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California Energy Commission

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Via Electronic Mail

James G. Kenna, State Director
Bureau of Land Management
California State Office
2800 Cottage Way, Suite W-1623
Sacramento, CA 95825
Via email: jkenna@blm.gov

Re: Mohave ground squirrel recommendations for the DRECP Land Use Plan Amendment

Dear Jim:

On March 10, 2015, the Bureau of Land Management (BLM) announced a change in the direction of the Desert Renewable Energy Conservation Plan (DRECP). At that time, the BLM stated that it was going to move forward with finalizing a Land Use Plan Amendment (LUPA) before the completion of any part of a DRECP decision document or permits involving private land development and/or conservation and federal and state endangered species permitting. We are writing to provide the BLM with recommendations for the conservation of the Mohave ground squirrel (MGS) on public lands under a final DRECP LUPA. Copies of this letter will be concurrently sent to the California Department of Fish and Wildlife (CDFW), U.S. Fish and Wildlife Service (USFWS), and the California Energy Commission (CEC).

Background

Defenders has supported conservation of the MGS for many years primarily through protection of its habitat. Due to ongoing concerns over cumulative loss of its habitat due to human land use activities, Defenders petitioned the Secretary of the Interior to have the species listed including designation of its critical habitat in 2005. In response to that petition, in 2010, the USFWS found the petition contained new information indicating the species may warrant listing and announced a 12-month status review. However, in October 2011, the USFWS determined that the species did not warrant listing "at this time."

In making that unwarranted listing determination in 2011, the USFWS relied, in large part, on the West Mojave (WEMO) Plan and its Mohave ground squirrel conservation provisions. BLM adopted alternative B of that plan in the 2006 Record of Decision (ROD), which amended the California Desert Conservation Area Plan and resulted in the designation of the MGS Wildlife Habitat Management Area (WHMA) (sometimes referred to as the MGS Conservation Area), which is comprised of approximately 1.7 million acres of public land. Although multiple land uses were allowed, BLM adopted a conservation framework under which the agency allowed for a maximum

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habitat loss limit of 1% during the 20 year life of the plan and a 5:1 compensatory mitigation requirement for each acre of habitat lost due to land use activities. (WEMO Plan, Chapter 2, pages 1, 204).

In making its unwarranted listing determination in 2011, the USFWS relied on the BLM's commitments under the WEMO Plan for MGS conservation, and specifically the 1% habitat loss limit and the 5:1 compensatory mitigation requirement. (76 Federal Register at 62231, 62233, 62235 (October 6, 2011)).

We have verified this based on a review of documents obtained from the USFWS through a Freedom of Information Act request. (Email from L. LaPre, BLM, to J. Hohman, USFWS, 5/27/2010; Email from J. Hohman, USFWS, to M. McCrary, USFWS, 5/29/2010).

The USFWS also referred to the DRECP in their finding that listing of the MGS was unwarranted. They expected that the conservation measures currently in place for the MGS (1% habitat loss limit and 5:1 compensatory mitigation) would be included in the DRECP as a continuation of the policy in place through the WEMO Plan amendments of 2006. (76 Federal Register at 62231, 62233, and 62234).

Interestingly, the federal programmatic solar plan (commonly referred to as the Solar PEIS) provided strong conservation measures for the MGS relative to solar energy development on public lands. The Solar PEIS ROD, including a clarification statement, signed in 2012 by the BLM Director, described certain public land areas as Exclusion Areas where solar project applications would not be accepted and development not allowed. Exclusion Criteria #7 excludes the following areas from solar energy development: "*Sage-grouse core areas, nesting habitat, and winter habitat; **Mohave ground squirrel habitat**; flat-tailed horned lizard habitat; fringe-toed lizard habitat; and all other areas where the BLM has agreements with state agency partners and other entities to manage sensitive species habitat in a manner that would preclude solar energy development.*" (emphasis added).

Recommendations for MGS Conservation in the Phase 1 DRECP

Defenders has carefully reviewed the Draft DRECP and developed several recommendations for MGS conservation on public lands that we believe are needed in a final DRECP Land Use Plan Amendment in order to be consistent with and achieve the stated biological goals and objectives for this species. While under the previous DRECP Framework, the conservation value of private lands proposed for protection in a final DRECP could potentially be "counted" as providing conservation for MGS beyond the conservation provided by BLM lands, the new Phase 1 Framework cannot rely on private lands as providing sufficient protections for MGS. Instead, until any future Natural Community Conservation Plans or Habitat Conservation Plans are adopted within MGS range on private lands, BLM lands provide the last, best areas for the continued existence of MGS and where conservation management actions will have the greatest benefit with the least cost.

