock shelters, caves, trails, and habitation sites, as well as mythological and religious sites important to the Mohave.⁷³ While the majority of the region is covered by National Conservation Lands in the DRECP Preferred Alternative, if the portions indicated in red on the map above are also added to the National Conservation Lands, then this critically important wild land will be fully included in the system.

White Mountains/Deep Springs Valley

This area incorporates the lower eastern slopes of the White Mountains that abut remote Deep Springs Valley. While the BLM has recommended some portions of this area for National Conservation Lands, including Antelope Spring, other areas surveyed by BLM (see Attachment B) were not recommended for National Conservation Lands designation. We believe additional public lands in this area should be recommended. At a minimum, additional National Conservation Lands should include White Mountain City (historic mining ruins with petroglyphs indicative of previous Native American occupation),⁷⁴ and any additional habitat for the threatened black toad that is on public lands.

H. Areas BLM has proposed for National Conservation Lands in the Preferred Alternative

We would like to thank the BLM for recommending the following areas for National Conservation Lands designation in the Preferred Alternative.

Afton Canyon

This stretch of the Mojave River is famous for its outstanding scenery and important riparian habitat where such sensitive species as the desert bighorn sheep find refuge.

Amargosa River Region

The Amargosa Basin contains one of the two largest assemblages of endemic and rare species in North America—desert fish, rare plants, mammals, and birds. The Amargosa River is truly a ribbon of life and one of the natural wonders that serves to make the California Desert such a special place.

Amboy Crater

This 250' high symmetrical volcanic cinder cone is a favorite of visitors to the desert due to the area's fascinating geology and outstanding scenery. The area also provides habitat for many species, including the Mojave fringe-toed lizard and desert bighorn sheep.

⁷⁰ Ibid, p. 13.

⁷¹ James E. Snead, Clark L. Erickson, J. Andrew Darling, *Landscapes of Movement*, 2009, Pages 95-97

⁷² <https://archive.org/details/areasofcriticale33unit>

⁷³ Kaldenberg, Russell L., A CONSTRAINTS STUDY OF CULTURAL RESOURCE SENSITIVITY WITHIN THE CALIFORNIA DESERT, 2008.

⁷⁴ <http://www.ghosttowns.com/states/ca/whitemountaincity.html>

Avawatz Mountains

Numerous springs feed lush desert oases that provide water to bighorn sheep, bobcats and other species. Reminders of thousands of years of Native American history abound. Members of the Shoshone Nation continue to visit the area for spiritual and cultural purposes.

Ayers Rock

This area, listed on the National Register of Historic Places, includes three pictograph panels carved into a monolith. In pre-contact times the area served as a camp and ceremonial site.

Big Morongo Canyon

The area is especially high in plant and wildlife diversity due to its location within a transition zone between the Mojave and Colorado Deserts. The area includes an oasis and marsh that is one of the ten largest cottonwood and willow riparian habitats in California. The Audubon Society has also identified it as one of the most important avian habitat areas in California.

Black Lava Buttes/Flat Top Mesa

This area contains abundant petroglyphs and other reminders of a long history of use by Native Americans.

California Valley

This lovely and remote region provides a critical habitat connection between the Nopah Range, Kingston Range and Pahrump Valley for such sensitive species as the desert tortoise.

Castle Mountains

The Castle Mountains area, surrounded by the Mojave National Preserve, is a critical linkage between the Piute Mountains and the New York Mountains. The high-quality desert habitat of the Castle Mountains ensures the long-term survival of the Joshua tree woodlands and many wildlife species found here, including desert bighorn sheep, which use the area as both a habitat and a wildlife corridor between the water-poor Piute Mountains and the wetter New York Mountains.

Chemehuevi Valley

This area is designated critical habitat for the desert tortoise and it provides a home for other species such as desert bighorn sheep and golden eagle as well. Biologists have determined that it is still feasible to create migration corridors between the Chemehuevi Valley tortoise population and other populations in the region.

Chicago Valley

Chicago Valley is a critically important part of the Amargosa watershed, which supports numerous rare and endemic plants and animals. The area is also a critically important Native American cultural site.

Chuckwalla Bench

The area is habitat for the endangered elf owl and is designated critical habitat for the desert tortoise. The flora on the Bench is one of the richest in the Colorado Desert within California, with at least 158 plant species occurring here. The Chuckwalla Bench, being easily accessible

via the historic Bradshaw Trail, also provides one of the most rewarding recreational experiences in the Colorado Desert.

Coso Range

This spectacular mountain range south of Owens Lake is noted for its extensive high-elevation Joshua tree forest (habitat that is even more important during a period of climate change), outstanding views of the Sierra Nevada, endangered species habitat and Native American rock art.

Dublin Hills

These hills are habitat for the critically endangered Amargosa vole. They are also a treasure trove of geological intrigue -- geode beds, petrified wood, and a long and rich mining history.

Fossil Falls

This geologically and culturally rich site illustrates the how the erosional forces of the Owens River polished and sculpted the volcanic rock in this area. This region is not only a scenic wonder, but also a favorite among geology enthusiasts. Extensive lithic scatters and rock rings reveal a long history of Native American use. The area also provides unique interpretive opportunities and includes a popular hiking trail.

Indian Pass/Milpitas Wash/Palo Verde Mountains

The Milpitas Wash provides critical habitat for numerous species -- the desert tortoise, mountain lion, long-eared owl, leaf nose bat, Merriam and desert kangaroo rat, long tail and little pocket mice, Bullock's and hooded orioles, towhees, white-crowned sparrow, Brewer's sparrow, warbler, black-headed grosbeak, diamondback rattler and the endangered Gila woodpecker. The area also supports the largest Sonoran Desert woodland in North America.

Indian Wash

This series of intricately-braided washes in Imperial County drains the rugged Indian Pass Wilderness and the colorful Cargo Muchacho Mountains. The washes shelter thickets of ironwood, palo verde and other riparian trees and shrubs that provide a welcome refuge for songbirds, burro deer and other species seeking a respite from the often sparsely-vegetated Colorado Desert.

Inyo Mountains (eastern slope)

This area borders Death Valley National Park and contains important lower elevation alluvial fans that flow from the steep canyons of the Inyo Mountains.

Juniper Flats

The public lands portion of this area is habitat for Joshua trees, and pinyon, juniper and oak woodlands. Juniper Flats has historically been a cultural center for Native Americans and early American loggers and miners, and contains an historic access route. The Pacific Crest National Scenic Trail skirts the southern portion of Juniper Flats for several miles. We also support the proposed Granite Mountain corridor ACEC which will add further protection to the lands around Juniper Flats.

Little Cowhorn Valley

This area situated below Little Cowhorn Valley is west of Death Valley National Park, en route to Eureka Valley from Big Pine. It occupies a steep alluvial fan and contains a particularly dense Joshua tree woodland; Scott's orioles, cactus wrens and other species that thrive in Joshua tree woodlands are found here. This Joshua tree woodland is one of the northernmost groves of Joshua trees in the California Desert.

Malpais Mesa-Conglomerate Mesa-Santa Rosa Flat

This area contains an extensive "nursery" of young Joshua trees across the extensive Santa Rosa Flat and other lands nearby. Staff and local experts affiliated with the California Native Plant Society believe the Santa Rosa Flat area will become increasingly important to Joshua tree recruitment in an era of climate change.

Middle Knob

This area is habitat for the endangered California condor and includes a very scenic section of the Pacific Crest National Scenic Trail. The area preserves something that is becoming quite rare: A wild and roadless portion of the Tehachapi Mountains.

Mojave Trails/Route 66

The most scenic and historic part of Route 66 arguably lies between Ludlow and Fenner. Thousands of visitors, from all over the world, flock to visit this area each year. In wet years the Mojave Trails region contains some of the most extensive wildflower blooms in the California Desert.

Olancha Dunes

This area, consisting of active sand dunes, is remarkable for the large, old growth greasewood shrubs (*Sarcobatus vermiculatus*) that grow atop these ancient dunes. The dunes provide habitat for the endangered least Bell's vireo and Owen's Valley checkerbloom. It is also habitat many other species, including the golden eagle, western snowy plover, mountain plover, yellow breasted chat, Owens Valley vole, Mohave ground squirrel, pallid bat, Yuma myotis, sanicle cymopterus and short-pedicelled cleomella.

Orocopia Mountains

The region is a striking landscape of open valleys, ridges, and dramatically colored and eroded canyons, primarily created by the San Andreas Fault. The canyons and washes are deep and often extremely long, with exposed walls shaded in red, brown, yellow and black. A species of plant new to science, *Euphorbia jaegeri* (Orocopia Mountains spurge), was recently found in the Orocopia Mountains and only one other location.⁷⁵ The area has been designated critical habitat for the desert tortoise.

Palen Lake

This area is habitat for many species including the burrowing owl, desert bighorn sheep, desert tortoise and golden eagle. The lake shore is also the site of several ancient Native American communities.

⁷⁵ <http://scholarship.claremont.edu/aliso/vol30/iss1/2/>

Panamint Valley

The area is habitat for the endangered Inyo California towhee, and other species, including desert bighorn sheep, golden eagle, and Mohave ground squirrel. The Wildrose Wash area is recognized as wildlife migration corridor, and because of its proximity to Death Valley National Park and the Surprise Canyon Wilderness, likely helps to buffer these areas and maintain habitat connections between these wild areas and other wild lands across the Panamint Valley.

Panamint Valley also is home to the popular ghost town of Ballarat and the recently designated Nadeau Recreation Trail.

Patton Military Camps

These camps are an important part of our nation's history and we are quite pleased that the BLM is working to preserve them for future generations to appreciate. The Patton camps serve as a reminder of the tremendous accomplishments of America's "Greatest Generation."

Pinto Mountains

The combined Pinto Mountains, Joshua Tree National Park and Chuckwalla Mountains tortoise population is one of only a few in the entire range of the species that includes more than 10,000 individuals.⁷⁶ A population minimum of 10,000 per population is considered critical for the continued viability of the desert tortoise.⁷⁷

Ragtown

The area, with its multi-colored sands and rocks, is an important scenic backdrop for the historic Route 66. In addition, John Sutter discovered gold in this area (Bagdad-Chase) in about 1898, 50 years after the discovery at Sutter's Mill.⁷⁸

Rainbow Basin/Owl Canyon

This area, due to its unusual formations and multicolored sands and rocks, is one of the most scenic areas in California's deserts. It is designated as an ACEC due to its landscape features and paleontological resources.

Shadow Valley

This area contains a northward extension of the famous Cima Dome pygmy Joshua tree forest. As such, it harbors dense populations of desert tortoise; the southern portion of Shadow Valley is part of the Ivanpah DWMA, an area where tortoise conservation has been prioritized. It is also a frequently-used forage area for raptors such as golden eagles and prairie falcons, and is a migration corridor linking the Kingston Range and Clark Mountain.

Ship Mountains

This area is critical habitat for the desert tortoise and is recognized as a wildlife migration corridor. The area is also an extremely important sacred and symbolic place for indigenous people. The Chemehuevi and other neighboring tribes have traveled Mojave trails, including

⁷⁶ Averill-Murray, Roy C., "CONSERVING POPULATION LINKAGES FOR THE MOJAVE DESERT TORTOISE (GOPHERUS AGASSIZII)," *Herpetological Conservation and Biology* 8(1), page 2.

⁷⁷ Ibid.

⁷⁸ Miller, Richard, Ghost Towns of California: Remnants of the Mining Days, 2008, p. 44.

those leading from the Ship Mountains to and from the Old Woman Mountains, for thousands of years.

Short Canyon

More than 290 species of plants inhabit this area. It is a region frequented by neotropical migratory birds after wintering in Central and South America and for wintering birds who move out of the Sierra Nevada from December through March. In wet springs Short Canyon contains one of the best wildflower blooms in the desert.

Silurian Valley

We thank the BLM for proposing to place a significant portion of Silurian Valley in National Conservation Lands. Please see our discussion as to why we believe the area proposed for National Conservation Lands designation by BLM should be expanded to include the entire Silurian Valley, including the Silurian Hills.

Slate Range

The Slate Range area is one of the largest unprotected wild areas remaining in the California Desert. The mountains rise steeply above the Panamint Valley and contribute significantly to the legendary beauty of the region. Watching the sun rise behind the Slates is a very special experience.

Sperry Hills/Kingston Range

The western Sperry Hills provide a vital habitat corridor between the Kingston Range and the protected areas of Death Valley National Park. The Sperry Hills have also yielded fossilized camel prints.⁷⁹ The area serves as an important scenic backdrop for Highway 127, the “gateway” to Death Valley National Park, as well as the Old Spanish National Historic Trail. According to the Timbisha Shoshone Tribe, this area is important to local Native American tribes and indigenous trails can be found there.

Trona Pinnacles

This area is an awe inspiring geologic wonder. The 500 plus tufa pinnacles rise as high as 140 feet to create an unusual and beautiful scenic area.

White Mountains (eastern slope)/Cottonwood Creek

The areas recommended for National Conservation Lands about a large Forest Service roadless area in the White Mountains. It contains important lower elevation habitat. However, please see our discussion as to why we believe that additional areas in the White Mountains/Deep Springs Valley area should also be placed in National Conservation Lands.

Whitewater River

This riparian habitat hosts the endangered southwest willow flycatcher and Bell’s vireo, and numerous other species. The area is an important wildlife corridor between the San Bernardino and San Jacinto Mountains.

⁷⁹ <http://biology.fullerton.edu/Dept/facilities/dsc/pdf/2006makingtracks.pdf#page=51>

IV. LANDS WITH WILDERNESS CHARACTERISTICS

BLM now has current guidance requiring updating its inventory of lands with wilderness characteristics and considering protection of those values. FLPMA requires the BLM to inventory and consider lands with wilderness characteristics during the land use planning process. 43 U.S.C. § 1711(a); *see also Ore. Natural Desert Ass'n v. BLM*, 625 F.3d 1092, 1099 (9th Cir. 2010) (“In other words, wilderness characteristics are among the ‘resource and other values’ of the public lands to be inventoried under § 1711.”). Manuals 6310 and 6320 contain mandatory guidance on implementing that requirement. Wilderness inventories are to be done on a *continuing* basis and relevant citizen-submitted data is to be evaluated (BLM Manual 6310.04 (C)(1)). This includes the “necessary forms for each area” including photo logs, route analysis forms and inventory area evaluations (Manual 6310, Appendices A-D). Manual 6310 reiterates that, “[r]egardless of past inventory, the BLM must maintain and update as necessary, its inventory of wilderness resources on public lands.” Manual 6320 requires BLM to consider lands with wilderness characteristics in land use planning, both in evaluating the impacts of management alternatives on lands with wilderness characteristics and in evaluating alternatives that would protect those values.

A. Inventory of Lands with Wilderness Characteristics should be transparent, complete, and accurate – in compliance with Manual 6310.

1. Actions needed to comply with applicable law and guidance.

Section III.14 of the draft plan, evaluating the Affected Environment, addresses “BLM Land Designations, Classifications, Allocations, and Lands with Wilderness Characteristics.” In discussing the inventory conducted under the plan, this section does **not** reference Manual 6310 – although it does refer to applicable sections of FLPMA and BLM’s Land Use Planning Handbook. *See*, draft plan, pp. III.14-38 – III.14-40. The lack of reference to Manual 6310 must be corrected and BLM must confirm that it is using and complying with the current policy guidance.

As noted above, FLPMA and Manual 6310 require BLM to update its inventory, including during planning processes like the DRECP. However, BLM did not inventory the entire DRECP planning area for wilderness characteristics. Rather, “BLM completed a wilderness characteristics inventory for those lands that could potentially be impacted within Development Focus Areas (DFAs) proposed under the Plan.” Draft plan, p. III-14-39. This inventory identified approximately 638,000 acres of lands with wilderness characteristics (Table III.14-V⁸⁰), and we appreciate BLM’s efforts to conduct a significant inventory within the planning area. However, the inventory is clearly not complete and does not fulfill BLM’s obligations under Manual 6310 and FLPMA to maintain a current inventory of lands with wilderness characteristics. The Preferred Alternative provides that BLM will “[c]omplete an inventory of areas for proposed development that do not have an updated wilderness characteristics inventory.” Draft plan, p. II.3-423. This approach is insufficient. In order to comply with its obligations under FLPMA and

⁸⁰ Other acreages appear in the draft plan – i.e., 643,000 acres at p. II.3-422; 633,000 acres at p. II.4-57. A consistent number should be identified by BLM.

Manual 6310, BLM should inventory potential lands with wilderness characteristics, regardless of whether they are within areas proposed for development. We strongly support BLM completing its inventory of lands with wilderness characteristics as part of the DRECP, making the inventory available for public input and incorporating the results into the final plan.

Further, the manual specifically references consideration of new information “including wilderness characteristics information submitted by the public.” BLM Manual 6310.04(C)(1)). CalWild has submitted information that meets the standards set out in Manual 6310 and BLM should evaluate this data, as well as the specific comments on BLM inventory set for the below, and incorporate that data into a final inventory of lands with wilderness characteristics.

Further, BLM’s inventory procedures require that necessary forms are completed for each area (included as appendices to Manual 6310), and that a Permanent Documentation File for each area is developed and updated (BLM Manual 6310.06 (B)(4)). Proper documentation of inventory findings is to include relevant narratives, maps, photographs, new information and any other relevant information (BLM Manual 6310.06 (A)). This information should be published online, or otherwise released to the public as soon as documentation files are complete, and BLM should respond to new information and comments submitted on preliminary inventory findings. Instruction Memorandum 2013-106⁸¹ provides additional guidance regarding public and cooperating agency involvement in the LWC inventory and planning process. The IM instructs that BLM field offices should make finalized and signed wilderness characteristics inventory findings available to the public “as soon as practicable after their completion and before the inventory data is used to inform decisions.” Unfortunately, BLM has yet to post its inventory on the DRECP website or the DRECP Gateway on Databasin. BLM can and should post its current inventory data on the DRECP site and DRECP Gateway so it can be easily accessed; and BLM can also continue to post updates to the inventory as it completes the inventory and evaluates the information provided by CalWild.

We recognize the enormity of the undertaking of inventorying this planning area and strongly support the agency’s ongoing efforts to complete an inventory, update it based on additional data and comments, and make it readily available.

Recommendations: BLM must conduct a thorough inventory of the planning area in explicit compliance with Manual 6310 that addresses the entire planning area. BLM must evaluate the inventory data presented by CalWild and incorporate this data into its inventory. Further, BLM must make its inventory data available to the public as it completes the inventory and incorporate comments provided on that inventory into the final plan. Finally, BLM should expand its inventory of lands with wilderness characteristics based on the specific recommendations set out below.

⁸¹ Available online at: http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2013/IM_2013-106.html

2. Specific inventory unit comments

As a framework for our specific comments, we highlight some governing principles for accurate inventories.

- a. Assessment of wilderness characteristics should not be overly conservative and should look at apparent naturalness and the standalone opportunities of each unit.

BLM Manual 6310 directs, “avoid an overly strict approach to assessing naturalness.” BLM Manual 6310.06 (C)(2)(b)(ii)(2). BLM is to assess *apparent naturalness*, which the manual distinguishes from natural integrity, meaning that naturalness determinations should be based on whether an area looks natural to the average visitor regardless of ecosystem health. Features listed in Manual 6310 that may be considered “substantially unnoticeable” and thus have no effect on apparent naturalness include trails, spring developments, fencing, stock ponds, and certain types of linear disturbances. Furthermore, the manual specifically states that “undeveloped ROWs and similar undeveloped possessory interests (e.g., mineral leases) are not treated as impacts to wilderness characteristics because these rights may never be developed” BLM Manual 6310.06(C)(3)(d).

Impacts to naturalness must be documented to allow the public to adequately review and understand said impacts. BLM should not only photograph and map substantially noticeable human impacts located within the boundaries of a wilderness inventory unit, but should describe in the associated narrative how these impacts, either individually or cumulatively, detract from the apparent naturalness of the unit as a whole. BLM Manual 6310 also requires Route Analysis forms for boundary roads and for routes that are considered to be substantially noticeable impacts to naturalness. These Route Analysis forms are critical to provide the public with the rationale behind naturalness and unit boundary determinations.

We note that Manual 6310 emphasizes the importance of the word “or” in determining whether an area possess outstanding opportunities for solitude **or** a primitive and unconfined type of recreation:

Determine if the area has outstanding opportunities for solitude or a primitive and unconfined type of recreation. The word “or” in this sentence means that an area only has to possess one or the other. The area does not have to possess outstanding opportunities for both elements, nor does it need to have outstanding opportunities on every acre, even when an area is contiguous to lands with identified wilderness characteristics. In most cases, the two opportunities can be expected to go hand-in-hand. An outstanding opportunity for solitude, however, may be present in an area offering only limited primitive recreation potential. Also, an area may be so attractive for primitive recreation that it would be difficult to maintain an opportunity for solitude.

BLM Manual 6310.06 (C)(2)(c).

The manual provides important detailed information for making determinations as to outstanding opportunities, including that BLM should not compare the lands in question with other parcels.

Id. Each area should be evaluated on its own merits, regardless of whether its qualities are perceived to be common or typical of a planning area, or how it compares to other wilderness-quality lands.

Furthermore, Manual 6310 plainly states that “an area can have wilderness characteristics even though every acre within the area may not meet all the criteria” BLM Manual 6310.06 (C)(3)(e). BLM should assess the overall qualities of an area, and not disqualify primarily natural areas based on minimal impacts.

Supplemental values should be documented, such as important habitat and other elements of ecosystem integrity. However, the presence or absence of those elements should not affect an area’s naturalness for purposes of lands with wilderness characteristics inventory according to Manual 6310.

- b. Boundary delineation should be used to define LWC areas, including through adjusting units and cherry-stemming.

BLM Manual 6310 states that the “boundary [for a wilderness characteristics inventory unit] is usually based on the presence of wilderness inventory roads” but can also be based on changes in property ownership or developed rights-of-way. Wilderness inventory roads are further defined as those roads that are “improved and maintained by mechanical means to insure relatively regular and continuous use... A route that was established or has been maintained solely by the passage of vehicles would not be considered a road for the purposes for wilderness inventory, even if it used on a relatively regular and continuous basis” (BLM Manual 6310.07). As stated above, Route Analysis forms are required to document that routes used as boundaries meet the criteria for wilderness inventory roads.

Where substantially noticeable human impacts do occur within a potential LWC unit, BLM should make an attempt to cut them out of the unit, either through the cherry-stemming of wilderness inventory roads or by cutting out sub-sections of the potential unit entirely, in order to determine if a smaller area can be identified that still meets the size criteria but that doesn’t contain substantially noticeable impacts such as wilderness inventory roads, well pads, or other features. Manual 6310 directs BLM to define the area to “exclude wilderness inventory roads and other substantially noticeable human-caused impacts,” and that “lands located between individual human impacts should not be automatically excluded” (BLM Manual 6310.06 (C)(3)).

- c. Manageability considerations should not be part of determining whether lands have wilderness characteristics.

Section 201 of FLPMA requires BLM to maintain on a continuing basis an inventory of all public lands and their resources and other values, which includes wilderness characteristics. BLM Manual 6310 directs the agency to meet this obligation by maintaining and updating as necessary its inventory of wilderness resource on public lands. BLM must inventory all potential lands with wilderness characteristics, regardless of potential manageability of those characteristics. This inventory serves as the information base from which BLM makes land use decisions, and therefore must precede planning decisions.

The inventory process should not be conflated with management of lands with wilderness characteristics. BLM should not eliminate areas from inventory because they may be difficult to manage; rather those areas should be inventoried and the full results of those inventories—including road determinations, photographs, and maps detailing the locations of the photographs—should be released for public review and verification. If BLM finds them to possess wilderness characteristics, then BLM can decide whether or how to manage those characteristics. Potential manageability for wilderness characteristics does not affect BLM’s obligation to maintain an accurate inventory of wilderness resources on the public lands.

d. Additional lands with wilderness characteristics

As is noted above, in order to understand the potential impacts of the DRECP on wilderness resources, CalWild launched its own LWC survey in 2013. CalWild’s inventory was completed on January 26, 2014. The survey:

- Followed the protocols and definitions described in BLM Manual 6310 (Conducting Wilderness Characteristics Inventory on BLM Lands);
- Identified 39 areas covering 1,140,488 acres that met the definition of LWC; and
- Was described in 1,168 pages of photographs, maps and other materials that documented the size, naturalness, outstanding opportunities for either solitude or primitive and unconfined recreation and supplemental values of each area.

This information and associated GIS data was submitted to the BLM California State Office on January 28, 2014, and it was shared with BLM California Desert District staff on January 31, 2014. On March 19, 2014, CalWild submitted a letter to California Desert District Manager Teri Raml requesting that the BLM “review our material and use it to inform the preferred alternative in the DRECP.” A copy of the letter was also submitted to BLM State Director Jim Kenna.

Below, we describe additional areas that meet the criteria to be identified as lands with wilderness characteristics. Some of these areas were incorrectly evaluated by BLM and some are additional areas identified by CalWild. We also reserve the right to continue to submit comments as BLM updates its inventory.

Lands identified by CalWild as LWC in 2013-2014⁸²

CalWild LWC	Acreage
Argos	10,448
Ash Hill	19,149

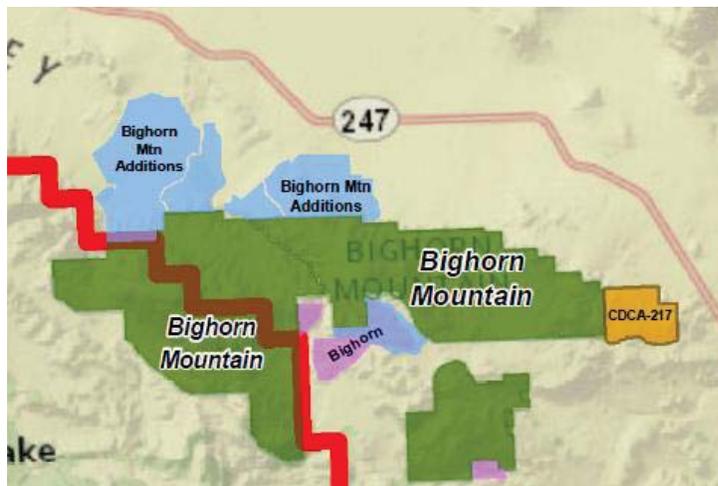
⁸² CalWild did not survey roadless areas proposed for protection as wilderness, potential wilderness, or national monuments in Senator Dianne Feinstein’s California Desert Conservation and Recreation Act given the unlikelihood that these areas would be threatened with development. CalWild also did not survey lands that the BLM had already surveyed and found to meet the definition of LWC.

CalWild LWC	Acreage
Big Maria Mountains Additions	17,257
Bighorn Mountain Additions	11,434
Bristol Lake	39,535
Chemehuevi Valley North	15,461
Chemehuevi Valley South	14,301
Chuckwalla Mountains Additions	59,298
Coso Range Additions	14,161
Danby Lake	35,606
Dublin Hills	14,391
Hollow Hills Additions	6,631
Iron Mountains-Cadiz Valley	188,538
John Muir Additions	2,352
Kingston Range Additions	30,121
Knight Canyon	10,566
Little Chuckwalla Mountains Additions	14,058
Mule Mountains	24,577
Newberry Mountains Additions	5,571
Nopah Range Additions	18,982
Orocopia Mountains Additions	21,438
Osborne Canyon	7,433
Palen Lake	16,020
Palen-McCoy Additions	23,804
Pinto Mountains Additions	28,820
Ragtown	21,183
Red Mountain	10,360
Resting Spring Range Additions	7,391
Riverside Mountains Additions	5,357
Rodman Mountains	18,395
Sacramento Mountains	81,571
Ship Mountains	34,520
Snow Canyon	11,831
Stepladder Mountains Additions	65,602
Turtle Mountains Additions	87,840
Valley Mountain	15,058
Vidal	7,520
Whipple Mountains Additions	103,670
Wildrose Wash	20,238

CalWild LWC	Acreage
Total	1,140,488

When the BLM’s LWC surveys are complete, we intend to offer extensive comments on whether or not the areas listed above should be managed to retain their wilderness characteristics or should be protected in some other fashion. In the meantime, please note that we believe that the following areas surveyed by CalWild contain superlative wilderness values and other resources that are worthy of the strongest possible administrative protections as LWCs.

Bighorn Mountain Additions: The Bighorn Mountain Wilderness and its adjacent roadless lands form an important ecological transition zone between the high country of the San Bernardino Mountains and the Mojave Desert. According to the CDFW’s NDD, the following



species of interest have been either recorded or have suitable habitat in the area: Baldwin Lake linanthus, Big Bear Valley milk-vetch, Big Bear Valley woollypod, Cienega Seca oxytheca, creamy blazing star, Cushenbury buckwheat, Cushenbury milk-vetch, desert tortoise (federal and state threatened), flat-seeded spurge, fringed myotis, golden eagle (a state fully-protected and watch-list species), Le Conte's thrasher (a state species of special concern), Lincoln rockcress,

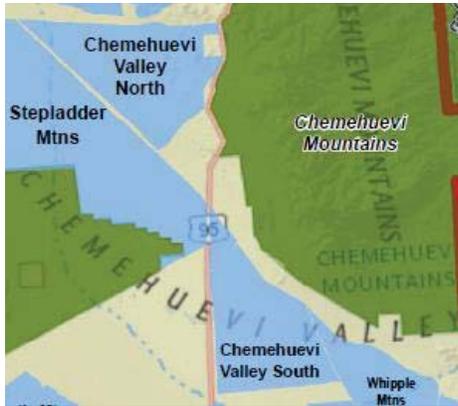
Little San Bernardino Mountains linanthus, long-legged myotis, Mohave tui chub (federal and state endangered), Mojave monkeyflower, Parish's daisy, Parish's rockcress, pinyon rockcress, San Bernardino milk-vetch, San Bernardino Mountains dudleya, Shockley's rockcress, southern mountain buckwheat, summer tanager (a state species of special concern), thorny milkwort, Townsend's big-eared bat (a state species of special concern and a candidate for federal listing as threatened), western small-footed myotis and white-bracted spineflower.⁸³ While desert bighorn sheep were extirpated from the area, it is considered “transient bighorn sheep range” that could support the species again at some point in the future.⁸⁴ The LWC units are also designated critical habitat for the Cushenbury buckwheat, Cushenbury milk-vetch and Parish's daisy, and it is also recognized by the CDFW as a wildlife migration corridor.⁸⁵

⁸³ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

⁸⁴ USDI-BLM, *California Wilderness Study Report*, Part 4, Volume 6, Bighorn Mountains CDCA-217, page

3.

⁸⁵ GIS analysis completed by Kurt Menke of Bird’s Eye View GIS on 12/10/13.



Chemehuevi Valley: While much of this vast desert valley has been roaded and fragmented by various types of development, it still contains several roadless portions that offer visitors a rare opportunity to visit wild and intact bajadas. According to the CDFW's NDD, the following species of interest have been either recorded or have suitable habitat in the area: Arizona pholistoma, Bendire's thrasher (a state species of special concern), desert bighorn sheep (a state fully-protected species), desert tortoise (federal and state threatened), Emory's crucifixion-thorn,

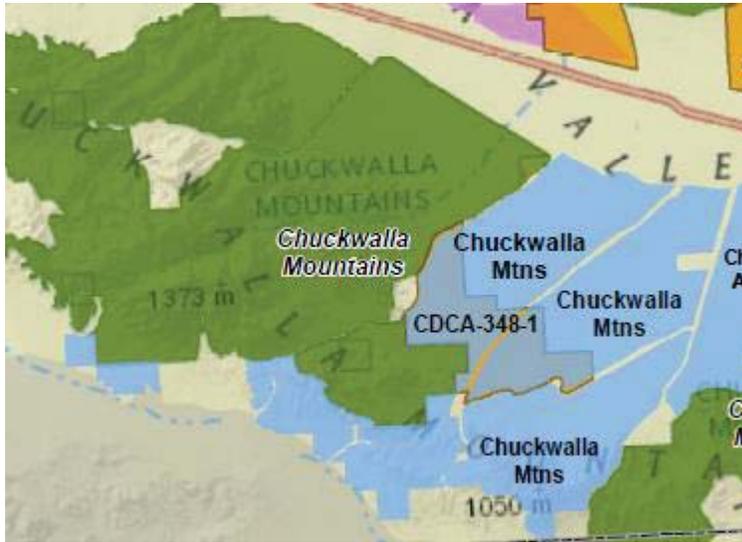
glandular ditaxis, golden eagle (a state fully-protected and watch-list species), Le Conte's thrasher, loggerhead shrike (a state species of special concern), narrow-leaved psorothamnus, prairie falcon (a state watch-list species) and spiny-hair blazing star.⁸⁶ The LWC units are also designated critical habitat for the desert tortoise.⁸⁷ The importance of the Chemehuevi Valley to the continued viability of the desert tortoise cannot be exaggerated. Scientists note that the region contained some of the highest tortoise population densities in the eastern Mojave Desert with 115 tortoises per square-mile (densities exceeding 100 of the creatures per square-mile only occur in between 2-8% of tortoise habitats).⁸⁸ Biologists have determined that it is feasible to create corridors for the Chemehuevi Valley tortoise population and the populations in the Pinto Mountains, Chuckwalla Mountains and Ivanpah Valley.⁸⁹

⁸⁶ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

⁸⁷ GIS analysis completed by Kurt Menke of Bird's Eye View GIS on 12/10/13.

⁸⁸ Grover, Mark C., *Desert Tortoise: Status-of-Knowledge Outline With References*, USDA-USFS, July, 1995, page 21.

⁸⁹ Averill-Murray, Roy C., "CONSERVING POPULATION LINKAGES FOR THE MOJAVE DESERT TORTOISE (GOPHERUS AGASSIZII)," *Herpetological Conservation and Biology* 8(1), page 2.



Chuckwalla Mountains Additions:

The region offers one of the few remaining areas in the California Desert where both rugged mountains and adjacent bajadas can still be managed as an intact ecosystem. The varied terrain of the Chuckwalla region supports a stunning array of plants and animals. According to the CDFW's NDD, the following species of interest have been either recorded or have suitable habitat in the area: Alverson's foxtail cactus, American badger (a state species of

special concern), black-tailed gnatcatcher, California ayenia, California ditaxis, Colorado Valley woodrat, Cove's cassia, Crissal thrasher (a state species of special concern), desert beardtongue, desert bighorn sheep (a state fully-protected species), desert spike-moss, desert tortoise (a state and federal threatened species), elf owl (a state endangered species), glandular ditaxis, Harwood's milk-vetch, Las Animas colubrine, Le Conte's thrasher (a state species of special concern), Mojave fringe-toed lizard (a state species of special concern), Munz's cholla, pallid bat (a state species of special concern), pink fairy-duster, prairie falcon (a state watch-list species), roughstalk witch grass, sand evening-primrose, slender-spined all-thorn, spear-leaf matelea and western mastiff bat (a state species of special concern).⁹⁰ The LWC units are also designated critical habitat for the desert tortoise.⁹¹ The Chuckwalla Mountains are an extremely important stronghold for the imperiled desert tortoise. The combined Pinto Mountains, Joshua Tree National Park and Chuckwalla Mountains tortoise population is one of only a few in the entire range of the species that includes more than 10,000 individuals.⁹² A population minimum of 10,000 per population is considered critical for the continued viability of the desert tortoise.⁹³ The "Chuckwalla Bench" is an area of gentle terrain between the Chuckwalla Mountains and the Chocolate Mountains. The region is partially included in the LWC. Scientists and nature lovers have long noted its great biological diversity. For example:

The flora on the bench is one of the richest in the Colorado Desert within the State, and at least 158 plant species occur here. In the sandy, gravelly areas a number of shrubs and annuals are present including mesquite, *Prosopis glandulosa* var. *torreyana*, creosote bush, *Larrea tridentata*, catclaw, *Acacia greggii*, ocotillo, *Fouquieria splendens*, and nine species of cactus. In the

⁹⁰ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

⁹¹ GIS analysis completed by Kurt Menke of Bird's Eye View GIS on 12/10/13.

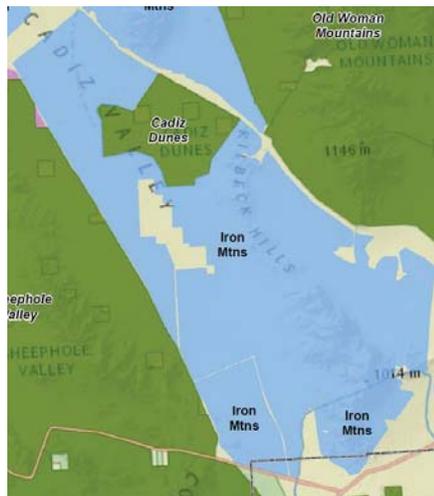
⁹² Averill-Murray, Roy C., "CONSERVING POPULATION LINKAGES FOR THE MOJAVE DESERT TORTOISE (*GOPHERUS AGASSIZII*)," *Herpetological Conservation and Biology* 8(1), page 2.

⁹³ Ibid.

washes palo verde, *Cercidium floridum*, smoke tree, *Psoralea argophylla*, and desert willow, *Chilopsis linearis*, are common. Four rare or endangered plants occur here, among them the Munz cholla, *Opuntia munzii*. The largest and densest known population of this plant is found on the bench. Other species include *Escoberia vivipara* var. *alversonii*, *Ditaxis californica* and *Ditaxis clariana*. Animal life is diversified and abundant. Of particular note is the dense population of the desert tortoise, *Gopherus agassizi*, found here, with up to 200 individuals per square mile (2.5 square kilometers). The pronghorn, *Antilocapra americana*, once was abundant on the bench but disappeared in the early 1950s. Proposals have been made to reintroduce it.⁹⁴

The Chuckwalla Mountains region is popular among hikers, rock hounders, birders, equestrians, hunters, history buffs, off-road vehicle enthusiasts and people engaged in a wide variety of other recreational pursuits. The fact that it is near Interstate 10 and the Bradshaw Trail, among other routes, makes it a desirable location to explore. Existing legally-open routes can easily be cherry-picked from the proposed LWC units.

Iron Mountains-Cadiz Valley: CalWild staff determined that the Iron Mountains-Cadiz Valley region includes three areas of LWC shown in blue on the map below that are a combined 188,538 acres in size. This makes the region the largest remaining non-wilderness BLM roadless area in the CDCA. According to the CDFW's NDD, the following species of interest have been either recorded or have suitable habitat in the area: desert bighorn sheep (a state fully-protected species), desert tortoise (a state and federal threatened species), Emory's crucifixion-thorn, Harwood's eriastrum, hepatic tanager (a state watch-list species), Mojave fringe-toed lizard (a state species of special concern) and prairie falcon (a state watch-list species).⁹⁵ In 1999 a Gila monster was also observed in the Cadiz Valley.⁹⁶ The LWC is also recognized as a wildlife migration corridor by the CDFW and it contains important wetlands.⁹⁷ Interestingly, the bighorn sheep in the Iron Mountains have been found to migrate between the Irons and the Old Woman Mountains.⁹⁸ The importance of this habitat link between the Iron and Old Woman mountains is dramatically illustrated by Clinton Wakefield Epps who wrote that:



Thus “sink” populations in lower, drier habitat may also play a critical role, by serving as reservoirs of healthy animals in the event of a disease outbreak in nearby higher, wetter

⁹⁴ http://biohere.com/natural_areas/california/Imperial_County/chuckwalla_bench.htm

⁹⁵ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

⁹⁶ See [http://www.bioone.org/doi/abs/10.3160/0038-3872\(2007\)106%5B39:AHOGMH%5D2.0.CO%3B2](http://www.bioone.org/doi/abs/10.3160/0038-3872(2007)106%5B39:AHOGMH%5D2.0.CO%3B2)

⁹⁷ Menke, 12/10/13.

