

February 6, 2013

Via electronic mail (<http://drecp.org/about/contact.html>) and U.S. Mail

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Re: Description and Comparative Evaluation of the Draft Desert Renewable Energy and Conservation Plan (DRECP) Alternatives

Dear Commissioner Douglas, Director Bonham, State Director Kenna and Regional Director Lohofener:

We are writing to provide specific input on the draft approach to identifying and managing lands with wilderness characteristics and lands that will be added to the National Landscape Conservation System (Conservation Lands), referred to by the Bureau of Land Management (BLM) as Desert Conservation Lands¹. We appreciate BLM releasing this “Description and Comparative Evaluation of the Draft DRECP Alternatives” (Draft Description) information prior to completing a formal draft environmental impact statement/environmental impact report (EIS/EIR).

As the BLM describes the DRECP, it is a “collaboration among local, state and federal agencies to streamline renewable energy project permitting and transmission line permitting while conserving biological, cultural and natural resources in the California desert.” Based on projected levels of development, significant attention is required to comply with the federal Endangered Species Act and California’s Natural Community Conservation Planning Act. Our organizations have submitted previous letters that addressed the important commitments required for such compliance (October 4, 2012, letter attached as an example). This letter focuses on the manner in which the DRECP should address lands with wilderness characteristics (LWC) and proposed Desert Conservation Lands (DCL), both of which encompass values that support critical wildlife habitat but also address additional legal obligations of the BLM and other outstanding natural and cultural resources on the public lands within the DRECP planning area. We have previously

¹ The National Conservation Lands contain BLM’s National Monuments, National Conservation Areas, Wilderness Areas, Wilderness Study Areas, Wild and Scenic Rivers, National Scenic and Historic Trails, and Conservation Lands of the California Desert. Because BLM is identifying additional units specifically within the California Desert Conservation Area, BLM has labeled those “Desert Conservation Lands” in this process.

submitted letters on both LWC (October 15, 2012) and DCLs (October 23, 2012), which we have also attached to this letter for reference.

We welcome this opportunity to identify information that needs to be provided in the draft EIS/EIR and recommend an approach for evaluating LWC and DCLs in the actual range of alternatives to be issued in the draft EIS/EIR.

Summary of Recommendations

- **Ensure that the draft DRECP EIS/EIR clearly identifies lands with wilderness characteristics and consider a range of alternatives for managing LWC in various land classifications.**
- **Identify Desert Conservation Lands by including all lands that will be incorporated in the reserve, as well as additional areas with significant natural and cultural resources suitable to be part of the National Conservation Lands.**

1. Lands with wilderness characteristics

- a. BLM is obligated to conduct an inventory of LWC and consider a reasonable range of management alternatives.**

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, 1122 (9th Cir. 2010). IM 2011-154 and Manuals 6310 and 6320 contain mandatory guidance on implementing that requirement. The IM directs BLM to “conduct and maintain inventories regarding the presence or absence of wilderness characteristics, and to consider identified lands with wilderness characteristics in land use plans and when analyzing projects under [NEPA].” Manual 6310 provides detailed direction on conducting inventories for wilderness characteristics and Manual 6320 requires BLM to consider lands with wilderness characteristics in land use planning (including amendments), both in evaluating the impacts of management alternatives on lands with wilderness characteristics and in evaluating alternatives that would protect those values. Wilderness-quality lands also provide natural habitat for wildlife, so management to protect wilderness characteristics, can also benefit wildlife as part of the broader goals of the DRECP. Complying with the applicable legal and policy requirements for LWC is a critical part of completing these land use plan amendments.

- b. Inventory of LWC should be expanded and BLM should provide detailed inventory reports.**

BLM has already identified the presence of approximately 502,500 acres of LWC in the alternatives and stated that this inventory is for lands that could be impacted “within proposed [Development Focus Areas] DFAs.” Draft Description, pp. 3.7-15 – 3.7-16. However, in order to comply with FLPMA and Manual 6310, as well as to evaluate the potential cumulative impacts on lands with wilderness characteristics, BLM should conduct a comprehensive inventory of the lands encompassed in the DRECP planning area. In Appendix 1 to this letter, we are providing preliminary data compiled by the California Wilderness Coalition, which demonstrates a significant overlap of LWC and DFAs and should be analyzed further in the draft EIS/EIR.

Further, BLM should provide its inventory reports for public comment. Per the May 2012 direction from BLM's Division Chief, Steve Cohn: "Managers should make signed wilderness characteristics inventory findings available to the public soon after their completion and *before the inventory data is used to inform planning decisions*" (emphasis added). These data will enable the public to provide meaningful comments on the inventories conducted and conclusions reached about whether areas have or have not been accurately inventoried and/or which areas have been overlooked altogether. In Appendix 1, we have provided some preliminary feedback on the types of lands that the BLM has identified as having (or not having) wilderness characteristics.

We also anticipate providing additional inventory data for the agency to consider, in accordance with Manual 6310, which provides that once citizen inventory is submitted to the BLM with sufficient data, then "as soon as practicable, the BLM shall evaluate the information," including field checking as needed and comparing with existing data to see if previous conclusions remain valid. Section .06.B.2. Manual 6310 also requires that BLM will document its rationale for evaluating potential LWC and make it available to the public. *Id.* We expect that our submissions will comply with the agency's standards and add to the BLM's inventory of LWC in the DRECP planning area.

c. Management of LWC needs to be clearly identified in alternatives, which should include protective management and mitigation in all land classifications.

We support the BLM's "ruleset" for managing lands with wilderness characteristics as set out in Appendix E. In the context of the DRECP, ensuring that the wilderness character of these lands is protected will require strong protective prescriptions, as set out in the Draft Description. We agree that this ruleset should apply to all LWC that will be managed to protect wilderness characteristics in the DRECP. The ruleset should also apply regardless of whether there are overlapping designations, such as DCLs or Areas of Environmental Concern (ACEC), because these prescriptions are specifically tailored to LWC in a manner that other designations may not be. 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.² In such situations, preserving management tailored for specific resources, such as lands with wilderness characteristics, is consistent with BLM's multiple-use management.

² 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), available at http://www.blm.gov/pgdata/etc/medialib/blm/id/plans/jarbidge_rmp/documents/analysis_of_the_management.Par.5.9385.File.dat/part13.pdf; Figure 40: Wilderness Study Areas, available at http://www.blm.gov/pgdata/etc/medialib/blm/id/plans/jarbidge_rmp/documents/analysis_of_the_management.Par.1.8048.File.dat/part14.pdf (excerpts attached to these comments).

The Draft Description identifies a range of LWC incorporated in different land classifications - within DCLs, within DFAs, and outside DFAs and DCLs. However, the document does not identify which acres will be managed under the LWC ruleset to protect wilderness values in each alternative. Lands with wilderness characteristics can be managed under the LWC ruleset in DCLs, variance lands and in other lands. The range of alternatives in the DRECP should clearly set out where LWC will be managed and should include a range of management for LWC in all lands outside DFAs, both in the text of the document and on maps.

Further, the BLM's Solar Programmatic EIS envisions mitigation for impacts to LWC from solar development. This approach is set out in the Programmatic Design Features, requiring that projects not only be sited to avoid and minimize impacts on LWC, but also that unavoidable impacts should be mitigated by the following actions:

- Acquire wilderness inholdings from willing sellers;
- Acquire private lands adjacent to wilderness from willing sellers;
- Acquire private lands from willing sellers in WSAs & proposed wilderness;
- Acquire private lands that provide opportunities for solitude or primitive recreation;
- Restoration within designated wilderness (OHV routes, structures, etc.);
- Contribution to wilderness mitigation bank;
- Manage nearby LWC to protect LWC (although lands need to be of sufficient size and can be adjacent to other LWC lands, WSAs and designated wilderness).

See, Solar PEIS Record of Decision, A.4.1.2 Design Features for Specially Designated Areas and Lands with Wilderness Characteristics. These measures should be specifically incorporated into the DRECP in order to properly address LWC and to ensure consistency with the Solar PEIS.

