



Comments submitted by Sierra Club 2/23/15

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## DRECP Informational, Notice and Environmental Justice Deficiencies

Sierra Club supports the DRECP as a laudable attempt to plan for both the preservation of species and ecosystems in the California desert and the appropriate deployment of renewable energy to help meet the state's carbon reduction goals in 2040. The planning process for DRECP involved many years of meetings with appointed stakeholders, repeated recommendations from Independent Science Advisors, and millions of dollars for consultants to prepare a habitat/energy plan for 22 million acres. One main function of the DRECP EIR/EIS is to serve as an informational document, yet the draft is remarkably opaque and uninformative on various critical issues, with much information entirely omitted. Additionally, the DRECP stakeholder and public meeting processes fell short on outreach and inclusion of many of the communities impacted, particularly minority communities.

### **1. Informational Deficiencies.**

#### *Conservation Durability*

Hundreds of thousands of acres in the desert would be permitted by the draft Plan to be permanently disturbed, developed and fragmented by renewable energy projects and transmission. To help offset the significant unavoidable impacts of Plan-permitted development and to ensure recovery and persistence of covered species and natural communities, two methods are proposed: 1) compensatory mitigation (either private land acquisition to preserve habitat or compensatory actions on BLM lands); and 2) the establishment of Conservation Reserves, mostly on BLM land.

DRECP proposes to accomplish the latter by BLM Land Use Plan Amendments (LUPA). In fact, the vast majority of conservation for species and natural communities covered under DRECP is proposed to be afforded by these new LUPA designations on BLM lands, which are referred to as Conservation Lands (part of the National Lands Conservation System, or NLCS).

Because of the importance of BLM Conservation Lands in the DRECP conservation strategy, ensuring there is "durability" (a level of permanence) of the Conservation Lands designated via LUPAs is pivotal to the success of the DRECP. This is because BLM has a multiple use mandate with discretion to remove protective designations

in order to permit an otherwise prohibited use. Over the past several years, tens of thousands of acres of “limited use” BLM lands, as well as Wildlife Habitat Management Areas, which were designated under the CDCA Plan to protect sensitive public resources, were repeatedly amended away by BLM’s permitting of numerous multi-square-mile renewable energy projects. Such elimination of conservation status on lands designated for conservation by way of LUPAs under the DRECP should not be tolerated for the BLM Conservation Lands. .

The only currently proposed mechanism that can bar a repeat performance of plan amendments by BLM on designated Conservation Lands could be a robust MOU between BLM and CDFW. This MOU exists in a draft form, yet this draft MOU is not analyzed directly in the draft Plan but is merely included on the DRECP website. The draft DRECP’s failure to analyze the draft MOU is a fatal flaw.

It is critical to analyze the MOU and clarify what protections will or will not be afforded BLM “Conservation Lands” under DRECP, and to provide that information in the next iteration of the Plan, to be available for full public review.

### *Terminology*

Although the draft Plan offers a glossary of terms, many of the terms used in the draft, as well as their import, remain ill-defined. For instance, the draft refers to the NCCP Reserve Design, NCCP Plan-Wide Reserve Design, NCCP Conceptual-Plan Wide Reserve Design, and NCCP Reserve. Scant information is given on the rationale for so many nested designations to serve one NCCP. This arrangement is most unusual. Nor is there any comprehensive clear explanation of how these various categories will differ in the level of protection afforded them.

The draft Plan does provide a table giving the approximate acreages for some of the above designations, but that does not suffice. DRECP needs to provide clear descriptions and definitions for each of the above. In addition, it should provide maps with spatially explicit information to denote the level of protection (i. e., level of immunity from amendment) that the BLM Conservation Lands within each category would receive under the Plan.