⁹⁸ Epps, Clinton W., “Status of bighorn sheep in California,” *Desert Bighorn Council Transactions*, Volume 47, page 24.

habitat. For example, when a respiratory disease was suspected to kill a number of adult sheep in the Old Woman Mountains in summer of 2002, no evidence of the disease was found in the nearby Iron Mountains (B. Gonzales, personal communication). The Iron Mountain population has gone extinct at least once, being arid and poorly watered (Epps et al. 2004), and was recently recolonized by sheep from the Old Woman Mountains (Epps 2005). Had the disease in the Old Woman Mountains proved catastrophic, bighorn sheep from the Iron Mountains could potentially have recolonized the Old Woman Mountains.⁹⁹

Mr. Epps also theorized that, over time, the Iron Mountains bighorn sheep population may make contact with the population in the Granite Mountains in the Palen/McCoy Wilderness to the south.¹⁰⁰ It is imperative in our view that such migration corridors be protected and even improved, if possible. All legally-open roads in the area can easily be cherrystemmed from the proposed LWC lands.

Little Chuckwalla Mountains Additions: The bajadas sweeping north from the Little Chuckwalla Mountains contain washes where ecologically-important ironwood thickets thrive. According to the CDFW's NDD, the following species of interest have been either recorded or have suitable habitat in the area: American badger (a state species of special concern), desert tortoise (a state and federal threatened species), Mojave fringe-toed lizard (a state species of special concern), pink fairy-duster, roughstalk witch grass, prairie falcon (a state watch list species) and sand evening-primrose.¹⁰¹ The LWC unit is designated critical habitat for the desert tortoise and it is recognized by the CDFW as a wildlife migration corridor.¹⁰² The washes in the area teem with songbirds.

Pinto Mountains Additions: The Pinto Mountains Wilderness borders the northern boundary of Joshua Tree National Park. According to the CDFW's NDD, the following species of interest



have been either recorded or have suitable habitat in the area: Abram's spurge, Alverson's foxtail cactus, desert bighorn sheep (a state fully-protected species) and desert tortoise (state and federally-listed as threatened).¹⁰³ The LWC unit is designated critical habitat for the desert tortoise.¹⁰⁴ The Pinto Mountains are an extremely important stronghold for the imperiled desert tortoise.

⁹⁹ Clinton W Epps, "Population Processes in a Changing Climate: Extinction, Dispersal, and Metapopulation, Dynamics of Desert Bighorn Sheep in California" (Ph.D. diss., University of California, Berkeley, 2004), page 67.

¹⁰⁰ Op cit., page 94.

¹⁰¹ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

¹⁰² Menke, 12/10/13.

¹⁰³ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

¹⁰⁴ Menke, 12/10/13.

Desert tortoise population surveys found a density of 2.5 tortoises per square kilometer in the Pinto Mountains in 2008.¹⁰⁵ This was the ninth highest population density found of the 17 sites sampled in the Mojave Desert (densities in the 17 sites ranged from five per square kilometer to 0.4).¹⁰⁶ In 2009, the Pinto Mountains were found to have a population density of five tortoises per square kilometer, which was the sixth highest of the 15 sites sampled in the Mojave Desert.¹⁰⁷ The combined Pinto Mountains, Joshua Tree National Park and Chuckwalla Mountains tortoise population is one of only a few in the entire range of the species that includes more than 10,000 individuals.¹⁰⁸ A population minimum of 10,000 per population is considered critical for the continued viability of the desert tortoise.¹⁰⁹

Sacramento Mountains: The Sacramento Mountains are among the most scenic and remote regions in southeastern California. The area’s striking rock formations and highly varied terrain makes it particularly scenic. According to the CDFW’s NDD, the following species of interest have been either been recorded or have suitable habitat in the area: Arizona Bell’s vireo (a state endangered species), desert bighorn sheep (a state fully-protected species), desert tortoise (a state and federal threatened species), Gila woodpecker (a state endangered species), Le Conte’s



thrasher (a state species of special concern), mountain plover (a state species of special concern), narrow-leaved psorothamnus, pallid bat (a state species of special concern), prairie falcon (a state watch-list species), spiny-hair blazing star, vermilion flycatcher (a state species of special concern) and yellow-breasted chat (a state species of special concern).¹¹⁰ Two of the LWC units in the Sacramento Mountains are designated critical habitat for the desert

tortoise.¹¹¹ While there are legally-open vehicle routes in the Sacramento range that are important for recreation, these routes can easily be excluded from the proposed LWC by cherrystemming them.

¹⁰⁵ USFWS, Range-Wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2008 AND 2009, Reporting Prepared by Linda Allison, Desert Tortoise Monitoring Coordinator, September, 2012, page 57.

¹⁰⁶ Ibid.

¹⁰⁷ USFWS, page 58.

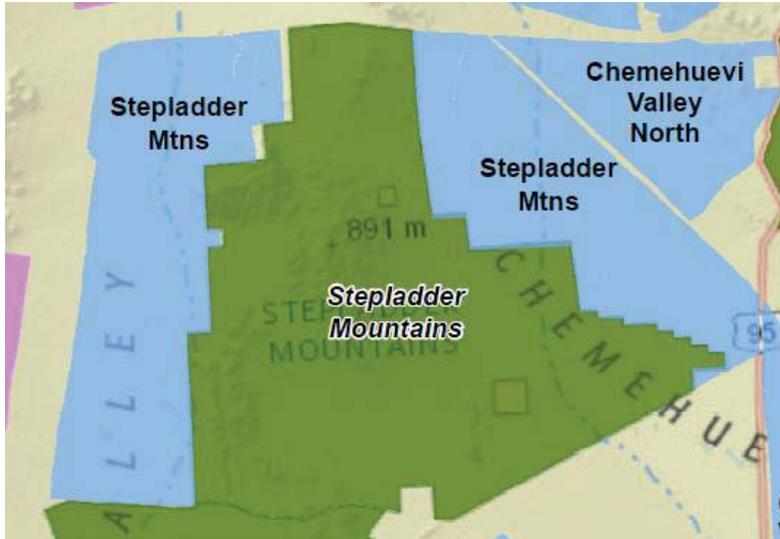
¹⁰⁸ Averill-Murray, Roy C., “CONSERVING POPULATION LINKAGES FOR THE MOJAVE DESERT TORTOISE (*GOPHERUS AGASSIZII*),” *Herpetological Conservation and Biology* 8(1), page 2.

¹⁰⁹ Ibid.

¹¹⁰ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

¹¹¹ Menke, 12/10/13.

Stepladder Mountains Additions: The Stepladder-Turtle-Whipple region is one of the wildest remaining regions in the CDCA. According to the CDFW's NDD, the following species of interest have been either recorded or have suitable habitat in the area: desert bighorn sheep



(a state fully-protected species), desert tortoise (federal and state threatened), Emory's crucifixion-thorn, glandular ditaxis, golden eagle (a state fully-protected and watch-list species), Le Conte's thrasher, burrowing owl (a state species of special concern), lobed ground-cherry and prairie falcon (a state watch-list species).¹¹² The LWC units are also designated critical habitat for the desert tortoise and the CDFW considers them to be

wildlife migration corridors.¹¹³ The importance of the Chemehuevi Valley to the continued viability of the desert tortoise cannot be exaggerated. Scientists note that the region contained some of the highest tortoise population densities in the eastern Mojave Desert with 115 tortoises per square-mile (densities exceeding 100 of the creatures per square-mile only occur in between 2-8% of tortoise habitats).¹¹⁴ Biologists have determined that it is feasible to create corridors for the Chemehuevi Valley tortoise population and the populations in the Pinto Mountains, Chuckwalla Mountains and Ivanpah Valley.¹¹⁵ Additionally, the Western unit is in Ward Valley, a known sacred area for five Native American tribes.¹¹⁶

Turtle Mountains Additions: The Turtle Mountains are characterized by numerous and highly scenic spires, pinnacles, mesas, and buttes and many of the rock formations are striped with red, orange, and purple hues. The area is rumored to have several natural arches. The Turtle Mountains Wilderness and its adjacent roadless lands form an important ecological connection between the Colorado River and the inland Sonoran and Mojave deserts. Although scientists disagree on where the exact transition area is between the Mojave and Sonoran deserts, a map from the Arizona-Sonora Museum¹¹⁷ shows that the Turtle Mountains, Mopah Mountains, and

¹¹² http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

¹¹³ GIS analysis completed by Kurt Menke of Bird's Eye View GIS on 12/10/13.

¹¹⁴ Grover, Mark C., *Desert Tortoise: Status-of-Knowledge Outline With References*, USDA-USFS, July, 1995, page 21.

¹¹⁵ Averill-Murray, Roy C., "CONSERVING POPULATION LINKAGES FOR THE MOJAVE DESERT TORTOISE (GOPHERUS AGASSIZII)," *Herpetological Conservation and Biology* 8(1), page 2.

¹¹⁶ "Ward Valley Nuclear Waste Dump Defeated by Tribes," Healing Ourselves and Mother Earth (HOME) website: <http://www.h-o-m-e.org/nuclear-colonialism/ward-valley-ca.html>

¹¹⁷ Arizona-Sonora Museum http://www.desertmuseum.org/images/csds/sonoran_map-lg.jpg

surrounding LWC are within the transition zone between the Mojave and Sonoran deserts. Much of the area is designated critical habitat for the federally threatened Desert tortoise.¹¹⁸ Additionally, it is recognized by the CDFW as a wildlife migration corridor.¹¹⁹ According to the CDFW's NDD, the following species of interest have been either recorded or have suitable habitat in the area: state and federally listed threatened desert tortoise, desert bighorn sheep, prairie falcon, Le Conte's thrasher, Cove's cassia, Arizona pholistoma, desert beardtongue, three-awned grama, burrowing owl, Bendire's thrasher, Mojave fringe-toed lizard, Abrams' spurge, Harwood's milk-vetch, Harwood's eriastrum, and Emory's crucifixion-thorn.¹²⁰ Beyond these species, the BLM identifies other wildlife inhabitants of the area, including coyote, black-tailed jackrabbits, ground squirrels, kangaroo rats, quail, roadrunners, golden eagles, rattlesnakes, and several species of lizards.¹²¹ The Turtle Mountains were also the site of the discovery of ancient packrat middens that helped biologists better understand the vegetation of the area between 13,900 and 19,500 years ago.¹²² Mummified buds and seeds from pinyon pine were found at two packrat midden locations within the Turtle Mountains, suggesting that the tree existed at a lower latitude and elevation than scientists had previously thought.¹²³ This finding shifted scientific thinking regarding the range and extent of ancient woodlands in what is now the California Desert.¹²⁴ The area is crossed by one of the branches of the "Salt Song Trail," a route used by early Native Americans to travel between the Colorado River and inland water sources and to gather salt at Danby Lake. Additionally, the lower elevations of this unit encompass portions of Ward Valley, a known sacred area for five local Native American tribes.¹²⁵

¹¹⁸ US Fish and Wildlife Service Critical Habitat portal <http://ecos.fws.gov/crithab/>

¹¹⁹ GIS analysis completed by Kurt Menke of Bird's Eye View GIS on 12/10/13.

¹²⁰ California Department of Fish and Wildlife's (CDFW) Natural Diversity Database

¹²¹ California BLM website Turtle Mountains Wilderness:

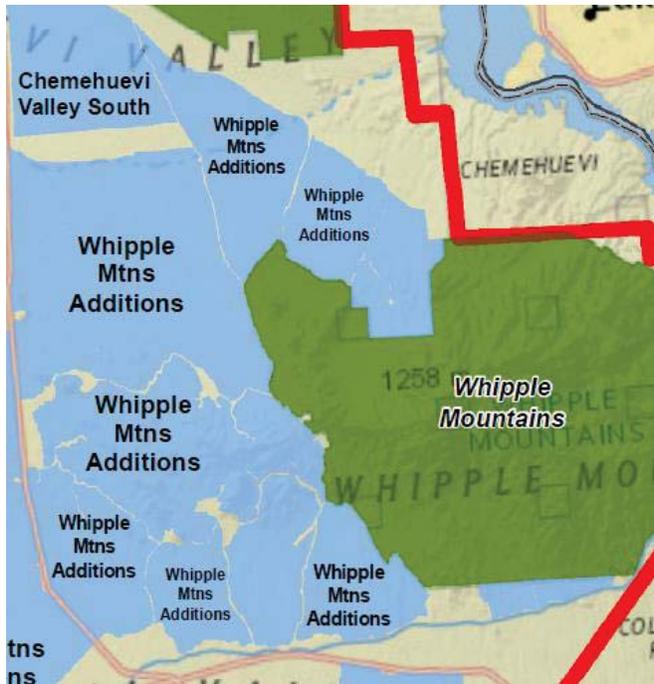
http://www.blm.gov/ca/st/en/fo/needles/wilderness/turtle_mountains.html

¹²² Berger, Rainer and Philip V. Wells, "Late Pleistocene History of Coniferous Woodlands in the Mohave Desert," *Science*, New Series, Vol. 155, No. 3770, 1967.

¹²³ *Ibid*

¹²⁴ *Ibid*

¹²⁵ "Juggling a Hot Potato Named Nuclear Waste : Hearings on Ward Valley disposal site plan could have national impact on issues of safety and responsibility," *LA Times*, April 20, 1992: http://articles.latimes.com/1992-04-20/local/me-262_1_ward-valley.



Whipple Mountains Additions: The Whipple Mountains form an important ecological connection between the Colorado River and the inland Sonoran and Mojave deserts. Although scientists disagree on where the exact transition area is between the Mojave and Sonoran deserts, a map from the Arizona-Sonora Museum¹²⁶ show the Whipple Mountains Wilderness and LWC are situated very close to the transition zone between the two deserts. Botanists also situate the Whipples in a transition zone, and a floristic survey conducted in 2007 revealed plants from 383 taxa, including species from both the Sonoran and Mojave Deserts as well as several Arizona plants at the edges of their ranges.¹²⁷ According to

the same study, the Whipple Mountains have more plants in common with Joshua Tree National Park than any other flora used in comparison.¹²⁸ The Whipple Mountains provide superior nesting and foraging habitat for a number of raptors; including prairie falcons, golden eagles, red-tailed hawks, and Cooper's hawks.¹²⁹ According to the CDFW's NDD, the following state and/or federally listed threatened and/or endangered species have been either been recorded or have suitable habitat in the area: desert bighorn sheep, Colorado Valley woodrat, cheeseweed owl, bitter hymenoxys, saguaro, glandular ditaxis, vermilion flycatcher, California leaf-nose bat, Yuma myotis, Townsend's big-eared bat (candidate for state listing), western mastiff bat, Arizona woodland, Graham fishhook cactus, narrow-leaved psoralea, Aven Nelson's phacelia, desert germander, Darlington's blazing star, slender cottonheads, bare-stem larkspur, desert beardtongue, small-flowered androstachyon, yellow-breasted chat, pallid bat, Colorado River cotton rat, desert pincushion, Emory's crucifixion-thorn, American badger, brown-crested flycatcher, Crissal thrasher, yellow-breasted chat, northern cardinal, cave myotis, white desert snail, Alverson's foxtail cactus, Abrams' spurge, wand-like fleabane daisy, Cove's cassia, Arizona pholistoma, bare-stem larkspur, three-awned grama, loggerhead shrike, spear-leaf matelea, Kofa barberry, spiny-hair blazing star, Bendire's thrasher, and Wiggins' cholla.¹³⁰ All

¹²⁶ Arizona-Sonora Museum http://www.desertmuseum.org/images/csds/sonoran_map-1g.jpg

¹²⁷ De Groot, Sarah J. (2007) "Vascular Plants of the Whipple Mountains," *Aliso: A Journal of Systematic and Evolutionary Botany*: Vol. 24: Iss. 1, Article 6.

¹²⁸ Ibid.

¹²⁹ Ibid

¹³⁰ California Dept. of Fish and Wildlife Natural Diversity Database <http://www.dfg.ca.gov/biogeodata/cnddb/mapsanddata.asp>

but two of the LWC units are within designated critical habitat for the federally threatened desert tortoise.¹³¹ The area is also recognized by the CDFW as a wildlife migration corridor.¹³²

B. Management

Manual 6320 guides management decisions for lands with wilderness characteristics; and BLM accurately quotes its options to: (1) emphasize other multiple uses as a priority over protecting wilderness characteristics, (2) emphasizing other multiple uses while applying management restrictions to reduce impacts to wilderness characteristics, and (3) protecting wilderness characteristics as a priority over other multiple uses. Draft plan, p. III.14-10. However, BLM also summarizes the standard making decisions regarding management as “Lands with wilderness characteristics may be considered in land use planning decisions when BLM determines that those characteristics are reasonably present, of sufficient value and need, and practical to manage.” Draft plan, pp. III.14-1 – 14-2. This is not an accurate summary of the manner in which BLM is to make management decisions under Manual 6320. Rather, Manual 6320 prescribes that BLM should look at manageability and resources values and uses, balancing costs and benefits of management. Manual 6320, pp. 3-4. BLM should ensure that its management decisions are based on an accurate evaluation of manageability and impacts to other uses from protecting wilderness characteristics, both positive and negative.

1. Actions needed to comply with applicable law and guidance.
 - a. Maximize acreage managed to protect wilderness characteristics.

Under the preferred alternative, BLM would manage 298,000 acres of identified lands with wilderness characteristics to protect these characteristics. Draft plan, p. II.3-367. The entire range of management is as follows:

- Alternative 1 (no action alternative) - 0 acres
- Alternative 2 - 317,000 acres (all identified lands with wilderness characteristics except lands within DFAs and transmission corridors)
- Alternative 3 - 374,000 acres (all identified lands with wilderness characteristics except lands within DFAs and transmission corridors)
- Alternative 4 - 0 acres
- Preferred Alternative – 298,000 acres

Manual 6320 states: “Managing the wilderness resource is part of the BLM’s multiple use mission.” Manual 6320, p. 2. By managing a significant portion of the lands identified to protect their wilderness characteristics and also incorporating management to avoid, reduce or mitigate for impacts, BLM acknowledges the significance of wilderness characteristics as an important value and multiple use. As BLM identifies additional lands with wilderness characteristics based on ongoing inventory and comments provided on its current inventory, we expect BLM to

¹³¹ US Fish and Wildlife Service Critical Habitat portal <http://ecos.fws.gov/crithab/>

¹³² GIS analysis completed by Kurt Menke of Bird’s Eye View GIS on 12/10/13.

identify additional lands to be managed to protect those characteristics. BLM should maximize protection of this valuable resource. As discussed elsewhere in these comments, layering management that protects a variety of resources is an important tool that BLM consistently uses. Protection of wilderness characteristics can be effective as a standalone management approach but is also effective along with designation of ACECs, NCLs and other conservation-oriented designations, as well as portions of special and extensive recreation management areas.

- b. BLM's evaluation of the impacts of managing lands to protect wilderness characteristics should examine the values of such management.

Pursuant to Manual 6320, BLM is required to examine both the benefits and restrictions to other uses and resources from protecting wilderness characteristics. However, in assessing impacts, the draft plan states:

Management of lands with wilderness characteristics varies by alternative, and these lands are not considered special designations. A primary consideration in quantifying impacts is the extent to which these BLM-administered lands are affected by or intersect with the proposed DFAs (within BLM-administered lands only) and approved transmission corridors under each alternative.

Draft plan, p. IV.14-1.

However, this evaluation does not fully describe the myriad benefits to other resources and uses from protecting wilderness characteristics, including protecting scenic values and cultural resources, providing high quality wildlife habitat and riparian areas, and supporting backcountry recreation. A complete evaluation of the potential benefits from protecting wilderness characteristics is vital for making management decisions.

All large roadless areas, including both designated wilderness and LWCs, offer a multitude of critically important social and ecological benefits. Unfortunately, the DRECP fails to discuss these values to any significant degree. Chapter 3, pages 3-7 of the Roadless Area Conservation Final Environmental Impact Statement offers an excellent summary of these values:

- Clean water for domestic, agricultural, and industrial uses, that helps to maintain abundant and healthy fish and wildlife populations, and that provides the basis for many forms of outdoor recreation;
- Undisturbed or less disturbed habitat that conserves native biodiversity by providing areas where nonnative invasive species are rare, uncommon, or absent;
- Habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land;
- Opportunities for people to enjoy high-quality non-motorized recreation activities, including hiking, camping, mountain biking, picnicking, wildlife viewing, hunting, fishing, cross-country skiing, swimming and whitewater boating;

- “Reference landscapes” that can provide comparison areas for scientists seeking to evaluate and monitor the differences between natural settings and more intensely managed areas;
- High quality scenery that contributes directly to local tourism and to real estate values in neighboring communities; and
- Many important Native American cultural sites and valuable historical resources.

We request that the final DRECP and EIS/EIR include a discussion of the values of roadless lands.

- c. Prescriptions for areas managed to protect wilderness characteristics can and should be tailored to individual units.

The BLM’s Preferred Alternative Conservation and Management Actions (CMAs) for lands managed for wilderness characteristics include:

- No surface occupancy for mineral extraction, no exceptions, waivers or modifications
- Excluded from right-of-way development
- Closed to new roads/routes; vehicles are permitted only on existing roads/routes
- No mineral materials sales or commercial/personal-use extraction permits
- Areas must be Visual Resource Management (VRM) Classification II
- Any new structures must protect or enhance the wilderness characteristics being managed
- Land cannot be removed from federal ownership
- Recommendation that all areas managed to protect wilderness characteristics be withdrawn from mineral entry

Under Alternative 2 and 3, in addition to the CMAs in the Preferred Alternative, BLM would seek to acquire inholdings through purchase, exchange or donation in order to protect their wilderness characteristics and all mechanized and motorized transport on LWC lands would be prohibited. We recommend that BLM incorporate the direction regarding acquisition of inholdings into the final plan for all areas managed to protect wilderness characteristics. We also support the incorporation of all lands with wilderness characteristics as a screen to exclude lands from classification as DRECP Variance Lands. Draft plan, p. II.3-309.

- d. CMAs and mitigation measures for impacts to wilderness characteristics should be retained in the final plan.

The Preferred Alternative sets out CMAs for the entire planning area, which apply to address impacts to wilderness characteristics, including:

- Complete an inventory of areas for proposed development that do not have an updated wilderness characteristics inventory.

- Employ avoidance measures as described under DFAs and approved transmission corridors.
- Compensation will be at a 2:1 ratio for impacts from any development that impacts wilderness characteristics.

Draft plan, p. II.3-423. The draft is not entirely clear on how the “compensation” will be calculated and applied. BLM should clarify that compensation can be through a variety of measures.

We direct the BLM to the range of mitigation measures for impacts to lands with wilderness characteristics set out in the Record of Decision (ROD) for the Solar Programmatic EIS (Solar PEIS), which provides methods to mitigate unavoidable impacts on specially designated areas and lands with wilderness characteristics may include, but are not limited to, the following:

- Acquiring wilderness inholdings from willing sellers.
- Acquiring private lands from willing sellers adjacent to designated wilderness.
- Acquiring private lands from willing sellers within proposed wilderness or Wilderness Study Areas.
- Acquiring other lands containing important wilderness or related values, such as opportunities for solitude or a primitive, unconfined (type of) recreation.
- Restoring wilderness, for example, modifying routes or other structures that detract from wilderness character.
- Contributing mitigation monies to a “wilderness mitigation bank,” if one exists, to fund activities such as the ones described above.
- Enacting management to protect lands with wilderness characteristics in the same field office or region that are not currently being managed to protect wilderness character. Areas that are to be managed to protect wilderness characteristics under this approach must be of sufficient size to be manageable, which could also include areas adjacent to current WSAs or adjacent to areas currently being managed to protect wilderness characteristics.

Solar PEIS ROD, pp. 55-56.

We recommend including the full range of options as ways to achieve the compensation prescribed above.

However, within DFAs and approved transmission corridors, the draft plan provides that development in lands with wilderness characteristics is allowed. We recommend that identified lands with wilderness characteristics be excluded from proposed new DFAs and approved transmission corridors, consistent with the DRECP’s approach to identifying variance lands. Where there are unavoidable impacts in DFAs and approved transmission corridors to wilderness characteristics, we recommend compensatory mitigation be applied. In the draft plan, there is an accompanying mitigation measure for impacts to wilderness characteristics within DFAs and

approved transmission corridors that would apply, at a 1:1 ratio, through acquisition and donation to the federal government of:

- Wilderness inholdings;
- Wilderness edge holdings that have inventoried wilderness characteristics; or
- Other areas within the Plan Area that are managed to protect wilderness characteristics.

The plan also provides that restoration of existing impacts in wilderness or WSAs can substitute for acquisition. Draft plan, p. II.3-424. If there unavoidable impacts, then we recommend that compensation be subject to the range of options provided in the Solar PEIS, as set out above. We also recommend that BLM apply a 2:1 mitigation ratio for impacts to wilderness characteristics in DFAs and approved transmission corridors.

Recommendations: BLM should maximize opportunities to manage lands to protect wilderness characteristics, including through layering management within other designations. In evaluating management, BLM should fully examine the benefits to other uses and resources from protecting wilderness characteristics. BLM should incorporate direction to acquire inholdings within areas managed for wilderness characteristics, as set out in Alternatives 2 and 3, into the final plan, and also maintain the screen for lands with wilderness characteristics to be excluded from DRECP Variance Lands. Lands with wilderness characteristics should be excluded from DFAs and approved transmission corridors. However, where there are unavoidable impacts, we support BLM incorporating mitigation for impacts to lands with wilderness characteristics and recommend using the full range of mitigation approaches set out in the Solar PEIS ROD, as well as a 2:1 ratio for calculating compensatory mitigation.

2. Specific inventory unit comments.

a) Comments on lands proposed for management of wilderness characteristics:

We strongly support the Preferred Alternative's proposal to manage the following areas as LWC and we encourage the BLM to retain LWC status for these areas in the final plan.

Bighorn Mountains Additions: As is noted above in more detail, the region is a highly diverse ecological transition zone between the Mojave Desert and the San Bernardino Mountains. It is noted for its great botanical diversity. However, please note that there are additional lands in the area that should also be managed as LWCs as described above.

Cady Mountains Additions: These lands on the northern boundary of the Cady Mountains Wilderness Study Area include the southern rim of Afton Canyon, an area renowned for its striking scenery and the many ecological and cultural values associated with the Mojave River.

California Valley: This remote valley sandwiched between the Nopah Range and Kingston Range is a scenic jewel noted for its important tortoise habitat and Native American cultural values.

Golden Valley Additions: The endangered Mojave ground squirrel inhabits the area as does the desert tortoise. Christmas Canyon is noted for its important cultural resources.

Grass Valley Additions: These former private lands were acquired to maintain and restore the area's high-value desert tortoise habitat. Blackwater Well is a natural seep created by the Blackwater Fault and it provides one of the few year-round water sources in an otherwise arid region.

Indian Pass Additions: The area's close proximity to the Colorado River has given it both high cultural and ecological values. It is also noted for its scenic rock formations.

Milpitas Wash: The area supports the largest microphyll woodland in the United States. The abundance of legume trees gives the area a lush character rarely found in the desert. Milpitas Wash is one of the few areas in California where the Gila woodpecker is known to nest.

Palen/McCoy Additions: These ancient dunes along the shore of Palen Dry Lake are noted for their important cultural values and high botanical diversity.

Palo Verde Additions: The Palo Verde Mountains boast one of the few native populations of saguaro cactus in California.

Silurian Hills: These colorful and complex mountains are a natural extension of the Kingston Range Wilderness and form a striking backdrop for people visiting the vast Silurian Valley.

Slate Range: The region is one of the largest remaining unprotected roadless areas in the California Desert. It rises dramatically from the floor of the scenic and popular Panamint Valley. It provides important connectivity with the wild lands of adjacent Death Valley National Park. Existing designated vehicle routes can easily be excluded from the LWC portions of the range.

Sleeping Beauty Mountains: The region is characterized by a large sweeping bajada and the Sleeping Beauty rock formation. Desert bighorn sheep inhabit the area. Visitors to the area may find an astounding assortment of stones, including agate, jasper and petrified palm trees.

Turtle Mountains Additions: The Turtle Mountains, along with the nearby Stepladder and Whipple ranges and the vast bajadas between them, form one of the largest remaining complexes of roadless and wilderness lands in southeastern California. The area provides critically-important habitat for both bighorn sheep and desert tortoise. However, please note that there are additional lands in the area that should also be managed as LWCs as is described above.

b) Additional lands BLM should manage for wilderness characteristics

Of the lands surveyed by the BLM thus far, we request that the following areas also be managed as LWCs.

McCoy Wash: This roadless area east of the Palen/McCoy Wilderness is characterized by numerous washes sheltering extensive microphyll woodland habitat. Much of the roadless area is

in the Riverside East SEZ/DFA, though developing solar or wind energy in the roadless area would involve the clearing of large areas of riparian habitat critical to wildlife and many bird species. We therefore request that the LWC within the Riverside East SEZ/DFA be classified as a non-development area within the SEZ/DFA.

Middle Knob: The Tehachapi Mountains are recognized as a globally-unique ecosystem where the Coast Range, desert, Central Valley and Sierra Nevada meet. Unfortunately, there is very little public land in the range, and much of the region has been developed for wind energy and a variety of other purposes. By managing the Middle Knob area to retain its wilderness characteristics, the BLM can help to retain a small vestige of wildness in an otherwise heavily-developed region that is still home to a variety of endangered species, including the California condor. Managing the area as LWC can also help to maintain the wild character of the Pacific Crest National Scenic Trail that passes through the roadless area. The section of the route in the Tehachapi Mountains is noted more for its views of wind turbines, aqueducts and highways, not for its solitude and natural beauty. The Middle Knob roadless area should be managed as an exception to this rule.

Riggs Wash-Silurian Valley: The Riggs Wash portion of the vast Silurian Valley is a natural extension of the Kingston Range-Sperry Hills-Hollow Hills-Silurian Hills complex of wilderness and roadless areas that helps to maintain the scenic beauty, recreation opportunities and ecological values of this important public gateway to Death Valley National Park. Riggs Wash is an integral part of this wild landscape and, despite the fact that it has been proposed for renewable energy development, it is as deserving of protection as is the adjacent Silurian Hills. The final DRECP decision on this portion of Silurian Valley should be consistent with BLM's recent rejection of the variance right-of-way application for a proposed solar facility. In rejecting this application, BLM noted that:

The initial review and analysis indicated that the impacts to the Silurian Valley, a largely undisturbed valley that supports wildlife, an important piece of the Old Spanish National Historic Trail, and recreational and scenic values, had too great of an impact on the resources. The BLM concluded that these impacts likely could not be mitigated and that the project would not be in the public interest.

BLM California State Office News Release, 11/20/2014, available at <http://www.blm.gov/ca/st/en/info/newsroom/2014/november/siluranvalley.html>.

c) *Lands mistakenly found to not have wilderness characteristics*

Of the 3,096,000 acres surveyed thus far by the BLM in the DRECP Planning Area, 633,000 acres were found to meet the definition of LWC. While we concur with most of the BLM's findings, we are puzzled by the agency's failure to find wilderness characteristics in the

following areas. We request that these lands be resurveyed prior to the approval of the DRECP ROD so that their wilderness values can be given appropriate consideration.

Big Maria Mountains Wilderness Additions: Using the standard outlined in BLM Manual 6310, CalWild staff determined that the Big Maria Mountains Additions contains 17,257 acres of



LWCs in seven units. CalWild’s findings are documented in a 33-page report entitled *Lands with Wilderness Characteristics Recommendations for the Desert Renewable Energy Conservation Plan Process: Big Maria Mountains Additions Lands with Wilderness Characteristics* that was submitted to the BLM on January 28, 2014. A resurvey of the area is critically important given that all of the eastern units are less than a mile away from the Colorado River. This increases the probability that they possess important ecological and cultural resources. Note that the famous Blythe intaglio site is 1.7 miles from the easternmost unit. The BLM notes that “Important site complexes have been recorded on the flanks of the Big Marias and aboriginal trails are known to run into the mountains from both the east and west”¹³³

According to the CDFW’s NDD, the following species of interest have been either recorded or have suitable habitat in the area: Abrams’ spurge, Alverson’s foxtail cactus, angel trumpets, bitter hymenoxys, Bradley’s cuckoo wasp, brown-crested flycatcher (a state watch-list species), burrowing owl (a state species of special concern), California leaf-nosed bat (a state species of special concern), California satintail, Crissal thrasher (a state species of special concern), desert tortoise (federal and state threatened), dwarf germander, elf owl (a state endangered species), Gila woodpecker (a state endangered species), gilded flicker (a state endangered species), golden eagle (a state fully-protected and watch-list species), mountain plover (a state species of special concern), summer tanager (a state species of special concern), vermilion flycatcher (a state species of special concern), western yellow-billed cuckoo (a federal proposed threatened species and a state endangered species), yellow-breasted chat (a state species of special concern) and Yuma clapper rail (a federal endangered species and a state endangered and fully-protected species).¹³⁴

¹³³ USDI-BLM, *California Wilderness Study Report*, Part 4, Volume 6, Big Maria Mountains CDCA-321, page 6.

¹³⁴ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp



Danby Lake: Using the standard outlined in BLM Manual 6310, CalWild determined that 35,606 acres of Danby Lake met the definition of LWC. CalWild’s findings are documented in a 29-page report entitled *Lands with Wilderness Characteristics Recommendations for the Desert Renewable Energy Conservation Plan Process: Danby Lake Lands with Wilderness Characteristics* that we submitted to the BLM on January 28, 2014. A resurvey for the area is critically important given that according to CDFW’s NDD, the following species of interest have been

either been recorded or have suitable habitat in the area: desert bighorn sheep (a state fully-protected species), Harwood’s eriastrum, Harwood’s milk-vetch, hepatic tanager (a state watch list species), prairie falcon (a state watch list species), slender cottonheads and small-flowered androstephium.¹³⁵ The area is also recognized as a wildlife migration corridor by the CDFW and it contains important wetlands.¹³⁶ The ancient shoreline of the lake has yielded several meteorite fragments.¹³⁷

Iron Mountains-Cadiz Valley: One of the most puzzling conclusions of the BLM’s LWC surveys is that the truly vast Iron Mountains-Cadiz Valley region does not include any LWC. Using the standard outlined in BLM Manual 6310, CalWild staff determined that the Iron Mountains-Cadiz Valley region includes three areas of LWC shown in blue on the map below that are a combined 188,538 acres in size. This makes the region the largest remaining non-wilderness BLM roadless area in the CDCA. CalWild’s findings are documented in a 81-page report entitled *Lands with Wilderness Characteristics Recommendations for the Desert Renewable Energy Conservation Plan Process: Iron Mountains Lands with Wilderness Characteristics* that was submitted to the BLM on January 28, 2014. A resurvey is critically important given the values of the area described above.



Kingston Range Additions (Sperry Hills): Using the standard outlined in BLM Manual 6310, CalWild staff determined that 30,121 acres of the Sperry Hills met the definition of LWC.

¹³⁵ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

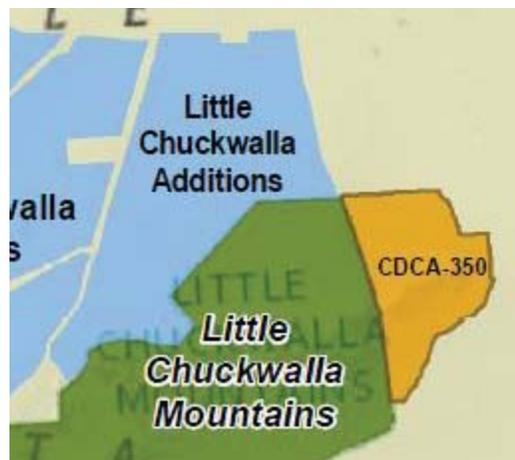
¹³⁶ Menke, 12/10/13.

¹³⁷ <http://www.starcatching.com/mets.htm?danbydrylake>

CalWild's findings are documented in a 23-page report entitled *Lands with Wilderness Characteristics Recommendations for the Desert Renewable Energy Conservation Plan Process: Kingston Range Additions Lands with Wilderness Characteristics* that was submitted to the BLM on January 28, 2014. According to the CDFW's NDD, the following species of interest have been either been recorded or have suitable habitat in the area: Amargosa naucorid bug, Amargosa nitrophila (a state and federal endangered species), Amargosa vole (a state and federal endangered species), brown-crested flycatcher (a state watch list species), California saw-grass, Crissal thrasher (a state species of special concern), Death Valley June beetle, desert bighorn sheep (a state fully-protected species), golden eagle (a state fully-protected and watch list species), gray vireo (a state species of special concern), mountain plover (a state species of special concern), least Bell's vireo (a state and federal endangered species), Mojave fringe-toed lizard (a state species of special concern), long-eared owl (a state species of special concern), pallid bat (a state species of special concern), prairie falcon (a state watch list species), Ripley's aliciella, summer tanager (a state species of special concern), Tecopa salty bird's-beak, vermilion flycatcher (a state species of special concern), western snowy plover (a federal threatened species and a state species of special concern), western yellow-billed cuckoo (a federal proposed threatened species and a state endangered species) and white bear poppy.¹³⁸ The area is also recognized as a wildlife migration corridor by the CDFW and it contains wetlands.¹³⁹ The LWC contains designated critical habitat for the Amargosa vole, and a full 2,250 acres of riparian habitat.¹⁴⁰ The Sperry Hills have also yielded fossilized camel prints.¹⁴¹ The region can host hikers, rock hounders, birders, equestrians, hunters and people engaged in a wide variety of other recreational pursuits. The fact that it is near Tecopa, Highway 127 and Death Valley National Park and other attractions, makes it a desirable location to explore.

Little Chuckwalla Mountain Wilderness Additions:

Using the standard outlined in BLM Manual 6310, CalWild staff determined that 14,058 acres of the vast bajada north of the Little Chuckwalla Mountains Wilderness met the definition of LWC. CalWild's findings are documented in a 25-page report entitled *Lands with Wilderness Characteristics Recommendations for the Desert Renewable Energy Conservation Plan Process: Little Chuckwalla Mountains Additions Lands with Wilderness Characteristics* that was submitted to the BLM on



¹³⁸ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

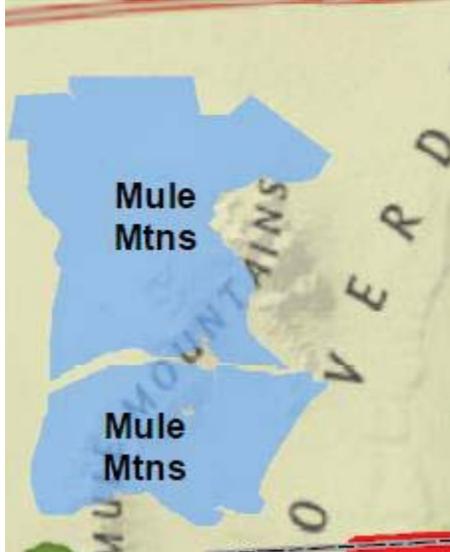
¹³⁹ Menke, 12/10/13.

¹⁴⁰ Ibid.

¹⁴¹ See <http://biology.fullerton.edu/Dept/facilities/dsc/pdf/2006makingtracks.pdf#page=51>

January 28, 2014. A resurvey is critically important given the values of the area described above.

Mule Mountains: Using the standard outlined in BLM Manual 6310, CalWild staff determined that the Mule Mountains contains two areas of LWC encompassing approximately 24,577 acres



(the northern unit is 16,186 acres in size and the southern unit is 8,391 acres in size). CalWild's findings are documented in a 63-page report entitled *Lands with Wilderness Characteristics Recommendations for the Desert Renewable Energy Conservation Plan Process: Mule Mountains Lands with Wilderness Characteristics* that was submitted to the BLM on January 28, 2014. A resurvey for the area is critically important given that according to the CDFW's NDD, the following species of interest have been either been recorded or have suitable habitat in the Mule Mountains: Abrams' spurge, American badger (a state species of special concern), bitter hymenoxys, black-tailed gnatcatcher, burrowing owl (a state species of special concern), California leaf-nosed bat, California mellitid bee,

cave myotis, Colorado River cotton rat (a state species of special concern), Colorado Valley woodrat, Couch's spadefoot (a state species of special concern), Crissal thrasher (a state species of special concern), desert beardtongue, desert tortoise (a state and federal threatened species), dwarf germander, Emory's crucifixion-thorn, Gila woodpecker (a state endangered species), gravel milk-vetch, Harwood's eriastrum, Harwood's milk-vetch, hoary bat, Le Conte's thrasher (a state species of special concern), loggerhead shrike (a state species of special concern), merlin (a state watch list species), Mojave fringe-toed lizard (a state species of special concern), pallid bat (a state species of special concern), pallid San Diego pocket mouse (a state species of special concern), pink fairy-duster, prairie falcon, Riverside cuckoo wasp, roughstalk witch grass, Townsend's big-eared bat (a state candidate threatened and species of special concern) and vermilion flycatcher (a state species of special concern).¹⁴² Both units are also designated critical habitat for the desert tortoise.¹⁴³ The area also has extensive woodlands along its washes. These woodland thickets are a haven for songbirds and other creatures. There is also some evidence that bighorn sheep use the mountains.¹⁴⁴

Turtle Mountains Wilderness Additions: Using the standard outlined in BLM Manual 6310, CalWild staff determined that 87,840 acres in four units adjacent to the Turtle Mountains Wilderness met the definition of LWC (see map at right). CalWild's findings are documented in a 40-page report entitled *Lands with Wilderness Characteristics Recommendations for the Desert*

¹⁴² http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp

¹⁴³ Menke, 12/10/13.