2. Desert Conservation Lands

a. BLM must manage Desert Conservation Lands identified in the DRECP to protect their nationally significant natural and cultural resources and to ensure that designation is enduring.

As discussed in our previous letters, pursuant to Secretarial Order 3308 and additional BLM direction, the Conservation Lands are managed to ensure that conservation, protection and restoration are prioritized above all other goals and to ensure that conflicting uses are not permitted. *See*, Secretarial Order 3308 (“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.”), BLM 15-year Strategy (“...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.”), BLM Manual 6100 (“As required under the Omnibus Act of 2009, the BLM will manage NLCS units to “conserve, protect, and restore nationally significant landscapes.””).

In the Draft Description, BLM notes that in the Act 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

[CDCA] administered by the Bureau of Land Management for conservation purposes.” 16 U.S.C. § 7202(b)(2)(D) (2009). The BLM then commits to addressing this congressional direction through the DRECP, stating:

The DRECP is a major planning effort for the CDCA and provides the BLM and the public with an opportunity to evaluate existing administratively designated conservation areas and consider new areas. The plan also provides an opportunity to identify which areas could be managed as components of the National Conservation Lands. Draft Description, pp. 3.7-9 – 3.7-10.

California BLM, in its 5-year strategy for managing its Conservation Lands commits to “[i]dentify and designate, as a component of the National Conservation Lands, the BLM-administered public lands in the California Desert Conservation Area managed for conservation purposes, pursuant to the *Omnibus Public Land Management Act of 2009* (P.L. 111-11).”³

Overall, the Desert 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 these nationally significant landscapes. These lands range in character and include iconic and significant landscapes deserving additional protection. Examples include: landscape-level Joshua Tree Woodland and blackbrush habitat; limestone-carved sky island ranges protecting unique plants and high-elevation species; volcanic flows, caters, and lava tubes harboring biological diversity and that can serve as living-laboratories for future research; regional sand-transport systems and dune environments in association with sandy mixed-scrub habitat home to unique and highly adapted desert species; high-elevation desert grasslands interspersed with Joshua tree, pinyon, and juniper; and outstanding basin and range topography exhibiting the finest examples of Mojave and Colorado desert ecotone, with profound open spaces which remain connected ecologically as high mountains feed alluvial plain and desert scrub through rich wash systems. The deep cultural presence in these landscapes should not be overlooked and lands identified as having cultural resources should be carefully considered for eligibility, especially as they are often associated with water, or with deep spiritual significance to first nations’ desert tribes. Identification of DCLs can also incorporate the protection and completion of biological systems, and include waterways and wash systems in addition to viewsheds and migratory pathways.

In order to ensure that these additions to the National Conservation Lands are meaningful, the DRECP decision documents should state that designation of DCLs in the DRECP is expected to be enduring and will not be revisited under subsequent planning processes. The DRECP documents should also provide for ongoing review to determine when and if other lands should be added as DCLs.

Further, while BLM is identifying DCLs in accordance with the direction of the applicable statute, the Draft Description and other documents indicate that the agencies are also looking to these DCLs as supporting the protection of wildlife habitat required to comply with the

³ Available on-line at:

http://www.blm.gov/pgdata/etc/medialib/blm/ca/pdf/pa/nlcs.Par.77389.File.dat/CA_ConservationLands_Strategy_2012_web.pdf

Endangered Species Act and Natural Community Conservation Planning Act. Accordingly, where the agencies are relying on DCL designation to support the Habitat Conservation Plan (HCP) or National Community Conservation Plan (NCCP) or to otherwise mitigate significant impacts under the National Environmental Policy Act (NEPA), the DRECP must ensure that the designations are enduring. If the designations and other protections are undermined, then they can no longer serve to justify actions under the HCP or NCCP, or as mitigation for purposes of NEPA analysis, thus requiring new analysis prior to approving further development.

b. Identification of DCLs should not be dependent on designation of DFAs and should incorporate a broader set of values.

In general, we support the BLM's approach to identifying DCLs as areas that have nationally significant values and other key characteristics, such as landscape integrity, scenic integrity, and links to existing Conservation Lands, and also doing so as part of the land use planning triggered by the HCP/NCCP. *See*, Draft Description, Appendix D⁴. We commend the BLM on the wide range of potential DCLs already identified in the Draft Description. However, since DCLs are being identified based on the congressional direction in the 2009 Act, designation should not be dependent on the existence of "development pressure." Rather, while this criterion may be important for identifying DCLs that will be part of meeting NCCP and HCP and other mitigation requirements, it should not limit the BLM's obligation to more broadly identify lands with nationally significant conservation values suitable for inclusion in the National Conservation Lands – which may include natural and cultural values beyond those addressed in the NCCP and HCP or those relied upon for mitigation. As we have additional time to evaluate the current range of DCLs identified, we expect to provide additional comments on areas of importance.

BLM's revised criteria should also provide for identification of DCLs that will be managed to restore habitat. The National Conservation Lands include units that have a restoration focus. For instance, the Morley Nelson Snake River Birds of Prey National Conservation Area was established with a mandate that "emphasizes management, protection, and rehabilitation of habitat for these raptors and of other resources and values of the area." 16 U.S.C. § 460iii.5(A). BLM's 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

⁴ Per Appendix D, DCLs have *nationally significant resource values* and meet the following criteria:

1. *Landscape integrity* – i.e., is the landscape intact, relatively natural and not impacted by high levels of development (extensive road network, numerous power lines etc.).
2. *Scenic integrity* – Visual Resources Inventory high scenic quality rating as determined by BLM's inventory process.
3. *BLM jurisdictional integrity* – Primarily BLM lands with some inholdings allowed, but not checkerboard lands.
4. *Links to existing National Conservation Lands units* – Links existing Wilderness Areas, WSAs, Wild and Scenic Rivers, National trails etc.
5. Illustrates a *significant natural value or phenomenon*.
6. Contains a *significant cultural* site(s) or culturally significant landscape.
7. *Species habitat* – High quality habitat for multiple native species; or critical habitat for a listed species.
8. High level of *ecological diversity*.
9. *Scientific study* – High value such as a type locale for studying a natural value, species or phenomenon.
10. *Development pressure* – Area is representative of other areas under development pressure, or adjoins Development Focus Areas.

management.” Accordingly, lands that have the potential to be restored to a high level of intactness can and should be designated Desert Conservation Lands.

The criteria in Appendix D refer to connectivity with other units of the National Conservation Lands. However, as BLM has acknowledged, there are also protected lands managed by the National Park System within the CDCA. Connectivity with these lands would increase conservation values and manageability. Accordingly, BLM’s criteria for identifying DCLs should include connectivity with other protected lands, even if they are managed by other agencies.

We also note that lands with wilderness characteristics are likely to contain resources that make them suitable for inclusion as Desert Conservation Lands. By definition, lands with wilderness characteristics exhibit naturalness (meeting integrity criteria) and most also incorporate supplemental values, defined as “ecological, geological, or other features of scientific, educational, scenic, or historical value,” which meet many of BLM’s other criteria. *See*, BLM Manual 6310, Section .06.C.2. LWC must also possess outstanding opportunities for solitude or primitive, unconfined recreation. *Id.* These values are consistent with the many units of the National Conservation Lands that incorporate recreation as one of the stated purposes. *See, e.g.*, Santa Rosa and San Jacinto Mountains National Monument. LWC also are often adjacent to other units of the National Conservation Lands, such as Wilderness Study Areas, thus meeting BLM’s criteria for linking to those units. Consequently, LWC should be carefully evaluated for identification as Desert Conservation Lands.