Therefore, in order to ensure adequate protections for MGS on BLM lands within the DRECP planning area, Defenders makes the following recommendations that we strongly believe the BLM should include in a final DRECP LUPA:

1. **Conservation Designations:** The final proposed DRECP LUPA should include additional public lands as part of the MGS Areas of Critical Environmental Concern (ACEC). Attached is a map illustrating those additions.

- A. Rose Valley: Rose Valley is within the existing MGS WHMA in addition to the Rose Valley WHMA established in the original CDCA Plan of 1980.

Recommendation: This proposed DFA should be significantly reduced in size to match the County of Inyo's Renewable Energy General Plan Amendment approved by the Board of Supervisors earlier this year. All other public lands should be designated for conservation, including management of Mohave ground squirrel.

- B. North of Kramer Junction: Most of the public lands north of Kramer Junction are within the existing MGS WHMA except for several sections in a checkerboard pattern closer to Kramer Junction. During the 1990s BLM, in cooperation with Edwards AFB, acquired many sections of land in this area through the West Mojave Land Tenure Adjustment Project for the purpose of conserving habitat for several species including the Mohave ground squirrel. These acquisitions consolidated lands into public ownership which were previously in a checkerboard ownership pattern.

Recommendation: BLM lands within the MGS WHMA on both the east and west side of Hwy. 395 should be designated as part of the MGS ACEC, and the proposed development areas should be rejected.

- C. Desert Tortoise Natural Area (DTNA) and Fremont Valley: Designated as an ACEC for conservation of the desert tortoise and its habitat in 1980, the DTNA is an invaluable conservation area for tortoise as well as the MGS. Additionally, the lands to the north and east of the DTNA in the Fremont Valley and surrounding Koehn Dry Lake is important habitat for the MGS.

Recommendation: The entire DTNA including adjacent lands in Fremont Valley within the Western Rand Mountains ACEC should be retained in full.

- D. Indian Wells Valley: The area located between the western Indian Wells Valley extending south to Red Rock Canyon State Park supports the Little Dixie Wash core population for the MGS.

Recommendation: This area should not be considered as a development area in the Final EIS for the DRECP LUPA and should instead be designated for conservation.

We are aware that BLM worked to eliminate overlapping conservation land designations (ACEC and National Landscape Conservation System (NLCS)) in the proposed draft plan. As a result, the proposed MGS ACEC occurs in several isolated blocks of public land. We recommend, however, that BLM expand the proposed MGS ACEC and the other associated conservation areas that would, in combination, comprise the overall MGS conservation strategy, to include all the public lands within the existing MGS WHMA.

2. Management Prescriptions/Conservation Management Actions: The proposed Conservation Management Actions for the MGS in the draft plan (Avoidance and Minimization

Measures, and Compensatory Mitigation requirements) should be adopted and be applicable to all multiple land use activities and not simply limited to the DRECP's "Covered Activities." However, the Compensatory Mitigation ratio in the draft plan (2:1) should be increased to a 5:1 ratio to be consistent with BLM's intention in the 2006 WEMO Plan amendments. It is particularly important that habitats supporting known MGS core populations and the key linkages that connect them remain fully functional and in excellent ecological condition. Indeed, as explained above, the USFWS relied heavily on sufficient protections for MGS on BLM lands, including the 5:1 mitigation ratio, to reject the petition to list the MGS under the ESA, given the lack of protection for MGS on private lands. In light of the uncertainty of any final private land conservation plan/permit under the DRECP, the BLM lands again bear the significant responsibility of providing sufficient protection of the MGS.

In addition, BLM is concurrently planning to revise off-road vehicle use designations and livestock grazing allocations in the WEMO Plan area. Because these two allowable land uses overlap and impact the MGS and its habitat, we recommend BLM adopt strong impact and avoidance and minimization measures for off-road vehicle use and remove livestock grazing from not only the overall MGS conservation lands, but also all desert tortoise Desert Wildlife Management Areas (DWMA) and ACECs.

Lastly, the final DRECP LUPA should specify that renewable energy projects are not allowed within the overall MGS conservation area and that proposed transmission projects are restricted to existing designated corridors.

We would be pleased to discuss our recommendations with you and your staff at your convenience, and to answer any questions.