¹⁴⁴ Clinton W Epps, "Population Processes in a Changing Climate: Extinction, Dispersal, and Metapopulation, Dynamics of Desert Bighorn Sheep in California" (Ph.D. diss., University of California, Berkeley, 2004), page 19.

Renewable Energy Conservation Plan Process: Turtle Mountains Additions Lands with Wilderness Characteristics that was submitted to the BLM on January 28, 2014. A resurvey is critically important given the values of the area described above.



V. AREAS OF CRITICAL ENVIRONMENTAL CONCERN

FLPMA obligates the BLM to “give priority to the designation and protection of areas of critical environmental concern [ACECs].” 43 U.S.C. § 1712(c)(3). ACECs are areas “where special management is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes.” 43 U.S.C. § 1702(a).

BLM’s ACEC Manual (1613) provides additional detail on the criteria to be considered in ACEC designation, as discussed in the applicable regulations, as well. *See*, Manual 1613, Section .1 (Characteristics of ACECs); 43 C.F.R. § 8200. An area must possess relevance (such that it has significant value(s) in historic, cultural or scenic values, fish & wildlife resources, other natural systems/processes, or natural hazards) and importance (such that it has special significance and distinctiveness by being more than locally significant or especially rare, fragile or vulnerable). In addition, the area must require special management attention to protect the relevant and important values (where current management is not sufficient to protect these values or where the needed management action is considered unusual or unique), which is addressed in special protective management prescriptions. For potential ACECs, management prescriptions are to be “fully developed” in the RMP. Manual 1613, Section .22 (Develop Management Prescriptions for Potential ACECs).

BLM can best fulfill this direction by truly prioritizing ACECs in the DRECP, as discussed in detail below.

A. Maintaining existing ACECs and adding new ACECs is most consistent with FLPMA’s direction.

As noted above, Section 202(c)(3) of FLPMA requires that BLM “**give priority** to the designation and protection of Areas of Critical Environmental Concern [ACECs]” during land use planning. 43 U.S.C. § 1712(c)(3). (emphasis added). Starting with the text of section 202(c)(3), the definition of “priority” indicates that ACECs “merit[] attention before competing alternatives” (*The Merriam-Webster Dictionary*¹⁴⁵) and are to be “regarded or treated as more important than others.” *Oxford Dictionaries*¹⁴⁶.

¹⁴⁵ Available at: <http://www.merriam-webster.com/dictionary/priority>.

¹⁴⁶ available at: <http://oxforddictionaries.com/definition/english/priority>.

ACECs are the only special designation and in fact the only obligation specifically identified as to be given priority in FLPMA. As discussed above, priority connotes heightened importance, increased attention and foregoing “competing alternatives.” BLM’s ACEC manual confirms this required approach stating the agency’s policy:

The FLPMA requires that priority shall be given to the designation and protection of ACEC’s. The ACEC’s are identified, evaluated, and designated through BLM’s resource management planning process. An ACEC designation is the principal BLM designation for public lands where special management is required to protect important natural, cultural and scenic resources or to identify natural hazards. **Therefore, BLM managers will give precedence to the identification, evaluation, and designation of areas which require “special management attention” during resource management planning.**

Manual 1613.06. (emphasis added). Therefore, BLM should choose an alternative that maximizes the designation and protection of ACECs, where areas meet the FLPMA and manual standards set out above.

There are currently 79 ACECs in the DRECP planning area. While the Preferred Alternative would designate the most new ACECs (43) for additional wildlife, plant, and cultural resource protection, it would also eliminate or reduce in size four ACECs, including three areas that would be reduced in size or eliminated to reprioritize the lands for renewable energy development: Desert Tortoise Natural Area, Fremont-Kramer DWMA, and Western Rand Mountains. Draft plan, pp. IV.14-27 – IV.14-28. This would leave 126 units in the plan area equaling 2,277,000 acres of ACEC area. Twenty existing ACECs would increase in size. Alternative 1 would maintain or increase all existing ACECs, while adding new ACECs. Draft plan, pp. IV.14-42, IV.14-46. The final DRECP should not reduce in size or eliminate any ACECs and should add ACECs in order to meet FLPMA’s directives.

Some of the new or expanded ACECs proposed by BLM and described in Appendix L are particularly deserving of protection include the following:

Upper McCoy & McCoy Valley ACECs

These two proposed ACECs north of the East Riverside DFA would protect extensive microphyll woodland habitat and need the site-specific protection that ACECs will afford. While these lands unquestionably qualify for ACEC designation as proposed by the BLM, they also contain nationally significant values (e.g., one of largest concentrations of microphyll woodlands in California Desert) and therefore also qualify for designation as part of BLM’s National Conservation Lands.

McCoy Wash ACEC

While we appreciate that BLM aims to protect the dominant feature of McCoy Wash within the East Riverside DFA as an ACEC, we believe that the ACEC should be significantly expanded to take in the extensive microphyll woodlands in the northwestern portion of the eastern part of the East Riverside DFA. The extensive microphyll woodland habitat in this area is of high value to many wildlife species including migratory and nesting songbirds. It would also prove very difficult for a developer to construct a large-scale solar or wind project in this region due to the

uneven terrain. And, based on BLM's inventory of lands with wilderness characteristics for the Solar PEIS, we know there are wilderness quality lands in this area.^[1] Please also see our comments in Section VI(B)(1)(a) of these comments where we also make this recommendation to expand the McCoy Wash ACEC as well as other proposed modifications within the East Riverside DFA.

Symmes Creek and Independence Creek ACECs

These two ACECs would provide an additional layer of protection to lands currently designated as Wilderness Study Areas (WSAs) and currently part of the Conservation Lands System. However, if these WSAs were to be released these small yet important creekside habitats within the Owens Valley would be stripped of any protection.

Owens Lake ACEC

We understand that the map in the DRECP preferred alternative is in error with regard to the entire Owens Lake dry lakebed being designated an ACEC. We concur, since portions of the lakebed are not only owned by the State Lands Commission and Inyo County, they are also highly disturbed and are being utilized for mechanical dust control by the Los Angeles Department of Water and Power. However we do support portions of the area around Owens Lake being designated as an ACEC, particularly those federal lands along the shoreline that provide important habitat for birds and lands that contain significant cultural resources.

Manzanar ACEC

This proposed ACEC would protect 600 acres adjacent to Manzanar National Historic Site, including an old stone reservoir used by internees to hold water for irrigation of the once-extensive gardens of this World War II Japanese-American internment camp.

El Paso to Golden Valley Wildlife Corridor ACEC

This proposed new ACEC is sizeable (57,900 acres) and is regionally significant for Mohave ground squirrel and Desert Tortoise. It encompasses an essential movement corridor which links wildlife habitats in the Golden Valley Wilderness to those in the El Paso Mountains and Western Rand Mountains ACEC.

Additionally, we recommend the following new ACECs for designation in the DRECP.

Desert Bighorn Critical Linkage ACEC

We recommend that any lands that are part of Right-Of-Way application CACA 49584 that are not designated in BLM's Final EIS for development as part of the Soda Mountain Solar Project be allocated to an ACEC to protect this critical linkage area for desert bighorn sheep. An ACEC here could help protect important desert bighorn sheep habitat, foraging grounds, lambing grounds, and connectivity. Preserving connectivity in this region is especially important as the north-south linkage across Interstate 15 in this part of the Soda Mountains region connects populations in the Mojave National Preserve with populations in the northern part of the California Desert, including north to Death Valley National Park.

^[1] We have not seen the results of BLM's final inventories for LWC in the proposed DFAs, but know that initial inventories conducted by BLM for LWC in the Riverside East Solar Energy Zone (SEZ) for the Solar PEIS indicated the presence of substantial LWC within and north of the proposed McCoy Solar Project.

ACEC Designation for all Joshua Tree Woodland Habitats in the California Desert

Some areas harboring Joshua tree woodlands are proposed for ACEC designation (e.g., Pipes Canyon and Lower Centennial Flat). However at least one important area of Joshua tree woodland is left out of proposed protection in BLM's preferred alternative. This area lies north of Lower Centennial Flat and Talc City Hills, west of Saline Valley Road, south of the Death Valley National Park boundary and east of Malpais Mesa Wilderness. It includes extensive Joshua tree habitat in Santa Rita Flat and Lee Flat. This area and Lower Centennial Flat contain dense areas of both young and older Joshua trees, and will likely be increasingly important for Joshua tree recruitment and survival as climate change further impacts desert landscapes. This area and all other BLM lands harboring Joshua tree populations should be designated ACECs. We support the extensive analysis and recommendations of the California Native Plant Society for new ACECs and/or National Conservation Lands that encompass Joshua tree woodland habitat such as at Santa Rita Flat.

Recommendations: BLM should adopt an alternative that maintains or expands existing ACECs and designates additional ACECs that possess relevance and importance and require special management attention. Existing ACECs should not be reduced, eliminated or designated in part for renewable energy development.

B. ACECs can and should be maintained where they overlap with other designations.

The Draft DRECP also provides: "To the extent that there is 'overlap' between ACEC and National Conservation Lands in the final DRECP decision document, it is the BLM's expectation that it will identify these areas solely as National Conservation Lands." Draft plan, p. II.3-319. This is inconsistent with FLPMA and applicable guidance. As discussed in regard to National Conservation Lands, layering ACEC designations with other designations, including NCLs, is appropriate and more consistent with BLM's obligation to prioritize both designation and protection of ACECs.

BLM plans often incorporate overlapping designations because different designations serve different purposes, and management is often limited to protect only those values relevant to those particular designations. For example, BLM's Jarbidge Resource Management Plan (RMP) (and subsequent amendments) in southern Idaho designated the Bruneau/Jarbidge River ACEC and the Salmon Falls Creek ACEC, which overlap the Bruneau River-Sheep Creek Wilderness Study Area (WSA), Jarbidge River WSA, and Lower Salmon Falls Creek WSA, and includes Salmon Falls Creek, deemed eligible for inclusion in the National Wild and Scenic Rivers System.¹⁴⁷ Accordingly, where specific management is still applicable for ACEC values, preserving management tailored for specific resources is appropriate.

Recommendations: The DRECP should maintain ACEC designations that overlap with other designations where special management attention for ACEC relevant and important values is required.

¹⁴⁷ See BLM, Jarbidge Field Office, Idaho, Analysis of the Management Situation for the Jarbidge Resource Management Plan: Resource Management Plan/Environmental Impact Statement at 212-216 and Figure 39 (Locations of Current ACECs) (July 2007).

VI. ENERGY DEVELOPMENT

A. Introduction

TWS supports responsible, well-planned and sited renewable energy development, including on appropriate public lands, as part of a strategy for addressing climate change, along with aggressive efforts to increase energy efficiency, build distributed generation such as rooftop solar, and reduce demand with demand-side management. In balancing the dual goals of minimizing biological resource conflicts and maximizing opportunities to site renewable energy projects, the DRECP makes clear that the greatest contribution from public lands will be in meeting conservation objectives. Other disturbed and degraded lands, including both public and private lands, will best serve as areas for focusing renewable energy development away from areas of greatest biological importance or sensitivity.

While recognizing that the DRECP addresses conservation and development on both private and public lands, our comments on energy development focus on the contribution of the public lands.

Public lands in the California Desert and across the west are already providing for the generation of clean, renewable energy and will continue to do so, following a guided development model that protects wild lands and wildlife habitat from development and incentivizes projects in low-conflict areas. We appreciate BLM's efforts to put in place a zone-based western solar program through the agency's Solar Programmatic Environmental Impact Statement Record of Decision (Western Solar Plan) signed in October 2012. The DRECP offers the opportunity to refine the Western Solar Plan and establish a guided development approach for wind and geothermal, as well. A smart approach is crucial for meeting California's renewable energy targets and the President's Climate Action Plan while protecting our natural heritage.

The Draft DRECP makes significant progress towards these goals by proposing to designate some lands with excellent renewable energy resources as Development Focus Areas (DFAs) and proposing to protect some lands with important conservation values via a suite of BLM Conservation Designations, including National Conservation Lands (NCL), Areas of Critical Environmental Concern (ACEC), and Wildlife Allocations.

Under the plan, DFAs are "Locations where renewable energy generation is covered and could be streamlined for approval." Draft DRECP at Glossary-5. To meet the plan's dual goals of minimizing biological resource conflicts and maximizing opportunities to site renewable energy projects, DFAs need to be effective in directing future renewable energy development into areas where environmental impacts are less severe, where transmission access can be more easily provided, and thus where projects can proceed more efficiently.

To reach the full potential of the DRECP, BLM should make the following refinements to the planning, permitting, and management of renewable energy and transmission on public lands under the plan:

- refining the DFAs to eliminate high conflict areas;

- consolidating the numerous and confusing categories of land where development may or may not be allowed;
- ensuring that the process for obtaining a permit is clear and efficient;
- conducting additional analysis of DFAs to allow tiering at the project level and provide a clear understanding of mitigation requirements included in the Conservation Management Actions (including avoiding, minimizing and off-setting impacts through compensatory mitigation);
- ensuring consistency between the DRECP and BLM's competitive leasing rule for wind and solar; and
- incorporating transmission planning.

B. Development Focus Areas – BLM should ensure that DFAs will work well for project developers and limit conflict and impacts

We support BLM identifying proposed DFAs as priority areas for renewable energy development through the DRECP and directing development to these areas. To ensure the long-term success of the DRECP, BLM should build on the work included in the Draft DRECP to further facilitate development within DFAs and limit conflicts and impacts from development in DFAs.

1. BLM should provide screening data used for the DFAs and refine the DFAs to limit conflicts and impacts

We focused our review on DFAs that include contiguous blocks of public lands within or adjacent to DFAs in the Draft DRECP Preferred Alternative. DFAs identified in other alternatives should not be included in the final approved plan. The DFAs in the Preferred Alternative include some low-conflict areas where projects are likely to succeed, but they also include some high-conflict areas that are inappropriate for development and where projects are unlikely to succeed. The Draft DRECP does not include a description of the screens BLM used to identify the DFAs, making it difficult to examine and provide recommendations on the agencies' rationale for finding an area appropriate as a DFA.

Recommendations: BLM should provide details on the screens used to identify DFAs in the DRECP ROD. BLM should use at a minimum the screens used to identify Solar Energy Zones (SEZs) in the Western Solar Plan, the screens used to identify Renewable Energy Development Areas in the BLM Restoration Design Energy Project, and the DRECP Variance screens in the Draft DRECP.

BLM should also refine the DFAs in the Preferred Alternative to eliminate the specific locations and categories of land outlined below; these areas should be closed to development, and where appropriate, made BLM Conservation Designations.

a) DFAs in the Preferred Alternative that should be refined to reduce conflicts and support development

- Imperial Valley DFA: This DFA includes the 9,066-acre West Chocolate Mountains SEZ which is estimated to be able to support 3,306 megawatts of solar power production and the 1,026 West Chocolate Mountains Geothermal Leasing Area which could support up to three 50 MW geothermal plants. These were originally identified as part of the West Chocolate Mountains Renewable Energy Evaluation Area and should be carried forward in the DRECP. Among other federal lands in the area proposed for this DFA, there are at least four relatively large contiguous blocks of BLM land within this DFA ranging in size from roughly 5,600 acres to 32,000 acres. BLM should further analyze these and other BLM lands within this DFA to form a firmer basis for tiered permitting within this DFA.
- Riverside East SEZ/DFA (also known as East Riverside): Some portions of this SEZ/DFA continue to have significant conflicts with an important natural community type (microphyll woodlands) and both BLM and citizen-inventoried Lands with Wilderness Characteristics (LWC). LWC, including the Palen Lake, Big Maria Mountains, Mule Mountains, and McCoy Wash areas inventoried by the California Wilderness Coalition and detailed in Section IV(B)(2)(b) should be classified as non-development areas where they overlap the existing SEZ and excluded from the DFA where they overlap lands newly proposed for DFA. The proposed McCoy Wash ACEC to protect microphyll woodlands is very important and should be substantially expanded to better encompass and protect this critical natural community that is a focal habitat type in the Plan. The McCoy Wash ACEC should be classified as a non-development area within the SEZ.

The Desert Sunlight project site's proximity to Joshua Tree National Park led it to be excluded from the Riverside East SEZ and makes it unsuitable for inclusion in the DFA, but its developed status should be reflected, rather than its current "undesigned" status.

- Daggett Triangle: Although this large DFA is made up of largely private lands, there is at least one somewhat contiguous 5,000 acre block of BLM land as well as other scattered sections and parcels. The DRECP agencies should further refine this DFA to reduce conflicts identified by local communities. There is a significant block of undesigned federal lands adjacent to the Daggett Triangle on the east (sometimes referred to as East Pisgah) that should be closed to application and designated as an NCL unit because of its importance as a desert tortoise linkage.
- Rose Valley: BLM should continue to work with Inyo County to further refine this DFA to identify suitable lands for development while providing connectivity habitat for the Mohave Ground Squirrel and protecting important cultural resources in this region. We anticipate that most of the public lands should be dedicated to conservation, while some parcels of private lands may be suitable for development.

b) Categories of land that should be eliminated from DFAs:

- Lands with Wilderness Characteristics (LWC), including BLM and citizen-inventoried LWC: LWC are inappropriate for development because of the important resources and values they provide.¹⁴⁸ BLM recognized this by screening all areas with BLM inventoried wilderness characteristics from the DRECP Variance areas. Draft DRECP at p. II.3-309. Within the existing Riverside East SEZ, LWC should be classified as non-development areas.
 - Important biological resources. Wildlife conservation organizations, including The Nature Conservancy and Defenders of Wildlife, have identified significant areas of importance to Covered Species and natural communities and processes in the planning area that should be evaluated for exclusion from DFAs and added to the BLM Conservation Designations to meet the DRECP biological goals and objectives.
2. BLM should close to development some high-conflict Study Area Lands and Undesignated Lands and reclassify the remainder as Future Evaluation Areas.

The Draft DRECP includes numerous and confusing categories of land where development may or may not be allowed, including Future Assessment Areas (FAA), Special Analysis Areas (SAA), DRECP Variance Lands, and Undesignated/Non-Designated/Unclassified/ Unallocated lands. These add up to a significant amount of land. In the preferred alternative it is 815,000 acres of public lands with 58,000 acres of FAA, 35,000 acres of SAA, 13,000 acres of DRECP Variance Lands, and 709,000 acres of Undesignated lands.

BLM should designate some of these lands for conservation as proposed below and in Sections III, IV and V of these comments and re-classify all remaining FAA, DRECP Variance Lands, and Undesignated/Non-Designated/Unclassified/Unallocated lands as **Future Evaluation Areas** (FEA). FEAs differ from FAAs in that they would be closed to renewable energy generation facilities unless and until BLM demonstrates a need for additional DFAs, analyzes lands proposed, and designates them as DFAs, Conservation Designations, or other designation. This approach will allow BLM to focus agency resources on development in DFAs, where projects are most likely to succeed.

- a) Categories of public land that should be closed to development and added to BLM Conservation Designations include:
- Lands with Wilderness Characteristics (LWC), including BLM and citizen-inventoried lands: LWC are inappropriate for development because of the important resources and values they provide. BLM recognized this by screening all areas with BLM inventoried wilderness characteristics from the DRECP Variance areas. Draft DRECP at p. II.3-309.

¹⁴⁸ The Draft DRECP requires mitigation for impacts to LWC at a 2:1 ratio across the entire planning area. Draft DRECP at p. 11.3-423. The Draft DRECP also, and inconsistently, requires mitigation for impacts to LWC at a 1:1 ratio within DFAs and approved transmission corridors. Draft DRECP at p. 11.3-424. While LWC should be eliminated from DFAs, if there are impacts to LWC, BLM should follow the 2:1 mitigation ratio, as well as incorporating other methods of mitigation identified in the Western Solar Plan ROD, including administrative protection of other BLM lands. Western Solar Plan ROD p. 54-56.

If unavoidable impacts to LWC do occur from transmission development in existing, designated corridors and the existing Riverside East SEZ, BLM should follow the mitigation recommendations above.

- Important biological resources: Wildlife conservation organizations, including The Nature Conservancy and Defenders of Wildlife, have identified specific areas in the planning area that should be added to the BLM Conservation Designations to meet the DRECP biological goals and objectives.

BLM could consider adopting a petition process similar to the one included in the Western Solar Plan where developers could petition for study and potential designation of new DFAs from the **Future Evaluation Areas**. BLM could also consider conducting a periodic review of the DFAs to determine if they are adequate to meet the agency's goals for renewable energy development, and if they are inadequate, BLM could analyze the FEA lands to identify and designate additional DFAs.

Recommendation: BLM should close some FAA, DRECP Variance Lands, and Undesignated/Non-Designated/Unclassified/Unallocated lands with important resources and values incompatible with renewable energy development by designating them as BLM Conservation Designations; BLM should also re-classify the remaining FAA, DRECP Variance Lands, and Undesignated/Non-Designated/Unclassified/Unallocated lands as **Future Evaluation Areas** that are closed to renewable energy generating facilities unless and until BLM analyzes them and designates them as DFAs or analyzes them and designates them as Conservation Designations.

C. Special Analysis Areas

The preferred alternative identifies two areas as Special Analysis Areas (SAAs) encompassing 42,000 acres (Draft DRECP at p. II.3-439), including 35,000 acres of BLM lands (Draft DRECP at p. II.3-299). These areas have high value for renewable energy development and are of equally high value for their ecological, cultural, scientific, conservation and recreation attributes.

Silurian Valley: The draft DRECP allocates Silurian Valley as a Special Analysis Area. As evidenced by BLM's recent decision to deny an application to develop solar energy in the valley, this area has outstanding natural resource and cultural values that make it unsuitable for energy development. As BLM found in its decision to deny the application, the Silurian Valley "is a largely undisturbed valley that supports wildlife, an important piece of the Old Spanish National Historic Trail, and recreational and scenic values" and that impacts from the proposed development "likely could not be mitigated and that the project would not be in the public interest."¹⁴⁹

Silurian Valley is one of the California Desert Conservation Area's (CDCA's) large remaining unprotected landscapes. The valley contains a unique combination of natural, cultural, scenic and other features, including important connectivity corridors (see, e.g., "A Linkage Network for the California Deserts," February, 2012. By Science and Collaboration for Connected Wild lands

¹⁴⁹ "BLM Rejects Solar Development in Silurian Valley" (11/20/2014). Available at: <http://www.blm.gov/ca/st/en/info/newsroom/2014/november/siluranvalley.html>

(scwild lands.org). See also DRECP Appendix L_BLM Worksheets – ACEC_Part 6_9 (Shadow Valley)). Silurian Valley is regionally and nationally significant and deserves to be preserved for the benefit of present and future generations. The significant and unique combination of assets in Silurian Valley makes this location entirely inappropriate for any type of renewable energy development. Development in Silurian Valley would undo years of work that stakeholders, the BLM and other agencies have invested seeking to safeguard the full suite of unique and significant conservation, cultural, recreation and other values within this part of the CDCA.

For additional description of the values of Silurian Valley please see our comments in Sections III and IV. See also the following attachments for additional information on potential impacts to resources from energy development in Silurian Valley: Attachment C: Letter in Support of Protecting Silurian Valley (9/6/2013) and Attachment D: Comments on the proposed Silurian Valley solar energy project (5/28/2014)

Recommendation: We strongly urge the BLM identify Silurian Valley as an area that should be preserved through the DRECP process. We concurrently request that the BLM, working with the State of California, discontinue any further consideration of the area's potential as a Development Focus Area (DFA) and protect the area by designating it part of the National Conservation Lands. We also support the designation of an expanded Shadow Valley ACEC (a smaller part of which is the existing Shadow Valley DWMA) to preserve connectivity in this region.

Highway 395 Corridor SAA: The Highway 395 Corridor SAA in the West Mojave portion of the DRECP planning area is of special interest to the solar thermal industry because the region contains some of the highest measured solar resource in the Northern Hemisphere and it is close to major population centers. But some of these lands are also within the existing Mohave Ground Squirrel Conservation Area (MGSCA) and depicted in maps for the DRECP proposed for inclusion in the Mohave Ground Squirrel (MGS) ACEC in the preferred alternative.

Recommendation: Given the high value of these lands to solar thermal development and their current importance to MGS conservation, we recommend that the area remain an area for Future Evaluation and that the DRECP agencies convene stakeholders to work out a path forward. In the interim, the land currently within the MGSCA should be managed consistent with the MGS ACEC designation until additional evaluation has been completed. Lands within the SAA but outside the existing MGSCA could be designated as a DFA.

D. Future Assessment Areas

Future Assessment Areas (FAAS) are designated areas that are “subject to future assessment for suitability for renewable energy development or conservation designation.” Where FAAs occur on federal public lands, “these areas would be open to renewable energy development under the BLM LUPA, but would require that an Applicant follow a variance process before the BLM would accept their application for processing.” Draft DRECP at Glossary-8, 9.

Some lands within this category are inappropriate for development and should be closed to development and not be made available for potential future analysis and designation as DFAs.

Recommendation: BLM should close the following FAAs to development and not include them for potential future analysis and designation as DFAs; where appropriate, BLM should designate them as BLM Conservation Designations.

- Cadiz Valley FAA and surrounding undesignated lands: This remote area should be designated as a unit of the National Conservation Lands as described in Section III of these comments. It has outstanding wilderness characteristics and is habitat for desert bighorn sheep, desert tortoise, Emory's crucifixion-thorn, Harwood's eriastrum, hepatic tanager, Mojave fringe-toed lizard, and prairie falcon and serves as a wildlife corridor. It has 12 distinct plant communities, including wetlands.
- Castle Mountain/Mountain Pass FAA: This FAA should be eliminated. This area is surrounded by the Mojave National Preserve, NCLs and ACEC. It provides a key bighorn sheep habitat linkage across Interstate 15 and supports unique plant species.
- Eastern Imperial County FAA: This FAA should be eliminated and the area designated as part of the biological reserve as ACEC and/or NCLs to benefit, in particular, the Flat-tailed horned lizard, a species under consideration for listing under the California Endangered Species Act.

E. DRECP Variance Lands

The DRECP variance lands are a subset of the BLM Solar Program's variance lands and they have been refined and reduced in acreage substantially in the draft DRECP preferred alternative. However, there remain some variance lands that overlap with LWC.

Recommendation: LWC that overlap with DRECP Variance Lands should be excluded and designated as BLM Conservation Designations as described below and in Section IV of these comments.

Big Maria Wilderness Additions: DRECP Variance Lands on the west side of the Big Maria Wilderness should be reinventoried. We expect that upon reinventory BLM will find, as did the California Wilderness Coalition, that there are lands with wilderness characteristics in this area.

Vidal: The DRECP Variance Lands in the Vidal Valley may overlap with the Vidal unit inventoried by the California Wilderness Coalition.

F. Undesignated/Non-Designated/Unclassified/Unallocated Lands

The Draft DRECP is inconsistent in describing whether or not development may be allowed in Undesignated/Non-Designated/Unclassified/Unallocated lands. The Preferred Alternative (Volume II Chapter 3) states that electrical generation facilities are not allowed in Non-Designated/Unclassified lands (p. II.3-426); we support closing Non-Designated/Unclassified lands to electrical generation facilities. In contrast, the glossary defines undesignated lands (also referred to as BLM unallocated lands) as "BLM-administered lands that do not have an existing or proposed land allocation or designation." These lands are not needed to fulfill the DRECP biological conservation strategy. Draft DRECP at Glossary-19. The definition goes on to state

that “These areas would be open to renewable energy applications but would not benefit from the streamlining or CMA certainty of the DFAs.” Draft DRECP at Glossary-19. The glossary does not provide a definition of Non-Designated or Unclassified lands. Based on a conversation with the BLM on February 12, 2015, we understand that BLM intended the definition in the glossary to be used, and that the description in Volume II Chapter 3 stating that electrical generation facilities are not allowed is an error. BLM also stated in that conversation that applications in these Undesignated lands would require an amendment of the CDCA, but we have not seen this specified in the Draft DRECP. We can find no discussion of the impacts of having 709,000 acres of BLM land outside of DFAs open to renewable energy generation facility application. Many of these lands were previously variance lands under the Western Solar Plan, but excluded from the DRECP variance lands using the screens in Table II.3-46 at p. II.3-309-310. BLM should close these lands to renewable energy generating facilities unless and until BLM analyzes them and designates them as DFAs, Conservation Designations, or other designations. They should be reclassified in the final DRECP EIR/EIS as **Future Evaluation Areas** as described above.

Some “undesigned lands” are areas where large renewable energy projects, like the Desert Sunlight Solar Farm, have been built. Similarly, several wind and solar application sites are also shown on maps as “undesigned.” At a minimum, BLM should identify lands with operating renewable energy generating facilities separately from “undesigned lands” with specific management requirements.

As discussed in Section III, IV and V of these comments, we have specific recommendations for adding undesigned lands to BLM Conservation Designations. Some additional specific considerations for “undesigned lands” include the following:

Owens Valley: Much of the highly scenic Owens Valley consists of land owned by the Los Angeles Department of Water and Power (LADWP) and is not publicly-owned. However there are BLM lands fringing LADWP lands on both the west and east sides of the valley running north to south for about 50 miles.¹⁵⁰ The BLM lands, managed by the Bishop Field Office, encompass the alluvial fans of the steep Sierra Nevada on the west and the Inyo Mountains on the east. Most of these lands are “unclassified” (a few parcels are DRECP variance lands). These lands not only contain important transitional habitat between the crest of the Sierra and Inyo mountain ranges and the Owens Valley (where elevations drop from over 14,000 feet down to 4,000 feet) for many animal and plant species, they are a critical scenic component of the Owens Valley landscape. These public lands in the Owens Valley should be removed from consideration for large-scale renewable energy development and associated transmission.

We understand Inyo County has received funds from the CEC to engage stakeholders in a process to determine whether small-scale (less than 20MW as defined by Inyo County) and community-based solar development might be suitable on some lands in the Owens Valley (including LADWP and private lands). We hope that via this “step-down” process to Inyo County’s Renewable Energy General Plan Amendment the BLM will subsequently process a plan amendment to the Bishop plan to place *all* Owens Valley BLM lands in a “scenic overlay”

¹⁵⁰ Strangely, some of these lands are within the DRECP planning area and some are not; the DRECP boundary stops just north of Independence, in the middle of the Owens Valley.

district or similar land use category that is off-limits to energy development and transmission. The DRECP can start the process of removing BLM lands in the Owens Valley from consideration for energy or transmission development by ensuring that the BLM lands within the DRECP planning area are designated as unavailable for such development.

Recommendations: BLM should close certain undesignated lands to renewable energy and use the term **Future Evaluation Area** to identify lands in the DRECP not allocated to DFA or BLM Conservation Designations, including the Undesignated/Non-Designated/Unclassified/Unallocated lands. These lands should be closed to renewable energy development unless and until BLM analyzes them and designates them as DFAs or analyzes them and designates them as BLM Conservation Designations.

G. BLM should ensure that the process for obtaining a permit for development in a DFA is clear and efficient

Though the Draft DRECP does provide a list of incentives for development in DFAs which include some process-based incentives, we have not found a description of the process for obtaining a permit for development in DFAs. BLM should provide a clear description of the permitting process in the DRECP Record of Decision. The process should be efficient, provide opportunities for meaningful stakeholder participation, and follow all relevant laws, regulations and policies.

Recommendations: BLM should provide a clear description of the process for obtaining a permit in DFAs in the DRECP ROD. The process should be efficient, provide opportunities for meaningful stakeholder participation, and follow all relevant laws, regulations and policies.

H. BLM should specifically identify DFAs and clearly organize the Conservation Management Actions and other design features for federal lands within each DFA and/or ecological subunit.

As proposed, DFAs are large, often discontinuous areas within an ecological subunit open to renewable energy development subject to the terms of the DRECP, including streamlined permitting, Conservation Management Actions (CMAs), and other provisions. The DRECP describes CMAs which are intended to serve as a “specific set of avoidance, minimization, compensation, and additional conservation actions for biological resources covered by the plan and, on BLM land, other non-biological resources. . . .” Draft DRECP at Glossary-3. These CMAs describe management actions for siting, design, pre-construction, construction, maintenance, operation, and decommissioning of renewable energy development and transmission, including the compensation requirements for Covered Activities. While the CMAs for implementation of Covered Activities (*i.e.*, DFAs and transmission) address many important issues (including Avoidance and Minimization and Compensation for specific covered species, natural communities, landscape-level processes), they are distributed throughout the document in a way that makes it difficult to use them for site selection or management. The DRECP recognizes the importance of locational factors for conservation and management, but differentiates only between location within the DFAs or reserve, as shown in Exhibit II.3-4 of the Draft DRECP.

Recommendations: BLM should specifically identify DFAs and develop specific CMAs for individual DFAs and/or ecoregional subunits, similar in scope to the management plans it has created for BLM Conservation Designations under this plan, or SEZs under the Western Solar Plan. The various CMAs that apply to each DFA should be organized to make it easy for potential developers and future land managers to understand the opportunities, constraints and requirements that exist for each DFA, including the surveys required, and the potential scope and cost of mitigation. Such clarity would help with both NEPA analysis (tiering) and plan implementation and compliance.

I. BLM should provide sufficient NEPA analysis of the impacts of development in DFAs to allow tiering at the project-level

A key benefit of developing in an area designated by BLM as a low-conflict, priority development area such as a DFA or a SEZ is the ability to tier project-level NEPA analyses to analysis completed in the process of designating the DFA or SEZ. BLM describes this in detail in the Western Solar Plan ROD:

“When the BLM is preparing NEPA analyses for new SEZs, its goal will be to produce documents with comprehensive analyses of resources at a level of detail sufficient to allow for tiering of future solar energy projects within the SEZ. Analysis of SEZs will also include appropriate consultations pursuant to the ESA and the NHPA. The potential impacts associated with the development of transmission interconnection and other infrastructure to support the establishment of an SEZ will be considered as part of the NEPA review for the SEZ. The BLM will also seek opportunities to designate any necessary utility corridors that would support the establishment of new or expanded SEZs in a combined planning effort.” (Western Solar Plan ROD p. 175)

The Draft DRECP also anticipates tiering project-level review to analysis in the DRECP, stating that an incentive for development in DFAs is “The BLM will tier project-level NEPA analysis to the DRECP EIS for renewable energy projects in DFAs.” Draft DRECP at p. II.3-304.

The Draft DRECP contains very high level discussion of potential impacts from development in the DFAs, but no analysis on a DFA-by-DFA basis, or an ecoregion subunit basis. It does not contain analysis that could be used to allow developers to “tier project-level NEPA analysis to the DRECP EIS for renewable energy projects in DFAs” in a significant way. Much of the information needed to develop these impact analyses for each of the 22 ecoregion subunits is already available through the work of the DRECP agencies, and should be organized and analyzed at the finer geographic scale.

Recommendations: BLM should include sufficient NEPA analysis of impacts from development in DFAs to allow tiering of analysis at the project-level. This analysis should be done on an ecoregion subunit basis at a minimum and on a DFA-by-DFA basis wherever possible. BLM should use the guidance in the Western Solar Plan ROD for designating new SEZs as the baseline for its analysis.

J. BLM should ensure consistency between the DRECP and its ongoing rulemaking for competitive leasing for wind and solar development, including regarding financial incentives for incentivizing development in DFAs

BLM is preparing new regulations for competitive leasing for wind and solar development on public lands, with a draft rule published in September 2014 and a final rule expected in late 2015. As noted in the Draft DRECP, Designated Leasing Areas (DLAs) covered under the rule could include DFAs, though not where “BLM-administered lands are scattered or comprise only a small portion of the total acreage.” (p. II.3-304) We appreciate BLM noting the development of the rule, and we strongly recommend that BLM ensure consistency between the two efforts.

1. BLM should ensure that sufficient NEPA analysis is conducted on DFAs to allow them to be used as DLAs where appropriate

As described above, including sufficient NEPA analysis of DFAs in the DRECP ROD is important to allow tiering project-level review for applications in DFAs. It is also important to allow for competitive leasing in DFAs if they are established as DLAs.

Recommendations: BLM should conduct sufficient NEPA analysis of DFAs to allow them to be used as DLAs where appropriate.

K. BLM should address special considerations specific to identifying DFAs and DLAs for wind development

BLM should thoughtfully explore what identifying DFAs and DLAs as low-conflict, priority development areas may mean for wind, and how best to coordinate this with the designation of DFAs for wind development in the DRECP. As we outlined in our comments on the competitive leasing rule (attached as Appendix E), there are some differences between wind and solar resources and their impacts that require different considerations for wind areas than those for “solar zones.” We have suggested the agency explore a two-step process for identifying DFAs and DLAs for wind through a land use plan decision. First, BLM should identify areas that are “generally relatively large areas that provide highly suitable locations for utility-scale wind development; locations where wind development is economically and technically feasible, where there is good potential for connecting new electricity-generating plants to the transmission distribution system, and where there is generally low resource conflict.” They would meet the criteria for DLA in the proposed rule and be consistent with all BLM IMs, manuals and handbooks, with special focus on avian and bat population status, distribution and use in areas under consideration for wind development. Second, BLM should consider new, creative approaches to offering wind-focused DFAs and DLAs to address the need for site-specific wind data and wildlife monitoring before full leasing, such as a two-phase approach to leasing within wind DFAs and DLAs. In short, this approach would have a first phase in which BLM would hold a competitive offering for short-term leases for site-specific meteorological and other testing and wildlife monitoring within a DFA or DLA and a second phase in which the short-term lease holder would be granted, barring any significant new information about wildlife or other conflicts, the preferred right to enter into a non-competitive project proposal and

development phase subject to the same terms and conditions proposed in the draft rule for DLAs and other BLM policies.

BLM should also consider modelling leasing within wind DFAs and DLAs after approaches developed for Master Leasing Plans for oil and gas leasing. The MLP policy is an attempt to ensure that decisions to lease are systematically considered within the context of “natural resource values in the area” while also identifying “resource protection measures and best management practices that may be adopted as lease stipulations in a resource management plan (RMP).”¹⁵¹ Such a process is notable given its commitment to consider contemporaneous conditions on the ground, while also ensuring that the public is afforded an additional opportunity to participate. These two steps are instrumental in improving leasing decisions by helping to ensure that commitments to lease at a landscape scale level are not initiated until additional considerations and environmental safeguards regarding suitability are fully considered, and most ideally incorporated when designing and implementing a leasing plan.

Under this approach, BLM would conduct a NEPA analysis of a designated leasing area prior to leasing—but, for example, after site-specific meteorological and wildlife monitoring have been conducted—as a means to ensure that landscape scale level decisions are truly consistent with protecting sensitive areas while affording meaningful opportunities for additional renewable energy development.

Recommendation: BLM should address special considerations specific to identifying DFAs and DLAs for wind development and ensure coordination of these efforts with the designation of DFAs for wind in the DRECP.

L. BLM should provide financial incentives for development in appropriate DFAs, consistent with an improved final competitive leasing rule

We strongly support financial and administrative incentives to direct wind and solar projects to low-conflict areas. Increased certainty and limited costs for developers undertaking projects inside pre-screened DLAs should be incorporated in the DRECP consistent with the final, improved competitive leasing rule. We support BLM’s efforts to move to a lease-based system, rather than right-of-way grants currently in use. The Federal Land Policy and Management Act (FLPMA) clearly allows for such a change. 43 CFR § 2801.5.