Finally, as an overarching criteria, lands that will be included in the conservation reserve should also be designated as DCLs. Lands in the reserve will be critical to the ongoing persistence and recovery of entire biological systems, including many threatened and endangered species. The Endangered Species Act (ESA) requires the BLM to conserve threatened and endangered species. 16 U.S.C. § 1536(a). The ESA further makes it national policy to “seek to conserve endangered species and threatened species” (§ 1531(c)) and defines “conserve” (and “conservation”) to include all actions needed to bring the species to the point where it is no longer threatened or endangered (§ 1532(3)). Consequently, lands identified as critical to the “conservation” of those species in the DRECP have nationally significant resource values and also meet BLM’s other criteria for designation as DCLs, such as landscape and jurisdictional integrity, species habitat, and development pressure. *See*, Draft Description, Appendix D.

We recommend that the agency commit to including all reserve lands as DCLs and also conduct a separate concurrent analysis to identify lands that should be designated as DCLs under the BLM’s criteria (as modified per our recommendations) in compliance with the 2009 Act based on the broader suite of cultural and natural resources. Both sets of DCL identifications may vary across alternatives, based on levels of development (for lands that are part of the conservation reserve) and assessments of individual areas, provided that BLM must still meet its obligations to identify lands under the 2009 Act (and in accordance with the criteria set out in our previous correspondence of October 23, 2012). Nonetheless, the public will be able to evaluate the agency’s compliance and comment on the proposed DCLs and how they fulfill their stated purposes. The approach in the Draft Description seems to combine the purposes of the DCLs as both part of the reserve design, used to address and compensate for differing levels of

development, and as a standalone obligation under the 2009 Act, which is confusing and appears to overlook key considerations. By taking this alternative approach, BLM can demonstrate that it is meeting both sets of legal requirements and create a meaningful range of alternatives.

c. Specific management prescriptions must ensure protection of DCL resources.

The Draft Description provides that new ground disturbance (except transmission in designated utility corridors) is prohibited in Desert Conservation Lands and sets out a ruleset for general management in Appendix E. We support these initial commitments; however, as noted in the Draft Description, specific management/rulesets will need to be developed for each unit. Desert Conservation Lands may address a wide range of resources, including wildlife habitat but also including other natural resources, cultural resources, scenic values, and lands to be restored (which may ultimately provide additional habitat). Accordingly, specific management prescriptions will be needed to ensure that the protection, enhancement and restoration of the values for which those DCLs are designated will be prioritized over other competing uses. These prescriptions should be clearly set out in conjunction with each proposed unit in the draft DRECP documents. In addition, management prescriptions across all alternatives must be sufficiently protective to meet the fundamental standards set out in BLM's guidance for prioritizing conservation in DCLs.

Where DCL boundaries encompass ACECs or LWCs, overlapping designations may occur. As discussed above, this is part of BLM's multiple use management approach and different values may require specific protections that must be preserved. The Draft Description provides that where overlap occurs between a DCL and ACEC, the DCL would incorporate the underlying ACEC conservation and management actions, including allowable uses and use restrictions (set out in Appendix E) unless the DCL ruleset is more restrictive. We understand this to mean that the most protective set of prescriptions will apply for the identified values across lands that may be in more than one designation, and concur with this approach, but request that BLM clarify this language further in the DRECP documents.

Identification of lands with wilderness characteristics and Desert Conservation Lands should form an important part of accomplishing the goals of the DRECP, while also addressing the BLM's independent obligations to identify and protect these lands and the irreplaceable values they hold. We hope to see our recommendations reflected in the DRECP draft EIS/EIR and would be happy to provide additional information and clarification as needed. Thank you for your consideration of these comments.

Very truly yours,

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Appendix 1 – Overview of impacts on lands inventoried by California Wilderness Coalition

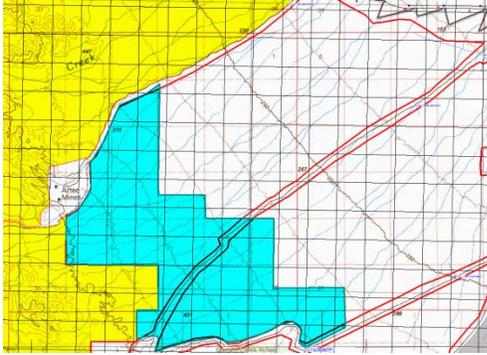
From 1998-2001 the California Wilderness Coalition (CWC) surveyed California's public lands seeking to identify areas that met the definition of wilderness as provided in the Wilderness Act of 1964. The CWC's survey effort in the desert was cut short by a lack of funding and volunteers and was thus incomplete.

The work resumed in 2007 in order to identify areas like the Pinto Mountains, Chuckwalla Mountains Additions, Palen/McCoy Additions, Santa Rosa Additions and other desert lands that became part of the National Wilderness Preservation System with the passage of the Omnibus Public Lands Act of 2009. The CWC also surveyed additional desert lands in order to assist Senator Dianne Feinstein in crafting her California Desert Protection Act of 2010. The CWC is now working to complete its surveys for all remaining portions of the California Desert Conservation Area (CDCA).

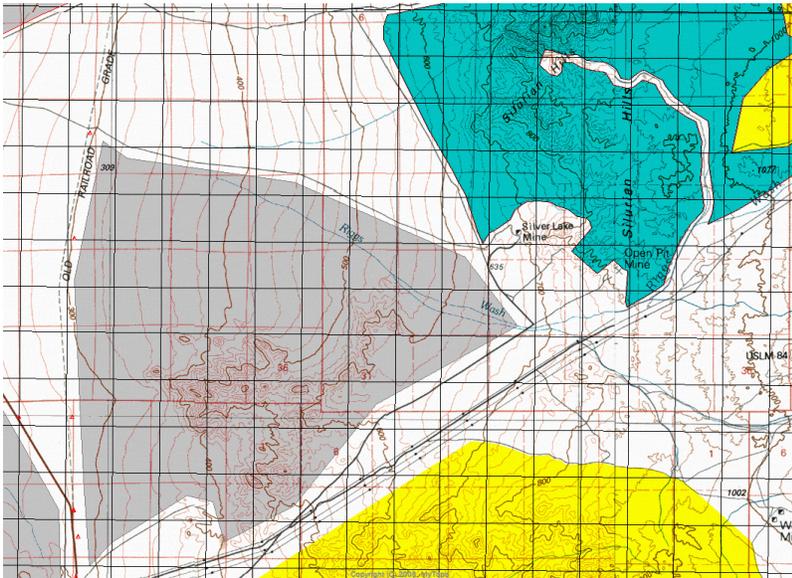
According to our initial analysis, 38 areas identified by the CWC as being eligible for wilderness designation are open to potential development in the DRECP's draft alternatives (see, chart provided at the end of this appendix). These areas are shown in the table below. In the near future, we intend to:

- Review the BLM's survey records to determine why wilderness-quality lands surveyed by the CWC were found ineligible by the agency;
- Re-survey all 38 areas using the BLM's methodology for determining wilderness-quality lands as described in the BLM Manual;
- Share all of our survey data with the BLM, per BLM Manual 6310 (*Conducting Wilderness Characteristics Inventory on BLM Lands*) and to discuss instances where our conclusions differ from those of the agency; and
- Offer detailed arguments as to why wilderness-quality lands should not be zoned for development in the DRECP.

Regarding the first point, we find it puzzling that many areas that are exceedingly wild in character were found ineligible by the BLM. We look forward to reviewing and discussing the agency's findings in more site-specific detail. For example, the grand, sweeping bajadas that flow northeast from the Chuckwalla Mountains Wilderness are exceedingly wild and almost untouched, yet the portion that the BLM found eligible (in blue; see map below) is much smaller than the roadless wild land identified by the CWC (outlined in red; see map below). The existing wilderness is in yellow. It appears as if a six-mile buffer has been placed between the LWC and the road and powerline to the northeast. We found this excessive "buffering" pattern repeated in many of the areas surveyed by the BLM.