### *Distribution of Technologies and Acreage Discount Factors*

The draft Plan’s discussion of its proposed distribution of renewable energy across the Plan DFAs is incomplete. The Plan only describes a rule set used to “fit” various renewable technologies into areas, and the thought process behind “discount factors” that the Plan then applied to acreage to determine the multiples of acreage needed in any one area for developer flexibility to aggregate parcels for large renewable projects.

The draft provides little to no specific information regarding: 1) the geographic distribution of different renewable technologies within any one subarea; 2) the

geographic distribution of different renewable technologies within ecoregions; 3) the actual discount factors that were applied to areas; 4) if or how those factors were applied to private lands versus public lands in DFAs.

The only specific information given was a table on the Aggregated Scenario showing maximum amounts of megawatts in certain areas. However, this table does not provide underlying discount factors, and addresses only one renewable technology (solar), and only three subsets of three DFAs.

As elsewhere in the draft, no geospatial information is provided as to the distribution of RE technology across the landscape. No specific discount factors are given. The list of RE technologies and geographic units affected is incomplete.

Without complete information being provided, the public cannot review and respond to the distribution of renewable energy in DFAs and/or the appropriateness of proposed discount factors. Without this information being provided on a map, the reviewer cannot understand where and how the various covered activities are proposed to be deployed across the landscape.

For example, Imperial County provided just such a map for its draft Renewable Energy General Plan Amendment, showing the portion of the County proposed to be zoned to allow geothermal energy development only, versus the portion zoned to allow either solar or geothermal. Yet the DRECP fails to provide such a map or the specific factors used to determine the proposed distribution.

### *Aggregated Scenario*

The Aggregated Scenario appears to be the draft Plan's attempt to quantify how the undisclosed discount factors, if considered in five different scenarios, would aggregate to produce a "worst case scenario" for purposes of assessing maximum deployment of renewable energy in different units of the Plan. This is a crude mechanism, but could be one step in determining the greatest aggregate impacts permitted.

However, the draft Plan discussion does not affirm that the "maxima" that are presented in the Aggregated Scenario example (described above) for megawatts in any one unit is indeed the maximum number of megawatts that would be permitted in that unit. Nor does the draft provide the specific locational information needed to accurately assess the biological and other impacts that would result from the Aggregated Scenario in any given location. This is a variation on the same problem outlined above for the Plan's discussion of technology distribution and the discount factors. The lone table provided for the Aggregated Scenario is incomplete, and does not remedy the deficiency.

### *Reporting Acreage of Wind Projects*

Prominent in the draft Plan (indeed, in public statements by BLM and CEC representatives) is the assertion that the DRECP will only allow disturbance of 177,000 acres. See for example Table 3.8 of the Executive Summary: “Total estimated footprint all RE technologies and transmission – 177,000 [acres].” However, this assertion is grossly misleading.

The 177,000 acre number only attributes 9,000 acres to wind impacts<sup>1</sup> which is less than 6% of the total project footprint for wind. Only by hunting through the draft Plan can one find the full acreage of the wind projects that are contemplated under the Plan. Per table II.3-20, that number is 162,000 acres, not 9,000. Thus, the acreage impacted would not be 177,000 acres. Rather, it would be 297,000 acres (plus 33,000 acres for transmission) for a total of 330,000 acres of development in the DRECP Preferred Alternative.

The DRECP’s failure to transparently report full acreage and its repeated use of a diminutive acreage figure for wind energy is misleading and uninformative. More importantly, such a skewed method of accounting for the impacts of wind development has grave implications for migratory and resident birds, terrestrial species such as desert tortoise, and other sensitive biological resources.

Two aspects of the Plan create loopholes that could result in grave unanticipated impacts:

- One is that the Plan makes repeated disclaimers that it will not control the mix of technologies allowed under any Alternative. On the contrary, it states the technology mix will be strictly market driven. There is an articulated megawatt cap of 20,323 MW, and a cap on total acres of disturbance (177,000 acres for the Preferred Alternative, according to personal communication from Chris Beale to Joan Taylor). But there is no articulated megawatt cap for any given renewable technology.
- The second loophole, as outlined above, is that wind development is only reported as a tiny fraction of its actual project area.