Financial and administrative incentives, however, should not equate to a discounted value for land identified as a DLA. BLM should implement long-term cost and administrative structures that reflect a fair market value for these lands. Further, lands outside of DLAs should come at a higher cost burden to potential developers.

We also agree that certain categories of offsets for bids within DLAs warrant reconsideration to serve as economic incentives to promote thoughtful and reasonable development. In particular, we believe offsets should be offered to project designs that incorporate a higher level of technological and environmental standards.

¹⁵¹ See http://www.blm.gov/co/st/en/BLM_Programs/oilandgas/BLM_Colorado_Master_Leasing_Plans.html

BLM should also incentivize adoption of more efficient and more environmentally sound technologies and practices after construction to encourage investments in technology or environmental conditions through a temporary reduction in the acre rent payment. Incentives to integrate more efficient panels or blades, for example, will help ensure infrastructure on public lands reflects gains from new technology and that future land-use continues to serve the general public.

Recommendation: Overall, BLM should create a system of financial incentives for development in pre-screened lower conflict areas, including DFAs, through the competitive leasing rule, while maintaining fair market value for these lands. Lands outside of DFAs should come at a higher cost burden to potential developers.

M. Treatment of Authorized and Pending Applications on BLM Land within DRECP

The Draft DRECP states that the DRECP ROD will not affect solar and wind projects authorized prior to the completion of the DRECP. Draft DRECP at p. II.3-311. Our GIS analysis of BLM data on renewable energy applications and proposed NCL units shows several cases where authorized (and in some cases built) wind projects overlap with NCL units. Within the Lake Cahuilla NCL Unit, the BLM-approved wind development application for the Ocotillo Express, LLC wind project (CACA 051552) overlaps the unit. Within the Coachella Valley NCL Unit, the following BLM-approved wind development applications overlap the conservation unit: BP-Edom Hills Project (CACA 014632), Energy Unlimited Inc. – Eastridge (CACA 017192), Mesa Wind Power Corp. - Alta Mesa (CACA 11688A). If these projects are constructed, BLM should adjust the boundaries of the NCL units to eliminate the overlap with the project.

“Pending projects” in Solar Energy Zones (SEZs) will also not be affected by the DRECP ROD. (p. II.3-312) Table II.3-48 lists five applications BLM considers to be pending projects in SEZs. Solar Reserve Mule Mountain (CACA 50390) is not in a SEZ. EDF Chuckwalla (CACA 51950) was withdrawn by the applicant and BLM closed the application. BLM should remove both of these applications from the table in the ROD.

Applications with a published Draft EIS or EA no later than 60 days after the Draft DRECP is released will also not be affected by the DRECP ROD so long as the final NEPA document includes analysis using the best available data and analysis describing the relationship between the project and the DRECP conservation and recreation strategies. Draft DRECP at p. II.3-312.

By definition, all other pending and future applications would be affected by the DRECP ROD. BLM should state this explicitly in the ROD. BLM should also explicitly state that pending applications in areas designated as BLM Conservation Designations through the DRECP will be terminated by the BLM using the standard process for terminating applications that are not in conformance with a BLM land use plan.

Recommendations: BLM should exclude all constructed renewable energy projects from within the boundaries of NCL units. If approved projects are not built in a timely manner or are otherwise terminated, BLM should keep the identified lands within the NCL unit.

For pending applications, BLM should state explicitly in the ROD that all pending applications that do not have a draft EIS or EA by [60-days after release of the Draft DRECP] are covered by the final DRECP. BLM should also explicitly state that pending applications in areas designated as Conservation Designations through the DRECP will be terminated by the BLM using the standard process for terminating applications that are not in conformance with a BLM land use plan.

N. BLM should ensure transmission planning and development supports DFAs

1. BLM should incorporate planning for transmission for the DFAs in the DRECP

We support coordinated energy planning processes that integrate land use, electricity generation and transmission planning. Providing access to transmission with available capacity within DFAs is one of the major benefits that could come from the DRECP and a key incentive to development within DFAs. Conversely, not planning for serving the DFAs could limit the success of the DRECP. Enhanced coordination among California Independent System Operator, California Public Utilities Commission, California Energy Commission, wildlife agencies, BLM, utilities, other planning regions, and state and federal planners should be pursued as the DRECP is finalized.

To ensure the success of the DRECP, DFAs for renewable energy generation should be designed with transmission access in mind, and focused in areas that are either near existing transmission with capacity or with the potential to upgrade with the least environmental impacts. Beyond these first priority areas, priority for future transmission planning and development should be given to corridors that serve low-conflict DFAs.

As is the policy in California, existing transmission should be upgraded where technically and economically feasible before new lines are constructed in new corridors. Where construction of new transmission lines is required, within BLM lands they should be limited to existing designated transmission corridors.¹⁵² Transmission upgrades and new transmission development should be sited and constructed to avoid, minimize and mitigate impacts to wild lands and wildlife.

Recommendation: BLM should incorporate planning for transmission for the DFAs in the DRECP ROD, following the principles above.

2. BLM should limit conflicts and impacts from transmission development

We support limiting transmission development within BLM Conservation Designations (including NCL, ACECs, and wildlife allocations) to “existing corridors only” and closing NCL units to development outside of those corridors, as proposed in the Preferred Alternative of the Draft DRECP at II.3-317. CMA AM-TRANS-4 also specifies that for DFAs and Reserve (BLM LUPA Conservation Designations and lands added to the reserve): “Restrict transmission projects to be within designated utility corridors. . . .” Draft DRECP at p. II.3-83. Though the

¹⁵² Some designated corridors are inappropriate and should be revised as noted below, including at least two segments of West-wide Energy Corridors designated under Section 368 of the Energy Policy Act.

Preferred Alternative and CMA AM-TRANS-4 are very clear that transmission projects are restricted to existing corridors, the management prescriptions for individual ACECs are not clear, and in many cases do not specify that development is restricted to existing corridors, often stating instead that the ACECs are only ROW avoidance areas. BLM should add clear statements in each ACEC's management prescriptions that transmission development is restricted to existing corridors. Under CMA AM-TRANS-4, BLM cannot accept proposals for new utility or transmission corridors within any of its Conservation Designations outside of appropriate, existing designated corridors.

The plan also needs to clarify what constitutes an existing corridor. According to the Draft, there are 1,320,000 acres of BLM "designated utility corridors" in the Plan Area, including 236,000 acres within West Wide Energy Corridors (also known as Section 368 corridors). (III.13-10). In addition to referring to "designated utility corridors" (e.g., at II.3-83), the Draft Plan refers to "transmission projects in existing transmission corridors" (II.3-63); "designated and new utility corridors" (II.3-69); BLM-designated utility corridors" (III.13-12); "proposed transmission line corridors" (III.13-19). Not all designated utility corridors should be considered existing transmission corridors under this plan and BLM should specify and map each existing utility corridor and determine whether it is a transmission corridor for the purposes of the DRECP. BLM should define "existing corridors" to be "transmission corridors designated in relevant land use plans and identified in the DRECP, and Section 368 corridors as modified by the DRECP." The final definition should be included in the glossary and used consistently throughout the plan. The Plan should also be clear whether major upgrades of existing transmission lines within existing rights-of-way is allowed in BLM Conservation Designations under the plan and under what conditions.

Under the preferred alternative, the plan estimates that an additional 33,000 acres of disturbance would occur to meet the transmission needs of the plan, of which approximately 14,000 acres would be on BLM lands. (II.3-202) We support the application of the Transmission Avoidance and Minimization CMAs in Section II.3.1.2.5.6 to avoid and minimize the impacts of this development, particularly within BLM Conservation Lands. The compensation ratio for transmission impacts of 5:1 appears to be appropriate. We also support excluding LWC managed for protection from ROW development, including transmission as proposed in the Draft DRECP. (II.3-423) If unavoidable impacts to LWC do occur from transmission development in existing, designated corridors, BLM should follow the mitigation requirements described in the Draft DRECP, as well as incorporating other methods of mitigation identified in the Western Solar Plan ROD, including administrative protection of other BLM lands. (Draft DRECP II.3-424; Western Solar Plan ROD p. 54-56)

Recommendations: As proposed in CMA AM-TRANS-4 BLM should restrict transmission development within BLM Conservation Designations to existing, designated transmission corridors and make them ROW exclusion areas for transmission.

BLM should add clear statements in each ACEC's management prescriptions that transmission development is restricted to existing corridors.

LWC should be excluded from transmission development; if unavoidable impacts to LWC do occur from transmission development in existing, designated corridors, BLM should follow the mitigation recommendations above.

The Draft DRECP allows for new transmission development within desert tortoise conservation areas (TCAs). Such development should be minimized by rewriting CMA AM-DFA-ICS-5 to restrict transmission development within TCAs to upgrades of existing transmission lines *only* within existing developed rights-of-way.

Recommendations: BLM should minimize transmission development within desert tortoise conservation areas by limiting transmission development to upgrades of existing lines and rewriting **CMA AM-DFA-ICS-5** (II.3-63) to read: “Covered Activities, except for transmission project **upgrades within** existing developed transmission **rights-of-way**, will avoid the desert tortoise conservation areas and the desert tortoise linkages identified in Appendix H...”

3. BLM should refine the West-wide Energy Corridors in the DRECP ROD to limit conflicts

As detailed in our May 2014 comments on BLM’s Request for Information: West-wide Energy Corridors Review (Attachment F), BLM should refine the West-wide Energy Corridors to eliminate corridor 18-23 through the Owen’s Valley and corridor 27-41 along Route 66. These corridors pose significant threats to important resources and values. Transmission development in these corridors to access DFAs would face significant conflicts and controversy.

Recommendations: BLM should eliminate WWEC corridor 18-23 and 27-41. BLM should replace corridor 27-41 with the east-west alignment of the existing corridor in the land use plan to the north that largely parallels Interstate 40.

VII. RECREATION

Public lands in the California Desert are an important resource for visitors and residents looking to experience a broad range of recreational activities outside of the urban or developed environment. These activities and experiences range from those involving naturalness, quiet landscapes, solitude, and scenic views to more intensive recreational experiences such as motorized play in the Johnson Valley or Dumont Dunes areas. As outdoor and conservation enthusiasts who are also avid recreational users of the public lands, TWS and our members support BLM’s decision to manage recreation within the California Desert Conservation Area under the DRECP.

The interagency goals and objectives of the draft DRECP are broadly stated and require participating agencies to provide for the long-term conservation and management of covered species, natural communities, and the physical, cultural, scenic and social resources within the Plan Area. *See*, Interagency Objectives/Purpose and Need, Draft DRECP, at Vol.I.1.1. For its part, BLM is amending the California Desert Conservation Area land use plan under the DRECP based on a similar comprehensive, long-term planning framework to guide the management, use,

development and protection of resources on public lands in the California Desert. *See*, CDCA Act, within FLPMA, 43 U.S.C. 1781(a)(6). Pursuant to the CDCA Act and FLPMA:

[T]he use of all California Desert resources can and should be provided for in a multiple-use and sustained yield management plan to conserve these resources for future generations, and to provide present and future use and enjoyment, particularly outdoor recreation uses, including the use, *where appropriate*, of off-road recreation vehicles...

43 U.S.C. §1781(4) (emphasis added).

We support a broad range of recreational opportunities that includes motorized, mechanized, horse, foot and other types of travel. Therefore, we propose the following changes to the outdoor recreation plan to ensure recreation opportunities are compatible with areas devoted to conservation and provide a balance for all recreational users and experiences.

A. BLM should adopt certain plan-wide recreation management prescriptions to ensure management is consistent across the plan area.

Millions of visitors come to the California Desert every year to experience its beautiful desert landscapes and unique recreational opportunities. The demand for outdoor recreation experiences is growing, and it is imperative that BLM use the right management prescriptions to balance public access and enjoyment with environmental conservation and protection. In general, we support BLM's decision to address recreation in the CDCA land use plan amendments, and encourage the agency to adopt landscape scale recreation management prescriptions in the DRECP to increase consistency across the region and between field offices. The following landscape level recreation management prescriptions proposed by BLM in the draft plan are particularly important and should be adopted.

Renewable Energy Development

Energy development on public lands often requires service road construction and area closures, which can negatively impact the recreational experience for visitors by reducing access and damaging an area's scenic values. Since outdoor recreation activities on public lands are popular, in part, because of the beautiful landscapes and unique natural environments that exist there, it is essential that diverse recreational opportunities on public lands are not compromised by expanding renewable energy development on lands focused on various recreation activities. Therefore, we support BLM's decision to prohibit renewable energy development on designated recreation areas within the CDCA, including: open Off Highway Vehicle (OHV) areas, existing and proposed Special Recreation Management Areas (SRMAs), and proposed Extensive Recreation Management Areas (ERMAs). *See*, Outdoor Recreation, Vol.IV.18.2.1.

Overlapping Conservation Land Designations

The draft DRECP provides that where recreational and conservation lands overlap and management guidance conflicts, the conservation management prescriptions will prevail over recreation. *See*, Outdoor Recreation, Vol.IV.18.2.2. This is consistent with BLM's FLPMA and regulatory mandates, and will ensure recreational activities do not negatively impact biological, visual, scenic, historic and/or cultural resources. *See*, 43 U.S.C. § 1732(a); Secretarial Order

3308; *see also*, Outdoor Recreation, Vol.IV.18.3.2.1.1. Therefore, we support BLM's decision that conservation land management prescriptions will be prioritized in the event of overlapping designations.

Disturbance Caps

Recreation activities, like energy development, can impact the underlying and surrounding natural and scenic environment, even though these impacts are usually quite localized. To manage impacts and limit environmental disturbances, BLM proposes to adopt caps to reduce ground disturbing activities within ACECs and/or NCLs. Since most of the proposed SRMA/ERMA designations also overlap with ACEC and/or NCL designations, recreational activities may impact these conservation lands. Therefore, we support BLM's decision to include impacts from recreation activities when calculating disturbances. *See*, Outdoor Recreation, Vol.IV.18.2.3.2.

Desert Tortoise Natural Areas

The Desert Tortoise Natural Area (DTNA) was established in 1976, and later designated an ACEC, to manage and protect the sensitive habitat of the desert tortoise. This area has the highest known densities of desert tortoises per square mile within its range. Under the Preferred Alternative, BLM is proposing to replace the DTNA with the Desert Tortoise Research Natural Area (DTRNA), which overlaps the proposed El Paso/Rand SRMA. However, we recommend that the overlap between the El Paso/Rand SRMA and the DTRNA be eliminated by removing the SRMA overlay in this specific location. While the DTRNA will be closed to all motorized and mechanized vehicle activity, and allow only low-impact recreation such as nature hikes, photography, and sensitive wildlife viewing, it creates confusion in this particular case to have a SRMA overlapping a Research Natural Area. *See*, El Paso/Rand SRMA, draft DRECP, Appendix L, and Desert Tortoise RNA, draft DRECP, Appendix L.

OHV Area Designations

BLM is obligated to designate all lands within the CDCA Plan as either open, closed or limited to OHV use. *See*, 43 C.F.R. § 8342.1; *see also*, Transportation and Public Access, Vol.III.19.1.1.2. BLM must also minimize conflicts among the various uses of public lands when making or changing land use allocations in accordance with 43 C.F.R. § 8342.1 The CDCA Plan amendments propose primarily limited access OHV areas and do not create any new open OHV play areas. We support BLM's decision to limit open OHV play areas to those currently designated rather than expanding open areas.

Mitigation Measures

BLM must take into account the full suite of the mitigation hierarchy, including avoidance as the primary objective, as set out in the Energy and Climate Change Task Force's report to the Secretary of Interior on improving mitigation policies and practices.¹⁵³ This includes restoring closed routes, ensuring network connectivity by maintaining designated routes, and not permitting new routes to be created. We support BLM's stated commitment to mitigating impacts caused by recreational activities, as set out for each recreation management area. *See*, Appendix L; *see, e.g.*, Preferred Alternative, Vol.II.3.1.3.7.3

¹⁵³ Available online at: http://www.doi.gov/news/upload/Mitigation-Report-to-the-Secretary_FINAL_04_08_14.pdf

Adaptive Management Planning

To ensure that recreation areas are regularly reevaluated to assess their impacts on the environment and the values of overlapping ACECs or NCLs, BLM should consider recreation when developing its adaptive management planning strategy. By applying triggers and timelines to reassess and review recreation decisions, BLM will better protect sensitive areas and help implement more sustainable recreational opportunities in the California Desert. *See*, Outdoor Recreation, Vol.IV.18.2.3.2, and Manual 8320.06(C)(9).

B. BLM must update OHV area designations to ensure compliance with the minimization criteria.

BLM must comply with the requirements of Executive Orders (E.O.) 11644 and 11989 and the agency's implementing regulations (43 C.F.R. §§8342.1 and 8342.2) to minimize impacts from OHV-use to other resources and uses on public lands within the CDCA. BLM must also ensure that OHV area designations are made in a way that minimizes the conflicts between motorized and non-motorized recreation visitors, and harm to the natural, aesthetic, and scenic values of special areas (e.g., primitive areas, ACECs, NCLs, LWCs, etc.) and other natural resources, such as wildlife habitat and wilderness values. 43 C.F.R. §8342.1. The obligation to apply minimization criteria to OHV areas in land use planning decisions such as the DRECP has been repeatedly reaffirmed by courts. *See, Southern Utah Wilderness Alliance v. Burke*, 981 F.Supp.2d 1099 (D. Utah 2013).

Specifically, when designating areas or trails available for OHV use, agencies must locate them to:

- (1) minimize damage to soil, watershed, vegetation, or other resources of the public lands;
- (2) minimize harassment of wildlife or significant disruption of wildlife habitats; and
- (3) minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands.

43 C.F.R. § 8342.1.

Because BLM is amending its land use designations and allocations in the DRECP, it must also consider how OHV areas might impact resources and users, and locate OHV areas to minimize conflicts with the criteria set out above. For example, additions to the National Conservation Lands will change the management goals and objectives for lands to protect the outstanding ecological, cultural and scientific values of the areas. BLM must show how it is locating OHV areas to minimize conflicts with resources and other users given these amendments to the land designations and allocations in the CDCA. We think this can be done, and provide some suggested examples below.

In addition, BLM's OHV regulations require protection of other values that are a critical part of a healthy ecosystem, and that ensure visitors are able to find areas for quiet enjoyment and solitude. OHV management should, therefore, consider and avoid impacts on low-impact activities, such as hiking, wildlife viewing, photography, hunting, etc. BLM must also prevent impairment of wilderness characteristics and adverse effects to natural areas caused by motorized travel on public lands, and that includes minimizing the harassment of wildlife, disruption of

habitat, and “damage to soil, watershed, vegetation, air, or other resources of the public lands”. 43 C.F.R. § 8342.1.

Recommendation: BLM must show how OHV area designations meet the minimization criteria within the CDCA land use plan amendments. By applying the mitigation criteria in the CDCA Plan, BLM will reduce conflicts between motorized and non-motorized users, and limit impacts caused by higher impact recreation activities.

C. Outdoor recreation management of the draft DRECP should provide a range of recreational opportunities in the CDCA.

Given the size of the plan area, the broad recreational interests enjoyed by users of the desert, and the agency’s obligation to support opportunities for a wide range of recreational activities, BLM should consider a diverse set of recreational alternatives for public consideration.

As stated in BLM Manual 1626, BLM should “consider and address the full range of various modes of travel on public lands, *not only motorized access needs.*” Manual 1626.06(A)(1)(emphasis added). The Ninth Circuit has agreed, noting that “privileging one form of use over another...violates NEPA.” *See, Oregon Natural Desert Ass’n, et al. v. BLM*, 625 F.3d 1092, 1124 (2010)(citing *State of California v. Block*, 690 F.2d 753, 767 (1982)). Specifically, the Court held that BLM “must consider closures of significant portions of the land it manages” since “[c]losures, not just “limited” designations, must be considered to comply with NEPA.” *Id.*, at 1124.

Therefore, in addition to developing motorized recreation opportunities, we encourage BLM to develop recreation management areas with non-motorized travel management criteria in the CDCA amendments of the DRECP. Designating non-motorized areas, or zones, within SRMAs and ERMAs is important to ensure primitive and quiet recreation experiences are maintained across a given landscape. This is especially true where recreation management areas overlap with conservation designations in the planning area, which is discussed in more depth below.

BLM can provide a more balanced recreation management plan for the CDCA by designating additional recreation management zones (RMZs) within certain areas of the planning area. These recreation area subunits are managed for distinct recreation purposes that cater to a particular recreational niche, and consider the individual character conditions of a given location. BLM Land Use Planning Handbook 1601.1. These subunits help narrow permissible activities within a particular place and should be applied to benefit varying types of recreational experiences (e.g., motorized vs. non-motorized recreation). Using RMZs is especially useful in regions with other overlapping special land area designations (i.e., ACEC, NCL, and land with wilderness characteristics). For example, a SRMA could also be internally divided into several RMZ units that focus on particular uses (e.g., backcountry OHV touring, hiking, rock hounding, etc.) to help limit impacts from high-impact recreation in the more sensitive conservation land areas.

In general, we support BLM's proposal to designate recreation areas within the CDCA. By formally designating SRMAs, ERMAs, and all internal RMZ designations¹⁵⁴, BLM can help reduce impacts associated with unmanaged recreation in the area. These designations should also help to improve conservation within the CDCA by increasing monitoring and mitigation across the region. The disproportional use allocation in the Draft DRECP should be recalibrated to provide adequate opportunities for other recreation interest groups and ensure overlapping conservation lands are not impacted by high-impact recreational activities.

We recognize that the California Desert is not only a huge landscape, but it's also unique in how people recreate on the lands being considered for designation in the LUPA in that there is much overlap between motorized and non-motorized recreation by virtue of the area's topography. Most users of the California Desert use four-wheel drive vehicles to access more remote areas in the desert (e.g., Silurian Hills, old mining cabins and townsites, campsites, trailheads), and then explore those destination areas on foot. Therefore, it is difficult in many instances to separate motorized and non-motorized uses, but we believe it should be done in at least a handful of places. Our intent is not to restrict vehicles from conservation areas but simply to have BLM recognize that there are many places that also have value to non-motorized users.

Recommendations: BLM should diversify the CDCA recreation management plan amendments by including recreation management areas that provide additional RMZs for both motorized and non-motorized access and experience. Growing demand for OHV-use areas will continue to encroach on traditionally primitive recreation areas and opportunities for quiet and visitor solitude on public lands. SRMAs, ERMAs and RMZs are an effective way to manage for specific recreation needs and to balance both motorized and non-motorized recreation interests. Currently, very few of BLM's proposed recreation management areas or RMZs favor non-motorized or low-impact recreation over motorized activities even in areas where activities like hiking, camping, horseback riding, etc. could benefit from RMZ designation. Our suggested approach is to use existing data on lands containing wilderness characteristics, proposed and existing ACECs and NCLs to accomplish the necessary balance with respect to recreation zoning within SRMAs and ERMAs.

D. Comments and recommendations on specific Recreation Management Areas

As discussed above, to improve the diversity of recreation opportunities and to protect overlapping sensitive conservation land areas, BLM should dedicate some SRMAs, ERMAs and/or zones within these areas for non-motorized, quiet use opportunities to balance recreation management among the alternatives. Using available maps developed and data collected by BLM and the California Wilderness Coalition, we recommend that the following proposed SRMAs and ERMAs be modified in the final CDCA land use plan amendments to balance a more diverse range of recreational interests and to ensure designated conservation lands are adequately protected. These are but examples of how BLM can and should appropriately accommodate both motorized and non-motorized recreation within SRMAs and ERMAs in the California Desert.

¹⁵⁴ Proposed recreation management areas, which include RMZs, are: National Trails Viewshed SRMA, Ivanpah Windsailing SRMA, Panamint Valley SRMA, El Paso/Rands SRMA, Red Mountain SRMA, Jawbone SRMA, Shadow Valley ERMA, Stoddard/Johnson Valley SRMA, and Chemehuevi Valley Rock Collecting and Touring SRMA.

Chuckwalla SRMA

The Chuckwalla area is one of the most outstanding representative areas of the Sonoran Desert in California. The region is home to the Agassizi's desert tortoise and contains the highest acreage of tortoise habitat known in the region. The flora is diverse and includes over 150 plant species including several species found nowhere else. The washes and foothills also provide excellent habitat for burro deer and pronghorn. Corn springs supports abundant wildlife and is important for migratory birds.

The primary recreational objectives for the Chuckwalla SRMA provide opportunities for area residents, visitors, and commercial recreation providers to engage in both motorized and non-motorized recreation activities that are compatible with recovery efforts for the desert tortoise and other ACEC values. In the Chuckwalla SRMA, the character of the natural landscape is to be retained; today, there are few human-caused changes to the scenery. In fact, the majority of the eastern half of the SRMA was found to have wilderness characteristics.

To protect these untrammeled areas and preserve opportunities for solitude and quiet recreation in this area, BLM should include additional RMZs within the SRMA that are consistent with the inventories done by the California Wilderness Coalition for lands containing wilderness characteristics. This area in the Chuckwalla Mountains is currently unroaded, undisturbed and provides important habitat for desert tortoise, among other species. The agency should be proactive by making management decisions for the Chuckwalla region that ensure pristine and ecologically important areas remain protected.

El Paso/Rand SRMA

The proposed El Paso/Rand SRMA covers a popular motorized vehicle recreation area. It also overlaps with the Desert Tortoise Natural Area (DTNA) and Desert Tortoise Research Natural Area (DTRNA). These conservation lands were designated to manage the high density of desert tortoises in the area while providing opportunities for compatible recreation. Under the Preferred Alternative, BLM proposes eliminating 23,000 acres of the DTNA, but maintaining the DTRNA as an RMZ closed to motorized recreation. We object to reducing the size of the DTNA and including the DTNA as an RMZ in the proposed El Paso/Rand SRMA. Rather, BLM should reduce the size of the El Paso/Rand SRMA to avoid the overlap with the DTNA. The DTNA should be prioritized for conservation and wildlife management. *See*, DRECP, Transportation and Public Access, Vol.III.19.1.1.2.

Amargosa Grimshaw SRMA

The Amargosa River Valley contains one of California's most unique desert landscapes. The Amargosa River is known for its lush greenery, hanging gardens, riparian areas and desert wetlands. It is also home to numerous rare bird, fish, mammal, and plant species. This SRMA also overlaps two ACEC designations - the Amargosa South and the Amargosa South Expansion. The SRMA also contains the huge roadless area west of Sperry Wash, which was inventoried and found to have wilderness characteristics by the California Wilderness Coalition. Given the biological importance of this area, it should be dedicated to non-motorized use and designated as a closed RMZ, managed for low-impact primary activities like hiking, photography and wildlife

viewing, etc. In addition, BLM should focus OHV-use to the existing 16 mile Sperry Wash Route where vehicle use is permitted, as well as other legal routes.

Panamint Valley SRMAs

Panamint Valley is the only remaining, large, undeveloped valley in the BLM Ridgecrest Field Office area. The area is very pristine, providing excellent habitat for many sensitive and endemic threatened and endangered species, including: Inyo California towhee, desert tortoise, Mohave ground squirrel, Nelsons bighorn sheep, bats, Panamint alligator lizard, and Panamint daisy, among others. The valley also includes several historic mining sites, as well. Many of these old mines are exceptionally well-preserved and associated with the historic Nadeau Trail. The valley is also incredibly scenic. As a result, Panamint Valley is both a designated ACEC and proposed NCL area. *See*, Panamint Valley ACEC, draft DRECP, Appendix L. Its unique character has also made it popular among motorized vehicle users. The primary recreation activities to be managed in these areas include: backcountry OHV touring, dual sport biking, hiking, rock hounding, hunting, equestrian riding, photography, spiritual retreats, and climbing. *See*, Panamint Valley SRMA and North Searles SRMA, draft DRECP, Appendix L.

The Panamint Valley SRMA currently proposes 12 RMZs, all of which are designated to provide technical and semi-nontechnical vehicle exploration opportunities. Although rugged hiking and other quiet use activities, like rock climbing, are priority activities in these areas, the plan fails to provide any areas specifically managed for non-motorized uses. We recommend that lands containing wilderness characteristics within the Panamint Valley, as inventoried by the California Wilderness Coalition and particularly in the northeastern corner, be designated as RMZs managed for non-motorized recreation. These multiple units are separated by roads and there are no existing roads within them. Managing them for non-motorized recreation will preserve the roadless character of these lands and allow for visitor enjoyment of non-motorized recreational activities in this portion of Panamint Valley.

Stoddard/Johnson Valley SRMA

The proposed Stoddard/Johnson Valley SRMA provides ample opportunities for high quality organized OHV recreation, which requires open and diverse desert terrain. Two large OHV open recreation areas, Stoddard Valley and Johnson Valley, are the main draw to the area, but there are also two popular rock climbing areas, a campground, trails, petroglyphs, springs, mountain tops and thousands of acres of open space. These lands experience heavy visitor traffic because they are on the urban interface and are easily accessible. These areas also overlap with several important ACECs, including: Daggit Ridge Mojave Monkeyflower ACEC, Mojave Monkeyflower ACEC, Ord-Rodman DWMA ACEC and Ord-Rodman Expansion ACEC. It also encompasses the Northern Lucerne Wildlife Linkage.

The Ord-Rodman DWMA ACEC is of particular importance as this area is not only a critical desert tortoise habitat, but is also a high density desert tortoise habitat and linkage area. Management of this area is prioritized for tortoise conservation and recovery. As a result, it is essential that overlapping recreation decisions take this into consideration. This area is a proposed RMZ for activities including: hiking, mountain climbing, geocaching, hunting, historical group outings, picnicking, equestrian riding and photography. *See*, Stoddard/Johnson Valley SRMA, draft DRECP, Appendix L. OHV-use is still considered a primary activity in the

area even though it is not as popular here. Instead, this area should restrict motorized vehicle use to existing roads and prioritize the inventoried, roadless portions of this area containing wilderness characteristics, as inventoried by the California Wilderness Coalition, for non-motorized recreation. For example, a portion of the Rodman Mountains area, which is included in the proposed SRMA, is an existing roadless area that provides important habitat for species like desert tortoise, desert bighorn sheep, and golden eagles, among others. BLM should designate this section as a non-motorized RMZ within the Stoddard/Johnson SRMA to ensure impacts on important desert tortoise habitat and other species are minimized and to provide more opportunities for quiet enjoyment of areas that are still easily accessible with motorized vehicles and close to urban environments.

Chemehuevi Valley SRMA

The Chemehuevi Valley is a transition zone between the Mojave and Sonoran Desert ecosystems. The Chemehuevi Wash is one of the largest desert wash systems in the United States section of the Sonoran Desert and it has some of the best desert tortoise habitat in the southeast Mojave and northeast Sonoran Deserts. In addition to tortoise, the Chemehuevi ecosystem attracts a variety of birds, including: prairie falcons, gray vireo, Bendire's thrasher, and burrowing owls. There are also numerous rare and sensitive plants that inhabit the area. Fortunately, this region is still relatively undeveloped, helping to preserve these valuable desert resources. BLM's decision to also designate this area for recreation activities is alarming, especially because it proposes seven RMZs, none of which is closed to motorized vehicles or intended to provide greater opportunity for quiet use, solitude and low-impact recreation in an ecologically important region.

The SRMA is overlapped by the Chemehuevi Valley ACEC, which is proposed in order to protect desert tortoise and significant natural resources, including special status plant species, animal species and natural communities. To adequately protect the area's biological values, habitat quality, sensitive species populations, and habitat connectivity, BLM should designate RMZs within the Chemehuevi Valley that encompass several roadless units containing wilderness characteristics and manage these areas for non-motorized use only. For example, a portion of the Whipple Mountains area within the Chemehuevi Valley SRMA contains important roadless areas and provides habitat for many species, including several endangered birds, desert bighorn sheep and desert tortoise. We recommend that these roadless areas be designated as RMZs closed to motorized vehicle use. Jeep use along existing trails separating these roadless units should remain open.

Sacramento Mountains SRMA

The Sacramento Mountains is a primitive area near the California-Nevada border that is rich with character and opportunities for both quiet and motorized recreation. The region is designated critical habitat for the desert tortoise and many vulnerable bird species, including the Gila woodpecker, Le Conte's thrasher, prairie falcon, etc. The proposed SRMA in this region aims to provide for a broad range of OHV recreational trail activities, tent and RV camping, hiking, photography, hunting, wildlife and wildflower viewing. However, the area also contains large roadless units, which are separated from one another by jeep trails. As a result, we recommend that the existing inventoried roadless areas of the Sacramento Mountains be allocated to non-motorized use as part of SRMA zoning using lands with wilderness characteristics boundaries

inventoried by the California Wilderness Coalition. No jeep trails would be impacted by this approach.

Cadiz Valley ERMA

The Cadiz Valley ERMA is located along the northern boundary of the proposed Cadiz Valley ACEC. This area is critical for species like desert bighorn sheep, Mojave fringed toed lizards, desert tortoise, burrowing owl, and multiple bat species. It is also considered one of the most pristine and untrammled areas in the region. *See*, Cadiz Valley ERMA, draft DRECP, Appendix L. The proposed Cadiz Valley ERMA extends west into the Bristol Lake area and partially overlaps with the Danby Lake area north of the Iron Mountains. Although one of the primary activities proposed for the ERMA is back country OHV touring, the region is still predominantly unroaded and to be managed for outstanding views and dispersed recreational opportunities. To better facilitate this objective, BLM should designate individual non-motorized RMZs within the ERMA, specifically where there is overlap with areas exhibiting wilderness characteristics inventoried by the California Wilderness Coalition. This includes the Bristol Lake region and the north eastern corner of the proposed Danby Lake NCL area.

Ward Valley ERMA

Ward Valley ERMA is valued by local communities, visitors, and the Native American Tribes for its rich cultural and historic features, and ecological value. The primary recreation activities proposed for this area are: backcountry OHV touring, camping, hiking, photography, star gazing, walking, picnicking, and research. *See*, Ward Valley ERMA, draft DRECP, Appendix L. The proposed management plan for this ERMA includes two RMZs: Rice WWII Historic Site RMZ and Iron Mountain WWII Divisional Camp Historic Site. The proposed ERMA also overlaps several proposed and existing ACECs¹⁵⁵ and areas exhibiting wilderness characteristics as inventoried by the California Wilderness Coalition. Unfortunately, BLM does not propose any non-motorized, low-impact RMZs within the more sensitive areas of this large ERMA.

As a result, we recommend BLM consider additional RMZs in select areas of the Ward Valley ERMA for non-motorized recreation, particularly in areas inventoried with wilderness characteristics. For example, Danby Lake near the southern boundary of the ERMA is predominantly roadless and contains important habitat for many species of interest, including: desert bighorn sheep, Harwood's eriastrum, Harwood's milk-vetch, hepatic tanager, prairie falcon, slender cottonheads and small-flowered androstephium.¹⁵⁶ Designating this portion of the ERMA as a non-motorized RMZ will provide more diverse recreation opportunities for low-impact users and help maintain the area's roadless character and undisturbed habitat.

VIII. COUNTY ENGAGEMENT

A. Siting Renewable Energy projects on Private Lands

As a public lands-focused organization and having paid particular attention to the DRECP's analysis of proposed conservation and development on public lands, TWS believes that public

¹⁵⁵ The ACECs include: Chuckwalla to Chemehuevi tortoise linkage, Chemehuevi DWMA, Patton Military Camps, and a portion of the Cadiz Valley. *See*, draft DRECP, Appendix L.

¹⁵⁶ http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/app.asp.

lands are generally best suited to host conservation designations whereas many private lands may be more suitable for development, especially where lands are degraded, close to load, etc. Careful development of projects on suitable private lands should also provide economic and other benefits to surrounding communities and the host counties.

TWS strongly supports providing counties incentives to participate in the DRECP and pathways for doing so, and we appreciate the analysis and discussion contained in the DRECP in section II.3.1.5 (Plan Implementation). Section II.3.1.5.2.6 Partnership with Local Governments, is particularly helpful in explain the various options available to the counties to participate in the implementation of the DRECP. The DRECP also notes that “Coordination with local governments will therefore be important to the success of the DRECP.” DRECP DEIR/DEIS II.3.1.5.2.6 (II.3-222). Coordination is of course voluntary and yet is also essential to successful DRECP implementation.

Unfortunately, perhaps the greatest disincentive to county engagement as full partners in the DRECP is the private property tax exemption in effect through passage of Senate Bill 871, which extended the property tax exemption for solar projects developed on private property from 2016 to 2025. This law was enacted to stimulate development of large-scale solar energy projects and keep ratepayers costs down but what it has done instead is create a huge disincentive for counties to be willing to site projects on suitable private lands. Because counties cannot collect annual property taxes on private lands hosting solar development projects, they don’t have a regular source of revenue. And while counties can negotiate individual agreements with developers or develop alternative schemes (such as sales tax) to collect monies, it appears they rarely get sufficient funds from such agreements to cover basic costs to provide services to these properties, not to mention a long-term source of economic benefit to the affected county. (See, e.g., DRECP comment letter of Inyo County to CEC; February 17, 2015. This tax exemption issue creates a significant burden to counties to be willing to host solar projects on private lands, especially in cash-strapped rural counties with an already very small private land base such as Inyo County (less than 2% private land).

While we recognize this concern cannot be addressed by the DRECP, we are highlighting it because we believe resolving it *in some way* is essential to implementation of a successful DRECP over the long-term. Many of the lands proposed for development in the agencies’ Preferred Alternative are in fact located on privately-owned lands. Therefore, it is incumbent upon the DRECP agencies, particularly the CEC and the State of California, to assist the counties in creatively addressing this fundamental challenge in order to ensure the DRECP is successfully implemented. Needed renewable energy development to help the State meet its renewable energy goals will only benefit if this issue is resolved.

Recommendation: The State of California and the CEC should work with desert counties to develop creative mechanisms to address fiscal inequities to counties as a result of passage of S.B. 871 and to create better incentives for counties to fully engage in DRECP implementation.

B. Coordination between DRECP and counties

We greatly appreciate the regional outreach that has been done to date by the DRECP agencies with desert counties, and we hope it will continue in coming months. It is important that local planning be synced with the DRECP in order to ensure the best available data is utilized; the best locations are chosen for both development and conservation and to develop consistent and compatible planning on the federal and private lands in desert counties.

Coordination with desert counties is especially important for those counties that have been engaged in developing Renewable Energy General Plan Amendments through the CEC Renewable Energy Planning Grants program; these counties include Inyo, San Bernardino, Imperial, Los Angeles and Riverside counties. If further modifications to local plans or the DRECP are proposed as a result of local-state-federal agency coordination, we ask that additional public meetings and comment periods be held to solicit additional public input on proposed changes to plans.

Recommendation: DRECP agencies should coordinate with counties to sync DRECP and local renewable energy land use planning. Additional public input should be solicited as adjustments are proposed.

IX. ADAPTIVE MANAGEMENT

A. The Monitoring and Adaptive Management Program (MAMP) is ill-equipped to facilitate meaningful and effective adaptive management as proposed in the Draft DRECP.

The DRECP Monitoring and Adaptive Management Program (MAMP) is described as a long-term monitoring system that is “an essential part of the DRECP conservation strategy” and considered the “vehicle for structuring and reporting adaptive management in the DRECP Plan Area.” Draft DRECP, at II.3.1.3, and Glossary, at 1. The draft plan goes on to define adaptive management and what a successful MAMP could provide:

Adaptive management, as a key part of the MAMP, is an iterative process designed to continually improve the understanding of managed systems and inform their management over time. A successful MAMP would allow the DRECP to meet its monitoring and management obligations in accordance with state and federal requirements. Further, the desert region has been, and is expected to continue to be, highly affected by climate change in the coming decades. Therefore, this MAMP would be integral to addressing the biotic and abiotic effects of climate change that are anticipated to occur during the term of the DRECP and beyond, and provide the framework for changing implementation approaches where needed.

Draft DRECP at II.3.1.3.1.