We have also noticed a pattern of lands with similarly gentle terrain being found ineligible by the BLM. We are concerned that this could indicate an over-emphasis on an interpretation of solitude (the most subjective of the BLM’s wilderness-suitability criteria) that somehow precludes areas with long-reaching views, or an unconscious consideration (in the context of this planning effort) that the flat lands are the most desirable from an energy development perspective, or perhaps even evidence of a long-standing mischaracterization that “wilderness” equals “mountains,” not gentle, productive country. For example, the rugged Silurian Hills (in blue, a potential addition to the Kingston Range Wilderness; see map below) were found eligible by BLM surveyors, but the equally wild Riggs Wash area (in grey; see map below) to the southwest was found ineligible.



As the agency is well aware, lands with gentle terrain are ecologically critical for the desert tortoise and a variety of other species. Additionally, there is absolutely nothing in the Wilderness Act stating or even intimating that mountainous terrain is inherently wilder than flat country. We request that the State Office carefully review the surveys conducted by CDCA field staff to ensure consistency with the protocols described in the BLM Manual. As discussed in the detail in the preceding letter, we also request that BLM protect lands with wilderness characteristics from development and, where conflicts are unavoidable, we request that the loss of lands with wilderness characteristics be mitigated.

Areas found suitable for wilderness designation by the California Wilderness Coalition that are open to development under one or more draft DRECP alternatives

PW=Potential wilderness

PWA=Potential wilderness addition

Clear = Not showing overlap based on data received to date

CWC WILDERNESS-ELIGIBLE AREA	SURVEYED BY BLM?	SURVEY RESULT	ALT 1	ALT 2	ALT 3	ALT 4	ALT 5	ALT 6
Ash Hill PW	Yes	Ineligible	Clear	Clear	Clear	Clear	DFA	Variance
Avawatz Mtns PWA	No	N/A	Clear	DFA	Clear	Clear	DFA	Variance
Big Maria Mtns PWA, Black Hill unit	Yes	Ineligible	Clear	DFA	Clear	Clear	DFA	Variance
Big Maria Mtns PWA, NW unit	Yes	Ineligible	Variance	DFA	Clear	Clear	DFA	Variance
Big Maria Mtns PWA, S unit	Yes	Ineligible	Variance	DFA	DFA	DFA	DFA	Variance
Big Maria Mtns PWA, SW unit	Yes	Ineligible	Variance	DFA	Clear	Clear	DFA	Variance
Bighorn Mtn PWA, Arrastre unit	Yes	Ineligible	Variance	Clear	Clear	Clear	Clear	Clear
Bighorn Mtn PWA, One Hole Spring unit	Yes	Ineligible	Variance	Clear	Clear	Clear	Clear	Clear
Bighorn Mtn PWA, Rattlesnake Cyn unit	Yes	Ineligible	Clear	Clear	Clear	Clear	DFA	Clear
Cady Mountains PW	Yes	Ineligible	Clear	Clear	Clear	Clear	Clear	Variance
Cady Mountains PW	Yes	Ineligible	Clear	Clear	Clear	Clear	Clear	Variance
Cady Mountains PW	Yes	Ineligible	Clear	Clear	Clear	Clear	Clear	Variance
California Valley PW	Yes	Eligible	DFA	Clear	Clear	Clear	DFA	DFA
Hollow Hills PWA	No	N/A	Variance	Clear	Clear	Clear	Clear	Variance
Indian Pass PWA, SW unit	Yes	Ineligible	Clear	Clear	Clear	Clear	DFA	Variance
Indian Wash PW	Yes	Ineligible	Variance	Clear	Clear	Clear	DFA	Variance
John Muir PWA, Red Mtn unit	Unknown	Unknown	Variance	Clear	Clear	Clear	Clear	Variance
Kingston Range PWA, Silurian Hills unit	Yes	Eligible	Clear	DFA	Clear	Clear	DFA	Variance
Kingston Range PWA, Silurian Lk unit	Yes	Eligible	Clear	DFA	Clear	Clear	DFA	Variance
Little Picacho Peak, S unit	Yes	Ineligible	Clear	Clear	Clear	Clear	Wind DFA	Clear
Little Picacho Peak, SE unit	Yes	Ineligible	Clear	Clear	Clear	Clear	Wind DFA	Clear

CWC WILDERNESS-ELIGIBLE AREA	SURVEYED BY BLM?	SURVEY RESULT	ALT 1	ALT 2	ALT 3	ALT 4	ALT 5	ALT 6
Little Picacho Peak, SW unit	Yes	Ineligible	Clear	Clear	Clear	Clear	Wind DFA	Clear
McCloud Flat PW	Yes	Partially eligible	DFA	DFA	Geo DFA	DFA	DFA	DFA
McCoy Wash PW	Yes	Eligible	Clear	DFA	Clear	DFA	DFA	DFA
Mule Mtns PW	Yes	Ineligible	Variance	DFA	Clear	Clear	DFA	DFA & variance
Palen Lake PW	Yes	Ineligible	Clear	DFA	Clear	Clear	DFA	DFA & variance
Palen-McCoy PWA, S unit	Yes	Eligible	Clear	DFA	Clear	Clear	DFA	DFA
Palen-McCoy PWA, southwestern unit	Yes	Partially eligible	Clear	DFA	Clear	Clear	DFA	DFA
Ragtown East PW	Yes	Ineligible	Clear	Clear	Clear	Clear	DFA	Variance
Riggs Wash PW	Yes	Ineligible	Variance	DFA	Clear	Clear	DFA	Clear
Riverside Mtns PWA, Northern unit	No	N/A	Variance	Clear	Clear	Clear	Clear	Clear
Sacramento Mtns PW, Eagle Pk unit	Yes	Ineligible	Variance	Clear	Clear	Clear	Clear	Variance
Soda Mtns PW	Yes	Eligible	Clear	Clear	Clear	Clear	Clear	Variance
South of Argos PW	Yes	Ineligible	Clear	Clear	Clear	Clear	DFA	Variance
Turtle Mtns PWA, S unit	Yes	Partially eligible	Clear	Clear	Clear	Clear	Clear	Variance
Vidal Northeast	Yes	Ineligible	Variance	Clear	Clear	Clear	Clear	Clear
Whipple Mountains PWA, S unit	No	N/A	Clear	Clear	Clear	Clear	Clear	Variance
Whipple Mountains PWA, SW unit	No	N/A	Clear	Clear	Clear	Clear	Clear	Variance

**Audubon California • BrightSource Energy, Inc. • Center for Biological Diversity
Center for Energy Efficiency and Renewable Technologies • Defenders of Wildlife
EDF Renewable Energy • First Solar, Inc. • Large-scale Solar Association
Natural Resources Defense Council • NRG Solar LLC • Pacific Gas and Electric Company
Paul Hastings • Sierra Club • Southern California Edison • SunPower Corporation, Systems
The Nature Conservancy • The Wilderness Society**

October 4, 2012

SENT VIA ELECTRONIC MAIL

The Honorable David Hayes, Deputy Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

The Honorable John Laird, Secretary
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Re: California Energy Commission Durability Workshop and Next Steps

Dear Deputy Secretary Hayes and Secretary Laird:

The California Desert and Renewable Energy Working Group (CDREWG) is pleased to offer this response to the Workshop on Durability for Public Lands that the California Energy Commission (CEC) hosted on September 5, 2012. We commend the State, especially the CEC and the Department of Fish and Game (DFG), and the federal agencies in the Interior Department, including the Bureau of Land Management (BLM) and Fish and Wildlife Service (FWS), for recognizing the critical importance of this issue to the success of the Desert Renewable Energy Conservation Plan (DRECP), and for bringing together varied voices and expertise to inform the discussion. In addition, we want to take this opportunity to urge you both to continue the workshop dialogue and bring all of your Departments' expertise and resources to the table to assist in solving the durability issue without further delay. We respectfully request that your experts meet with us to discuss the possibilities that exist for durable protection of mitigation so that we may assist in achieving our shared goals.

Durable mitigation on federal lands is an essential foundational element to achieving federal and California conservation and renewable energy objectives as well as the requirements of state and federal endangered species law. The success of the DRECP, which is intended to further those goals and meet those legal requirements, depends on our success in developing a viable approach to durable protection.

