



7/11/2012

California Energy Commission
Dockets Office, MS-4
Docket No. 09-RENEW EO-01
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Re: Comments on Documents Provided to the Independent Science Advisors and to the Public for the June 26, 2012 Meeting.

To whom it concerns:

On behalf of the Center for Biological Diversity (Center) and our over 350,000 members and supporters, we are writing to provide comments on some of the documents provided to the Independent Science Advisors and the public for the June 26, 2012 meeting. As a stakeholder in the DRECP public process, the Center supports the general comments submitted by the other conservation stakeholders, and submits these additional comments on the data and methodology utilized in the conservation planning process as well as the decision-making regarding critical assumptions relied on in that conservation planning process.

These comments incorporate and expand on the comments provided by the Center provided at the Independent Science Panel Meeting June 26, 2012 and all of our earlier comments provided to the DRECP.

1. Data Gaps and Uncertainties:

As the first report of the independent science advisors stated: “Gaps in available information on biological resources are always among the biggest sources of uncertainty for regional conservation plans”. We still lack much basic data needed for comprehensive conservation planning in the California deserts.

- The Center believes application of the “precautionary principle” is prudent. Under a “no regrets” policy, areas that lack data on existing resources those areas should be “off-limits” to development until resource inventories are implemented to evaluate the appropriateness of development or conservation because of these fragile desert habitats can never truly be restored. Similarly, caution is required where emerging threats such as disease or climate change are not fully understood.

- Current lack a comprehensive vegetation map;
 - Current lack of verified species distributions;
 - Uneven data sets (in terms of survey effort, scale, and timing) across the landscape that may skew the overall picture of habitat values for various species
 - Emerging threats including disease vectors in the desert (e.g. experience from recent outbreak of distemper in desert kit fox rapidly spreading, continuing unanswered questions regarding disease spread in desert tortoise)
 - Need to incorporate refined climate change scenarios.
- Clear documentation of the data gaps is needed as the reserve design is created, so that additional inventories can be implemented to fill the data gaps and subsequently the reserve design re-evaluated as part of the adaptive management.
 - It is not apparent that all data sets identified in the original ISA recommendations are included in the modeling efforts or reserve design efforts, and they should be. Also there remain significant inaccuracies in the mapping being used by the DRECP. For example, as the Center pointed out previously, the recent Development Focus Area mapping included areas that are already protected—numerous ACECs, critical habitat for the southwestern willow flycatcher, parts of the State Parks Poppy Preserve, designated flat-tailed horned lizard Conservation Management areas, Mojave fringe toed lizard conservation area, and others.

2. Species Modeling:

- 2 types of modeling have been used to date:
 - Statistical modeling;
 - Expert modeling;
- We believe the statistical modeling is the preferable technique as reflected in the outcome of the modeling for a number of species. For example, Mojave fringe-toed lizard (statistical modeling better captures known populations and results in more robust habitat model that includes smaller sand dunes areas, essential stabilized sands nearby and not only large loose wind blown sand areas which appear on expert model) Moreover, it is not clear if either model includes sand source which is also essential for the species (this is a lesson learned from Coachella Valley Fringe-toed Lizard HCP which failed to protect essential sand source).
 - Statistical models need to be completed for other species (some species like SWWF (Southwestern willow flycatcher) do not have a statistical model, despite having lots of data points).
- It appears that some species location data are used in the expert model and not the statistical model (e.g. Golden eagles), and that is inconsistent. All data should be collected and used in which ever modeling is done.

- We also believe in order to validate the accuracy of the modeling (either type), additional field surveys should be implemented to verify species habitat/presence.
- The DRECP must incorporate all useful data sets, improve the modeling algorithms to achieve a better output based on thoughtful inputs, ensure that data gaps are not equated with low habitat values, and that the output will be field verified.

3. Conservation Targets, Rules of Thumb, Conservation Targets Utilized in Marxan Analysis, and Transparency of Results:

The Conservation Planning Process chapter includes a Gap Analysis and a section called “Supporting Information for the DRECP Conservation Strategy Methodology” which includes the Rules of Thumb and Conservation Targets for the Plan.