We agree that adaptive management is essential to the conservation goals of the DRECP. We also agree with the definition of adaptive management and the goals of a successful MAMP as laid out in the draft plan. However, the agencies have not designed the MAMP as a framework and process that will continually improve the understanding of the managed

systems, ensuring species, natural communities, and ecological processes are in compliance with the DRECP. Draft DRECP, at II.3.1.3.1. Instead, a successful adaptive management plan should contain certain indicators or triggers for change that inform the point in time when agencies should change course or mitigate impacts. Due to the lack of specific, measurable and enforceable indicators and triggers for change provided in the DRECP, the MAMP is not likely to succeed. . To be effective, the MAMP should also incorporate a range of alternatives that analyze potential future scenarios for adapting a land use plan to conditions, consistent with the goals and objectives provided in the plan.

1. The DRECP should set specific, measurable and enforceable triggers for when a change in management may be necessary.

Triggers do not need to be a single red line that must not be crossed; instead, triggers can be a continuum used to prevent the crossing of ecological and regulatory thresholds (Nie & Schultz). The key is pre-negotiating specific, measurable triggers that can be enforced. Two particular cases provide valuable guidance for designing suitable adaptive management plans for operation of water projects on the Sacramento and San Joaquin Rivers. *NRDC v. Kempthorne* 506 F. Supp. 2d 322 (E.D. Cal 2007); *Pac. Coast Fed'n of Fishermen's Ass'n v. Gutierrez*, 606 F. Supp. 2d 1122 (E.D. Cal. 2008).

In *NRDC v. Kempthorne*, the agency's adaptive management plan was part of a biological opinion for the threatened delta smelt that defined trigger points based on a number of factors. 506 F. Supp. 2d at 351. When a trigger was reached, a working group could meet and submit recommendations for actions that could potentially be undertaken by a separate management team. *Id.* The court found that the trigger language was too uncertain and unenforceable due to the fact that nothing required actions to be taken. The court found:

The existing [adaptive management] process provides absolutely no certainty that any needed smelt protection actions will be taken at any time by [the working group] or [management team]. The [adaptive management plan] is in substance an organizational flow chart that prescribes that certain administrative processes (meetings) will be held whenever a trigger criteria is met or exceeded. Although mitigation measures are identified, no defined mitigation goals are required, nor is any time for implementation prescribed. Incorporating some ascertainable mitigation standards and enforceable mitigation measures is not inconsistent with avoiding unduly restrictive "hard-wiring" of the [adaptive management plan].

Id. at 355.

Lacking the required reasonable certainty to assure appropriate and necessary mitigation measures be implemented, the plan was struck down as arbitrary and capricious and contrary to law. *Id.* at 356.

In contrast to the adaptive management plans examined in the *NRDC v. Kempthorne* decision, is the plan discussed in *Pac. Coast Fed'n of Fishermen's Ass'n v. Gutierrez*, 606 F. Supp. 2d 1122 (E.D. Cal. 2008). In *Gutierrez*, the agency created triggers for the anadromous fish species, which the court found to be sufficiently definite, measurable and enforceable. For example, the

agency was obligated to manage the cold water supply in the reservoir and make cold water releases to provide suitable habitat for the fish. *Id.* at 1185. The water temperature could not exceed a certain level during the specified season and action was required if that trigger was hit. *Id.* In addition, during dry and critical years, the agency could consult with the other agencies concerned and adjust the trigger point in certain areas based on adaptive management considerations. *Id.* at 1186. The court compared the process set out for adaptive management in *NRDC v. Kempthorne* and upheld the *Gutierrez* adaptive management plan as specific, enforceable, and therefore binding. *Id.* at 1188.

The adaptive management frameworks nullified in *NRDC v. Kempthorne* and upheld in *Gutierrez* provide valuable insight into the effectiveness and enforceability of the draft MAMP proposed in the DRECP. Unfortunately, as proposed, the draft MAMP most closely resembles the adaptive management structure discussed in the *Kempthorne* case. Under the draft DRECP, the MAMP would establish an Adaptive Management Team to provide recommendations and advice on potential adaptive management actions to the DRECP Coordination Group. Draft DRECP at II.3.1.3.3. The DRECP Coordination Group, which is responsible for monitoring, reporting, and responding to changing circumstances in the plan area, may follow the recommendations of the Adaptive Management Team, but the draft MAMP does not require it to actually adaptively manage in the planning area. Draft DRECP, at II.3.1.3.5.3 (II.3-152). As a result, the draft MAMP merely creates a largely administrative process without triggers, certainty or enforceability.

Further, in a discussion about The USFWS General Conservation Plan, the draft DRECP states that “[c]omprehensive monitoring programs for regional, multispecies plans like the DRECP also should include projected milestones, timelines, and/or trigger points or thresholds for evaluating and adjusting to change.” Draft DRECP at II.3.1.3.2.3. Similarly, the annual reports on effectiveness monitoring by the Adaptive Management Team must include a “[d]iscussion of triggers for adaptive management and how they were implemented.” Draft DRECP at II.3.1.3.4.2. However, the draft MAMP does not include proper timelines for implementation of the MAMP except for having the Adaptive Management Team develop the initial problem statements for the adaptive management framework within five years of the approval of the plan. Draft DRECP at II.3.1.3.5.1. Similar to the *Kempthorne* case, the draft MAMP creates adaptive management oversight groups and acknowledges the need for indicators and triggers, but fails to develop a structure that requires action to be taken, a firm timeline for implementation or an enforceable policy.

Conversely, the *Gutierrez* case provides a more useful template for how adaptive management plans can and should proceed, and how a third party can be used to help guide future management decisions. The Adaptive Management Team proposed in the draft MAMP for the DRECP has a role to play in the development of an effective adaptive management strategy, but it should not replace an individual agency’s responsibility to set triggers and make decisions about management when the triggers are hit. Similar to the *Gutierrez* case, the Adaptive Management Team could provide very useful advice to agencies on management options when triggers are reached, while preserving agency authority over their jurisdictions. The agencies would benefit from a team of experts who can make recommendations in a fairly expedient

manner, which would allow agencies to adjust course accordingly while maintaining their authority to manage, evaluate, monitor, and enforce policies on public lands.

As stated in the *NRDC v. Kempthorne* case, “[t]he law requires that a balance be struck between the dual needs of flexibility and certainty.” 506 F. Supp. 2d at 356. The draft MAMP does not strike this balance and leaves the agency without triggers to guide future decision-making process when management regime change is required. As a result, its implementation approach lacks enforceability. Instead, the agencies should set actual triggers in the DRECP that are specific, measurable and enforceable to create a meaningful and successful adaptive management program for the planning area.

2. The MAMP should provide for a reasonable range of future scenario alternatives pursuant to NEPA.

The MAMP should provide a range of alternatives that allow for management to be adjusted in order to respond to future change. Regulations for implementing NEPA in the Department of the Interior (DOI) require the following:

Bureaus should use adaptive management, as appropriate, particularly in circumstances where long-term impacts may be uncertain and future monitoring will be needed to make adjustments in subsequent implementation decisions. The NEPA analysis conducted in the context of an adaptive management approach should identify the range of management options that may be taken in response to the results of monitoring and should analyze the effects of such options. The environmental effects of any adaptive management strategy must be evaluated in this or subsequent NEPA analysis.

43 C.F.R. § 46.145.

By analyzing a range of management options up front, the agency can allow for a more efficient adaptive management process during implementation of the plan by tiering future analysis to the broader, programmatic analysis in the plan. The DOI Adaptive Management Technical Guide provides the following:

Alternatively, another approach to NEPA compliance that has proven successful for adaptive management programs is to prepare “programmatic” EIS at the start, which broadly covers the likely range of actions that may be taken under the particular adaptive management program. Later, any NEPA compliance needed for subsequent shifts in the management actions as a result of the adaptive management process can then “tier” off of the initial programmatic EIS, saving considerable time and work.

Williams, et al. (2009) at 46.

The draft MAMP should take advantage of the opportunity to provide a range of alternatives under future scenarios that could inform future NEPA analyses. Acknowledging that the agency cannot foresee all future outcomes or options for management, it should create a

process for enlisting the Adaptive Management Team to provide advice on adjusting management in the future.

Recommendation: The following is a proposed framework for adaptive management strategy that includes components missing from the draft MAMP, such as specific triggers, as discussed above. The agency should provide all of the following components in the MAMP in order to make the adaptive management plan meaningful and enforceable:

1. Set specific management goals and objectives, such as biological goals and objectives, and incorporate these into the MAMP to show the targeted management.
2. Identify potential threats to management goals and objectives as well as potential stressors to the system.
3. Set specific, enforceable and measurable indicators to gauge progress towards goals with timelines for implementation. Adjust management as appropriate when triggers are hit.
4. Develop a monitoring plan with monitoring protocols, timelines for completing monitoring, and reports on the findings and conclusions.
5. Provide a range of alternative management scenarios as well as a comprehensive process for additional consultation (such as with the Adaptive Management Team) on adaptive management options when triggers are hit.
6. Provide for public input on the various aspects of the MAMP, including providing information during data collection, setting triggers, and when change might be necessary to respond to triggers being hit or other unforeseeable factors.

X. CONCLUSION

We appreciate the hard work of the agencies on the draft DRECP, and recognize what a heavy lift it has been. While the DRECP needs many improvements, we also need a DRECP. A well-crafted DRECP will help ensure the long-term protection of the California Desert's significant values while also allowing for appropriately-sited renewable energy development. We are hopeful the DRECP can be improved upon and finalized soon. We would appreciate the opportunity to meet with BLM and other agencies on our public lands recommendations once the agencies have had the chance to review them.

Sincerely,



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XI. ATTACHMENTS

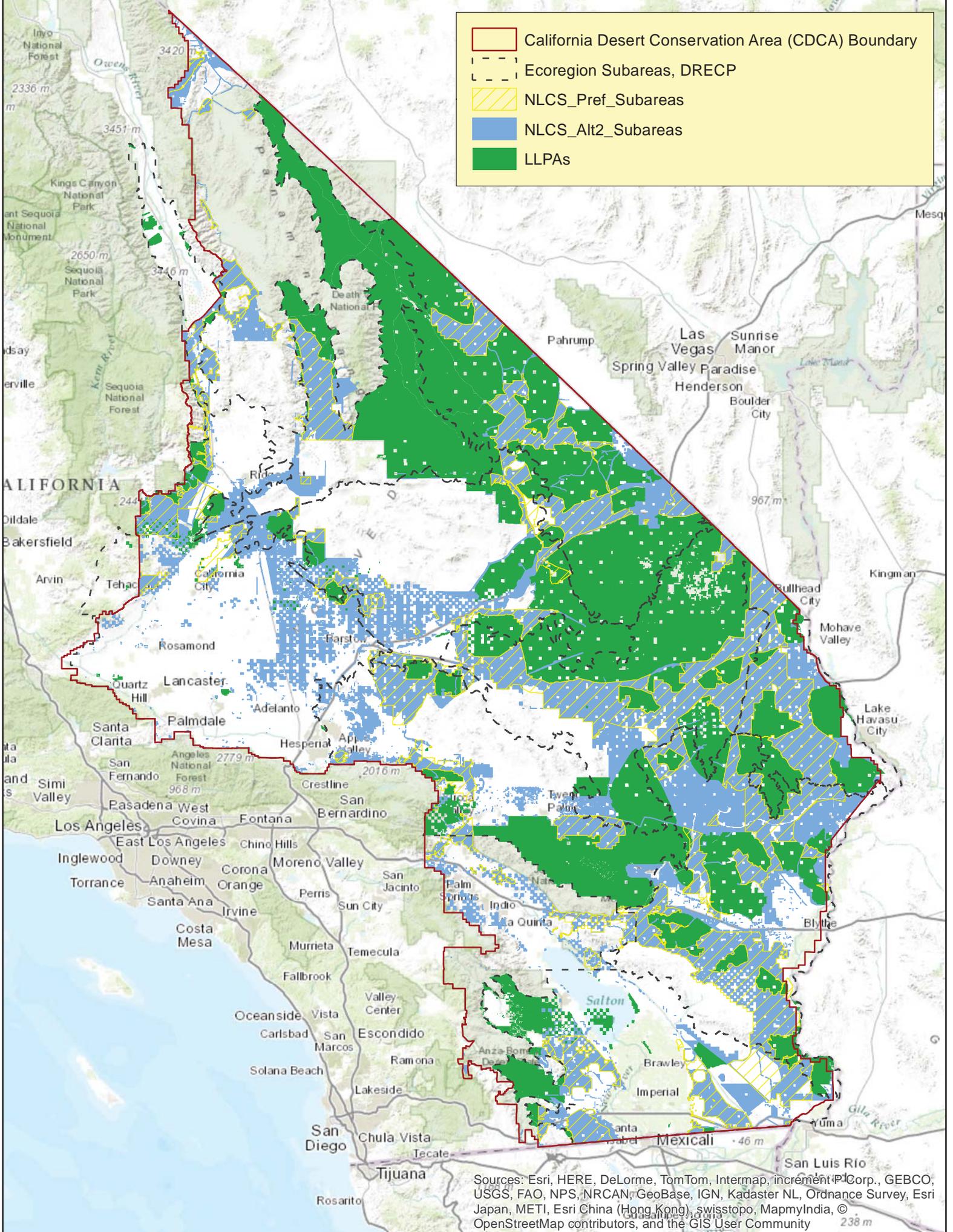
1. Attachment A: Errors and Discrepancies in the Draft DRECP
2. Attachment B: Map of National Conservation Lands Outside the DRECP boundary but within the CDCA
3. Attachment C: Letter in Support of Protecting Silurian Valley (9/6/2013)
4. Attachment D: Comments on the proposed Silurian Valley solar energy project (5/28/2014)
5. Attachment E: Comment letter on BLM's Competitive Leasing Rule
6. Attachment F: Excerpt from West-wide Energy Corridor comments specific to California

ERRORS AND DISCREPANCIES IN THE DRAFT DRECP

The following are substantive comments on errors and discrepancies found in the draft DRECP. Many of these made the draft DRECP difficult to review and provide meaningful comments. We strongly recommend correcting these mistakes and issuing an errata sheet or some similar document to ensure that the maps, text and intent of the DRECP is clear in the final document.

1. Volume II and Volume IV have different numbers for the National Conservation Lands, as well. Compare the 3,520,000 acres on II.3-316 to the 3,827,000 acres on IV.14-33. Other alternatives vary from Vol. II to Vol. IV, as well. And then there are the numbers in Table 7 (p. 40) of the executive summary for the National Conservation Lands that are different than the other volumes.
2. The Executive Summary and Volume II of the draft DRECP state that BLM is managing 298,000 acres of LWC, but Vol. IV says 350,000 acres.
3. Appendix L does not have a table of contents, making it highly more difficult to review the draft DRECP. The agencies should add a comprehensive table of contents for Appendix L.
4. Sacramento Mountains SRMA is presented as ERMA on DRECP Gateway maps.
5. Areas like Chuckwalla/Chuckwalla-Chemehuevi Tortoise Linkage, McCoy-Mule Mountains ACEC text reference being managed within the Eastern Riverside Extensive Management Area, but there does not appear as an ERMA of that name in Appendix L.
6. Boundaries in Jawbone area are wrong:
 - a. Western perimeter should exclude legislatively protected land (Bright Star Wilderness?)
 - b. Spangler Hills Open OHV Area should not overlap with ACEC designations
 - c. Boundaries of Red Rocks State Park are wrong in DRECP Databasin maps
7. Jawbone SRMA has 2 open OHV areas on the map, but not in the text of the draft plan.
8. DRECP Databasin map of Dumont Dunes Open OHV area is incomplete. It does not cover all of the open OHV area.
9. Olancho Dunes Open OHV area is listed in text with other Open OHV areas, but there is no document in Appendix L for the area and it is not shown on maps.
10. Agencies have not shown what lands are going to be used specifically for meeting biological goals and objectives. While there are conservation designations, agencies have not tied these to Reserve Design Envelop yet.
11. GIS analysis we completed of BLM data on renewable energy applications and proposed NLCS units showed overlap of the Ocotillo Express, LLC (CACA 051552) BLM-approved wind development applications with the proposed Lake Cahuilla NLCS unit. If the developed area of this project does indeed overlap with the proposed NLCS unit, BLM should adjust the boundaries of the proposed NLCS units to eliminate the overlap with the project
12. Volume II Chapter 3 states that electrical generation facilities are not allowed in Non-Designated/Unclassified lands (p. II.3-426), but the glossary definition of undesignated/unallocated lands states that “These areas would be open to renewable energy applications but would not benefit from the streamlining or CMA certainty of the DFAs.” (Glossary-19) The glossary does not provide a definition of Non-Designated or

Unclassified lands. Based on a conversation with the BLM on February 12, 2015, we understand that BLM intended the definition in the glossary to be used, and that the description in Volume II Chapter 3 stating that electrical generation facilities are not allowed is an error.



- California Desert Conservation Area (CDCA) Boundary
- Ecoregion Subareas, DRECP
- NLCS_Pref_Subareas
- NLCS_Alt2_Subareas
- LLPAs

Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

**DEFENDERS OF WILDLIFE
NATIONAL PARKS CONSERVATION ASSOCIATION
NATURAL RESOURCES DEFENSE COUNCIL
SIERRA CLUB
THE WILDERNESS SOCIETY**

November 6, 2013

James Kenna
State Director, California
U.S. Bureau of Land Management
2800 Cottage Way, Suite W-1623
Sacramento, CA 95825
Email: JKenna@blm.gov

RE: Letter in Support of Protecting Silurian Valley

Dear Director Kenna,

Thank you for your continued commitment to balance conservation, recreation, and responsible renewable energy development needs in the California desert, and especially through the Desert Renewable Energy Conservation Plan (DRECP) process. Our organizations have been actively engaged in the protection of key resources in the desert for decades, and more recently in the DRECP process and the environmental reviews for proposed renewable energy projects. We are writing to express our shared belief that Silurian Valley should be given conservation protection and not allocated for renewable energy development.

Recently, the identification of Silurian Valley as a potential Development Focus Area (DFA) in the DRECP and efforts to advance right-of-way applications for wind and solar development (i.e., CACA 51581, Pacific Wind; CACA 53685, Aurora Solar LLC) has raised the issue of whether renewable energy development in this valley is appropriate. A number of our organizations met with the project proponent, Iberdrola, on September 30th to share our perspectives as outlined in this letter.

I. Introduction and summary of letter.

Silurian Valley is one of the California Desert Conservation Area's (CDCA's) large remaining unprotected landscapes. The valley contains a unique combination of natural,

cultural, scenic and other features. Silurian Valley is regionally and nationally significant and deserves to be preserved for the benefit of present and future generations.

The significant and unique combination of assets in Silurian Valley, as we describe below, make this location entirely inappropriate for any type of renewable energy development. Development in Silurian Valley would undo years of work that our organizations – as well as the Bureau of Land Management (BLM) and other agencies – have invested seeking to safeguard the full suite of unique and significant conservation, cultural, recreation and other values within this part of the CDCA.

We respectfully request that the BLM identify Silurian Valley as an area that should be preserved through the DRECP process or other means. We concurrently request that the BLM, working with the State of California, eliminate the potential Development Focus Area (DFA) that is proposed in several of the December, 2012 draft DRECP alternatives. BLM should also reject any pending applications for wind and solar development in Silurian Valley as such development is inconsistent with protecting the values of the valley.

II. Silurian Valley contains natural, cultural and other resources of regional and national significance.

Silurian Valley is an undeveloped valley situated between Death Valley National Park and the Mojave National Preserve, and surrounded by desert mountain ranges. The valley lies in the southern end of the Amargosa River watershed.

Stakeholders including many of our organizations and agencies including the BLM and the National Park Service (NPS) have spent years investing in land protection in the CDCA and specifically within this region. As a result, many important lands that surround Silurian Valley have already been recognized and protected with legislative or administrative designations, including the following:

- The federally-designated Amargosa River Wild and Scenic River. Silurian Valley lies within the southern portion of this critical desert watershed.
- Death Valley National Park and the Mojave National Preserve, the largest and third largest National Park units in the lower 48 states, respectively. Silurian Valley is located directly between these National Park units, as noted above.
- Multiple federally-designated wilderness areas and BLM-designated Wilderness Study Areas (WSAs) including: Kingston Range, Hollow Hills, Saddle Peak Hills, Nopah Range, Owlshead Mountains, Soda Mountains and Avawatz Mountains. A number of these wilderness areas and WSAs directly abut Silurian Valley and form the scenic and dramatic ring of desert mountain ranges that surrounds it.

- A “high potential” segment¹ of the Old Spanish National Historic Trail. The Old Spanish National Historic Trail was added to the National Historic Trail System in 2002 and to the National Landscape Conservation System (NLCS) in 2009, and is managed by the National Park Service.² The relevant segment was definitively identified by the BLM in 2012, is approximately fifty miles in length, and runs from southern Death Valley through Silurian Valley to Baker, CA. See <http://www.blm.gov/pgdata/etc/medialib/blm/ca/pdf/Barstow.Par.36848.File.dat/Old%20Spanish%20Trail%20Segment.pdf>.

Silurian Valley contains additional resources and values of regional or national significance which have been recognized as such by BLM, other agencies and our organizations, but which remain unprotected. These values include:

- **Landscape Intactness.** Silurian Valley contains high landscape intactness as reported in The Nature Conservancy’s (TNC’s) ecological analysis of the area.³ Silurian Valley was identified as almost entirely comprised of lands designated in TNC’s Mojave Desert Ecological Assessment as “Ecologically Core” and “Ecologically Intact.” Ecologically Core lands are of the highest conservation value, are largely undisturbed and unfragmented, and support conservation targets (species, ecological systems, springs and seeps). The full protection of all Ecologically Core lands within the Mojave Desert is critical for long-term conservation of biodiversity in the ecoregion. Ecologically Intact lands are also largely undisturbed and unfragmented and support conservation targets.
- **Lands with Wilderness Characteristics (LWC).** Wilderness inventories conducted by BLM as part of the planning process pursuant to the Federal Land Policy and Management Act (FLPMA) and by citizens groups pursuant to BLM Manuals 6310 and 6320 indicate that Silurian Valley contains substantial acreage of LWC, a key indicator of wilderness and wildland values.
- **National Conservation Lands.** Draft Appendix D to the December, 2012 draft DRECP alternatives described the cultural significance of the Silurian Valley and its potential for inclusion in the NLCS:

¹ “High potential” refers to refers to a trail segment with high interpretive potential that superbly captures the experience of the original travelers of the trail, and which has integrity of place and viewshed. See http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information_Resources_Management/policy/blm_manual.Par.63382.File.dat/M6250%20NSHT%20Administration%20Final_091312.pdf

² See <http://www.nps.gov/olsp/index.htm>.

³ See Randall, J. M., S.S. Parker, J. Moore, B. Cohen, L. Crane, B. Christian, D. Cameron, J. MacKenzie, K. Klausmeyer and S. Morrison. 2010. Mojave Desert Ecoregional Assessment. Unpublished Report. The Nature Conservancy, San Francisco, California. 106 pp + appendices. Available at: http://scienceforconservation.org/downloads/mojave_desert_ecoregional_assessment

The Old Spanish Trail National Historic Trail bisects the area and travels through one of the most intact and spectacular viewsheds on the California segment of the trail. Evidence of more recent history includes the abandoned Tonopah and Tidewater Railroad (portions of which are now used as a hiking trail). This railroad originally stretched for 200 miles through remote reaches of the Mojave Desert to transport borax to market and as a link to the gold and silver mines in Nevada.

See <http://drecp.org/>: Description and Comparative Evaluation of Draft DRECP Alternatives, Draft Appendix D at p. 7; December, 2012. Some of the draft alternatives contain a high concentration of potential BLM National Conservation Lands, i.e., those lands that would be included in the NLCS.

- **Perennial and ephemeral water sources.** Salt Creek Hills Area of Critical Environmental Concern (ACEC) in northern Silurian Valley provides perennial water and habitat for resident and migratory desert animals and approximately eighty-two species of birds.⁴ Additionally, Silurian Dry Lake and nearby Silver and Soda dry lakes periodically hold water that is utilized by migratory birds. These waters form a chain through Silurian Valley that links the Mojave River and northern Mojave Preserve to Saratoga Springs in southern Death Valley National Park and the extensive wetland system of the southern Amargosa River watershed in the Tecopa/Shoshone region.
- **Wildlife connectivity.** Silurian Valley is a primary lower elevation route of connectivity between the Mojave National Preserve and Death Valley National Park for bighorn sheep and other wide ranging desert species. The majority of mountain ranges that surround Silurian Valley are protected as designated wilderness, WSAs or within National Park units. These intact highlands are critical for desert bighorn sheep and other wide ranging species, which utilize lower elevation habitats for dispersal, for seasonal habitat and to procure water. The lower elevation habitats within the Silurian Valley provide critical inter-mountain habitat linkages for these wide-ranging wildlife species.
- **SC Wildlands linkages and Silurian Valley.** Long-term conservation of deserts will rely on maintaining connectivity across a diversity of desert ecosystems. In order to ensure this conservation is achieved, SC Wildlands conducted a study to identify areas where maintaining or restoring ecological connectivity is essential

⁴ http://biohere.com/natural_areas/california/San_Bernardino_County/salt_creek.htm

to conserving California desert's biodiversity.⁵ To identify these linkage areas, SC Wildlands modeled habitat suitability and landscape permeability, and conducted field work to validate these models and evaluate movement needs of more than 40 species at various spatio-temporal scales. Movement is essential to both individual and species survival and the linkage design aimed to provide for the movement needs at various spatio-temporal scales: day-to-day individual movement, seasonal migrations, in response to new climatic changes, for gene flow and re-colonization of new habitat, etc. Disruption of movement patterns by development can alter ecosystem functions and isolate habitats. In the Silurian Valley, three linkages were identified: a north-south linkage along the Amargosa watershed, and two east-west linkages between the Soda Mountains and the Kingston/Mesquite range and between the Avawatz Mountains and the Kingston/Mesquite range. These linkages make up a part of the desert linkage system for the California deserts as a whole, making the Silurian Valley an important conservation priority.

- **Desert Tortoise modeled habitat and Silurian Valley.** In 2009, the U.S. Geological Survey (USGS) modeled desert tortoise habitat suitability across its range. The U.S. Fish and Wildlife Service used this model to identify priority linkage areas for the desert tortoise. The “Priority 1” areas were modeled using the “least cost corridors” approach – a geo-spatial technique to identify the least obtrusive pathway for tortoises to travel and live. The “Priority 2” areas were modeled by looking at where the USGS model identified high quality contiguous habitat for the desert tortoise. This more accurately represents the connectivity needs of the tortoise, as it is a low mobility species that requires live-in habitat for linkages. The Priority 2 areas overlap with the Silurian Valley, making this a place that should be considered a priority for desert tortoise conservation.
- **Migratory and resident habitat for birds.** Numerous seasonal and permanent wetlands occur in the Silurian Valley region including the Mojave River, Soda Spring, Silver Dry Lake, Silurian Dry Lake, Salt Creek, Saratoga Springs, Amargosa River and Grimshaw Lake. The latter is part of the BLM-designated Amargosa River Natural Area. BLM, on its Amargosa River Natural Area Website⁶, describes the area as follows:

The Amargosa River Natural Area is a classic "vagrant bird trap". This area attracts birds which have wandered from their usual migrational flight

⁵ See “A Linkage Network for the California Deserts,” February, 2012. By Science and Collaboration for Connected Wildlands (scwildlands.org).

⁶ <http://www.blm.gov/ca/st/en/fo/barstow/amargosa.html>

paths. Here they find all three critical habitat requirements: water, food, and shelter. Surface water here supports abundant life, creating an ecological "island" in the midst of the Mojave Desert. The landscape is dotted with natural springs and areas of dense vegetation, which provide a variety of food for wildlife.

Due to the wide variety of available habitat, the canyon has an enormous number of bird species. This is the highest riparian species richness of any site in the Mojave Desert in California. You will find birds that are either permanent residents or seasonal visitors. There are common, uncommon, rare, and "vagrant" species found here. Approximately 250 different bird species have been observed in the area.

Some important bird species include: Least Bell's Vireo, Yellow-billed Cuckoo, Yellow Warbler, Willow Flycatcher, Brown-crested Flycatcher, Vermillion Flycatcher, Yellow-breasted Chat, Blue Grosbeak, Summer Tanager, Western Tanager, Sage Thrasher, Virginia's Warbler, Northern Harrier, Loggerhead Shrike, Crissal Thrasher, Long-eared Owl, Prairie Falcon, Raven, Turkey Vulture, and Great-horned Owl.

Saratoga Springs, located at the southern end of Death Valley National Park, is one of the largest wetlands in the northern Mojave Desert region. At an elevation of 60 feet above sea level, this expanse of wetlands attracts hundreds of species of migratory birds during the fall and spring migration periods, and also supports numerous species of birds during the winter season. Saratoga Springs is one of the top birding sites within Death Valley National Park.

Seasonal wetlands form at Silver and Silurian Dry Lakes following significant rainfall and runoff events. Numerous water-related species use these seasonal wetlands for resting and feeding during migration periods. Species observed on Silver Dry Lake during a recent rainfall event included large numbers of the California gull and American avocet.

- **Migratory and resident habitat for bats.** The Silurian Hills and surrounding desert washes, springs, desert riparian areas, sand dunes, crevice slopes and mountains were identified as crucial habitat for several desert bat species. Kingston Wash is suspected to be a flight corridor for bat movement into the Kingston Mountains, as well as a bat foraging area. The Salt Creek Hills and riparian area (within Silurian Valley) provide bat foraging and roosting areas, and are assumed to serve as a flight travel corridor into the Avawatz Mountains, as

well as the Ibex Dunes, Dumont Dunes and portions of Death Valley National Park.⁷

- **Golden Eagles.** There are approximately 18 golden eagle nests located in mountainous habitat adjacent to Silurian Valley (three of them directly adjacent to the project site), based on a new inventory conducted by BLM in 2012. These nests occur in the Soda Mountains, Avawatz Mountains, Silurian Hills and Salt Creek Hills. The nests comprise approximately five to six nesting territories. Silurian Valley is a golden eagle foraging area where prey species support nesting adults in nearby mountain ranges.
- **Visual Resources.** Per BLM’s Solar Programmatic Environmental Impact Statement (PEIS), Silurian Valley is a NPS-identified high potential conflict area for solar energy project development, partially due to potential viewshed impacts to NPS units. Lands within Silurian Valley proposed for solar and wind energy developments are identified by BLM as VRI (Visual Resources Inventory) Class 2, and are encircled by VRI Class 2 lands, with the high mountains in the viewshed (Kingston Mountains) identified as VRI Class 1. This area, as identified by the heightened VRI designation throughout the region, has high value as an intact viewshed. Lands identified as VRI Class 1 and Class 2 are listed as exclusion areas for solar development in the Final Solar PEIS page ES-9 #19.
- **Significant historical and cultural resources.** These resources include:
 - The historical mining town of Riggs, the home to the first gold mine in the region.
 - The Tonopah and Tidewater Railroad grade, which is important as both an historical and a recreational resource.
 - Several Paleolithic human sites up to 10,000 years old.

In addition to the natural and cultural resources described above, Silurian Valley is renowned for its stunning desert scenery. The Silurian Valley viewscape is enjoyed by tourists who travel the National Parks and wildlands circuit through the California desert, stopping in many locations to enjoy scenic views, hiking, birdwatching, photography and other tourism opportunities afforded by the region’s national parks, wilderness areas and other specially-designated lands (e.g., ACECs). There are those who also travel to this region specifically to follow the route of the Old Spanish National Historic Trail (see <http://www.oldspanishtrail.org/> and <http://www.nps.gov/olsp/planyourvisit/index.htm>).

⁷ From “A Linkage Network for the California Deserts,” February, 2012. By Science and Collaboration for Connected Wildlands (scwildlands.org).

As a result, the conservation assets within this region are on display for local, national and international audiences.

The preservation of Silurian Valley is also very important to the communities that bookend this remarkable landscape, including Tecopa, Shoshone and Baker. These communities have worked long and hard to reinvent themselves as recreation and tourism destinations for travelers visiting the region's National Parks and wildlands. Many residents and businesses in these communities are deeply concerned about the potential for renewable energy development in the otherwise pristine Silurian Valley to adversely impact their livelihoods and quality of life.

It is not one value by itself but rather the suite of the aforementioned values which make Silurian Valley such a significant and special part of the California desert, and one that deserves special recognition and protection by the BLM. The development of industrial-scale wind and/or solar projects in this region is completely incompatible with preserving the resources of Silurian Valley and would have extensive and permanent negative impacts on this highly intact ecological system, on the area's extensive cultural values and on the wildland and scenic qualities of the landscape.

III. Federal land management agencies and the public have made substantial and long-term conservation investments in Silurian Valley region that should not be undone by development.

Collectively, our organizations have spent many years working to gain legislative and administrative protections for the lands surrounding Silurian Valley, as evidenced, for example, by the establishment of the WSAs in 1979; the establishment of Death Valley National Park and the Mojave National Preserve in 1994; and the designation of twenty-six miles of the Amargosa River as a Wild and Scenic River in 2009. Silurian Valley is the missing piece of the conservation puzzle in this portion of the CDCA. Some of our organizations are presently seeking additional administrative and legislative protections for the region, including for Silurian Valley.

Similarly, the federal agencies including BLM and NPS have made substantial investments in the region, most notably as a result of two landmark pieces of legislation that were signed into law, the California Desert Protection Act in 1994 and the Omnibus Public Land Management Act in 2009. For example, the BLM has made a concerted effort in recent years to work with community members in Tecopa on preserving and enhancing the Tonopah and Tidewater Railroad Grade that passes through Silurian Valley, and to improve recreational access to places like the Amargosa River and Salt

Creek Hills ACEC.⁸ BLM's own research recently led to the definitive identification of a significant segment of the Old Spanish National Historic Trail, as described above. And NPS is currently working to prepare a comprehensive management plan and environmental impact statement for the Old Spanish Trail. See <http://parkplanning.nps.gov/projectHome.cfm?projectID=12591>.

We believe it would be a serious mistake for the BLM to reverse course by approving renewable energy development in Silurian Valley which would have significant and irreversible impacts on the integrity not only on the valley itself but in a region that the agency itself has recognized is of great importance.

IV. The BLM should actively preserve Silurian Valley and therefore reject renewable energy development applications within Silurian Valley.

As we have shown above, Silurian Valley contains extraordinarily high natural, cultural, recreational and other values of regional and national significance. The BLM should take action to preserve Silurian Valley, through the DRECP or other means. As a start, the entire Silurian Valley should be allocated to appropriate conservation protections through the DRECP and subsequent amendments to the CDCA Plan that ensure the valley will receive a durable conservation designation.

Silurian Valley is not suitable for supporting renewable energy development through designation as a DFA, as has been proposed in several of the December, 2012 DRECP draft alternatives. Furthermore, even an individual project would have irreversible impacts on the integrity of valley and its many special resources. BLM should therefore also reject applications for individual project proposals as incompatible with the values of Silurian Valley and because such development would not be in the public interest.

The DRECP process is ongoing and will identify areas for both wind and solar development. We expect that through that process suitable areas on private and public lands will be identified that are more appropriate for development of either wind or solar resources than is Silurian Valley. BLM's Western Solar Plan (i.e., Solar Programmatic Environmental Impact Statement) also has a process in place to identify new zones, if needed, for solar development.

⁸ See, e.g., http://www.blm.gov/ca/st/en/info/newsbytes/2013/576_extra_-_sca_wildcorps.print.html

V. Conclusion.

Our organizations strongly believe that Silurian Valley's extensive natural, cultural and recreational values are worthy of long-term protection by the BLM. The preservation of these resources is wholly incompatible with renewable energy development. BLM should therefore reject Silurian Valley as a potential DFA in the DRECP, and BLM should reject pending wind and solar applications in Silurian Valley as inappropriate for development. Thank you for considering our views.

Sincerely,



Kim Delfino
Defenders of Wildlife



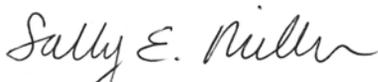
David Lamfrom
National Parks Conservation Association



Helen O'Shea
Natural Resources Defense Council



Sarah Friedman
Sierra Club



Sally Miller
The Wilderness Society

**Defenders of Wildlife – The Wilderness Society - National Parks Conservation
Association – Natural Resources Defense Council - Sierra Club
Mojave Desert Land Trust - California Wilderness Coalition
San Bernardino Valley Audubon Society
Morongo Basin Conservation Association – The Wildlands Conservancy**

May 28, 2014

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Re: Comments on Proposed Silurian Valley solar energy project

Dear Field Manager Symons:

Thank you for the opportunity to provide comments to the Bureau of Land Management (“BLM”) on the proposed Silurian Valley solar energy project (“proposed project”). These comments are submitted by the above-named non-profit environmental organizations on behalf of their members and supporters.

Background of the Proposed Project

The proposed 200 MW project is located on public lands in the California Desert Conservation Area (“CDCA”) north of Baker, California. These public lands were classified by BLM as Variance Lands in the final Programmatic Solar Energy Plan for Six Southwestern States (“BLM’s Solar Energy Plan”). The applicant, Aurora Solar, LLC (a subsidiary of Iberdrola Renewables, Inc.), filed an application with the Bureau of Land Management (BLM) for a 7,218 acre right of way for the project on August 28, 2012, followed by a plan of development in November 2012. In accordance with the BLM’s Solar Energy Plan, BLM must make a determination either to deny or accept the application for processing using specific criteria for Variance Lands prior to processing the application. The intention of this process was to ensure that worthwhile and low-conflict projects would be prioritized and undergo processing while high conflict projects would no longer use limited time and critical resources. This application presents significant impacts to natural and cultural resources, is not within a solar energy zone, and has drawn wide opposition from agencies and organizations principally concerned with the protection and management of natural and cultural resources. The decision rendered related to the appropriateness of this project as a variance application will set a precedent for what “appropriate location” is defined as. We strongly urge the BLM to use its authorities to prevent inappropriate projects from moving into the NEPA process,

unnecessarily tying BLM to consider and process projects that undermine larger conservation planning processes like DRECP, and unnecessarily using public resources and public funding to consider projects in inappropriate locations.

Conservation Organizations Submitting Comments

Defenders of Wildlife (“Defenders”) has 1.1 million members and supporters nationally, including 170,000 in California. Defenders is dedicated to protecting all wild animals and plants in their natural communities. To this end, we employ science, public education and participation, media, legislative advocacy, litigation, and proactive on-the-ground solutions in order to impede the accelerating rate of extinction of species, associated loss of biological diversity, and habitat alteration and destruction.

The mission of The Wilderness Society (“TWS”) is to protect wilderness and inspire Americans to care for our wild places. We have worked for more than 70 years to maintain the integrity of America's wilderness and public lands and ensure that land management practices are ecologically sustainable and based on sound science. With more than half a million members and supporters nation-wide, TWS represents a diverse range of citizens.

The National Parks Conservation Association (“NPCA”) is dedicated to the protection and enhancement of National Parks for current and future generations. NPCA advocates on behalf of 750,000 members and activists. NPCA works to safeguard the protections won for resources and recreational opportunities within the California Desert, and manages three field offices in the Mojave Desert, including the Mojave Field Office in Barstow, CA.

The California Native Plant Society (“CNPS”) is a non-profit environmental organization with nearly 10,000 members. CNPS’ mission is to protect California's native plant heritage and preserve it for future generations through application of science, research, education, and conservation. CNPS works closely with decision-makers, scientists, and local planners to advocate for well-informed and environmental friendly policies, regulations, and land management practices.

The Natural Resources Defense Council (“NRDC”) has over 1.2 million members and online activists nationwide, more than 250,000 of whom live in California. NRDC uses law, science and the support of its members and activists to protect the planet's wildlife and wild places and to ensure a safe and healthy environment for all living things. NRDC has worked to protect wildlands and natural values on public lands and to promote pursuit of all cost effective energy efficiency measures and sustainable energy development for many years.

The Sierra Club is a national nonprofit organization of approximately 1.3 million members and supporters (approximately 250,000 of whom live in California) dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth's ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. The Sierra Club's concerns encompass protecting our public lands, wildlife, air and water while at the

same time rapidly increasing our use of renewable energy to reduce climate change and end our dependence on fossil fuels.