As discussed during the workshop, durability is a critical issue for the DRECP because attaining the renewable energy and conservation goals of the plan will require the allocation of extensive acreage to both renewable energy development and project mitigation. Developers of individual renewable energy projects permitted to date on public and private lands have nearly exhausted the supply of private lands available for traditional compensatory mitigation, making continued reliance on private land acquisition options infeasible. Public lands administered by BLM furthermore include some of the best habitat and corridors for species of concern, and are more likely to offer contiguous areas for mitigation efforts that would provide lasting value to those species. Accordingly, such land will need to, and should, serve as mitigation lands as well as reserve lands designated in the DRECP.

The problem, of course, as acknowledged by the workshop participants, is that BLM's authority to permanently set aside lands under its jurisdiction for conservation purposes is limited. (See, e.g., Federal Land Policy and Management Act (FLPMA), 43 U.S.C. §§ 1701-1787.) While amendments to BLM land use plans designating mitigation and/or conservation reserve lands as Areas of Critical Environmental Concern (ACECs) and/or including those designated lands in the National Landscape Conservation System (NLCS) may acknowledge the conservation value of those lands, because the designations can be changed by later plan amendments, these actions do not provide *durable* protection. Even with these

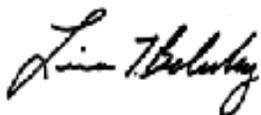
designations, the level of protection is not defined and BLM can and has allowed some development in some ACECs in California. As a result, ACEC and NLCS designations cannot, on their own or layered on the same lands, provide the level of durability necessary to meet the conservation standards of an Natural Community Conservation Plan, and California and federal species protection laws in general.¹

The issues identified above are not new. Here in California, BLM, FWS and DFG have been struggling to address them for decades. The DRECP represents an historic opportunity to overcome these longstanding challenges. The workshop discussion identified a number of potential tools that are available to BLM for use in the DRECP and the respective ranges of durability that each would provide. The tools discussed included the Antiquities Act (which could provide permanent protection); the Recreation and Public Purposes Act and withdrawals for conservation under FLPMA (both of which would be durable for a specified period of time); and the recent grazing retirement legislation (which authorizes permanent allocation to and management of forage for wildlife for mitigation following termination of grazing privileges. See 112 P.L. 74, 125 Stat. 786, December 23, 2011, Consolidated Appropriations Act of 2012.)

Given what is at stake, we urge the Interior Department and the Resources Agency to look seriously and creatively at each of these options—and others that have previously been identified by, among others, several signatories to this letter—rather than rely simply on the ways that it has traditionally used its various legal authorities. Now is not is not the time for overly cautious restraint on the exercise of existing federal authority; the ways that existing legal authorities have traditionally been used are simply insufficient to meet this challenge.

The signatories to this letter share an interest in seeing BLM, FWS, and DFG utilize the tools available for public land management to assure that conservation goals and certainty and assurances for mitigation are achieved in the DRECP as part and parcel of our shared goals of supporting renewable energy development. We know that much work remains to be done and, as indicated above, we are eager to help. We respectfully request a response to this letter and the issues that it raises at your earliest convenience. Thank you in advance for your consideration and we look forward to hearing from you.

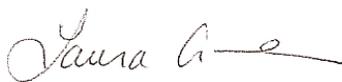
Sincerely,



Lisa Belenky
Center for Biological Diversity



Barbara Boyle
Sierra Club



Laura Crane
The Nature Conservancy



Kim Delfino
Defenders of Wildlife

¹ In addition to the need to meet applicable legal requirements durability is important as a matter of principle to industry and environmental stakeholders alike. Solar developers seek to provide a net benefit to the environment, which is challenging to do on a piecemeal basis. Developers and their financiers want assurances that investments in mitigation are meaningful and will be sufficient to cover the lifetime of these projects. The conservation community, in turn, wants to see a conservation reserve system and mitigation investments that parallels the location and duration of the impacts resulting from the approval of renewable projects on public lands.



Pamela Pride Eaton
The Wilderness Society



Shannon Eddy
Large-scale Solar Association



Garry George
Audubon California



Arthur Haubenstock
BrightSource Energy, Inc.



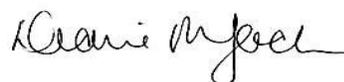
Tim Hemig
NRG Solar LLC



Rachel McMahon
First Solar, Inc.



Nino Mascolo
Southern California Edison



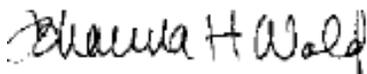
Diane Ross-Leech
Pacific Gas and Electric Company



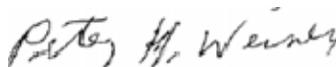
Thomas J. Starrs
SunPower Corporation, Systems



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Natural Resources Defense Council

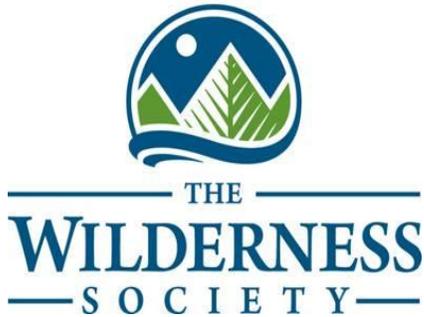


Peter Weiner
Paul Hastings



V. John White
**Center for Energy Efficiency
and Renewable Technologies**

cc: Steve Black, U.S. Department of the Interior
Janea Scott, U.S. Department of the Interior
Lizzie Marsters, U.S. Department of the Interior
Jim Kenna, U.S. Department of the Interior
Karen Douglas, California Energy Commission
Kevin Hunting, California Department of Fish and Game
Michael Picker, Office of Governor Jerry Brown



October 15, 2012

Jim Kenna, State Director
BLM California State Office
2800 Cottage Way, Suite W-1623
Sacramento, CA 95825

Re: Inventory and protection of lands with wilderness characteristic as part of Desert Renewable Energy Conservation Plan

Dear State Director Kenna:

We understand that BLM will be updating and expanding its inventory and considering management for lands with wilderness characteristics as part of the Desert Renewable Energy Conservation Plan (DRECP). We are writing this letter to provide input on the opportunity to protect this important resource.¹

Lands with wilderness character offer opportunities for valuable human experiences and provide significant benefits on our public lands. We have provided a more detailed overview of these values in our broader letter on the treatment of lands with wilderness characteristics (LWC) in the Solar Programmatic Environmental Impact Statement and are attaching a copy of that August 27th letter. This letter will focus on the narrower context of addressing wilderness character in the DRECP.

1. BLM should update and expand its inventory of lands with wilderness characteristics.

BLM Manual 6310 details how BLM is to carry out its FLPMA-required inventory and identification of LWC, including a requirement to maintain a current inventory and update the inventory during land use planning or where a proposed project would impact wilderness characteristics. 6310.06.A. This requirement extends to considering inventories submitted by

¹ In this letter, we are not addressing the manner in which lands with wilderness characteristics may or may not be part of mitigation lands or conservation lands as part of the DRECP process.

citizens. 6310.06.B.1-B.2.

Consequently, BLM must expand its inventory beyond reconsidering lands previously reviewed. By this letter, the California Wilderness Coalition is submitting maps and GIS data to the BLM regarding citizen-inventoried potential wilderness. The attached maps (see Map 1 – Wilderness-Quality Lands in the California Desert, and Map 2 – Wilderness-Quality Lands and Areas of Potential Solar Development in the California Desert) show both this initial citizens' inventory and lands identified by BLM as having wilderness characteristics. BLM should fully evaluate these data as part of updating its inventory in the DRECP. We call the agency's attention to several examples of places where lands containing wilderness characteristics have been inventoried by the California Wilderness Coalition and/or the BLM, and which are important to preserve for their wilderness values:

Malpais Mesa Potential Wilderness Additions: The central feature of the proposed addition is Conglomerate Mesa, a 7,700' prominence topped with spectacular rock formations. From the mesa, visitors can see beautiful meadows, Joshua tree forest and the glittering Sierra Nevada. Over the last twenty years bighorn sheep have begun returning to the region after having been extirpated during the Gold Rush. Though the area has no surface water, it is remarkably verdant. The area contains the remains of Native American rock shelters and old foot and mule trails established during the Gold Rush. Conglomerate and Malpais mesas are still used by Native Americans for cultural purposes today.