Sincerely,

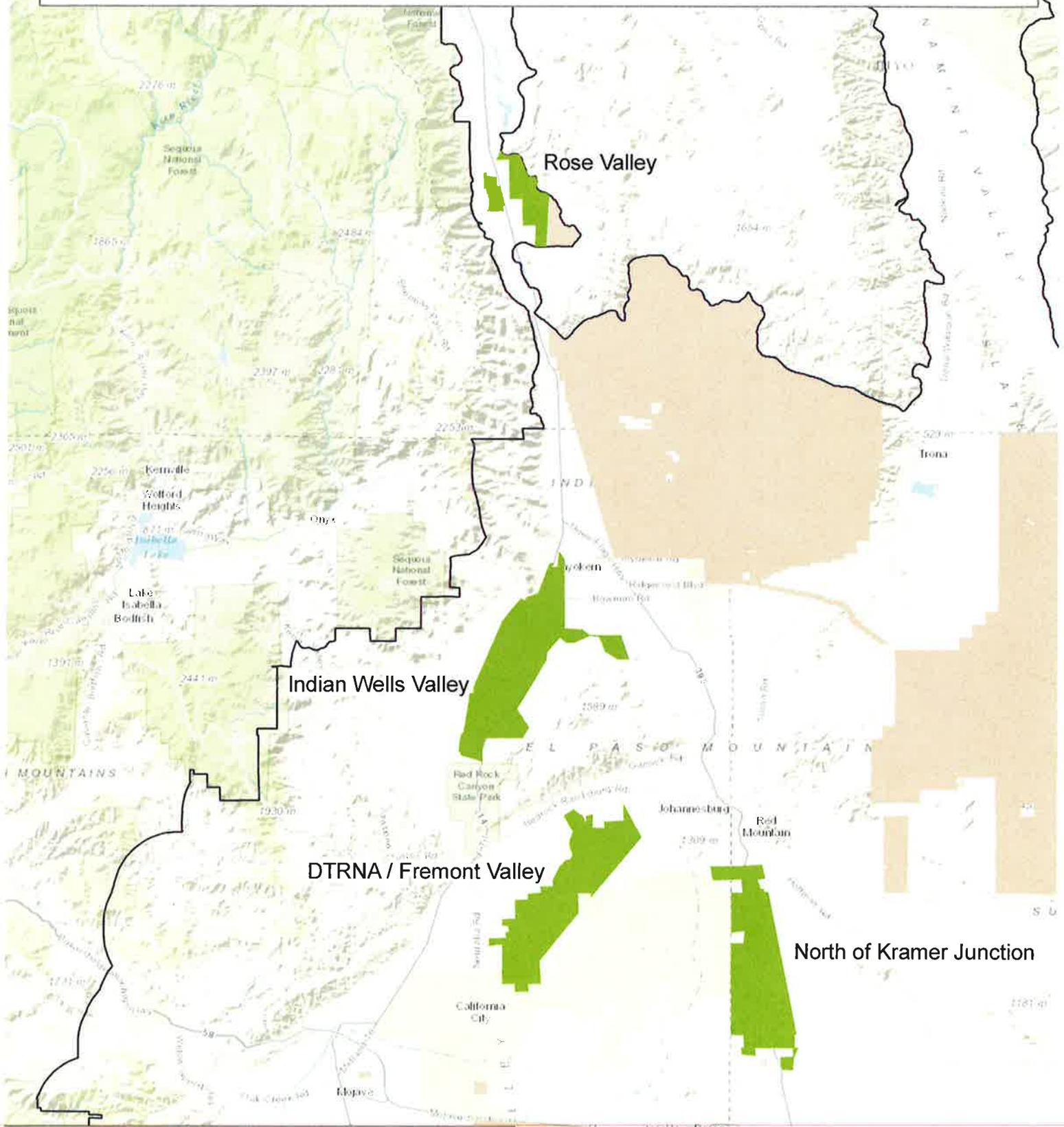
A handwritten signature in black ink that reads "Ki Delfino". The signature is written in a cursive, flowing style.

Kim Delfino
California Program Director
kdelfino@defenders.org

cc:

Kevin Hunting, Deputy Director, CDFW
Alex Pitts, Deputy Regional Director, Region 8, USFWS
Mike Fris, Assistant Regional Director, Region 8, USFWS
Karen Douglas, Commissioner, California Energy Commission

Mohave Ground Squirrel Conservation Additions on public land in the West Mojave Recommendations from Defenders of Wildlife



- MGS public land conservation recommendations
- DRECP boundary

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