The Mojave Desert Land Trust seeks to protect the ecosystem and the natural and cultural values of the California Desert. Based in Joshua Tree, the organization has over 1,000 members, and seeks mainly to acquire conservation land inside the core habitat and linkage areas desert wide. Founded in 2006, Mojave Desert Land Trust has partnered with state and federal agencies to plan and achieve strategic acquisition of over 50,000 acres of desert lands.

The California Wilderness Coalition (“CWC”) protects the natural landscapes that make California unique, providing clean air and water, a home to wildlife, and a place for recreation and spiritual renewal. With over 5,000 members statewide, CWC is dedicated to protecting and restoring California's wild places and native biodiversity. CWC protects our wild landscapes through public education, legislation and advocacy, and believes that a well-educated and activist citizenry is essential to the preservation of wild California. Since 1976, CWC has empowered local communities and conservationists to be the voice for wild California.

San Bernardino Valley Audubon Society (“SBVAS”) is a local chapter of the National Audubon Society. The chapter covers almost all of San Bernardino and Riverside counties. SBVAS has approximately 2000 members, with over a thousand of those living in Riverside County. SBVAS is an educational and public interest environmental organization. Its mission is to help educate the public as to the importance of the natural environment, and to preserve habitat for birds and other wildlife. SBVAS and its members, while primarily interested in birds, are acutely aware that birds flourish only when an entire ecosystem is healthy and viable.

The Morongo Basin Conservation Association (“MBCA”) is a community-based, California Nonprofit Corporation dedicated to preserving the economic and environmental welfare of the Morongo Basin. MBCA was formed by residents in 1969 to oppose the building of an electrical transmission corridor through the center of the Morongo Basin that would have changed our wild desert character forever.

The Wildlands Conservancy (“TWC”) owns and operates California's largest nonprofit nature preserve system. This preserve system includes 12 magnificent landscapes spanning over 145,000 acres of diverse mountain, valley, desert, river and ocean front properties. TWC also funded the largest conservation land gift to the American people in U.S. history - over 560,000 acres. TWC restores landscapes, builds national park quality visitor facilities that are open to the public at no cost and has been California's nonprofit leader in providing free outdoor education programs for school children. As of 2014, the Wildlands Conservancy preserve system had over 400,000 visitors.

General Comments

1. The BLM's Variance Process: In the BLM's Solar Energy Plan, the BLM stated that it will consider Right of Way (“ROW”) applications for utility-scale solar energy development in variance areas on a case-by-case basis. BLM Solar Energy Plan at p. 2-43. The applicant has the

responsibility to demonstrate to the BLM and other coordinating parties (e.g. the National Park Service and U.S. Fish and Wildlife Service) that their proposal will “avoid, minimize, and/or mitigate, as necessary, sensitive resources areas.” Id. The applicant is also responsible for demonstrating that the project is compatible with state and local plans and capable of acquiring all required permits and authorities to implement the project. Id.

The BLM Solar Energy Plan sets forth numerous factors that the BLM must consider when evaluating a ROW application. Id. at 2-45. The BLM has determined that it has “broad discretion” under the Federal Land Policy and Management Act (“FLPMA”) to “deny ROW applications without completing the NEPA process.” Id. at 2-55. BLM may deny an application after considering all of the factors and with regard to the “public interest.” Id. Such a denial constitutes a final agency action. Id.

2. History of conservation and management of the Silurian Valley region of the CDCA: Our organizations and our members, along with thousands of other stakeholders, have worked tirelessly as advocates in the protection of the CDCA and helped BLM fulfill its obligations for management of the CDCA under provisions of the Federal Land Policy and Management Act (“FLPMA”). Although BLM determined that a large expanse of public lands within the Silurian Valley met the eligibility criteria to be considered for wilderness designation, it ultimately chose not to recommend such designation in its report to Congress in 1990. Rather, it called for the Silurian Valley public lands to be “managed for low-intensity, carefully controlled use.”

The California Desert Protection Act was signed into law in 1994. That Act protected federal lands and their resources through designation of wilderness and national park units in the northern Mojave-southern Death Valley region including many of the areas surrounding Silurian Valley including:

- Death Valley National Park
- Mojave National Preserve
- Kingston Range Wilderness
- Hollow Hills Wilderness
- Ibex Wilderness
- Saddle Peak Hills Wilderness
- Nopah Range Wilderness
- South Nopah Range Wilderness

From 1999 to 2003, TWC purchased and donated 630,000 acres of checkerboard railroad lands that were donated to the Bureau of Land Management and National Park Service for cultural, natural and recreational values.

In 2002, the Fort Irwin Military Lands Withdrawal Act was signed into law and did not include expansion into the Silurian Valley. Opposition to the Silurian Valley expansion alternative was based on the large expanse of public land in the Silurian Valley region exhibiting wilderness qualities.

In 2002, the Old Spanish National Historic Trail was designated through an Act of Congress and signed into law by the President. This National Historic Trail is managed by the National Park Service and BLM in collaboration with other agencies and private landowners. In 2013, a BLM archaeological technician working in the Barstow Field Office presented a paper at the Archaeological Institute of America's annual conference in Seattle that documented a segment of the Old Spanish Trail through Silurian Valley.

(<http://www.blm.gov/pgdata/etc/medialib/blm/ca/pdf/Barstow.Par.36848.File.dat/Old%20Spanish%20Trail%20Segment.pdf>).

In 2009, 26 miles of the Amargosa River was designated as a federal Wild and Scenic River through the Omnibus Public Lands Management Act. Also in 2009, Senator Feinstein introduced into Congress the California Desert Protection Act (II), proposing federal wilderness designation for the Soda Mountains Wilderness, Avawatz Range Wilderness, Kingston Mountains Wilderness Additions and additions to the Amargosa Wild and Scenic River, all of which are located in the Silurian Valley region.

In 2010, The Nature Conservancy ("TNC") completed its Mojave Desert Ecoregional Assessment¹ and determined that Silurian Valley is comprised of lands with "moderate" and "high" levels of natural intactness and low to very low levels of human disturbance. As a result, TNC classified lands within the Silurian Valley as Ecologically Core and Ecologically Intact, and of high conservation value.

In 2012, SC Wildlands published a report entitled "A Linkage Network for the California Deserts," which identifies three habitat linkages in and through the Silurian Valley for the desert tortoise, desert kit fox and desert bighorn sheep. This report was funded by The Wildlands Conservancy and BLM.

In 2012, the BLM and other state and federal agencies released the preliminary draft alternatives for the Desert Renewable Energy Conservation Plan ("DRECP"). Several of the draft alternatives identified all or portions of the Silurian Valley as part of the biological reserve lands for the DRECP.

3. Characteristics of Silurian Valley: Our organizations have very significant concerns with this proposed project and believe the Silurian Valley is inappropriate for large-scale energy development. Our organizations sent a letter (see attachment) to State Director James Kenna on November 6, 2013 regarding the ecological, scenic and cultural importance of the Silurian Valley within the context of the CDCA. In that letter we expressed our strong recommendation that the

¹ Randall, J. M., S.S. Parker, J. Moore, B. Cohen, L. Crane, B. Christian, D. Cameron, J. MacKenzie, K. Klausmeyer and S. Morrison. 2010. Mojave Desert Ecoregional Assessment. Unpublished Report. The Nature Conservancy, San Francisco, California. 106 pages + appendices. Available at: <http://conserveonline.org/workspaces/mojave/documents/mojave-desert-ecoregional-2010/@@view.html>.

Silurian Valley should not be considered a Development Focus Area for renewable energy projects through the DRECP. We recommended that Silurian Valley instead be protected as part of the biological reserve established through the DRECP or by other authorities available to the BLM.

The Silurian Valley is one of the few landscapes remaining within the CDCA in a nearly pristine condition. It is situated between Death Valley National Park and the Mojave National Preserve, BLM Wilderness and Wilderness Study Areas (WSA), and surrounded by rugged desert mountain ranges. The valley lies in the southern end of the Amargosa River watershed. Surface and groundwater in Silurian Valley naturally flows northward, contributing to the perennial surface water at nearby Salt Creek (an ACEC designated by BLM in the CDCA Plan of 1980) which is a tributary to the Amargosa River which flows into Death Valley National Park.

Highway 127, a two-lane paved road leading north from Baker, California and ending at the California/Nevada border in the Amargosa Valley, is the only readily visible human intrusion into Silurian Valley. Although a utility corridor and electrical transmission line is located at the extreme southern end of the valley, it has little effect on the natural landscape qualities of the region. Baker, Shoshone, and Tecopa are self-identified as gateway communities to either or both Death Valley National Park and the Mojave National Preserve. Highway 127 is listed as eligible for designation as a State Scenic Highway by the California Department of Transportation:

<http://www.dot.ca.gov/hq/LandArch/scenic/cahisys.htm>. Nearly the entire length of Highway 127 is deemed Eligible for such designation, from I-15 near Baker and extending 49.4 miles north to the California/Nevada State Line. Such eligibility is inextricably linked to the natural scenic beauty of the region including both the Silurian Valley and Amargosa Valley.

Comments on Variance Lands Solar Application Screening and Evaluation Criteria

We provide the following comments on the proposed project organized according to the Variance Lands screening/evaluation factors contained in the ROD for the BLM's Solar Energy Plan. BLM Solar Plan pp. 2-45 through 2-52. We are limiting our comments to those criteria which we consider relevant to evaluating the proposed project.

1. The availability of lands in a SEZ that could meet the applicant's needs, including adequate access to available transmission. BLM Solar Plan ROD at p. 179.

Comments: In the applicant's Plan of Development dated November 2012, they addressed alternative locations for the proposed project, stating "Various alternate locations for renewable energy projects on BLM land have been considered by Iberdrola Renewables, LLC. In certain situations, applications were withdrawn based on environmental or engineering constraints." Plan of Development, p. 1-13. There is no indication the applicant considered or analyzed alternative locations on BLM administered lands within designated SEZs in California (i.e., Riverside East and Imperial East) or elsewhere. Thus, the applicant has failed to address this criterion.

2. Documentation that the proposed project will be in conformance with decisions in current land use plan(s) (e.g., visual resource management class designations and seasonal restrictions) or, if

necessary, represents an acceptable proposal for a land use plan amendment. BLM Solar Plan ROD at p. 179.

Comments: Currently, public lands within the Silurian Valley remain relatively unprotected and vulnerable to fragmentation and loss associated with a variety of land use activities. One of these uses, renewable energy, is now under consideration.

The CDCA Plan lacks Visual Resource Management Class designations in spite of the fact that the CDCA has vast expanses of public lands of high visual resource quality and sensitivity. However, BLM has recently conducted inventories of the public lands in the CDCA for their visual resources in support of the DRECP². The Silurian Valley inventory revealed a majority of public lands are in Inventory Class II, have Medium Scenic Quality and a High Sensitivity Rating. Lands within designated wilderness and wilderness study areas have a Class I rating and are managed to preserve visual resources. Class II rated lands areas are to be managed to maintain existing high quality visual resources.

Although considerable acreage of public lands in Silurian Valley are designated as Limited Use Class (allowing for generally low intensity, carefully controlled land use, and intended to protect sensitive, natural, scenic, ecological, and cultural resource values), the CDCA Plan allows for the development of renewable energy projects as long as a NEPA analysis has been prepared. Our organizations consider this provision one of most significant shortcomings of the CDCA Plan, and one that has allowed numerous large-scale solar projects to be permitted and built on sensitive Limited Use Class lands or on lands that haven't been surveyed for resources for decades.

Despite these and other shortcomings in the CDCA Plan, the fact that the proposed project application falls within a designated Variance Lands area provides BLM with the opportunity and responsibility to carefully and objectively evaluate the suitability of the Silurian Valley for a large-scale solar energy project using criteria that address a comprehensive set of ecological, biological, cultural, recreational and scenic resources and their values. The Solar PEIS amended the CDCA Plan with respect to solar energy policy and application processing and is therefore the current document providing policy guidance and framework on this matter.

For reasons we provide in this letter, and the reasons provided in writing by the National Park Service ("NPS"), U.S. Fish and Wildlife Service ("USFWS") and California Department of Fish and Wildlife ("CDFW"), we recommend the proposed project *not* move forward to analysis under NEPA and the CDCA Plan *not* be amended to allow the project to be approved in the Silurian Valley.

² California Energy Commission. 2012. Description and Comparative Evaluations of Draft DRECP Alternatives. Visual Resources, Chapter 3.4. Sacramento, California.

3. Documentation that the proposed project will be consistent with priority conservation, restoration, and/or adaptation objectives in the best available landscape-scale information (e.g., landscape conservation cooperatives, rapid ecological assessments, and state and regional-level crucial habitat assessment tools [CHATs]). BLM Solar Plan ROD at p. 179.

Comments: The most applicable and recent assessment of the ecological condition of the Silurian Valley is contained in a report by TNC entitled Mojave Desert Ecoregional Assessment. TNC determined that Silurian Valley is comprised of lands with “moderate” and “high” levels of natural intactness and low to very low levels of human disturbance. As a result, TNC classified lands within the Silurian Valley as Ecologically Core and Ecologically Intact, and of high conservation value. Others, such as BLM’s Mojave Basin and Range Rapid Ecoregional Assessment, show similar or identical conditions in the Silurian Valley, depicting the landscape in a very high natural condition and not affected by various change agents responsible for degradation of ecological condition. (Mojave Basin and Range Rapid Ecoregional Assessment, p. 55, Fig. 3-1). The Silurian Valley contains multiple important wildlife connectivity corridors that link important natural communities on a regional scale. The proposed project is clearly inconsistent with maintaining the existing high natural conditions in Silurian Valley and would inject a significant and adverse change agent into the region, thus foreclosing opportunities for protecting and maintaining the ecological and conservation values, such as through the DRECP or including them in the BLM’s National Landscape Conservation System (NLCS).

4. Documentation that the proposed project is in an area with low or comparatively low resource conflicts and where conflicts can be resolved (as demonstrated through many of the factors that follow). BLM Solar Plan ROD at p. 180.

Comments: Stakeholders including many of our organizations and their members, and agencies including the BLM and the National Park Service (NPS), have spent years investing in land protection in the CDCA and specifically within this region. As a result, many important lands that surround Silurian Valley have already been recognized and protected with legislative or administrative designations, including the following:

- Wild and Scenic Rivers. In 2009, 26 miles of the Amargosa River were added to the national Wild and Scenic River System of the U.S. Silurian Valley is located within the southern portion of the Amargosa River Basin/Watershed.
- National Park System Units. Death Valley National Park and the Mojave National Preserve, the largest and third largest National Park units in the lower 48 states, respectively, are adjacent to the Silurian Valley which lies between these two park units.
- Wilderness and Wilderness Study Areas. Multiple federally-designated wilderness areas and BLM-designated Wilderness Study Areas (WSAs) are located in the Silurian Valley region including: Kingston Range, Hollow Hills, Saddle Peak Hills, Nopah Range, Owlshead

Mountains, Soda Mountains and Avawatz Mountains. A number of these wilderness areas and WSAs surround Silurian Valley and contribute to the dramatic landscape of the region.

Silurian Valley contains additional resources and values of regional or national significance which have been recognized as such by BLM, other agencies and our organizations, but which remain unprotected. These values include:

- Landscape Intactness. Silurian Valley contains high landscape intactness as described in the Mojave Desert Ecoregional Assessment published by TNC and in BLM's Mojave Basin and Range Rapid Ecoregional Assessment, as noted in #3, above. Protection of all areas of high landscape intactness and their ecological attributes within the Mojave Desert is critical for long-term conservation of natural communities and their associated species.
- Lands with Wilderness Characteristics ("LWC"). Wilderness inventories conducted by BLM as part of the ongoing inventory and planning process pursuant to the Federal Land Policy and Management Act (FLPMA), and by citizens groups pursuant to BLM Manuals 6310 and 6320, indicate that Silurian Valley contains substantial acreage of LWC, a key indicator of wilderness and wildland values. In 2013, as part of DRECP planning process and its obligations under Section 201 of FLPMA, BLM inventoried the Silurian Valley region for LWC and determined that public lands there contain substantial LWC, as follows:
 - Silurian Hills (CA-080-222-2): 41,097 acres were found to be in a largely natural condition with low levels of human activity and offered outstanding opportunities for solitude and primitive/unconfined recreation. Dirt roads and the historic Tonopah and Tidewater Railroad are being naturally reclaimed through forces of nature, and mining activity has long ceased. The proposed project application is located entirely within the boundary of this LWC unit. Report dated December 9, 2013 and signed by the Barstow Field Office Manager.
 - Silurian South (CA-080-222A): 20,140 acres were found to be in a largely natural condition with low levels of human activity and offered outstanding opportunities for solitude and primitive/unconfined recreation. The predicted growth in OHV use in the area has not occurred. BLM also noted the presence of two meteorological testing towers associated with a right of way application for wind energy testing, but found these temporary installations did not detract from the naturalness of the area. Report dated June 27, 2013 and signed by the Barstow Field Office Manager.
 - Avawatz Mountains (CA-080-221): 22,984 acres were found to be in a largely natural condition with very little evidence of human use, and offered outstanding opportunities for solitude and primitive/unconfined recreation. Report dated December 10, 2013 and signed by the Barstow Field Office Manager.

The location of the proposed project is clearly of extremely high value for ecological, biological, cultural and scenic resources. The placement of a large-scale utility solar project in lands of this quality will destroy those very qualities. There is no possible way that the applicant can adequately reduce or mitigate the adverse impacts to these resources and their values to a level of acceptability.

We also believe the proposed project is inconsistent with this criterion because of the significant adverse impacts it would have on the Old Spanish National Historic Trail and visual resources. These issues are addressed in detail in our responses under items #2, #12, 19 and 19B. We do not believe these impacts can be mitigated.

5. Documentation that the proposed project will minimize the need to build new roads. BLM Solar Plan ROD at p. 180.

Comments: There is only one paved road in the Silurian Valley, State Highway 127, that would provide access to the proposed project area. The area proposed for development has no access roads and the plan of development submitted by the applicant indicates that 44 miles of new access roads throughout the solar panel field, and one-mile of new access road for the transmission line, would be required, for a total of 45 miles of new roads needed to support project construction and operation. Currently, the proposed project development area has no existing dirt roads leading from State Highway 127. As noted above, this highway has been determined eligible for designation as a State Scenic Highway by the California Department of Transportation. This single highway is also the gateway route to Death Valley National Park and the Mojave National Preserve and is used by an average of approximately 1,050 vehicles per day, and approximately 1,350 vehicles per day during the most heavily traveled month of the year³. The adverse impacts of utilizing State Highway 127 to support the construction, operation and maintenance of the proposed project cannot be reduced or mitigated to an acceptable level, and such use would cause unavoidable and significant adverse impacts on regional tourism at the gateway communities of Baker and Shoshone, California, and seriously compromise public safety and disrupt public access and transportation. The proposed project is clearly inconsistent with this criterion due to the need to construct 45 miles of new roads in support of the project.

6. Documentation that the proposed project will optimize the capacity of existing and new transmission infrastructure, and avoid duplication in the use of or need for existing and new transmission and transmission interconnection facilities. BLM Solar Plan ROD at p. 180.

Comments: The applicant has not secured approval to utilize the existing transmission system identified in their Plan of Development, which is owned and operated by the Los Angeles Department of Water and Power. Furthermore, the applicant has no power purchase agreement from any entity for the electricity generated by the proposed project. The applicant has not

³ California Department of Transportation. 2012. 2012 Traffic volumes on the California State Highway System. Sacramento, California.

demonstrated it can comply with this criterion and has only requested use of the existing transmission system.

7. If applicable, documentation that the proposed project will be located in an area identified as suitable for solar energy development in an applicable BLM land use plan and/or by another related process such as the California DRECP (e.g., Development Focus Areas). BLM Solar Plan ROD at p. 180.

Comments: Solar energy development in this location is inconsistent with this criterion because the CDCA Plan does not designate any sites or areas suitable for solar energy project development outside of Solar Energy Zones (“SEZ”). Silurian Valley is not located in a SEZ and would instead require BLM to amend the CDCA Plan and make a finding that solar energy development is suitable. Furthermore, solar energy development in Silurian Valley would foreclose opportunities to maintain and protect natural communities and their values through the DRECP or by adding the lands to the BLM’s NLCS.

8. If applicable, opportunities to combine Federal and nonfederal lands for optimum siting (e.g., combining BLM-administered land with adjacent previously disturbed private lands). BLM Solar Plan ROD at p. 180.

Comments: The proposed project is inconsistent with this criterion because the application area is comprised entirely of public lands, and only one square-mile of private land falls within the application area, and that land is not proposed for development by the applicant.

9. If applicable, documentation that the proposed project will be located in, or adjacent to, previously contaminated or disturbed lands such as brownfields identified by the EPA’s RE-Powering America’s Land Initiative (<http://www.epa.gov/renewableenergyland>) or state, local and/or tribal authorities; mechanically altered lands such as mine-scarred lands and fallowed agricultural lands; idle or underutilized industrial areas; lands adjacent to urbanized areas and/or load centers; or areas repeatedly burned and invaded by fire-promoting non-native grasses where the probability of restoration is determined to be limited. Preference will be given to proposed projects that are located in, or adjacent to, previously contaminated or disturbed lands under the variance process, assuming all other factors are adequately considered. BLM Solar Plan ROD at p. 180-181.

Comments: The applicant has failed to meet this criterion because there are no disturbed lands adjacent or nearby the proposed site. This proposed project is located entirely on high-value resource lands with a high degree of landscape intactness.

10. Documentation that the proposed project will minimize adverse impacts on access and recreational opportunities on public lands (including hunting, fishing, and other fish- and wildlife-related activities). BLM Solar Plan ROD at p. 181.

Comments: The proposed project will have a significant adverse impact on public opportunities to experience solitude and primitive and unconfined recreation in the Silurian Valley because it can't be located to avoid or minimize such impacts. The Silurian Valley is in a near natural condition and the application area exhibits wilderness characteristics. Recreational opportunities in the valley include touring on unimproved dirt roads, primitive camping, hiking, photography, nature study, bird watching, rare plant and wildflower study, and generally experiencing the solitude of this undeveloped region of public lands. The proposed project would forever alter the quality of these lands and the recreational opportunities they provide. There is no way to mitigate for a loss of solitude and primitive recreation. See response to #5, above, regarding adverse impacts to public access, tourism and public safety.

11. Documentation that the proposed project will minimize adverse impacts on important fish and wildlife habitats and migration/movement corridors (e.g., utilizing the Western Wildlife CHAT, administered by the Western Governor's Wildlife Council [<http://www.westgov.org/wildlife/380-chat>] and coordinating with state fish and wildlife agencies). BLM Solar Plan ROD at p. 181.

Comments: The applicant has failed to demonstrate that it can avoid or minimize significant adverse impacts on important wildlife habitats and linkages known to occur in the area that are associated with various species such as the desert tortoise, desert kit fox and desert bighorn sheep, migratory birds and golden eagles. These species and their habitats are described in greater detail below.

Habitat linkages. Silurian Valley is a primary lower elevation area of habitat connectivity between the Mojave National Preserve, Soda Mountains, Avawatz Mountains, Silurian Hills, Kingston Range and Death Valley National Park for bighorn sheep and other wide ranging desert species. The majority of mountain ranges that surround Silurian Valley are protected as designated wilderness, WSAs or within National Park units. These intact highlands are critical for desert bighorn sheep and other wide ranging species, which utilize lower elevation habitats for dispersal, for seasonal forage and habitat and to procure water. The lower elevation habitats within the Silurian Valley provide critical inter-mountain habitat linkages for these wide-ranging wildlife species.

Long-term conservation of biological resources requires maintaining connectivity across a diversity of habitat types and landforms. To identify these linkage areas, SC Wildlands modeled habitat suitability and landscape permeability in the CDCA for approximately 40 species in a 2010 report entitled California Desert Connectivity Project. Landscape level movement of species within their suitable habitat is essential to sustaining viable populations of species through day-to-day and seasonal movement of individuals, provide for shifts in geographic range in response to climatic change, for gene flow and re-colonization of new habitat, etc. Disruption of movement patterns by development can alter ecosystem functions, and isolate and fragment habitats. SC Wildlands identified three linkages in the Silurian Valley:

(<http://scwildlands.org/reports/ALinkageNetworkForTheCaliforniaDeserts.pdf>)

- a north-south linkage along the Amargosa watershed
- an east-west linkage between the Soda Mountains and the Kingston/Mesquite range
- an east-west linkage between the Avawatz Mountains and the Kingston/Mesquite range

These linkages make up a part of the desert linkage system for the California deserts as a whole, making the Silurian Valley an important regional component in maintaining biological resources and ecological function in the CDCA. SC Wildlands desert linkage project included broader linkages based on habitat suitability which are called land facets. These land facet linkages are intended to help ensure topographic connectivity as the effects of climate change progress in the California Desert. One such linkage, the China Lake South Range-Kingston -Mesquite Mountains Land Facets show at least 6 linkage strands crossing the Silurian Valley.

The proposed project entails removal of vegetation, site grading and leveling, and installation of a perimeter fence that will exclude desert tortoises and other terrestrial species from the area and block their movements through the valley, which are currently unimpeded. The proposed project would impact both least-cost pathways and broader land facet linkages.

Desert bighorn sheep. With regard to desert bighorn sheep, the proposed project is located within intermountain habitat identified by the California Department of Fish and Wildlife (“CDFW”) and contained in species habitat models in the preliminary draft of the DRECP. Silurian Valley provides a continuous landscape linkage between the Avawatz-Soda Mountains and the Hollow Hills-Silurian Hills-Kingston Range. Furthermore, it provides a north-south valley linkage with the Amargosa Desert, Death Valley National Park and Mojave National Preserve.

Migratory birds. The Silurian Valley is considered a north-south habitat linkage that is heavily used by migratory birds because of the numerous wetlands located within the region. These wetlands attract and support hundreds of species of migratory birds and include the Ash Meadows National Wildlife Refuge, Grimshaw Lake, Amargosa River, Salt Creek, Saratoga Spring, Silver Dry Lake and Soda Spring. The diversity, abundance and seasonal occurrence of migratory and resident birds within this region is documented on the following eBird websites: (Note: We have indicated the number of species observed at each of the following sites as an partial indicator of the importance of these wetlands to migratory and resident birds in the region).

- **Saratoga Spring:** 70 species
<http://ebird.org/ebird/hotspot/L853904?yr=all&m=&rank=hc>
- **Baker, CA (Waste Treatment Pond):** 176 species
<http://ebird.org/ebird/hotspot/L417883?yr=all&m=&rank=mrec>
- **Horsethief Spring, Kingston Range:** 139 species
<http://ebird.org/ebird/hotspot/L109426?yr=all&m=&rank=mrec>
- **Soda Spring (Zzyzx), Mojave National Preserve:** 224 species
<http://ebird.org/ebird/hotspot/L350673?yr=all&m=&rank=mrec>
- **China Ranch, Amargosa River Canyon:** 162 species
<http://ebird.org/ebird/hotspot/L417888?yr=all&m=&rank=mrec>

- **Furnace Creek, Death Valley:** 316 species
<http://ebird.org/ebird/hotspot/L246739?yr=all&m=&rank=mrec>
- **Shoshone, California:** 143 species
<http://ebird.org/ebird/hotspot/L350295?yr=all&m=&rank=mrec>
- **Crystal Spring, Kingston Range:** 100 species
<http://ebird.org/ebird/hotspot/L350707?yr=all&m=&rank=mrec>
- **Kelso Depot, Mojave National Preserve:** 116 species
<http://ebird.org/ebird/hotspot/L574785?yr=all&m=&rank=mrec>
- **Afton Canyon:** 80 species
<http://ebird.org/ebird/hotspot/L444756?yr=all&m=&rank=mrec>
- **Ash Meadows NWR:** 185 species
<http://ebird.org/ebird/hotspot/L388900?yr=all&m=&rank=mrec>

The eBird links, above, provide a wealth of data on species occurrence, abundance, dates of observations, and notes on behavior and habitat use. They demonstrate there is significant migratory bird use in the region and specifically within the broad north-south corridor extending from Afton Canyon and Soda Spring north to Ash Meadows NWR.

In the vicinity of Tecopa, California, the Amargosa River and Grimshaw Lake are an integral part of the BLM-designated Amargosa River Natural Area. BLM, on its Amargosa River Natural Area Website (<http://www.blm.gov/ca/st/en/fo/barstow/amargosa.html>) describes the area as follows:

“The Amargosa River Natural Area is a classic "vagrant bird trap". This area attracts birds which have wandered from their usual migration flight paths. Here they find all three critical habitat requirements: water, food, and shelter. Surface water here supports abundant life, creating an ecological "island" in the midst of the Mojave Desert. The landscape is dotted with natural springs and areas of dense vegetation, which provide a variety of food for wildlife.

Due to the wide variety of available habitat, the canyon has an enormous number of bird species. This is the highest riparian species richness of any site in the Mojave Desert in California. You will find birds that are either permanent residents or seasonal visitors. There are common, uncommon, rare, and "vagrant" species found here. Approximately 250 different bird species have been observed in the area.

Some important bird species include: Least Bell's Vireo, Yellow-billed Cuckoo, Yellow Warbler, Willow Flycatcher, Brown-crested Flycatcher, Vermillion Flycatcher, Yellow-breasted Chat, Blue Grosbeak, Summer Tanager, Western Tanager, Sage Thrasher, Virginia's Warbler, Northern Harrier, Loggerhead Shrike, Crissal Thrasher, Long-eared Owl, Prairie Falcon, Raven, Turkey Vulture, and Great-horned Owl.”

Several of the above mentioned birds are protected under state or federal Endangered Species Acts, including Least Bell's vireo and willow flycatcher, while the yellow-billed cuckoo is currently a

candidate for listing under the federal Endangered Species Act. A number of others are considered BLM sensitive species, indicating their uniqueness on the landscape.

Saratoga Spring, located at the southern end of Death Valley National Park, is one the largest wetlands in the northern Mojave Desert region. At an elevation of 60 feet above sea level, this expanse of wetlands attracts hundreds of species of migratory birds during the fall and spring migration periods, and also supports numerous species of birds during the winter season. Saratoga Springs is one of the top birding sites within Death Valley National Park.

(<http://www.cawatchablewildlife.org/viewsite.php?site=65&display=q>)

Seasonal wetlands form at Silver and Silurian Dry Lakes following significant rainfall and runoff events. Numerous water-related species use these seasonal wetlands for resting and feeding during migration periods. Species observed on Silver Dry Lake during a recent rainfall event included large numbers of the California gull and American avocet.

There is mounting evidence indicating large-scale solar projects of all kinds, including those employing PV technology, probably attract birds using the desert for dispersal because of solar panels appearing as bodies of water, referred to as “lake effect.” Bird mortality at these facilities occur when birds collide with solar panels and succumb to blunt forces either immediately or subsequently after suffering injuries and are unable to fly or escape predators. Documentation of these bird impacts has been published by the National Forensics Laboratory in its recent report on bird mortality at three large-scale solar energy projects in the California Desert.⁴ There is currently no known or proven way to avoid or minimize impacts to migratory birds as a result of the lake effect produced by proposed project.

Golden eagles. There are approximately 18 golden eagle nests located in mountainous habitat adjacent to Silurian Valley (three of them adjacent to the project site in the Silurian Hills), based on the most recent inventory conducted by BLM in 2012. These nests occur in the Soda Mountains, Avawatz Mountains, Silurian Hills and Salt Creek Hills. The nests comprise approximately five to six nesting territories. Silurian Valley is a golden eagle foraging area where prey species support nesting adults in nearby mountain ranges. We know of no means to avoid or mitigate for the loss of this golden eagle foraging habitat and the impact it would have on local golden eagle populations.

Bats. BLM considers the Silurian Hills region to be very important in supporting numerous species of bats, most of which have been designated as Sensitive Species by BLM:

“The Silurian Hills is a semi-mountainous region located in Silurian Valley. It is bounded on the west by a flat plain, Silurian Dry Lake and Salt Creek. On the east are the Shadow Mountains and a flat plain. On the north it is bordered by Kingston Wash and Valjean Dunes and on the south by the Hollow Hills Wilderness. The Amargosa River and its

⁴ Kagan, R.A., et al. 2014. Avian mortality at solar energy facilities in Southern California: a preliminary analysis. National Fish and Wildlife Forensics Laboratory, U.S. Fish and Wildlife Service, Ashland, Oregon. 28 pp. <http://www.kcct.org/news/rewire/Avian-mortality%20Report%20FINALclean.pdf>

tributaries (China Ranch Wash, Salt Creek), together with the Kingston Mountain-Silurian Hills-Kingston Wash area, represent a bat concentration zone in the Planning area.” NEMO Plan at 3.2.5, North Mojave Desert Bats.

The 2002 NEMO Plan amendments addressed the need to conserve bats and their habitats within the Silurian Valley region and the following decision was made at that time:

“Change the existing Moderate MUC to Limited designation for 7,400 acres of public land in the Silurian Hills region, known to support extensive habitat for several designated sensitive bat species. Route designation would occur on MUC L lands, including seasonal limitations and/or closures to sensitive bat values (e.g. active bat maternity roosts).” NEMO Plan, page 2.5.3.; NEMO ROD. Based on the previous conservation concern for the Silurian and subsequent change from MUC Moderate to Limited, any large-scale energy project would be inconsistent the most recent Limited Multiple Use Class designation.

With regard to this criterion in general, we know of no means to avoid or minimize the adverse impacts to wildlife habitats and the species they support as a result of the proposed project. Thus, it is inconsistent with this criterion.

12. Documentation that the proposed project will minimize impacts on lands with wilderness characteristics (LWC) and the values associated with these lands (e.g., scenic values, recreation, and wildlife habitat). BLM Solar Plan ROD at p. 181.

Comments: Wilderness inventories conducted by BLM as part of the ongoing inventory and planning process pursuant to FLPMA, and by citizens groups pursuant to BLM Manuals 6310 and 6320, indicate that Silurian Valley contains substantial acreage of LWC, a key indicator of wilderness and wildland values. In 2013, as part of DRECP planning process and its obligations under Section 201 of FLPMA, BLM inventoried the Silurian Valley region for LWC and determined that public lands there contain substantial LWC, as follows:

- Silurian Hills (CA-080-222-2): 41,097 acres were found to be in a largely natural condition with low levels of human activity and offered outstanding opportunities for solitude and primitive/unconfined recreation. Dirt roads and the historic Tonopah and Tidewater Railroad are being naturally reclaimed through forces of nature, and mining activity has long ceased. The proposed project application is located entirely within the boundary of this LWC unit. Report dated December 9, 2013 and signed by the Barstow Field Office Manager.
- Silurian South (CA-080-222A): 20,140 acres were found to be in a largely natural condition with low levels of human activity and offered outstanding opportunities for solitude and primitive/unconfined recreation. The predicted growth in OHV use in the area has not occurred. BLM also noted the presence of two meteorological testing towers associated with a right of way application for wind energy testing, but found these temporary installations did not detract from the naturalness of the area. Report dated June 27, 2013 and signed by the Barstow Field Office Manager.

- Avawatz Mountains (CA-080-221): 22,984 acres were found to be in a largely natural condition with very little evidence of human use, and offered outstanding opportunities for solitude and primitive/unconfined recreation. Report dated December 10, 2013 and signed by the Barstow Field Office Manager.

Scenic resources. Silurian Valley is renowned for its stunning desert scenery. The Silurian Valley viewshed is enjoyed by tourists who travel to and from the National Parks Units and wildlands in the region, often stopping in many locations to enjoy scenic views, hike, birdwatch, photograph and generally enjoy unconfined recreational activities in a natural setting. Others travel to this region specifically to follow the route of the Old Spanish National Historic Trail (see <http://www.oldspanishtrail.org> and <http://www.nps.gov/olsp/planyourvisit/index.htm>).

Lands within the Silurian Valley are currently designated as a mix of Visual Resource Management (VRM) classes, but BLM's 2012 Visual Resource Inventory (VRI) for this region identifies lands within Silurian Valley proposed for solar and wind energy developments as Visual Resource Inventory Class II as an intact scenic landscape. In addition, the application area is encircled by VRM Class II lands, with the high mountains in the viewshed (Kingston Mountains Wilderness) designated as VRM Class I. BLM can consider the VRI values in the context of other management needs and decisions. (http://www.drecp.org/documents/docs/alternatives_eval/Section_3-4_Visual.pdf, 3.4-2) Lands identified as VRM Class I and Class II are listed as exclusion areas for solar development in the Final Solar PEIS page ES-9 #19.

Desert community tourism economy. The preservation of Silurian Valley is also very important to the small tourism-centered communities of Tecopa, Shoshone and Baker. These communities are working to develop successful economies based on recreation and tourism. Many residents and businesses in these communities are deeply concerned about the potential for renewable energy development in the otherwise pristine Silurian Valley to adversely impact their livelihoods and quality of life. We appreciate that BLM has made a concerted effort in recent years to work with community members in Tecopa on preserving and enhancing the Tonopah and Tidewater Railroad Grade that passes through Silurian Valley, and to improve recreational access to places like the Amargosa River and Salt Creek Hills ACEC. BLM's own research recently led to the definitive identification of a significant segment of the Old Spanish National Historic Trail, as described above, and NPS is preparing a comprehensive management plan and environmental impact statement for the Old Spanish National Historic Trail. See <http://parkplanning.nps.gov/projectHome.cfm?projectID=12591>.

The significant impacts resulting from the proposed project on LWC, scenic resources, recreation and the local tourism economy are irreversible and clearly inconsistent with this criterion. There is no means to avoid or minimize these impacts.

13. Documentation that any groundwater withdrawal associated with a proposed project will not cause or contribute to withdrawals over the perennial yield of the basin, or cause an adverse effect on ESA-listed or other special status species or their habitats over the long term. However, where groundwater extraction may affect groundwater-dependent ecosystems, and especially within groundwater basins that have been over appropriated by state water resource agencies, an application may be acceptable if commitments are made to provide mitigation measures that will provide a net benefit to that specific groundwater resource over the duration of the project. Determination of impacts on groundwater will likely require applicants to undertake hydrological studies using available data and accepted models. BLM Solar Plan ROD at p. 181.

Comments: The proposed project is located within the southern portion of the Amargosa River Basin/Watershed. Groundwater and surface water in this area flows north toward Silurian Dry Lake, Salt Creek and the Amargosa River, eventually reaching the Badwater Basin within Death Valley National Park. The amount of groundwater in storage and the interbasin flow in and out of the Silurian Valley is generally unknown, but Silurian Valley is located in a very arid portion of the central Mojave Desert and receives very little precipitation. Groundwater recharge is extremely low and likely limited to infrequent and extraordinarily large precipitation events.

Salt Creek within the Salt Creek Hills Area of Critical Environmental Concern (ACEC) in northern Silurian Valley provides perennial surface water and riparian habitat for resident and migratory desert animals and approximately eighty-two species of birds. Desert bighorn sheep are known to occasionally obtain water from Salt Creek. Indeed, BLM invested significant resources in Salt Creek in the 1990's to rid it of invasive salt cedar (*Tamarix* sp.). These efforts successfully returned significant perennial surface flows to portions of the drainage, and the establishment of native riparian plants which greatly attract and benefit wildlife.

Based on the arid conditions in this watershed and the sensitive wetland and riparian habitats associated with groundwater in the Amargosa River Basin/Watershed, we believe there is insufficient groundwater available to support the construction and operation of the proposed solar project without causing long-term adverse impacts to the Salt Creek and lower reaches of the Amargosa River which flow into Death Valley National Park.

The applicant's Plan of Development indicates that approximately 100,000 gallons of water will be used to wash the solar panels each year, and no information was provided about the amount of water needed during construction or to control dust on 45 miles of new roads over the life of the project or potable water needed for drinking and sanitary facilities. The Plan of Development does not address availability of groundwater within the Silurian Valley. With regard to the source of water needed to construct and operate the project, the applicant states, "Available options for water supplies are currently being evaluated. These options may include the use of tanker truck deliveries, potential onsite water supply from groundwater sources, or reclaimed water from a local source."

The applicant has failed to specify a source of water for the proposed project and has not investigated the availability of groundwater within the Silurian Valley. Thus, the applicant has failed to provide the information required under this criterion.