Chuckwalla Mountains Potential Wilderness Additions: This visually stunning region resembles a fortress of rock rising dramatically above the vast bajadas. It has an amazing variety of features and values, including a plethora of sensitive wildlife species such as the Colorado Valley wood rat, Le Conte's thrasher, Nelson's bighorn sheep, pallid bat, prairie falcon and western mastiff bat, in addition to the chuckwalla, the large, potbellied reptile for which the region is named. Desert tortoise population densities reach up to 150 individuals per square mile in some places. There are many rock rings, petroglyphs and other reminders of the thousands of years of Native American residence in the area.

Iron Mountain Proposed Wilderness: The region is a critical habitat corridor for Nelson's bighorn sheep between the Old Woman Mountain Wilderness and the Sheephole Wilderness. Other sensitive species known to live in the area include desert tortoise, Alverson's foxtail cactus, Harwood's eriastrum, small-flowered androstephium, Mojave fringe-toed lizard, prairie falcon and hepatic tanager. Much of the area between the Kilbeck Hills and the Iron Mountains consists of vast shifting sand dunes. Iron Mountain is the largest unprotected roadless area in the CDCA.

2. BLM should commit to management of significant acreage of lands to protect their wilderness characteristics.

BLM Manual 6320 provides direction for evaluating potential management of lands with wilderness characteristics in planning efforts. Since the DRECP will encompass amendments of land use plans, BLM must evaluate a full range of alternatives for protecting LWC and, where the management decision is not to protect wilderness characteristics, consider measures to minimize impacts on wilderness characteristics. 6320.06. This analysis should look at the new

information generated as part of updating the agency's inventory of LWC; as directed in Manual 6320: "The BLM must determine how lands with wilderness characteristics will be managed . . . based on present knowledge of the resources, ongoing uses, and valid existing rights in the area." 6320.06.1.

The DRECP will be designating significant acreage as Development Focus Areas and BLM has additional data on the LWC within the planning area from recent work to update its inventory. This important new information on the presence of LWC and the increased importance of protecting LWC in the context of the renewable energy development components of the DRECP should lead BLM to committing to manage a substantial acreage of the public lands to protect wilderness characteristics.

3. Lands managed for wilderness characteristics should be protected through strong management prescriptions.

The DRECP should set out mandatory protective prescriptions for lands that will be managed for their wilderness characteristics. While certain management may be tailored to address particular areas, at a minimum, LWC should be managed such that they are:

- Recommended for withdrawal from mineral entry.
- Closed to mineral leasing or allow leasing only with no surface occupancy with no exceptions, waivers, or modifications.
- Closed to mineral material sales.
- Designated as right-of-way exclusion areas.
- Closed to construction of new roads or motorized trails.
- Designated as closed to motor vehicle use, as limited to motor vehicle use on designated routes, or as limited to mechanized use on designated routes.
- Excluded or restricted with conditions for certain commercial uses or other activities (e.g., commercial or personal-use wood-cutting permits).
- Designated as Visual Resource Management Class I or II.
- Restricted for construction of new structures and facilities unrelated to the preservation or enhancement of wilderness characteristics or necessary for the management of uses allowed under the land use plan.
- Retained in federal ownership.

4. BLM should commit to mitigating damage to lands with wilderness characteristics as part of the DRECP.

Where projects cannot avoid damaging or causing adverse impacts to wilderness characteristics, BLM should mitigate the loss of this important resource. While we believe BLM should generally be preventing impacts to LWC, where impacts still occur, BLM should mitigate the

loss of wilderness character.

The DRECP should commit to replacing these lost resources and can do so through a variety of approaches:

- (1) Acquiring additional lands with wilderness characteristics, including:
 - a. wilderness inholdings or within WSAs;
 - b. lands adjacent to designated wilderness or WSAs;
 - c. other lands containing important wilderness or related values, such as outstanding opportunities for solitude or for primitive, unconfined recreation;
- (2) Conducting wilderness restoration (i.e., of routes or other structures that detract from wilderness character);
- (3) Collecting funds for a “wilderness mitigation bank” to fund the activities above, perhaps using a ratio similar to that applied to sensitive species in California;
- (4) Changing 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 lands adjacent to areas currently being managed to protect wilderness characteristics.

Thank you for considering our recommendations. We would be happy to discuss this further at your convenience and to provide any additional information that would be of assistance in protecting these wilderness quality lands. Please contact Sally Miller, California Senior Regional Conservation Representative, at (415) 518-7679 to set up a meeting for further discussion.

Very truly yours,



Dan Smuts, Regional Director, CA/NV
The Wilderness Society
250 Montgomery Street, Suite 210
San Francisco, CA 94104



Ryan Henson
Senior Conservation Director
California Wilderness Coalition
3313 Nathan Drive
Anderson, CA 96007

Attachments:

CWC Citizens' Wilderness Inventory GIS Data.zip
August 27, 2012 letter to Mike Pool

Cc: Robert Wick, BLM California Wilderness Coordinator
Mark Conley, BLM California NLCS Coordinator
Doug Herrema, BLM Program Lead, National Monuments and National Conservation Areas
Gregory Hill, BLM CA Desert District Wilderness Coordinator
Vicki L. Campbell, BLM DRECP Program Manager

The Wilderness Society * Conservation Lands Foundation *
National Parks Conservation Association

October 23, 2012

Via electronic mail and U.S. Mail

Jim Kenna, California State Director
BLM California State Office
2800 Cottage Way, Suite W-1623
Sacramento, CA 95825

Re: Identification of lands within the California Desert Conservation Area to be added to the National Landscape Conservation System

Dear State Director Kenna:

We understand that BLM is planning on designating new areas as units of the National Landscape Conservation System (Conservation Lands) as part of the Desert Renewable Energy Conservation Plan (DRECP) process. We further understand that this action is based on BLM's interpretation of the language in the Act establishing the National Landscape Conservation System, which includes in the System, "[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). At the outset, we note that the statutory language is unique to the California Desert and represented a compromise after much debate as to whether lands of the California Desert Conservation Area (CDCA) were included in the Conservation Lands.

We are writing to provide BLM with recommendations on how to proceed with adding and managing areas in the CDCA as units of the Conservation Lands. We are not, at this time, espousing a position on the interpretation of the Act itself. Further, in this letter, we are not addressing whether or how such designations may be used to satisfy mitigation requirements being discussed in the DRECP process, where concerns have been raised with BLM's authority to permanently set aside lands under its jurisdiction for conservation purposes through administrative designations. Because the level of protection associated with land use plan amendments designating mitigation and/or conservation reserve lands as Areas of Critical Environmental Concern (ACECs) and/or including those designated lands in the Conservation Lands is not defined and may be changed by subsequent amendments the conservation value of those lands, these designations cannot, on their own or layered on the same lands, provide the level of durability necessary to meet the conservation standards of a Natural Community Conservation Plan, and California and federal species protection laws in general.

We look forward to working with the agency on identifying a complete list of areas that BLM should include as part of the Conservation Lands, as well as standard management protocols for their meaningful inclusion in the National Landscape Conservation System.

I. Direction provided by the National Landscape Conservation System management framework

The Federal Land Policy and Management Act (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. 43 U.S.C. § 1732(a). In other words, BLM manages Conservation Lands not under the FLPMA multiple use mandate, but rather under the language of the proclamation or legislation establishing the special area. This is expressly provided for in FLPMA itself:

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.*” FLPMA, 43 U.S.C. § 1732(a) (emphasis added).

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 Act 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 multiple use mandate of FLPMA, there are other lands that are included for the primary purpose of conservation. These 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.