- The Gap Analysis for Natural Communities (Table 3.3-2) and Modeled Habitat (Table 3.3-3) does not include critical information about the amount of the habitat of each natural communities or species is within the plan area. This information should be included in the Gap Analysis tables and must be taken into account in establishing proper Conservation Targets under the plan.
- The Rules of Thumb (Table B-4) used to develop the Marxan Conservation Targets are far too general to adequately provide conservation targets for the wide range of species at issues and fail to take into account or weight:
 - The amount of the habitat for each species in the project area (see above)
 - The designation status of the species (listed state or federal, special status, etc.)
 - Vulnerability of the species to impacts from renewable energy
 - Vulnerability of the species to climate change
- The Conservation Targets (Table B-5) used as “rules” in the Marxan modeling. The Conservation Targets are provided without any explanation of how they were arrived at other than the ranges provided in the Rules of Thumb. As noted above, those rules of thumb are too broadly framed to provide scientifically rigorous basis for arriving at targets for each covered species. As a result, the targets appear to be arbitrary and capricious at best. For example, the targets provide for preserving only 75% of the habitat for the endangered arroyo toad and Southwestern willow flycatcher, and the same percent of habitat for non-listed species—no explanation is provided as to the rationale for treating endangered species the same as non-listed species. Further, the targets provide only 80% conservation for very rare species such as the endangered Amargosa Vole with no explanation of whether a loss of 20% of its habitat would cause jeopardy; similarly no jeopardy analysis is provided for the Lane Mountain milk-vetch a listed species which recent information shows is has had significant issues with recruitment but for which only an 80% target is provided. For the flat-tailed horned lizard the conservation target is only 66% of its habitat with no explanation of whether such a loss could cause the species to require an emergency listing; similarly for the Mojave fringe-toed lizard for which the target is 75% of its habitat. These are just a few examples,

insufficient information is provided for any of the decisions regarding the conservation targets. In addition, the targets, like the gap analysis, fail to note the percent of each of the species' habitat that is within the plan area.

- For Natural Communities the Conservation Targets similarly appear to be arbitrary. For example no reason is provided for the target of only 80% for “very rare” habitats listed as “Arid West Freshwater Emergent Marsh” and “Western North American Freshwater Marsh”—these natural communities should be 100% avoided under the plan along with all springs and seeps in the plan area. Similarly, no explanation is provided for targeting only 80% of riparian wash scrub and woodlands for conservation.
- The Marxan model run does not indicate the actual amount of modeled habitat that would be preserved for each species. These results need to be provided to the public to ensure transparency. At the June 26, 2012 meeting consultants and staff indicated that regardless of the targets used due to overlapping habitat areas and other factors within the Marxan modeling, far higher percentages of each habitat type would be preserved than the target amounts. However, no such information has been provided with the initial “proposed project” provided by the DRECP. The Center requests that all Marxan based conservation plan designs and alternatives provided going forward also include information about the actual amount of habitat for each species that would be conserved – not just the target amounts—in order to provide a meaningful basis for comparison across Marxan “runs” and alternatives.
- Because the Conservation Targets and the actual conservation provided by the plan are at the core of the NCCP process, those targets and the estimated outcomes under the proposed plan and alternatives must be provided to decision-makers and the public and ultimately must be approved by the decision-makers. This is not an area in which the determination can be delegated to staff or contractors.

4. Integrating Climate Change Analysis into the Reserve Design:

Future climate change scenarios should be folded into the conservation reserve design not as a separate analysis. While this would add complexity, it will also ensure the reserve design has greater durability over time.

A conservative approach to reserve design and assembly should be incorporated going forward, crafted from existing conservation investments augmented by strategic incorporation of

- a. climate change scenarios;
- b. wildlife linkages;
- c. defragmentation of the landscape and other large scale opportunities for increased conservation across the plan areas (including for example, land bridges, underpasses, etc.)

5. Reality Check for Species Conservation Targets

The conservation targets for species need to include an evaluation of other species specific actions/threats that are occurring for the species within the plan area. For example, the Inyo California towhee (*Melospiza crissalis eremophilus*) is currently being proposed for delisting by the USFWS¹ primarily because the species has achieved the delisting criteria set out in its Recovery Plan. Our concern is that if the DRECP conservation target proposes anything less than 100% protection of the Inyo California towhee's habitat from impacts due to renewable energy development, the plan could actually lead to the need for re-listing in the future (presuming that USFWS' final rule supports delisting) due to impacts allowed under the plan.

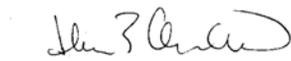
Another example is the flat-tailed horned lizard (*Phrynosoma mcallii*), which was most recently withdrawn for listing under the Endangered Species Act by USFWS in 2011. Having been proposed for listing initially in 1993, and on and off the candidate list for decades, this species is still experiencing habitat loss, direct and indirect impacts and further degradation of habitat and direct "take" not only from permitted renewable energy projects but from a variety of other activities as well. The DRECP conservation target must not allow for much, if any, "take" of the flat-tailed horned lizard's habitat from impacts due to renewable energy development, because the plan could actually lead to the need for listing of this species in the future.

These examples are just two of numerous examples on the proposed covered species list where the DRECP could exacerbate an already tenuous species extinction scenario. Careful thought about how the conservation targets for species are developed is imperative.

6. Conclusion

We appreciate the opportunity to provide these comments. Our goal is to assist the DRECP in developing the best possible conservation plan in a timely manner that provides effective, long-term protective policies for preserving our biological resources in the California deserts while streamlining the permitting process for renewable energy projects that are proposed in environmentally suitable areas. If you have questions or concerns about our comments please do not hesitate to contact us.

Sincerely,



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/s/

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¹ <https://www.federalregister.gov/articles/2012/06/04/2012-13425/endangered-and-threatened-wildlife-and-plants-90-day-finding-on-a-petition-to-delist-or-reclassify>