Thus, theoretically the amount of wind development in the Preferred Alternative could be doubled, permitting an additional 162,000 acres (or an additional 250 square miles on top of the 250 square miles of wind projects already contemplated under the Preferred Alternative) – while this massive amount of development and fragmentation of the desert would only be counted as a total of 18,000 acres (0.056% of 324,000 acres). This would mean that the area developed and its impacts to sensitive resources could be doubled or perhaps more, while easily staying under the DRECP’s 177,000 acre cap on “disturbance.”

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<sup>1</sup> DRECP appears to consider as acreage impacts solely the areas used for roads, turbine bases, and ancillary facilities.

The bottom line is that the method for computing and reporting acres of disturbance determines how well the Plan controls impacts to resources, and wind development is not computed at anything near its full acreage. The draft Plan fails to transparently and accurately inform the reviewer on this point. More importantly, loopholes in the Plan may allow unanticipated impacts to occur from vastly increased wind development that is not anticipated, and yet could be allowed due to the Plan's skewed method of computing acreage affected by wind.

## **2. Notice Deficiencies and Environmental Justice**

Construction of renewable energy projects is known to result in emissions of ozone precursors, carbon monoxide (CO), sulfur dioxide (SO<sub>2</sub>), particulate matter (PM<sub>10</sub>, PM<sub>2.5</sub>), hydrogen sulfide (H<sub>2</sub>S) and other harmful air pollutants. Many portions of the Plan area include communities already vulnerable due to air quality impacts from existing agriculture, industry and transportation. It is important that the Plan, in addition to analyzing impacts on these communities, make these communities aware of major land-use planning decisions affecting their communities, and give them the opportunity to engage as stakeholders and members of the public in these decision-making processes.

Although the DRECP correctly notes that each of the Counties affected by the Plan other than Inyo are majority-minority (having a majority of non-white residents), there seem to have been no notices or other outreach in languages other than English. Imperial County, which will have the largest amount of renewable energy development under the Plan, is 86.2% minority, while San Bernardino, Kern and Riverside are each over 60% minority. Many of these residents are primarily Spanish speaking. However, to our knowledge, there was no Spanish-language (or other language other than English) outreach conducted as part of the DRECP comment period, DRECP public meetings, or previous stakeholder meetings. Nor did it appear that translation and interpretation services were available at public meetings, unless arrangements were made in advance. All written presentations at public meetings were in English, as is the DRECP website. Although we understand it would likely have been infeasible to translate the entire EIS/EIR, the DRECP, should have, at *a minimum*, translated the executive summary into the major languages spoken in the community. Additionally, many public meetings, and each of the stakeholder meetings, were scheduled during the daytime when many people cannot attend, and childcare was not provided for working families.

Local environmental and climate justice groups do not appear to have participated in the DRECP stakeholder processes or public meetings, other than those where Sierra Club recruited activists from our My Generation campaign. We expect in large part this was due to insufficient outreach. Many areas in the Plan Area—particularly the Eastern Coachella Valley—have communities well-organized around environmental justice issues, and local groups, if engaged to partner with

the CEC, could have played a role in outreach to community members, many of whom live in rural locations.

Additionally, we are concerned that the DRECP analyzes the impacts of conservation designations on low-income communities, yet does not analyze the impacts of the renewable energy development, deferring this analysis to project-level analysis. This seems particularly concerning as the DRECP is constructed as a programmatic document, with specific project-level decisions to be tiered to the Plan. One of the most important concerns for residents of these communities is the poor air quality, as these are some of the most polluted air basins in the state and the nation. In addition to engaging more of the local community in the DRECP, it is critical to improve upon the air quality analysis in the DRECP and to fully mitigate any air quality impacts. Please see our Air Quality comments, also attached to this set of Sierra Club comments, for more details.