As part of the National Conservation Lands, the California Desert Conservation Lands (CDCL) must follow BLM policy direction regarding the management of the National Conservation Lands. Secretarial Order 3308 speaks to the management of the National Landscape Conservation System. The Order states in pertinent part that “[T]he 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 at 8. BLM Manual 6100 also provides direction on how the Conservation Lands should be managed. BLM must comply with these policies when designating and managing California Desert Conservation Lands.

The Conservation Lands, comprised of lands created by both presidential and congressional directives, is the largest and most far-reaching conservation initiative in the history of the BLM. The National Landscape Conservation System represents the cornerstone of a new era in land stewardship, in which BLM focuses on a mission of public land management to: “conserve, protect, and restore these 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) (2009).

II. Recommended criteria for designating lands as part of the National Landscape Conservation System

As stated in FLPMA, the California desert contains “historical, scenic, archeological, environmental, biological, cultural, scientific, educational, recreational, and economic resources that are uniquely located adjacent to an area of large population.” 43 U.S.C. § 1781(a)(1). In addition, FLPMA states that the desert and its resources are extremely fragile and seriously threatened by uses that have intensified in the last 36 years. In fact, in 1974, Assistant Secretary of Interior Jack Horton sent a letter to Senator Henry Jackson after reviewing S. 1041, a precursor bill to FLPMA, stating, “[i]n managing the national resource lands, which area the lands administered by the Bureau of Land Management, S. 1041 explicitly directs the Secretary to give priority to ‘areas of critical environmental concern.’ The California desert would unquestionably qualify as one of those areas.” S. REP. NO. 83-873, *reprinted in* COMM. ON ENERGY AND NAT. RESOURCES, 95TH CONG., LEGISLATIVE HISTORY OF THE FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976, at 1687-1690 (1978).

In addition to Wilderness Areas and Wilderness Study Areas (WSAs) that are already part of the Conservation Lands, there are many landscapes within the CDCA that deserve to be added to the system. BLM should err on the side of including areas administered for conservation due to the highly significant and fragile nature of these lands. BLM should use the following criteria to assess whether lands within the CDCA are added to the National Conservation Lands.

A. California Desert Conservation Lands should be nationally significant.

Within the act establishing the National Landscape Conservation System, Congress stated that the purpose of the law was 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) (2009) (emphasis added). While “nationally significant” is not defined in the act itself, Congress has spoken to the importance of the California desert on several occasions. In a 2007 letter to then-Director of the National Landscape Conservation System, Elena Daly, from then-BLM California State Director Mike Pool regarding the “official status of the CDCA,” Mike Pool states that “[t]here can be no doubt, based upon the legislative history of the CDCA and FLPMA, that Congress clearly identified the California Desert as having nationally significant resources that should be managed to conserve them for future generations.”

As stated above, Congress specifically spoke to how significant lands of the California desert are in FLPMA in 1976. 43 U.S.C. § 1781. This was one of only a few specific designated

management areas mentioned in FLPMA. *Id.* Although not all lands were to be protected for conservation purposes, this alone shows that the lands of the California desert are “nationally significant.” Since Congress made this declaration in FLPMA, the threats to this landscape, such as energy development and off-road vehicles, have increased while Americans have developed a greater appreciation for our deserts and lands managed by BLM, making these lands even more nationally significant.

In 1994, Congress passed the California Desert Protection Act, which established around 3.7 million acres of 69 new BLM Wilderness Areas in the California desert. 16 U.S.C. §§ 410aaa - 410aaa-83 (1994). This Act also designated millions of acres as national parks and established the new Mojave National Preserve and the Red Rock Canyon State Park. Additionally, in 2000, Congress established the Santa Rosa and San Jacinto Mountains National Monument as part of our Conservation Lands, which is partially within the Conservation Desert Conservation Area. 16 U.S.C. § 431 (note).

In the Omnibus Public Land Management Act of 2009, Congress once again acknowledged the significance of the California Desert by adding conservation areas administered by BLM for conservation purposes as part of the National Landscape Conservation System. 16 U.S.C. § 7202(b)(2)(D) (2009). Finally, there is legislation currently before Congress that raises more discussion about protection and use in the California Desert (See, California Desert Protection Act of 2011).

Thus, Congress has found the lands of the California Desert to be nationally significant on multiple occasions and for many reasons. It follows that BLM should presume all of the proposed conservation designations during this process to be nationally significant to be rebutted only by clear and convincing evidence that a proposed designation is merely of regional, state or local significance. This includes:

- Proposed areas that benefit Wilderness Areas, WSAs, national parks and preserves that should be *per se* nationally significant.
- Areas of Critical Environmental Concern (ACEC), Desert Wildlife Management Areas (DWMA) and other special management areas that BLM designated in response to Congress calling for BLM to prepare and implement a land use plan for the management, use, development and protection of public lands within the CDCA in FLPMA—a plan approved by two secretaries of Interior. 43 U.S.C. § 1781(d).¹
- New ACECs or special management areas that BLM is considering designating in the DRECP process.
- Lands that BLM has inventoried and found to possess wilderness characteristics in the DRECP process.
- Scenic resources that are appreciated nationally for their outstanding visual and aesthetic qualities.

¹ As stated by Mike Pool on the 30th anniversary of the CDCA, this was the first land use plan mandated by Congress under FLPMA and “[t]he original Desert Plan was signed by both outgoing Secretary of the Interior Cecil Andrus under President Jimmy Carter and incoming Secretary of the Interior James Watt under President Ronald Regan.” See, CDCA 30th Anniversary brochure at 2. Available at: <http://www.blm.gov/pgdata/etc/medialib/blm/ca/pdf/caso/publications.Par.67970.File.dat/CDCA.pdf>

- Other nationally significant lands that may be valuable based on the density of the resources in the landscape (e.g. cultural resources, rare plants).

B. BLM should add all landscapes with a high degree of intactness or capable of being restored to intactness.

BLM policy for the National Landscape Conservation System directs the agency to take an ecosystem-based or landscape-level approach to managing the Conservation Lands. *See*, BLM's National Conservation Lands Strategy, Theme 2. This is an important management concept that is unique to the National Conservation Lands. It is also one that BLM can demonstrate with this planning process to show other units and field offices how decisions can and should be made at the landscape-scale. As such, BLM should consider adjacency to existing conservation lands, including National Landscape Conservation System, National Park Service and U.S. Forest Service lands, as a meaningful way to protect existing connectivity and provide ecological resiliency to desert lands. This represents a value-added design element to the designation process. Furthermore, BLM should develop a strategy to re-establish or reconnect natural corridors which have been fragmented. Priority should be given to protecting existing connected landscapes.

In determining landscapes that may be eligible for California Desert Conservation Lands, BLM should look for lands that either exhibit a high level of intactness or are good candidates for restoration and eventually management as an intact landscape for future generations. As we understand it, BLM defines "intactness" in its rapid ecoregional assessments (REAs) as a "quantifiable estimate of naturalness measured on a gradient of anthropogenic influence and based on available spatial data." This should include lands with wilderness characteristics that BLM is identifying as part of the DRECP process. BLM should also use information from the agency's own REAs. The relevant REAs for the CDCA are the Sonoran Desert and Mojave Basin and Range. The Sonoran Desert REA is expected out imminently and should be used to help BLM define the types of areas that should be included, whereas information from the Mojave REA should be incorporated when it is released.

An important component of this criterion is that BLM not overlook areas that could be restored to a more natural state. These lands may include important current or future wildlife movement corridors², recreational trails, and other resources that will contribute to the overall health and social benefits of our public lands in the future.

C. BLM should look at all lands that have already been identified for management in the "limited use" category.

The land use plan for the California Desert Conservation Area identified four separate multiple use categories. These include the Class C ("Controlled Use"), Class L ("Limited Use"), Class M ("Moderate Use") and Class I ("Intensive Use"). As described by BLM, Class C includes the 69 Wilderness Areas created in the California Desert Protection Act and is "generally limited to non-motorized, non-mechanized means (i.e., by foot or horseback)." Thus, Class C lands are

² Such corridors are especially valuable in planning for adaptation to climate change.

already protected as part of the National Conservation Lands and need not be considered for this planning process.