14. Documentation that the proposed project will not adversely affect lands donated or acquired for conservation purposes, or mitigation lands identified in previously approved projects such as translocation areas for desert tortoise. BLM Solar Plan ROD at p. 181.

Comments: According to the Amargosa Conservancy, they have acquired private land comprising an old talc mine in Silurian Valley and installed specialized bat protection gates for conservation of sensitive bat species in the area. The applicant has not demonstrated that they will not adversely affect these lands or the bat colonies they support. Instead, these existing conservation investments would be diminished by industrialization of adjacent areas for renewable energy development.

15. Documentation that significant cumulative impacts on resources of concern should not occur as a result of the proposed project (i.e., exceedance of an established threshold such as air quality standards). BLM Solar Plan ROD at p. 182.

Comments: The NPS identified air quality concerns with regard to solar energy development within the Silurian Valley through the programmatic solar plan. These concerns were associated with wind erosion of disturbed desert soils that would adversely impact Death Valley National Park and Mojave National Preserve. In the NEMO Plan of 2002, BLM reported that the EPA classified the desert region in San Bernardino County as a moderate non-attainment area for PM10 emissions in 1994. PM10 in the area is associated with human activities that result in fugitive dust generation, such as construction, excavation and demolition, off-road vehicle use, and dust generated from unpaved roads and disturbed soils.

Given that the region is currently in a moderate non-attainment status for PM10, we believe the proposed project would exacerbate the existing dust pollution problem and that there are no feasible means of controlling dust in this very arid region in the absence of paving or treating all disturbed soil surfaces or applying copious amounts of water on a continuous basis. The applicant's Plan of Development indicates dust would be controlled through application of water and treating the soil with a dust suppressant, but has not demonstrated the amount of water necessary to avoid or minimize dust generation, or that there is sufficient groundwater available to fulfill its dust suppression plan. Therefore, the applicant has failed to show that it can effectively control dust and prevent increases of PM10 in a region that is in non-attainment for this criteria pollutant.

16. The project can be sited and constructed to allow for adequate connectivity corridors as determined by the BLM and USFWS that ensure that the project does not isolate or fragment tortoise habitat and populations. BLM Solar Plan ROD at p. 184.

Comments: In 2009, the U.S. Geological Survey (USGS) modeled desert tortoise habitat suitability across its range. The USFWS used this model to identify priority linkages areas between Tortoise

Conservation Areas (TCAs) which form the basis for Mojave desert tortoise conservation. The TCAs, which contain only 55% of total historic habitat, are insufficient to ensure long-term survival of Mojave desert tortoise. The desert tortoise habitat linkages were modeled using the “least cost corridors” approach – a geo-spatial technique to identify the most likely pathways that are occupied by the species and used to traverse the landscape. These habitat linkages contain an additional 20% of Mojave desert tortoise historic habitat. The USFWS considers these linkages as an initial framework for connecting TCAs but also recognizes them as a minimum requirement. In a paper authored by USFWS staff,⁵ they recommended that “Managers should consider additional conservation of occupied habitat adjacent to the linkages and existing TCAs to provide security against edge effects and population declines, especially given the limitations in the existing reserve architecture.” (Averill-Murray et al. p 11)

Previously, the USFWS modeled high value habitat that is contiguous with habitat linkages using the USGS habitat model. These habitat areas may more accurately represent the connectivity needs of the tortoise, as it is a low mobility species with a long generation time that requires live-in habitat to ensure genetic and demographic connectivity on a landscape-scale. The authors of Averill-Murray et al. (2013) also cautioned that, “While there is much still to be learned about desert habitat connectivity needs, the BLM cannot wait for further research to resolve all relevant questions before focusing effort on enhancing connectivity. There is a real risk that critical linkages may be severed before they are protected and that, due to the long generation time of the desert tortoise, problems with the desert tortoise population may not be detected until well after we have reduced the habitat below its extinction threshold.”

The proposed project is located within a USFWS-modeled priority linkage that connects the Superior Cronese CHU to the Ivanpah CHU and suitable habitat within portions of Death Valley National Park and lands to the east, all of which are comprised of high value contiguous habitat according to the USGS habitat model. The proposed project will entail installation of desert tortoise barrier fencing around the perimeter of the solar field, effectively blocking desert tortoise movement, and requiring the permanent removal of desert tortoises from the project site through translocation. Thus, the proposed project is inconsistent with this criterion and there is no way it can avoid or minimize adverse impacts to the habitat linkage across the valley.

17. The proposed site contains low tortoise densities consistent with the best available information for the subject geographic area, including data on local desert tortoise densities, when available, and data from the long-term USFWS rangewide monitoring of the Mojave Population of the desert tortoise (http://www.fws.gov/nevada/desert_tortoise/dt_reports.html). BLM Solar Plan ROD at p. 184.

⁵ Averill-Murray, R.C. et al. April 2013. Conserving Population Linkages for the Mojave Desert Tortoise (*Gopherus agassizii*). Herpetological Conservation and Biology 8(1): 1-15.

Comments: Silurian Valley is not within a desert tortoise critical habitat unit and, therefore, has not been periodically monitored by the USFWS through the line-distance sampling program.

According to a BLM map of desert tortoise occurrence and estimated density at the time the CDCA Plan was developed in 1980, the Silurian Valley was rated as supporting between 0 and 20 tortoises per square mile. Tortoise occurrence in the valley is probably tied to more suitable habitat patches in washes and bajadas adjacent to the mountain ranges, and the density compared to those in critical habitat units is probably low. Although Silurian Valley is not within a critical habitat unit for the desert tortoise, it does include a priority habitat linkage identified by the USFWS.

18. Any necessary mitigation will improve conditions within the connectivity area, and if these options do not exist, necessary mitigation will be applied toward the nearest tortoise conservation area (e.g., an ACEC for which tortoise had been identified in the Relevant and Important Criteria or critical habitat). BLM Solar Plan ROD at p. 184.

Comments: As explained above, preserving the USFWS-identified habitat linkages is critical for long-term survival and recovery of the Mojave desert tortoise. We do not consider mitigation in adjacent critical habitat units (i.e., Ivanpah Critical Habitat Unit or Superior-Cronese Critical Habitat Unit) appropriate because the affected habitat linkage in Silurian Valley connects two TCAs – the Ivanpah and Superior-Cronese CHUs, and is naturally a very narrow linkage and is not duplicated elsewhere or redundant. The only effective mitigation would be to completely avoid disrupting, fragmenting or severing this relatively narrow habitat linkage and maintaining the habitat in its natural condition to ensure it continues to function to connect the two TCAs. Thus, the applicant is unable to demonstrate that any mitigation would address the impacts to tortoise connectivity in this area.

19. Protecting Resources and Values of Units of the National Park System and Other Special Status Areas under National Park Service Administration. (Note: Maps and data documenting areas of high-potential conflict with National Parks, historic trails, and other areas under NPS administration are available through the Solar PEIS project Web site:

http://solareis.anl.gov/documents/fpeis/maps/NPS_High_Potential_for_Resource_Conflict_Area_Specific.pdf. BLM Solar Plan ROD at p. 185.

Comments: Specific high potential conflicts to areas under National Park Service administration (Death Valley National Park and Mojave National Preserve) have been identified in the programmatic solar plan for potential solar project development in Silurian Valley, as follows:

- Wind erosion of soil (NPS code WIND_ERODI)
- Watersheds and streambeds (NPS code UPSTREAM_W)
- Natural landscape condition (NPS code NATURALNESS)
- Night sky conditions/light pollution (NPS code NIGHTTIME_L)
- Scenic vistas (NPS code VIEWSHEDS)

According to the screening criteria description in BLM's Solar Energy Plan, the programmatic solar plan, BLM, in coordination with the NPS, is responsible for evaluating effects of the proposed project and ensuring that natural, visual, and cultural resources of units of the National Park System and other special areas administered by the NPS (e.g., National Historic Trails) are protected. Based on the information provided by the NPS and contained in the BLM's Solar Energy Plan, and a memorandum to the BLM from the NPS Regional Director⁶, it is clear the proposed project is inconsistent with the intent of this criterion and that it would lead to significant adverse impacts to a variety of resources associated with Death Valley National Park, Mojave National Preserve and the Old Spanish National Historic Trail due to 1) deterioration of air quality from fugitive dust generation, 2) loss of groundwater associated with the Amargosa River, 3) modification of surface water drainages, 4) impact to high scenic quality landscapes, 5) impact to landscapes in natural condition and 6) impact to night sky conditions due to artificial lighting. The NPS memorandum states in part, "These projects have great potential to create adverse cross-boundary impacts to natural and cultural resources of the Old Spanish National Historic Trail, Mojave National Preserve, and Death Valley National Park." and, "At this time NPS strongly recommends that both applications for the Silurian Valley Wind and Silurian Valley solar projects, as they are proposed, be rejected by BLM."

Specifically, the evaluation of the proposed project by BLM and NPS will be based, in part, on the project applicant addressing the following criteria using a rigorous and science-based process: BLM Solar Plan ROD at p. 185-6.

- A. Increased loading of fine particulates (criteria pollutants: PM2.5 and PM10 [particulate matter with a diameter of 2.5 µm or less and 10 µm or less, respectively]) and reduced visibility in Class I and sensitive Class II areas.

Comments: The EPA classified the San Bernardino County desert region as a PM10 nonattainment area on January 20, 1994. The State Implementation Plan was prepared and is under review. There are currently no Class I airsheds in or adjacent to the Northern and Eastern Mojave planning area, but the National Park Service has petitioned EPA for reclassification of airsheds in the Mojave National Preserve and Death Valley National Park to Class 1, consistent with the current general management plans for these park units. (See NEMO Plan, 3.3.3, Air Quality).

- B. Vulnerability of sensitive cultural sites and landscapes, loss of historical interpretative value due to destruction or vandalism.

⁶ Memorandum to BLM State Director, California, from Regional Director, NPS, dated 8/16/2013: Proposed renewable energy development in Silurian Valley, San Bernardino County, California.

Comments: The proposed project would adversely impact segments of the Old Spanish Trail and the Tonopah and Tidewater Railroad, both of which are located within the Silurian Valley. The Old Spanish Trail is a National Historic Trail and the Tonopah and Tidewater Railroad is eligible for the National Register of Historic Places. The Old Spanish Trail was designated a National Historic Trail on December 4, 2002 (Public Law 107-325) under authority of the National Trails System Act. In 2006 the BLM and NPS received public scoping comments for a proposed Comprehensive Management Plan/Environmental Impact Statement for the Old Spanish National Historic Trail. This plan is under development and no date has been announced for release of a draft for public review and comment. <http://parkplanning.nps.gov/projectHome.cfm?projectID=12591>

The BLM's Barstow Field Office recently published an article (see: <http://www.blm.gov/pgdata/etc/medialib/blm/ca/pdf/Barstow.Par.36848.File.dat/Old%20Spanish%20Trail%20Segment.pdf>) on its research into a segment of the Old Spanish Trail in the Silurian Valley region, verifying its location through the use of aerial photography, GIS and field investigations. Various artifacts associated with the location and time the trail was in use confirmed the presence of the trail. The location of this trail relative to the proposed project has not been reported by the applicant in the Plan of Development, other than that it is adjacent to the right of way application area.

The Tonopah and Tidewater Railroad operated as a common carrier from approximately 1906 to 1940 between Ludlow, California and Gold Center, Nevada. Although it was salvaged for materials in support of WWII, remains of the railroad are still evident, including the segment in Silurian Valley. The railroad and its associated historic features are located within the right of way application for the Proposed Project. The Tonopah and Tidewater Railroad is considered eligible for nomination to the National Register of Historic Places. Tonopah & Tidewater Railroad (CA-INY-4772H) X aka CA-SBr-2340H. (See NEMO Plan, 3.4). The proposed project is located immediately east of this historic railroad.

The project applicant has not provided any specific measures for avoiding or minimizing the adverse impacts the project would have on these two significant historic cultural resources.

C. Altered frequency and magnitude of floods, and water quantity and quality.

Comments: Surface and ground water in Silurian Valley drain northward and enter the Amargosa River through Salt Creek. Surface water at Salt Creek supports an extensive wetland with riparian vegetation including common reed and mesquite. The area was designated an Area of Critical Environmental Concern by the BLM in the CDCA Plan of 1980. Extraction of groundwater to support construction and operation of the Proposed Project, including dust control, would occur for the life of the project or at least 30 years. This continuous extraction of groundwater has the potential to diminish the flow of groundwater to Salt Creek and its contribution as a tributary to the Amargosa River. The

Amargosa River flows into Death Valley National Park. Federal Reserved Water Rights within the park were established when Death Valley National Monument was established by Executive Order in 1933.

- D. Reduced habitat quality and integrity and wildlife movement and/or migration corridors, increased isolation and mortality of key species.

Comments: See # 11 above for details.

- E. Fragmentation of natural landscapes.

Comments: Construction of a large-scale energy project in the currently undeveloped and ecologically intact Silurian Valley would result in severe fragmentation and loss of high quality landscape in an area referred to as the “Gateway to Death Valley.” Currently there is little, if any, distinction in landscape quality and scenic vistas throughout the entire Silurian Valley and extending to Death Valley National Park and beyond into designated wilderness on public lands. See also our comments under #4, above, on landscape intactness and LWC.

- F. Diminished wilderness, scenic viewsheds, and night-sky values on landscapes within and beyond boundaries of areas administered by the NPS.

Comments: See response to #E, above. Development of an industrial-scale solar facility in the now pristine Silurian Valley would also introduce a permanent source of artificial night lighting over several thousands of acres of public land that would adversely impact dark sky conditions on public lands and within Death Valley National Park and the Mojave National Preserve.

- G. Diminished cultural landscape qualities within and beyond boundaries administered by the NPS.

Comments: The proposed project would destroy the pristine conditions of the cultural landscape in Silurian Valley and adversely impact the historic resources of the Tonopah and Tidewater Railroad and the Old Spanish National Historic Trail segment.

Conclusion

As documented and described above, Silurian Valley is not one value by itself but rather the suite of values anchored in the natural and cultural landscape which make it such a significant and special part of the CDCA, and one that deserves special recognition and protection by the BLM. The development of a large-scale energy project in this region is incompatible with preserving the resources of Silurian Valley and would have extensive and permanent negative impacts on this highly

intact ecological system, on the area's extensive cultural values and on the wildland and scenic qualities of the landscape.

Our organizations strongly believe that Silurian Valley's extensive natural, cultural and recreational values are worthy of long-term protection by the BLM. Therefore, the BLM should use its broad discretion under the Solar PEIS to deny the application for this proposed solar project.

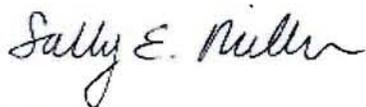
We encourage the BLM to take action to preserve Silurian Valley and ensure this region receives durable and effective conservation as a part of the NLCS of the CDCA or other conservation designation, such as part of the biological reserve under the DRI:CP.

Thank you for considering our opinions and recommendations regarding the proposed project and future management of the Silurian Valley.

Sincerely,



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Attachment: Letter to James Kenna, State Director

December, 16, 2014

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1849 C St. NW., Room 2134LM
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Attention: 1004-AE24
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On behalf of The Wilderness Society, Natural Resources Defense Council and The Nature Conservancy, please accept these comments regarding the proposed Rule on Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development and Technical Changes and Corrections published by the Bureau of Land Management (BLM).

The proposed rule is critical to securing an enduring renewable energy program for public lands, founded on responsibly and sustainably utilizing wind and solar resources in a manner that balances development with protection of sensitive lands, wildlife and other natural resources. Responsibly siting renewable energy on the nation's public lands will address the tangible and negative consequences posed by climate change and support conservation objectives.

Given these multiple goals, our organizations have worked diligently to promote policies that embrace a landscape level approach to deploying renewable energy that identifies the best places to site projects while also avoiding and protecting ecologically important areas. BLM's efforts over the last six years have made important commitments to developing renewable energy in a 'smart from the start' approach, but long term success requires cementing gains and ensuring consistent implementation.

Overall, we support BLM's initiative to update the regulatory basis upon which wind and solar projects are evaluated and permitted and to establish a competitive process for leasing public lands for wind and solar energy. The proposed rule is a critical step in modernizing the methods the BLM employs in permitting, ensuring a fair market value for our public lands and providing greater certainty around future operating conditions.

In addition, we support efforts to further build on progress made to identify and incentivize development in priority, low conflict zones. Establishing a landscape level approach to renewable energy development on public lands that includes avoiding sensitive wildlands, guiding development to low conflict areas and mitigating remaining unavoidable impacts will help meet both clean energy and conservation goals.

The proposed rule represents a necessary commitment to more efficiently and responsibly developing renewable energy on public lands, but we believe a long-term plan should also guarantee revenues collected are used to support local communities, restore fish and wildlife habitat and provide expanded opportunities for outdoor recreation on our public lands. This recommendation is consistent with the Public Lands Renewable Energy Development Act of 2013 (H.R. 596 and S. 279) of which also supports the use of a competitive leasing process for solar and wind development. This legislation should be used to complement BLM's rulemaking and further improve the renewable energy program on public lands.

We strongly recommend BLM proceed with this rulemaking in a manner that strikes a balance between protecting the environment and taxpayer interests and advancing needed clean energy. We have set out more detailed recommendations to fully realize a successful rulemaking.

Sincerely,

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I. Ensuring fair market value is received for leasing and development of wind and solar energy on public lands

A critical component of an effective wind and solar energy program is clearly establishing a sound mechanism to ensure public lands are fully and fairly valued in determining the right price companies will pay for the commercial production of electricity from wind and solar resources on the public lands. This is especially important at a time when the commercial viability of many of these projects is tenuous. A policy that is too lenient could shortchange taxpayers and have the effect of inducing development on public lands rather than on comparable private lands, where landowners could directly benefit from a stable revenue source. A policy that is too stringent could have the effect of forestalling development at a time when a shift to renewable energy is vital. Competition is one way to determine fair market value for areas where there is competitive interest, but the BLM should also ensure that fair market value is received for all lands leased for development.

The Wilderness Society joined with Taxpayers for Common Sense to commission a white paper that sets out detailed recommendations regarding how to ensure that fair market value is received for wind and solar development on public land that serves as the basis for our comments in this section.¹

A. Wind and solar development on public lands should be undertaken using leases rather than right-of-way grants

We support BLM's efforts to move to a lease-based system, rather than right-of-way grants currently in use. The Federal Land Policy and Management Act (FLPMA) clearly allows for such a change.⁴³ CFR § 2801.5. Such an approach has been advocated by industry watchers² and supported by some developers³ as providing greater certainty for all parties.

FLPMA provides:

In managing the public lands, the Secretary shall, subject to this Act and other applicable law and under such terms and conditions as are consistent with such law, regulate, through easements, permits, leases, licenses, published rules, or

¹ Pamela Baldwin, "Fair Market Value for Wind and Solar Development on Public Land," November 2010. Accessed December 14, 2014, at <http://wilderness.org/sites/default/files/Fair-Market-Value-Whitepaper.pdf>

² E.g., see Scott Bank, "Practical Advice: Wind and Solar Projects on BLM (Bureau of Land Management) Lands," *Project Finance Newsletter*. Chadbourne & Parke LLP. November 2011. Accessed December 14, 2014, at http://www.chadbourne.com/practicaladvice_bureau_of_land_management_nov11_projectfinance/.

³ Solar Energy Industries Association, "Comments to BLM on Proposed Rulemaking Regarding Competitive Process for Leasing Public Lands for Solar and Wind Development." February 2012. Accessed December 14, 2014, at <http://www.seia.org/research-resources/comments-blm-proposed-rulemaking-regarding-competitive-process-leasing-public>.

other instruments as the Secretary deems appropriate, the use, occupancy, and development of the public lands.

43 U.S.C. § 1732(b). Title V of FLPMA discusses the use of rights-of-way for a broad range of uses including canals, pipelines, transmission, generation of energy, and transportation routes. 43 U.S.C. § 1761(a). The FLPMA right-of-way regulations provide additional direction through the following definitions of types of right-of-way:

(b) Easement means an authorization for a non-possessory, non-exclusive interest in lands which specifies the rights of the holder and the obligation of the Bureau of Land Management to use and manage the lands in a manner consistent with the terms of the easement.

(c) Lease means an authorization to possess and use public lands for a fixed period of time.

(d) Permit means a short-term revocable authorization to use public lands for specified purposes.

43 C.F.R. § 2920.0-5.

The regulations also provide guidance on when to use a lease in discussing “authorized uses” accordingly:

Leases shall be used to authorize uses of public lands involving **substantial construction, development, or land improvement and the investment of large amounts of capital which are to be amortized over time**. A lease conveys a possessory interest and is revocable only in accordance with its terms and the provisions of Sec. 2920.9-3 of this title. Leases shall be issued for a term, determined by the authorized officer that is consistent with the time required to amortize the capital investment.

43 C.F.R. § 2920.1-1(a) (emphasis added). In contrast, “permits shall be used to authorize uses of public lands for not to exceed 3 years that involve either little or no land improvement, construction, or investment which can be amortized within the term of the permit” and “conveys no possessory interest.” 43 C.F.R. § 2920.1-1(b). “Easements may be used to assure that uses of public lands are compatible with non-Federal uses occurring on adjacent or nearby land.” 43 C.F.R. § 2920.1-1(c).

Generally, standard rights-of-way in the form of permits or easements are more suited to use of lands (crossing or placing something on the land) while leases are more suited to developing energy resources, as shown by BLM’s historic use of leases for developing oil and gas and geothermal energy. Terms and conditions associated with leases set out a clearer way to govern conditions of use, grounds for termination, rights to amend terms, and compensation for both base rent and development of resources.

1. Terminology – “lease” versus “grant”

We concur with the comments of Defenders of Wildlife et al., submitted December 16th, with regard to the need to modify the use of the terms “lease” and “grant” in the proposed regulation to provide clarity regarding the distinction between the two terms and reduce confusion.

Recommendation: BLM should adopt a consistent set of terms that consistently differentiates between right-of-way leases and grants throughout the rule. The easiest approach would be to consistently refer to the term “ROW lease” as a property instrument that is distinct from a ROW grant. BLM should also refrain from using the term grant as a catch all for both leases under § 2809 and grants issued for projects outside of DLAs.

2. Applying lease-based approach to all commercial wind and solar development

The benefits of a lease-based approach extend well beyond the boundaries of a Designated Leasing Area (DLA). BLM has not made it clear why it will continue to administer commercial wind and solar energy development outside DLAs as ROW grants rather than ROW leases. In fact, all the benefits of leasing with regard to the agency administration of the development could be important to secure in a contractual form for projects outside DLAs.

Recommendation: BLM should establish that all commercial development will be undertaken using ROW leases, rather than grants. However, terms of leases should retain the core principles laid out in the proposed rule incentivizing development within DLAs.

B. Development of prime areas should be competitively offered, but elements of the variable offset auction process should be revised

Offering leases competitively is a straightforward way to determine the value of federal lands and resources for commercial electricity generation. Competitive offering appropriately shifts the risk burden from taxpayers onto the economic interests who stand to profit from access to the resource in question. All leased energy resources are offered competitively provided a competitive interest exists.

While competitive offering is the norm, it is important to note that many questions remain unanswered with regard to how a competitive system might best function for wind and solar resources. BLM’s recent successful solar auction in the Dry Lake solar energy zone is encouraging, but other attempts to competitively offer wind or solar energy development ROWs encountered significant challenges, were missing key information, and did not ultimately result in project completion.⁴

1. Greater clarity that BLM can adjust process for competitively leasing

⁴ Wind energy development areas were unsuccessfully auctioned off in 1993, 2000, and 2004 near Ridgecrest and Riverside, California, and near Las Vegas, Nevada, as well as Colorado’s San Luis Valley in 2013.

The proposed rule clearly states that “[t]he BLM may use any type of competitive process or procedure to conduct its competitive offer and any method...to conduct the actual auction or competitive bid procedure”. Proposed 43 CFR § 2804.30(b) and § 2809.13. While the explanatory notes go into great detail on the variable offset approach, the rule as proposed authorizes BLM to utilize any process it sees fit to conduct competitive offers of ROW leases or grants inside or outside DLAs for wind or solar energy development. The BLM needs clear implementing guidance to ensure that field offices understand the intended approach for these various instances. As well, the agency needs to ensure it is capable of modifying its approach as it gains experiences with different energy resource types in different circumstances.

2. Minimum bid should be revised to ensure fair market value

The minimum bid plays a critical role in determining fair market value. BLM proposes that the minimum bid is a combination of the administrative costs of preparing the sale and an amount determined by the authorized officer to comprise the “value of the land”. Several factors are offered in the proposed rule including, but not limited to, acreage rent, megawatt capacity fee, and mitigation costs. Proposed 43 CFR § 2809.14(b)(2) and § 2804.30(e)(2)(iii). The explanatory notes add that, for other programs, the minimum bid is fixed in statute but such is not the case here. For the purposes of analyzing the potential impact of the proposed rule, BLM used only a fraction of the first year’s acreage rent for this component: “For purposes of this analysis, the BLM will use 5 percent of the first year’s acreage rent as the second component of the minimum bid. This is consistent with a competitive offer in Colorado that was held on October 24, 2013.” (Economic Analysis of Proposed Rule, 32)

The wide discretion provided the authorized officer in the regulations is problematic. Without a consistent set of factors or standard in the rule against which to calibrate valuation methods, the agency is at risk of widely divergent approaches to determining resource value and potential legal jeopardy for making arbitrary decisions. For example, the Economic Analysis scenario could just as easily have used 50% of the first year’s acreage rent, or the full MW capacity fee, which would surely be significantly greater. Since the proposed rule seems to intend to retain maximum flexibility in administering the program, BLM needs to provide clarity for what they intend the resource value component of the minimum bid to represent.

Recommendation: Proposed 43 CFR § 2809.14(b)(2) and § 2804.30(e)(2)(iii) should be revised to establish a standard that the resource value component of the minimum bid should meet. Specifically, “(2) An Amount determined by the authorized officer and disclosed in the notice of competitive offer that captures the value of the parcel in a manner consistent with Uniform Appraisal Standards, but is not less than \$100 per acre.” This approach is similar to how minimum bids are arrived at for other energy resources.⁵

⁵ E.g., see BLM, “Competitive Leasing.” Accessed December 15, 2014
http://www.blm.gov/wy/st/en/programs/energy/Coal_Resources/coalfaqs/competitive_leasing.print.html

C. Department should pursue authority to charge royalties; in absence of that authority, revise elements of proposed rental rate

The Department currently lacks statutory authority to charge an *ad valorem* royalty – a certain amount per unit of commodity produced – and, thus, resorts to charging annual rents that effectively function as a proxy for a production royalty.

1. Rents

Subject to specified exemptions, right-of-way holders must also pay rents for the use of lands “based on sound business management principles and, as far as practical and feasible, using comparable commercial practices.” 43 CFR § 2806.10(a). In the absence of authority to charge royalty, we support the agency’s effort to ensure annual rents capture both the value of occupying federal land and the value of the public lands as an input to commodity production. The BLM’s formula captures this with two distinct elements:

- Acreage Rent – calculated by the number of acres within the authorized area times the per-acre county rate maintained by the agency.
- MW Capacity Fee – calculated by multiplying the approved MW capacity by the MW rate for the applicable type of technology, where *MW Capacity Fee = Approved MW Capacity x total hours per year x net capacity factor x MWh price x rate of return*

The Acreage Rent is adjusted annually, and the MW Capacity Fee is adjusted every five years by updating the MWh price and the rate of return.

We strongly support the BLM’s decision to automatically update the rental fees, and to peg the MW Capacity Fee to market conditions rather than fixed price of power included in current guidance. We are pleased to see BLM establish a minimum rate of return while still allowing it to reflect a reasonable expectation from the market.

Recommendation: To better ensure fair return the MWh price should be updated every three years, rather than five. The transition to the new regime will be abrupt for current developers (particularly wind) as evidenced in the Economic Analysis accompanying the proposed rule. The power price should be more closely aligned with rapidly changing market conditions, particularly in the West. As evidenced by the change in power prices in the explanatory notes, regional power varies substantially year over year.

Recommendation: The agency should provide for a transition period applicable only to current developers to the extent this schedule is immediately in force.

2. Exemption or waiver of rental rates.

Existing regulations provide that BLM may waive or reduce rent payments in appropriate circumstances such as if the holder provides without charge or at reduced rates, a valuable benefit to the public at large or to the programs of the secretary, or in cases of undue hardship, and it is in the public interest to waive or reduce the rent. 43 C.F.R. § 2806.15. Development of clean renewable energy is clearly in the national interest (See President's Climate Action Plan, Secretarial Order 3285A1, etc.) but no statutory basis exists for production incentives in the form of reduced rents.

However there are clear provisions for incentivizing oil and gas development that are frequently employed.

In order to encourage the greatest ultimate recovery of oil or gas and in the interest of conservation, the Secretary, upon a determination that it is necessary to promote development or that the leases cannot be successfully operated under the terms provided therein, may waive, suspend or reduce the rental or minimum royalty or reduce the royalty on an entire leasehold, or any portion thereof. 43 CFR § 3103.4-1

Recommendation: To level the playing field with traditional energy developers, the administration should seek legislative authority to waive or reduce rental rates under specific conditions to serve as a production incentive.

3. Royalty authority

The surest way to ensure a fair return to taxpayers is to pursue authority to capture a fraction of the revenue collected from the sale of the electricity generated on public lands. The BLM does not have the authority to charge a royalty for wind and solar.

Recommendation: The Department should pursue legislative authority to charge a production royalty that may only be reduced or waived by the administrative agencies in very narrow, specified circumstances.

4. Seek new authority to reinvest revenues

Given the unique impact profile of wind and solar generation, royalties and other revenues should be used to enhance the Department's ability to protect sensitive wildlife and ecosystems, including ensuring the conservation of lands essential for natural resource adaptation to unavoidable climate change. This precedent has been established in Public Law 88-578, 78 Stat. 897, for the development of non-renewable energy resources in public waters. With the anticipated scarcity of future appropriations to help address the adverse impacts of renewable energy development and other stresses on our public lands, including climate change, the Department should establish a program whereby a share of the revenues derived from future projects will be dedicated to a program designed to enhance the health and integrity of ecosystems adversely impacted by energy development.

Recommendation: The Department should seek clarifying legislation to ensure a permanent revenue stream, such as S. 279 or H.R. 596 (113th Congress).

D. Encouraging diligent and responsible development and operations

We support the efforts BLM has made to improve the siting practices for wind and solar development, in particular the development of DLAs and the use of screening criteria for prioritizing processing of applications outside of DLAs. Proposed 43 C.F.R § 2802.11 and § 2804.35. But how this development proceeds will be as, or more, important in shaping the legacy of this initiative as where development occurs. At a time when available capital for construction of new generation is limited and unpredictable, establishing clear financial expectations for public lands projects is essential to project planning for potential developers, the BLM, state and local government entities, and the interested public. Moreover, as the agency switches to lease-based development, the terms of these leases must be carefully crafted because leases do create a transfer of rights.

1. Ensure BLM has opportunity to screen viability of purchasers

Transfer of ownership of ROW leases and grants is occurring frequently and likely to continue. BLM should have the opportunity to evaluate the financial and technical viability of potential purchasers to ensure valuable sites are not tied up.

Recommendation: Incorporate a standard lease term that requires, as a condition of assigning or transferring all current and future right-of-way grants, that BLM will ensure technical and economic viability of parties interested in acquiring approved right-of-way grant authorization before approving reassignment or transfer.

2. Standard terms and conditions must account for unexpected changes

As BLM moves to a lease-based system, it cedes some of its discretion to the lessee in favor of certainty for both parties. However, unexpected changes can and do occur – in law, in policy, and in conditions on the ground. BLM must ensure it has flexibility to update terms and conditions as needed based on environmental performance, changed circumstances, new information, new law, guidance or policy, or changing technology (this could be modeled on the standard Section 6 in BLM’s oil and gas leases, as well as the standard stipulations used to address changes of status under the Endangered Species Act or discovery of cultural resources).

Recommendation: Revise 43 C.F.R § 2805.12(a)(16) to read “(16) Comply with all other stipulations that the BLM may require, including modifications required pursuant to other federal law” to proposed and add new “(h) Comply with other stipulations that the BLM may require, including modifications required pursuant to other federal laws” to § 2809.18.

3. Institute robust bidder prequalification requirements

Existing Instruction Memoranda for wind and solar acknowledge BLM’s authority to require that technical and financial viability be established before committing public resources to private development. However, these guidance documents do not establish when in the permit review process viability will be assessed. Nor are these ideas codified through the proposed rule.

This leaves the government exposed to the risk of committing public lands to project developers that cannot successfully construct a project, tying up prime sites. Diligence requirements that apply to a developer after obtaining site control are essential, but alone are insufficient. Viability evaluations should be applied as early in the permitting process as practicable.

Recommendation: BLM should require demonstration of technical and financial capability before proceeding with a notice of intent for environmental review during the processing phase of the application. Prior to NEPA analysis and necessary environmental reviews, Section 2804.25(2) should include that “applicants must have or be able to demonstrate technical and financial capability to construct, operate, maintain, and terminate a project throughout the application process and authorization period.”

4. Bonding measures must ensure cleanup costs are covered within DLAs

We concur with the comments of Defenders of Wildlife et al., submitted December 16th, with regard to the need to ensure bonding requirements satisfy the purposes for which they are collected while attempting to utilize as a possible incentive for developing within DLAs. The discrepancy between the proposed fixed bond amount and the known reclamation costs used to prepare the rule must be reconciled. We recommend the BLM reevaluate the standard amounts and identify a range more commensurate with actual costs of decommissioning.

5. Require enforceable provisions for mitigation

Efforts to offset impacts have included a range of on- and off-site actions. As BLM increasingly turns to compensatory off-site mitigation, the agency should include a standard term to protect the likely need to modify mitigation packages to address adaptive management concerns.

Recommendation: BLM should include enforceable provisions for mitigation in the agency’s grants and leases of rights-of-way.

E. Cost recovery for processing leases for wind and solar development

Under the draft rule, the BLM will receive funds for the pre-application period, processing of an application, monitoring, bonds, the competitive offer, and late payment penalties (§2809.18). The BLM should use such funds collected from the project process

to ensure efficient project execution and proper compliance with development standards and timelines. At a time of declining funding, administrative costs to prepare parcels of land, managing competitive processes, and the lease itself all warrant agency re-compensation by site developers.

1. Reconcile actual vs. reasonable costs

The proposed rule differentiates between “actual costs” and “reasonable costs” for cost recovery pertaining to the stages of development previously mentioned. Federal agencies, including the BLM, are eligible for reimbursement for reviewing and approving a project’s Plan of Development; namely, the “reasonable costs” incurred by the agency. At the developer’s discretion, they may elect to waive “reasonable costs” and pay “full actual costs incurred by the BLM” in order to expedite review of a POD or monitoring of a lease (§2809.18(d)).

BLM fails to clarify whether the agency will simply retain the cost recovery option decided by the developer, or whether the BLM will consistently receive the “reasonable costs” or the “actual cost” associated with lease terms and conditions. Such ambiguity is shown in the preamble where “some funds” would be received by the BLM including “those received for cost recovery” (p. 59032).

Recommendation: The BLM should clearly state in §2804.19 that it may seek “actual cost” for projects within DLAs, where required to make up for agency resources otherwise unavailable for processing applications.

2. Support use of Master Agreements

Key priorities must be reinforced with concurrent financial signals sent by agency policies. Because economic considerations are a major driver in siting decisions, the BLM should guide development to zones by making it more expensive for companies to pursue development elsewhere. The BLM’s right-of-way guidance currently provides for six grant processing categories (See, BLM Manual 2804). Under current agency directives, any application that requires a project-level environmental impact statement is processed as a Category 6 grant. To incentivize development within DLAs, the BLM should afford field staff the authority to process applications within zones under Category 5 master agreements. A master agreement is a negotiated agreement, allowing considerable flexibility between the BLM and the applicant in terms of cost sharing.

Recommendation: BLM should retain the distinction between projects within and outside DLAs in this case into the final rule by providing for lease applications in DLAs to be processed under Category 5 master agreements.

II. Incentivizing development in low-conflict areas

We strongly support financial and administrative incentives to direct wind and solar projects to low-conflict areas. Increased certainty and limited costs for developers undertaking projects inside DLAs should be incorporated in the entirety of the rule. Financial and administrative incentives, however, do not have to equate to a discounted value for land identified as a DLA. We encourage the BLM to implement long-term cost and administrative structures that reflect a fair market value for these lands. Accordingly, lands outside of DLAs should come at a higher cost burden to potential developers.

A. Offsets for bids on Designated Leasing Areas

The proposed rule sets forth a variety of offset categories that the successful bidder may be eligible for, depending on context of the DLA under nomination. At this time, we recognize that the agency is seeking adaptability and flexibility in determining appropriate offsets for projects inside of designated leasing areas. However, the rule lacks specificity in the categories of offsets.

1. Refining the purpose of offsets

BLM should identify standards for the intended purpose of bid offsets. In preparing DLAs for competitive offer, the BLM is to conduct necessary studies and site evaluations, including environmental review, before offering sites competitively (§2809.13(b)(6)). Consequently, the agency will have established strong understanding of the environmental and technological considerations and limitations of a particular site. Alongside the discussion in the preamble, this baseline data should drive offsets that promote thoughtful and reasonable development based on environmental factors and impacts of technology.

Recommendation: BLM’s use of offsets should accomplish a clear purpose, and be relevant to a particular site. The purpose of the offsets should be defined in the rule, not the preamble, to limit confusion and decrease possible conflict over offset opportunities. Proposed §2809.16(b) should be revised as follows:

“The BLM may apply a variable offset to the bonus bid of the successful bidder based upon *environmental concerns or technological limitation for thoughtful and reasonable development*” [emphasis added, taken from p. 59052]

2. Reconsider proposed offset categories

Certain categories of offsets warrant reconsideration. Discussion surrounding DLA offsets indicates that these economic incentives are used to promote thoughtful and reasonable development and consequently, offsets should be offered to project designs that incorporate a higher level of technological and environmental standards. Allowing developers to offset submission of nomination fees is inconsistent with this approach.

Recommendation: Revise §2809.16(c) by deleting subsection 6.

3. Public engagement on offsets

The BLM recognizes the potentially controversial nature associated with offsets in DLAs and, as such, includes an advanced notice of offset qualifications and incremental offsets for applications that do not fully meet these qualifications (p. 59052). Such inclusions are necessary both for full public disclosure and for the BLM to establish proper understanding of offset obtainability.

Recommendation: BLM should include relevant information and the rationale for offsets in the notice of competitive offer as per the requirements in §2809.13(b)(6). The public should be able to comment on offsets when preparing the designated leasing area, and as soon as the offsets are made available in the notice of competitive offer. BLM should retain the right to change or modify such offsets depending on additional information and comments provided by the public.

B. Operational incentives inside and outside of Designated Leasing Areas

The incentives for development inside DLAs focus largely on initial project planning, development, and construction. The final rule should include options to incentivize adoption of more efficient and more environmentally sound technologies and practices.

1. Operational incentives for adjustments for rents and fees

There is substantial opportunity for the BLM to incorporate incentives into cost structures that will apply following construction in various stages of a wind or solar grant. Accordingly, BLM should incorporate an adaptive approach into lease terms to encourage investments in technology or environmental conditions.⁶ Integration of more efficient panels or blades, for example, will help ensure infrastructure on public lands reflects gains from new technology and that future land-use continues to serve the general public.

Recommendation: BLM should consider allowing for a temporary reduction in the acre rent payment applicable to adoption of technologies or practices evaluated and specified by the BLM that significantly improve efficiency or environmental performance but entail up-front cost in proposed § 2806.62, § 2806.54, § 2806.64 and § 2806.52.