Class L areas on the other hand are managed to protect “sensitive, natural, scenic, ecological, and cultural resource values [and] to provide for generally lower-intensity, carefully controlled multiple use of resources, while ensuring that sensitive values are not significantly diminished.” CDCA Plan at 13. By these standards, Class L lands appear to be administered by BLM for the primary purpose of conservation. We believe that the vast majority of these lands should fit both criteria of nationally significant and intact as we’ve set out above. BLM should strongly consider protecting the Class L lands as California Desert Conservation Lands.

III. Recommended criteria for management of lands designated as part of the National Landscape Conservation System

The National Landscape Conservation System is a unique system of public lands which overlaps somewhat with other systems, such as BLM-managed lands within the National Wilderness Preservation System and the National Wild and Scenic Rivers System, but also incorporates BLM national monuments, National Conservation Areas, and WSAs. In order to bring more consistency across the system, Secretarial Order 3308 sets out policy guidance that applies to the management of all BLM Conservation Lands. BLM has incorporated and elaborated upon the directives in S.O. 3308 and the National 15-Year Strategy in agency policy through the issuance of several manuals, including a manual for the National Landscape Conservation System as a whole. It is critical that any areas designated as California Desert Conservation Lands follow these policies and set appropriate criteria for managing these lands so that conservation, protection and restoration is the “highest priority” and uses that conflict with those values are prohibited.

It is also important that California Desert Conservation Lands have standard and mandatory management prescriptions across the board. While California Desert Conservation Lands will be a new type of administrative designation within the National Landscape Conservation System, BLM should rely upon existing relevant policies for the creation of standard management prescriptions for these designations. The following management guidance is based on BLM guidance for the Conservation Lands and should be incorporated in the final agency decision for the identification and management of California Desert Conservation Lands:

- The BLM will inventory existing facilities and determine whether to remove, maintain, restore, enhance, or allow natural disintegration. Subject to applicable law and valid existing rights, the BLM will consider removal of facilities that do not have administrative, public safety, recreational, cultural, or historic value. BLM Manual 6100 at 1.6(I)(1)
- Only develop new facilities, including roads, where they are required under law, required for public health and safety, are necessary for the exercise of valid existing rights or other non-discretionary uses, prevent impacts to fragile resources, or further the purposes for which an area was designated. BLM Manual 6100 at 1.6(I)(3)
- BLM will create the minimum route network necessary for the protection of natural and cultural resources for which the area was designated. Roads, primitive roads, and trails within NLCS units will be located to minimize impacts to sensitive resources, enhance

visitor recreation experiences, and conserve, protect, and restore the values for which NLCS units were designated. BLM Manual 6100 at 1.6(M)(2)

- The BLM will remove or minimize barriers to the dispersal of rare native plants and animals to the extent possible. BLM Manual 6100 at 1.6(N)(3)
- Designate as an exclusion or avoidance area for authorized uses. BLM Manual 6100 at 1.6(I)(5)(a).
- Relocate existing designated transportation and utility corridors outside of the area. BLM Manual 6100 at 1.6(I)(5)(c)
- Refuse rights-of-way applications if the BLM determines that right-of-way proposals are inconsistent with the protection of the values for which the unit was designated. BLM Manual 6100 at 1.6(I)(4)
- Grazing management practices will be implemented in a manner that protects the values for which units were designated. BLM Manual 6100 at 1.6(K)(2)
- The BLM will use CDCLs as a laboratory for innovative grazing techniques designed to better conserve, protect, and restore these areas. BLM Manual 6100 at 1.6(K)(3)
- Habitat rehabilitation will be accomplished with native plant materials appropriate for restoring or improving native habitat. In general, native plant materials should be sourced as locally as possible. BLM Manual 6100 at 1.6(N)(6)
- Identify priority areas for nomination to the National Register of Historic Places, for cultural resource inventories, and for archaeological research consistent with the BLM 8100 manual series (Cultural Resources Management). Inventory priorities will be determined at least in part by resource values and the risk of disturbance, including loss of the resource to theft or erosion. BLM Manual 6100 at 1.6(G)(1)
- BLM will monitor the condition of historic properties and traditional use areas for vandalism and other disturbances or changes. BLM Manual 6100 at 1.6(G)(2).

In addition, BLM should require the following management prescriptions as standard for all California Desert Conservation Lands:

- Recommended for withdrawal from mineral entry.
- Closed to mineral leasing or allow leasing only with no surface occupancy with no exceptions, waivers, or modifications.
- Closed to mineral material sales.
- Closed to construction of new roads or motorized trails.
- Closed to renewable energy development.
- Designated as closed to motor vehicle use, as limited to motor vehicle use on designated routes, or as limited to mechanized use on designated routes.
- Excluded or restricted with conditions for certain commercial uses or other activities (e.g., commercial or personal-use wood-cutting permits).
- Designated as Visual Resource Management Class I or II.
- Lands should be retained in federal ownership.

IV. Recommendations for making designations of California Desert Conservation Lands meaningful

As discussed above, the National Conservation Lands are subject to special protection and management, and are designated pursuant to presidential or congressional directive. While the BLM is taking the position that the California Desert Conservation Lands can be designated through a NEPA process, it is vital that the designations be protected from later administrative change in status. Accordingly, the agency decision must be clear that these designations are expected to be enduring.

The agency decision document should state that designation of CDCLs is expected to be enduring and will not be revisited under subsequent planning process unless the BLM receives congressional direction to do so. Further, the decision document should provide for ongoing review to determine when and if other lands should be added as CDCLs.

Further, the BLM should issue separate guidance regarding the designation and management of CDCLs, incorporating the status of the designation, the mandatory management criteria set out above, and direction for providing additional protective management tailored to additional resources. This could be done through the issuance of a new BLM manual as part of the National Conservation Lands series of manuals that were issued this year.

V. BLM should use this process to acknowledge and protect resources in areas not designated as California Desert Conservation Lands.

As part of evaluating areas for designation as CDCLs, BLM should recognize that there are areas that will not be designated at this time, but still possess important resources that can and should be provided with meaningful protection. These areas may be drawn from the review process set out above and could include areas:

- outside the CDCA but within the DRECP process (so they are technically not eligible for designation as part of the Conservation Lands);
- where the agency believes it will be necessary to site transmission lines;
- that require higher levels of restoration to achieve intactness.

Further, existing ACECs and DWMAAs that may not become part of the Conservation Lands should still be managed according to strong, protective prescriptions. 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). The current management plan does not assign ACECs and DWMAAs (which are also ACECs) sufficient specific and protective prescriptions. BLM should incorporate protective management as part of this planning effort.

In addition, BLM should consider how to manage lands not designated as CDCLs to support the larger landscape and the resources being protected in the Conservation Lands. As stated in Secretarial Order 3308, the Conservation Lands “shall be managed as an integral part of the larger landscape, in collaboration with the neighboring land owners and surrounding communities, to maintain biodiversity, and promote ecological connectivity and resilience in the

face of climate change. Secretarial Order 3308(4)(b). Further, as BLM's strategy provides, the agency's goal is to: "Develop a map identifying key habitat linkages among NLCS units and of other land conservation gaps in order to manage NLCS units within the larger-scale ecosystem and meet broad-scale conservation goals." *See*, BLM's National Conservation Lands Strategy, Theme 2, Goal 2C.1. Congress designated the CDCA with a similar landscape-level vision and the DRECP also incorporates a landscape-level approach.

We look forward to participating in the addition of significant landscapes to the National Conservation Lands and seeing BLM take this opportunity to provide meaningful protection to the many resources of the California Desert. We would appreciate the opportunity to discuss our recommendations in further detail at your earliest convenience.

Very truly yours,

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