III. Consistency with outcomes and implementation of the Western Solar Plan

The BLM has made significant progress in facilitating responsible renewable energy development and protecting sensitive wildlands and wildlife habitat by identifying

⁶ Development of clean renewable energy is clearly in the national interest (See President's Climate Action Plan, Secretarial Order 3285A1, etc.) but no statutory basis exists for providing production incentives in the form of reduced rents. Congress has acted to provide oil and gas development such incentives. 43 CFR § 3103.4-1

priority, low-conflict development zones on public lands. Finalized in 2012, the Record of Decision (ROD) established the Western Solar Plan, identifying 17 solar energy zones (SEZs) and modifying 89 land use plans after assessing environmental, social and economic impacts associated with utility-scale solar energy development on public lands in six southwestern states.⁷ This landscape-scale planning effort is a model for limiting conflicts, controversy and impacts while facilitating efficient and timely permitting for solar projects. Though still in the implementation phase, the Western Solar Plan has provided much needed guidance regarding where and how solar development should proceed on public lands. The recent successful competitive auction held for parcels of the Dry Lake SEZ in Nevada demonstrated that zones, mitigation certainty, and expedited permitting can be attractive for developers.

This rulemaking should reinforce and strengthen implementation of the Western Solar Plan, building on the progress to date to responsibly advance renewable energy on public lands. The lack of direct references to the Western Solar Plan should be remedied given the potential confusion if there appear to be multiple tiers of landscape level planning determinations. Such confusion could create conflicts in application in creating varying forms of leasing criteria. BLM should ensure all relevant policies and components on the Western Solar Plan are reflected in this rulemaking, including:

A. Final rule should include explicit criteria for creation of new priority zones/DLAs

The proposed rule supports wind and solar leasing in preferred areas, known as Designated Leasing Areas (DLAs). Proposed 43 CFR § 2801.5 defines the term “designated leasing area” as a parcel of land with specific boundaries identified by the BLM land use planning process as being a preferred location, conducted through a landscape-scale approach, for solar or wind energy where a competitive process must be undertaken.

The proposed rule indicates DLAs would include SEZs: “Designated leasing area is a new term that means a parcel of land with specific boundaries identified by the BLM’s land use plan process as being an area (e.g., SEZ) established, conducted through a landscape-scale approach, for the leasing of public lands for solar or wind energy development via a competitive offer” (p. 59032). While we support this approach and the identification of SEZs as DLAs, DLAs would also include other designations established in land use plans, and it is not clear if standard criteria would be used to identify these areas.

We urge the BLM to provide a consistent framework and guidance for designating additional DLAs.

⁷ Approved Resource Management Plan Amendments/Record of Decision (ROD) for Solar Energy Development in Six Southwestern States. October 2012. Assessed December 11, 2014. http://blmsolar.anl.gov/documents/docs/peis/Solar_PEIS_ROD.pdf

Recommendation: §2802.11 of the proposed rule should be revised to explicitly state minimum criteria for use in identifying and designating new DLAs as follows.

Although the rule does state that BLM would “identify locations that have fewer and less significant adverse resource impacts and are suitable for solar and wind energy development” (p. 59028) and “when determining which lands may be suitable...the factors the BLM considers include...(3) physical effects and constraints on corridor placement or leasing areas due to hydrology, meteorology, soil, or land forms” (§2802.11 (3)), we believe more specificity should be provided to land managers to ensure most suitable lands for development are selected. For example, criteria should include:

- Section B.4.6.5 of the Solar Programmatic (ROD) recommending SEZs in degraded, disturbed, or previously disturbed areas, including fallowed agricultural land, Brownfields and other previously contaminated sites
- Principles to guide the identification of areas compatible with renewable development in Title 1.3.5.3.1 of the Draft Desert Renewable Energy Conservation Plan. These recommend areas with high renewable energy potential, close to existing transmission that minimize disturbance to biologically, culturally, recreation and visual valuable resources (Vol. I of VI I.3-37, August 2014).

The rule also states that a “resource management plan or plan amendment may also identify areas where the BLM will not allow right-of-way corridors or designated leasing areas for environmental, safety, or other reasons” (§2802.11 (d)). We believe more specificity is needed to also ensure adverse resource impacts are in fact avoided by excluding areas unsuitable for these technologies. We recommend land use planners be given guidance for adopting specific exclusion criteria, as was identified in Table A-2 of BLM’s Solar Programmatic ROD to help avoid resource conflicts.⁸

B. Final rule should provide greater clarity regarding process for creating new DLAs

New or expanded SEZs are considered every 5 years as identified in the Western Solar Plan: “The BLM will assess the demand for new or expanded SEZs at least once every 5 years in each of the six states covered by the Solar PEIS. The assessment of demand may take place as part of the regular land use planning process or as a separate effort to determine the role BLM-managed lands should play in broader energy and climate goals.” (Final Solar ROD, October 2012, B.4.5.1).

Evaluating SEZs every 5 years through a land use planning process gives land managers an opportunity to consider new or shifting resource conflicts and/or other changes to adjacent population centers, adjacent land designation and federal policy that may impact the establishment of a SEZ. It also allows the BLM to take into account technology

⁸ ROD Solar PEIS, Table A-2 “Exclusions Under BLM’s Solar Energy Program” October 2012. Accessed December 11, 2014 at <http://blmsolar.anl.gov/documents/docs/peis/Exclusions-ROD-Table-A-2.pdf>

innovations and changes in transmission infrastructure and load centers. DLAs should follow this model and be evaluated every 5 years. Resource Management Plans are too long in duration (generally in place for decades) to adequately evaluate shifting resources or other changes to adjacent land. The need for more consistent review of resources will be even more necessary in coming years as climate change causes shifting habitats for wildlife and plant species.

Recommendation: Proposed 43 CFR §2802.11 should specify the need for revising existing DLAs and identifying new or expanded DLAs at least once every 5 years. A framework similar to the Final Solar ROD should be established that describes four steps for land managers in reevaluating SEZs (Final Solar ROD B.4.5):

1. Assess the demand for new or expanded SEZs
2. Establish technical and economic suitability criteria
3. Apply environmental, cultural, and other screening criteria
4. Analyze proposed SEZs through a planning and NEPA process

The BLM should stress that DLAs will not only be identified through a land use planning process, but also be revised or removed. Shifting resource conflicts, changes to adjacent land and changes in transmission resources could result in an established zone no longer meeting DLA criteria.

C. Final rule should prioritize development interest within DLAs

Another area where the Western Solar Plan can be consistent with this rulemaking is in regards to priority of DLAs over non-DLAs. The Western Solar Plan addresses prioritization of SEZs over variance areas, stating “ROW applications in variance areas will be deemed a lower priority for processing than applications in SEZs” (Final Solar ROD, October 2012, B.5). The proposed rule, however, does not indicate that BLM will prioritize processing of projects in DLAs over non-DLAs.

Recommendation: Add to the beginning of Proposed 43 CFR §2804.35 a new subpart explicitly stating that the BLM will prioritize NEPA analysis and application processing for leases inside of DLAs ahead of right-of-way grant applications on non-DLA lands.

§2809.10 should also indicate that BLM will prioritize application processing and environmental review for leases inside designated areas ahead of grants outside DLAs.

IV. Establishing Priorities for Review of Applications for FLPMA Grants Outside of Designated Leasing Areas

A stated goal of the rule is to provide direction to BLM on how to prioritize review of wind and solar energy applications outside of designated leasing areas “based upon categories of screening criteria” (p. 59028). As noted, “Prioritizing applications would

focus the BLM’s efforts on those applications that are likely to have lesser resource conflicts before those with potentially greater impacts.”

We support BLM’s efforts to develop an effective system for prioritizing its processing of applications outside of designated leasing areas. The system proposed needs to be improved, however, to help project proponents make better, more informed siting decisions when considering applications outside of designated leasing areas. Screening criteria for prioritizing applications outside of designated leasing areas should be based both on resource sensitivity to impacts from development as well as on expected level of conflict with other uses.

As noted (p. 59039), this rule proposes criteria similar to—but not the same as—those in Instruction Memorandum (IM) 2011–061 (found at http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html). We believe the criteria for leasing should encompass at least the same range of issues covered in the IM, but be improved to provide better guidance to the BLM and project developers about the level of risk to an application from the presence of other resources.

A. Screening criteria for applications for FLPMA Grants outside of Designated Leasing Areas

We recommend that BLM change §2804.35 (“How will the BLM prioritize my solar or wind application?”) to do the following: 1) recognize that processing leases within DLAs will receive highest priority over any applications outside of DLAs; 2) at a minimum, make the prioritization criteria consistent with existing policy for prioritizing applications; 3) include a broader set of criteria that better reflect resource sensitivities and conflicts; and make clear that BLM will not accept applications in areas that are closed to development.

Recommendation: We propose the following specific changes to the criteria for prioritization in §2804.35:

- As noted above, **add** to the beginning of §2804.35, a new subpart explicitly stating that the BLM will prioritize NEPA analysis and application processing for leases inside of DLAs ahead of right-of-way grant applications on non-DLA lands.
- **Add** to §2804.35(a) the following criteria for consideration in identification of HIGH PRIORITY applications:
 - Lands near existing infrastructure
 - Disturbed lands
 - High wind and solar potential as indicated by the WWWWMP, Solar mapper and other mapping efforts.
- **Delete** §2804.35(a)(1) “Lands specifically identified for wind or solar energy development, other than designated leasing areas.”
- **Remove** from §2804.35(b) the following criteria for identification of MEDIUM PRIORITY applications:

- §2804.35(b)(1) “special management areas that provide for limited development including recreation sites and facilities.” This criterion is vague and the term “special management area” is not well defined by BLM. Some RMPs include only Areas of Critical Environmental Concern (ACEC), Wilderness Study Areas (WSAs) and designated Wilderness as “special management areas.” Some might infer from this criterion that ACECs would be in the medium category since some ACECs do not preclude all development. This would be misleading as to the level of conflict and resource sensitivity that is likely present.
- §2804.35(b)(4). “Areas where a project may adversely affect conservation lands, to include lands with wilderness characteristics that have been identified in an updated wilderness inventory.” Lands found to have wilderness characteristics in an inventory by the BLM should be low priority for processing and are likely to have a high level of conflict. To date, BLM has deferred oil and gas leasing of nominated parcels in areas found to have wilderness characteristics in an inventory by BLM, but for which management decisions have not been made. “Because the leasing of lands with wilderness characteristics is likely to result in indirect, adverse impacts to this resource value, it is recommended that until a decision is made on the management of these units, the areas where lands with wilderness characteristics units overlap with nominated parcels be deferred. . . .”⁹
- § 2804.35(b)(5): Sensitive habitat areas including important eagle use area, priority sage grouse habitat, riparian areas. These should be criteria for identification of LOW PRIORITY applications.
- **Revise** §2804.35(b)(3) to read “Right of way avoidance areas that do not overlap with administratively designated special management areas.” As defined by the land use planning guidelines, right of way avoidance areas do not preclude the issuance of rights-of-way for solar or wind energy development and may be available with special stipulations or mitigation measures, but this should only be considered for medium priority case where ROW avoidance areas do not overlap with special management designations. The BLM Land Use Planning Handbook (H-1601-1, Appendix C, pp. 27-28) identifies special administrative designations. They include ACECs, National Scenic Byways, watchable wildlife viewing sites, and other special areas.
- **Add** to §2804.35(c)(1) the names of the types of areas to which the criterion (lands near or adjacent to lands designated by Congress, the President or Secretary for protection) apply.
- **Add** a new subsection to §2804.35(c) that reads: “Sensitive habitat areas including but not limited to important eagle use areas, priority sage grouse habitat (i.e., Priority Areas for Conservation identified by the U.S. Fish and Wildlife Service or Core or Priority Habitat identified by the BLM), and desert tortoise connectivity habitats.”

⁹ BLM, EA for the White River Field Office, June 2014 Competitive Oil and Gas lease Sale at 77, available at http://www.blm.gov/pgdata/etc/medialib/blm/co/programs/oil_and_gas/Lease_Sale/2014/may_2013.Par.34116.File.dat/WR_doiblmcol1020130099ea_3.12.14_EA_MLP%20format_Master.pdf.

- **Add** a new subsection to §2804.35(c) that reads: “lands managed by the BLM for conservation including, but not limited to:
 - Areas of Critical Environmental Concern
 - Lands managed for Wilderness Characteristics.”
- **Add** a new subsection to §2804.35(c) that reads: “Lands Inventoried by BLM and found to have wilderness characteristics, but for which management decisions have not been made in an RMP.”
- **Revise** §2804.35(c)(5) to read: “Explicit and implicit right-of-way exclusion areas.” The Solar PEIS explained the difference between explicit and implicit in this way: “*explicit exclusions that will be delineated in the Solar PEIS ROD by a land base that would not change except by future land use plan amendment; and (2) implicit exclusions that will be defined in the Solar PEIS ROD by the presence or absence of a specific resource or condition where the land base may change over time (e.g., critical habitat). Implicit exclusions will be determined at the time of application for individual solar ROWs, and based on information in applicable land use plans as amended, Species’ Recovery Plans, or similar planning or guidance documents, and verified by site-specific information as necessary.*” Applicants should be aware that some exclusions will be identified on a site specific basis.” (Final Solar PEIS, July 2012, page 2-19).

B. Application requirements for FLPMA Grants outside of Designated Leasing Areas

In §2804.10(c) of the proposed rule, BLM identifies criteria for the BLM to accept an application for solar or wind energy development, for any transmission line with a capacity of 100 kV or more, or any pipeline 10 inches or more in diameter. We recommend that BLM include a preliminary disqualifier for places previously deemed inappropriate for renewable energy development. The proposed rule requires the applicant to “address known potential resource conflicts with sensitive resources and values that are the basis for special designations or protections” (§2804.10(c)(1)). This subsection alludes to the notion that there are certain places unsuitable for wind or solar development. Accordingly, the developer should be made aware that if an application is filed in an unsuitable location, such as a right-of-way exclusion area; their application will not be processed.

Recommendation: We recommend that in addition to the criteria listed under §2804.10(c), BLM add that applications will be accepted “only if: The proposal for solar energy or wind energy development is not sited on lands inside an exclusion area or area identified specifically as inappropriate or unsuitable for solar or wind energy development or pipeline or transmission placement.” Developers should be made aware that some areas exceed “potential resource conflicts”.

V. Developing and Leasing Designated Leasing Areas for Wind

Our colleagues at Defenders of Wildlife have, in their comments on this rule, noted the current lack of designated leasing areas for wind energy and identified particular challenges in moving forward with an effort to designate preferred development areas for wind, though, as noted in the rule “efforts could be initiated by the BLM for designated wind development areas that may be identified in the future.” (p. 59022)

We encourage BLM to continue to develop a framework for identifying and designating DLAs for wind energy. The West-wide Wind Mapper Project is a good step toward identifying the information currently available to help inform such an approach and identifying the information gaps that need to be filled. The West-wide Wind Mapper should be publicly released and continuously updated and improved. Similarly, BLM should continue to pursue state-by-state efforts to better understand the relationship between wind resources, wildlife habitat and use, and other public land values, such as the Wyoming Wind and Transmission Study. In addition, BLM should invest in the collaborative efforts with other agencies such as FWS and DOE and organizations like the American Wind Wildlife Institute to improve our understanding of wind-wildlife conflicts and identify preferred landscape features for low conflict wind development.

And we agree with our colleagues at Defenders that BLM should also explore thoughtfully what DLAs may mean for wind and how this may differ from “solar zones.” Developing a framework for identifying DLAs for wind energy is complicated by several factors including:

- Lack of good understanding of the relationship between pre-construction activity and post-construction impacts, particularly with respect to bird and bat collisions. Understanding potential conflicts at a site often requires multiple years of pre-construction monitoring to identify potential risk factors based on seasonal use landscape-scale factors that may attract raptors, bats, and other migratory birds.
- Need for site-specific, fine-scaled meteorological data for wind siting, financing, and development. Mapped wind classes alone do not provide data at the scale necessary to entice serious development interest. Wind resources can be much more variable across a geographic area than solar, and developers complete a significant amount of meteorological due diligence to identify wind speeds at various hub heights at different locations to maximize the efficiency and output of facilities.
- Rapidly changing wind technology making lower class wind sites for profitable development.

Collectively these circumstances make identifying effective DLAs for wind difficult and more resource intensive than for solar. (Defenders of Wildlife, Comments on Proposed Competitive Leasing Rule, Dec. 16, 2014)

Recommendation:

To address the need for specific meteorological testing and wildlife monitoring information about preferred wind development areas, we recommend that BLM move

forward to develop DLAs for wind and consider developing new approaches to offering them for a lease.

First, BLM should identify “designated leasing areas” for wind through a land use plan decision. These areas would be “generally relatively large areas that provide highly suitable locations for utility-scale wind development; locations where wind development is economically and technically feasible, where there is good potential for connecting new electricity-generating plants to the transmission distribution system, and where there is generally low resource conflict.” They would meet the criteria for DLA in the proposed rule and consistent with all BLM IMs, handbooks, manuals and handbooks. We encourage BLM to continue to work with partner agencies, industry, NGOs, universities and others to improve understanding of avian and bat population status, distribution and use in areas under consideration for wind development.

Second, we encourage BLM to consider new, creative approaches to offering wind-focused DLAs to address the need for site-specific wind data and wildlife monitoring before full leasing.

We support the proposal made by Defenders of Wildlife et al., submitted December 16th, for a two-phase approach to leasing within wind DLAs. In short, this approach would have a first phase in which BLM would hold a competitive offering for short-term leases for site-specific meteorological and other testing and wildlife monitoring within a DLA and a second phase in which the short-term lease holder would be granted, barring any significant new information about wildlife or other conflicts, the preferred right to enter into a non-competitive project proposal and development phase subject to the same terms and conditions proposed in the draft rule for DLAs and other BLM policies. This process would provide incentives for companies to invest in site-specific analyses needed to determine the energy and environmental suitability of sites within a DFA before full leasing is conducted by providing the right-of-first refusal for a development lease.

Until BLM has identified DLAs for wind, the agency could make lands available for ROW grants outside of DLAs in a similar manner, two-step manner.

BLM should also consider modelling leasing within wind DLAs after approaches developed for Master Leasing Plans for oil and gas leasing. The MLP policy is an attempt to ensure that decisions to lease are systematically considered within the context of “natural resource values in the area” while also identifying “resource protection measures and best management practices that may be adopted as lease stipulations in a resource management plan (RMP).”¹⁰ Such a process is notable given its commitment to consider contemporaneous conditions on the ground, while also ensuring that the public is afforded an additional opportunity to participate. These two steps are instrumental in improving leasing decisions by helping to ensure that commitments to lease at a landscape scale level are not initiated until additional considerations and environmental

¹⁰ See

http://www.blm.gov/co/st/en/BLM_Programs/oilandgas/BLM_Colorado_Master_Leasing_Plans.html

safeguards regarding suitability are fully considered, and most ideally incorporated when designing and implementing a leasing plan.

Under this approach, BLM would conduct a NEPA analysis of a designated leasing area prior to leasing—but, for example, after site-specific meteorological and wildlife monitoring have been conducted—as a means to ensure that landscape scale level decisions are truly consistent with protecting sensitive areas while affording meaningful opportunities for additional renewable energy development.

VI. Treatment of existing projects and developed areas

The proposed rule does not address whether existing developed areas or projects already undergoing permitting should be treated as DLAs. We believe the rule should be clear that existing wind or solar projects not evaluated through a landscape-scale land use planning effort like the Solar PEIS will not be treated as Designated Leasing Areas unless BLM subjects them to the same process and criteria, including criteria for identifying low conflict areas, as applied to identifying new DLAs.

As we have recommended elsewhere, however, BLM should consider developing incentives, including offsets for rent, to incentivize technological upgrades that increase efficiency of energy production or land use or both within existing renewable energy development areas (whether DFAs or not), especially where such changes results in a smaller footprint, reduced risk of avian collisions, and other environmental benefits.

Recommendation: BLM should not treat existing project areas as DLAs without landscape-scale analysis. The agency should consider development of incentives for encouraging technological improvements that increase efficiency of both energy production and land use.

VII. Mechanisms for mitigation

A. Incorporating mitigation into the identification of DLAs

BLM should include enforceable provisions for mitigation in the agency's grants and leases of rights-of-way. Various efforts are underway to identify mitigation opportunities at a *landscape* level. *See, e.g.,* Secretarial Order No. 3330 (Oct 31, 2013); *A Strategy for Improving the Mitigation Policies and Practices of the Department of the Interior* (April 2014); Interim Draft Policy on Regional Mitigation; Manual Section 1794 (June 13, 2013). Regional mitigation, for example, is being considered as part of the Desert Renewable Energy Conservation Plan. Ensuring that proposed mitigation is durable and enforceable is critical to diffusing controversy around proposed development. Right-of-way grants and leases provide BLM a mechanism for implementing regional mitigation successfully. The proposed rule should explicitly provide for mitigation conditions in the grants and leases to be issued.

Including conditions for monitoring and mitigation in right-of-way grants and leases is also critical to addressing the impacts of a solar or wind *project* in a specific area. Such conditions may be necessary to avoid the need for an EIS in designated leasing areas. Enforceable conditions for mitigation are necessary to support a Finding of No Significant Impact if environmental impacts would be significant without such mitigation. CEQ, *Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact* (January 14, 2011).

BLM's authority to include mitigation is well-established. Council on Environmental Quality and Department of the Interior regulations implementing NEPA recognize the potential for mitigation to ameliorate impacts of a proposal and require agencies to include in appropriate mitigation measures in their decisions. 40 C.F.R. §1502.14(f); 43 C.F.R. §46.130. CEQ's regulations require that agency decisions that may have significant environmental impact must "state whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they are not." 40 C.F.R. §1505.2.

In fact, in many cases, BLM will not be able to meet its legal obligations under existing law without including mitigation conditions in right-of-way grants and leases. The Federal Land Policy and Management Act (FLPMA), for example, requires that BLM manage the public lands "in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resources, and archeological values. . . ." 43 U.S.C. §1701(a)(8). FLPMA requires BLM to avoid damage to these values where possible. To the extent a proposed solar or wind right-of-way cannot avoid damage to one of these values, FLPMA requires BLM to include enforceable conditions to monitor and mitigate any damage.

Moreover, the National Historic Preservation Act (NHPA) requires BLM to assess and address any adverse effects that its decisions would have on properties that are listed or eligible for listing in the National Register of Historic Places. 16 U.S.C. §470f; 30 C.F.R. §800.6. To the extent a proposed solar or wind right-of-way cannot avoid damage to cultural and historic properties, the NHPA requires BLM to include enforceable conditions to monitor and mitigate any damage.

Recommendations: We make the following recommendations for incorporating mitigation requirements into the identification and leasing of DLAs.

- BLM should revise §2809.12(b) (How will BLM select and prepare parcels) to read: "(b) The BLM and other Federal agencies will conduct necessary studies and site evaluation work (including applicable environmental reviews and public meetings) and publish the availability of a final regional mitigation strategy, before offering lands competitively."

- BLM should further revise §2805.12 to make clear that mitigation requirements are part of the lease terms and conditions by adding a new subsection §2805.12(c)(8) that reads “(8) Comply with all mitigation requirements.”
- BLM should revise §2802.11 (How does the BLM designate rights-of-way corridors and designated leasing areas?) to include a new subsection §2802.11(b)(8) that reads: “(8) presence of resources that should be avoided or have been excluded from such development.”

Recommendations: We make the following recommendations for incorporating mitigation requirements into the process for ROW grants outside of DLAs.

B. Avoidance

At a minimum, as noted in our recommendations for Application Requirements for FLPMA Grants, BLM should make clear that it will not accept applications outside of DLAs that do not avoid lands that are ROW exclusion areas for renewable energy (wind, solar, or both), are no-surface occupancy areas, are lands used for mitigation or identified in a regional mitigation strategy or plan as priority areas for compensatory mitigation activities, or are otherwise closed to surface disturbing activities or development.

Recommendation: The rule should include language similar to that required of pipelines and gathering lines (See §2884.10(d)) for wind and solar ROW grant applications in new §2804.10(c)(3) that reads: “Proposal avoids areas where development could cause significant impacts to sensitive resources and values that are the basis for special designations or protections”, with conforming changes to subsequent paragraphs.

C. Minimization and compensatory mitigation:

The proposed rule requires that written proposals for applications address “known potential resource conflicts with sensitive resources and values that are the basis for special designations or protections, and includes applicant proposed measures to avoid, minimize, and mitigate such resource conflicts.” (§2804.10(c)(1)). Consistent with draft manual Section 1794 (Regional Mitigation), the rule should also be clear that the BLM may evaluate the need for additional mitigation and identify acceptable forms of mitigation in the NEPA document as an alternative to the applicant’s proposed action (Draft Manual Section 1794 (Regional Mitigation)).

BLM should also strengthen §2805.12 (What terms and conditions must I comply with?) §2805.12 currently requires that a successful applicant “(i) Comply with project-specific terms, conditions, and stipulations, including requirements to:

- (1) Restore, revegetate, and curtail erosion or conduct any other rehabilitation measure BLM determines necessary;
- (2) Ensure that activities in connection with the grant comply with air and water quality standards or related facility siting standards contained in applicable Federal or state law or regulations;

- (3) Control or prevent damage to:
- (i) Scenic, aesthetic, cultural, and environmental values, including fish and wildlife habitat;
 - (ii) Public and private property; and
 - (iii) Public health and safety;

Recommendation: The BLM should add a new subsection §2805(4) that reads: “(4) Implement all mitigation requirements (including avoidance, minimization, and on-site and off-site compensatory mitigation) BLM or other permitting agency determines necessary.”

Recommendation: The rule should clarify that BLM may expressly condition its approval of the right-of-way application on an applicant’s commitment to perform or cover the costs of mitigation, both on-site and outside the area of impact and that such mitigation must be durable for the life of the impact. BLM Instruction Memorandum No. 2013-142 and Draft Manual Section 1794 (Regional Mitigation).

Additionally, we concur with Defenders of Wildlife in their comments on “Compensatory Mitigation for DLA Development” and “Compensatory Mitigation for Non-DLA applications”, and incorporate those sections herein by reference.

VIII. Ensuring effective public participation

Effective public participation is necessary to defuse controversy that may exist around solar and wind development on the public’s lands. Meaningful public participation can help: (1) site such development in suitable places and (2) identify conditions of operation that limit harm. BLM can encourage effective public participation by including a separate section in the rule explaining the specific opportunities for public participation in grants for solar and wind energy outside designated leasing areas and in leases for such development within designated leasing areas. If including such section in the final rule is too cumbersome, BLM should include such section in the rule’s preamble.

In addition to explaining clearly the public’s role in right of way grants and leases, BLM should add the following improvements to its proposed rule. The rule should build upon the public participation and environmental review included as part of the recent Solar Programmatic Environmental Impact Statement (PEIS). This previous review, however, cannot excuse further review of the impacts of a specific project seeking a right-of-way to operate on the public’s lands. The absence of public participation in the review of environmental impacts is even more problematic for decisions to grant a right-of-way outside a designated leasing area than for leasing in a designated area. Yet, the proposed rule makes no provision for public participation in such environmental review. BLM’s rule should require that applicants for a right-of-way both inside and outside a designated leasing area provide a Geographic Information System file and map identifying the

proposed right-of-way at a scale that will allow the public to tell whether it affects important ecological or recreational areas.¹¹

A. Review within Designated Leasing Areas

Without such review, the public lacks the ability to influence the manner in which the development proceeds. Although the question of “where” may have been decided in designating certain leasing areas, the question of “how” development proceeds has not.¹²

While many impacts may be addressed when decisions are made about appropriate locations for development in an RMP, some impacts cannot be addressed until site-specific approval of a project occurs. Just like a lease for oil and gas, a lease for solar or wind development represents an irretrievable commitment of resources. Through the lease for a right-of-way, a solar or wind company is given the right to develop in a specific location. The National Environmental Policy Act (NEPA) requires a site-specific analysis of the specific project being approved. The public deserves the opportunity to review and comment on the specifics of a solar or wind development on public land. BLM will benefit from such public participation in fulfilling its responsibility to include stipulations in the lease that address how the project will be built and operated.

Recommendation: BLM should provide for public participation and environmental review to supplement programmatic analysis previously completed for designated leasing areas.

B. Review outside Designated Leasing Areas

In areas outside designated leasing areas, neither “where” nor “how” to best develop wind or solar resources has been analyzed. As proposed, the rule fails to identify when this analysis will occur or when the public can review and comment on it. While the rule requires a public hearing, the proposal does not specify what information will be available for review prior to the hearing.

For areas outside designated leasing areas, little if any comparative analysis has occurred to identify the best places within a resource management area to develop. The PEIS for wind identified areas of wind potential, but did not assess where that potential could be developed with the least impact on valued ecological resources, recreation or other commercial interests. State BLM offices should complete the identification of areas suitable for wind development on the lands within their jurisdiction. This analysis could be done through a Resource Management Plan amendment or through a Master Leasing Plan.

¹¹ The BLM should also ensure the availability of baseline wildlife survey data and relevant information from cooperating agencies.

¹² As proposed, BLM’s rule provides that the agency will prepare necessary studies and site evaluation, but does not specify what criteria will be addressed nor when – if at all – such evaluation will be provided to public for comment. 79 Fed. Reg. 59079 (proposed 43 C.F.R. §2809.12).

For solar development, the rule should include a presumption against a right-of-way outside designated leasing areas. In the solar PEIS, BLM engaged in the challenging task of identifying the best places for solar development and memorialized these places in designated leasing areas through resource management plan amendments. Having made such critical decisions, BLM should steer development to these designated areas. Explicitly requiring an Environmental Impact Statement (EIS) for any project outside designated leasing areas will help accomplish this.¹³ Such a requirement will provide meaningful time and cost savings to developers within a designated leasing area where significant environmental review has already occurred.

Recommendation: BLM should require preparation of an EIS, providing public participation and more in-depth environmental review as part of the agency's consideration of granting rights-of-way outside designated leasing areas.

IX. General clarity in the language of the rule

Whether in the wording of the preamble or the proposed rule itself, there are areas that warrant clarification as to minimize confusion and possible conflict for future wind and solar projects on BLM lands. We recommend that the BLM address these issues in the final rule as follows:

1. Clarify when a POD is required

The preamble to the rule states that under §2804.10(b), PODs would always be required for authorizations for solar or wind energy development, transmission with a capacity of 100 kv or more, or any pipeline 10 inches. However, in the section for terms and conditions applicable to wind and solar grants in the proposed rule (§2805.12(a)(8)), the rule states that a developer must ensure that you construct, operate, maintain and terminate the facilities on the lands in the right-of-way in a manner consistent with the grant or lease, including the approved POD, *if one was required*.

Recommendation: BLM should clarify that a POD is required on all solar and wind developments in this section of the rule.

Thank you for the opportunity to provide input on this important effort. Please accept and fully consider our views, and do not hesitate to contact us with questions.

¹³ The requirement for an EIS outside designated leasing areas will also provide an incentive for state BLM offices to complete decisions identifying suitable areas for wind development.

<p>115-238: runs southwest from southwest Phoenix past Gila Bend, paralleling I-8 ~5 miles to the north. Follows existing 500 kV line. Heads into California and continues past El Centro almost to San Diego. Locally designated.</p>	<p>Not identified as a Corridor of Concern in the Settlement Agreement.</p>	<p>No ongoing BLM or FS planning.</p>	<p><u>Environment (in addition to issues identified in Settlement Agreement):</u> ongoing evaluation.</p> <p><u>Renewable energy potential:</u> could be a good pathway to California markets. The Town of Gila Bend is including this corridor in its study of potential renewable energy transmission corridors in the region.</p> <p>Initial recommendation: recommend BLM drill down on this corridor to further assess potential issues, address routing concerns, and identify avoidance, minimization, and mitigation opportunities to make it a functional corridor. Coordinate with California stakeholders.</p>
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b. California

California, probably more than any other state, has borne the brunt of new large-scale renewable energy development, particularly in the desert region. The state’s ambitious renewable portfolio requirement of 33% electricity from renewable sources by 2020 means there will continue to be demand for energy produced both within the state and from out-of-state to service the greater southern California market, and that some of this energy will come from large-scale projects where long-distance transmission is needed. While some additional transmission will likely be needed to access anticipated developments and development focus areas (DFAs) designated via the DRECP, we want to ensure that new transmission corridors and new lines within existing corridors including the WWEC minimize adverse environmental impacts.

Additionally, the retirement of coal fired generation plans in Nevada, Arizona and Utah should free up thousands of megawatts of transmission capacity to export renewable energy into southern California.²² Long-distance lines should also be sited within existing WWEC wherever possible to reduce the need for new WWEC. California will need to develop in-state transmission capacity to transmit renewable energy from areas such as Westlands Water District in the Central Valley (which has suitable degraded lands with 5,000 megawatts of potential generation capacity but is currently transmission-constrained). Using pre-existing transmission lines and corridors is environmentally and economically preferable to creating new WWECs in California.

In addition to the recommendations contained in the rest of these comments, in the California desert we highlight the need for the impacts of transmission corridors on wildlife habitat and

²² For example, see: <http://www.renewableenergyworld.com/rea/news/article/2013/03/ladwp-to-eliminate-coal-fired-power-from-energy-mix-by-2025>

migrations to be addressed in future planning efforts. For example, there are known, high priority movement corridors for both Desert tortoise and bighorn sheep along both the Interstate 15 and Interstate 40 corridors. Planning efforts should reflect existing Interior Department priorities to protect and connect these important populations. Transmission corridors such as corridor 27-225 along Interstate 15 pose barriers to effective wildlife movements and gene flow, in addition to resulting in increased animal kills. With corridor 27-225 identified as a WWEC, these problems will only increase as new transmission lines or gas pipelines are constructed. Further regional energy corridor planning in the California desert must address critical wildlife movement corridors such as those that cross Interstate 15 and Interstate 40, and needs to specify mitigation measures such as bridge crossings for bighorn sheep in these and other locations. Critical crossings have been identified along these areas, and further degradation of these areas should be avoided.

We have already noted (see section 3(f) above) the need to incorporate new data made available via the DRECP's Databasin website in future WWEC analyses. Due to the ongoing DRECP process and the potential impact of designation of development focus areas on transmission planning (and vice versa), we also request that a "listening session" be held in the California desert sometime this summer or early fall to educate stakeholders about the WWEC process and how it will tie in with the DRECP and other desert planning efforts.

Corridor 18-23 through the Owen's Valley

Corridor 18-23 traverses in a north-south direction through northern Mono County and the Owens Valley in Inyo County, and thence into Kern County. We objected to this corridor being designated as this region contains numerous sensitive resources; as a result of our concerns this corridor was identified as a "Corridor of Concern" in Exhibit A to the Settlement Agreement (**Attachment 2**). We strongly urge that this corridor be removed through the appropriate planning processes.

Resources of concern in the "Owens Valley corridor of concern" include:

- Land the corridor traverses, particularly in Mono County, contains habitat for the Bi-State Distinct Population Segment (DPS) of Greater sage-grouse. This DPS is being proposed for listing as Threatened under the federal Endangered Species Act, with a listing decision due by April, 2015. Mono and Inyo counties, along with other counties that are host to this unique and threatened bird, are working hard to avert a listing. We are deeply concerned about the potential impacts of development of new transmission lines, gas pipelines and associated projects in this region on the Bi-State sage grouse;
- The corridor bisects several BLM Wilderness Study Areas on the Volcanic Tablelands that contain sensitive archaeological and natural resources, and is near the Fish Slough Area of Critical Environmental Concern (ACEC) which is of particular importance to resident and migratory birds;
- The corridor passes through the Owens Valley, a highly scenic area of national significance. The Owens Valley and Owens River contain habitat for a range of sensitive, threatened, endangered and endemic species, including many avian species.

- The corridor traverses the Jawbone-Butterbrecht Area of Critical Environmental Concern (ACEC) in Kern County; this area is managed to protect wildlife habitat and Native American values as well as to provide for off-highway recreation.
- The Eastern Sierra region which corridor 18-23 traverses is a national and international tourist destination that provides abundant wild land and non-wild land based recreational opportunities to hundreds of thousands of visitors annually. There is substantial concern about the impact not only of new powerlines in this scenic wonderland but also that prioritizing this corridor via the Section 368 process would facilitate development of inappropriately-sited renewable energy facilities in the greater Eastern Sierra region.

While this corridor already exists and hosts the Pacific DC intertie in Mono County and several additional transmission lines in Inyo County, it is the possibility of new powerlines and of new energy development that is of concern. **Therefore we continue to strongly urge that this corridor be removed as a section 368 priority corridor.**

We request that the Agencies attend meetings of the Mono and Inyo County Boards of Supervisors this summer to present a primer on the WWEC process. Because a “corridor of concern” passes through these counties (corridor 18-23) it’s important that these two counties and public stakeholders understand the ramifications of the WWEC designation and what it means for their counties, as well as ways to engage in the planning process for this corridor.

Corridor 27-41 along Route 66.

There is a WWEC (27-41) adjacent to Rt. 66 in the Mojave Desert. Due to the important historical, cultural and natural values in this region we believe this corridor needs to be eliminated and another east-west alternative selected, if feasible.

Efforts to preserve and enhance historic Rt. 66 in the Mojave Desert have been ongoing for decades. Currently, BLM is working with the California Historic Rt. 66 Association and local communities to prepare a Rt. 66 corridor management plan. The management plan will:

“provide for the long-term management, protection and promotion of Route 66, and the preservation and conservation of the adjacent BLM National Conservation Lands/public lands. The Plan also will include a comprehensive interpretive, tourism and marketing strategy to promote sustainable heritage tourism in an effort to provide economic benefits to communities and local businesses.”²³

Most recently, the BLM Needles Field Office approved the development of a Rt. 66 Visitor Center.

Senator Dianne Feinstein (D-CA) has also proposed the Mojave Trails National Monument in this region, encompassing 941,000 acres of public lands along Rt. 66 and the adjacent viewshed. The efforts of the BLM, local communities and Senator Feinstein to provide permanent protection for Rt. 66 and adjacent lands, and to promote the region for heritage tourism and

²³ Available at: http://www.blm.gov/ca/st/en/fo/needles/route_66/route66cmp.html

provide an economic boost to communities along Rt. 66, are completely incompatible with WWEC 27-41, which traverses a significant portion of Rt. 66

Our organizations are also concerned about the alignment of WWEC 27-41 in the Mojave Desert region that makes an abrupt northward turn from its east-west trajectory near Rt. 66 (east of Essex), jogs along the southeastern border of the Mojave National Preserve and then turns eastward into Nevada. The entire line along the Preserve boundary and the eastward segment is in designated critical habitat for the Desert tortoise (the Piute-Fenner Critical Habitat Unit and the corresponding BLM ACEC for tortoise conservation). It would be best to have this proposed corridor alignment removed, and especially the segment to the east that appears to cut across the Piute Valley, an area known for high density of Desert tortoise.

We recognize the need to transmit renewable energy to the southern California market; however, we believe an alternative east-west corridor alignment would be preferable to the one chosen via the WWEC process. We suggest that the agencies modify the WWEC maps to eliminate the current Rt. 66 alignment and replace it with the east-west alignment of the existing corridor in the land use plan to the north that largely parallels Interstate 40 (see map included as **Attachment 6**). While we also have concerns about this alignment we believe it is preferable to the existing Rt. 66 corridor, as it avoids much of Rt. 66 (except for the section between Newberry Springs and Ludlow) and the important Desert tortoise habitat east of the Mojave Preserve.

Other WWEC COCs in CA

18-23: Areas of Critical Environmental Concern, Inventoried Roadless Areas, BLM Wilderness Study Areas, CA Boxer Wilderness, CA-proposed Wilderness, NV-proposed Wilderness, sage-grouse habitat, redundant to 18-224.

23-106: National Conservation Area, Area of Critical Environmental Concern.

23-25: critical habitat, National Conservation Area, Area of Critical Environmental Concern.

264-265: critical habitat, National Conservation Area, citizen-proposed Wilderness, USFS Inventoried Roadless Area.

107-268: National Forest, citizen-proposed Wilderness.

101-263: critical habitat; WSR; CA-proposed Wilderness, citizen-proposed Wilderness, USFS Inventoried Roadless Area.

c. Colorado

130-274 and 130-274(E): access coal, directly or indirectly impacts Gunnison sage-grouse conservation areas, occupied Gunnison sage-grouse habitat, CO-proposed Wilderness, USFS IRA.

87-277: coal, Wilderness, sage-grouse habitat; National Historic Places.

144-275: coal, wilderness, National Historic Places.

d. Idaho

24-228 (also in Oregon): sage-grouse habitat, pygmy rabbit habitat.