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**Via email only**

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Jerome Perez, BLM-California State Director  
Jeremiah Karuzas, Renewable Energy Program Lead  
2800 Cottage Way, Room W-1623  
Sacramento, CA 95825  
[BLM\\_CA\\_DRECP@blm.gov](mailto:BLM_CA_DRECP@blm.gov), [jkaruzas@blm.gov](mailto:jkaruzas@blm.gov)

RE: Scoping comments to consider changes to the Desert Renewable Energy Conservation Plan

Dear Mr. Perez and Mr. Karuzas:

The Desert Tortoise Council (Council) is a non-profit organization comprised of hundreds of professionals and laypersons who share a common concern for wild desert tortoises and a commitment to advancing the public's understanding of desert tortoise species. Established in 1975 to promote conservation of tortoises in the deserts of the southwestern United States and Mexico, the Council routinely provides information to individuals, organizations, and regulatory agencies on matters potentially affecting desert tortoises within their geographic ranges.

We appreciate this opportunity to provide comments on the Bureau of Land Management's (BLM) Notice of Intent (NOI) to amend the Desert Renewable Energy Conservation Plan (DRECP). Given the location of the DRECP area in habitats occupied by Agassiz's desert tortoise (*Gopherus agassizii*) and many other rare species, our comments pertain to enhancing protection of tortoises during Bureau of Land Management- (BLM) authorized activities.

1. The BLM's NOI of 2 February 2018 fails to indicate how the California Desert Conservation Area (CDCA) Plan (BLM 1980) will be amended, but we assume, given the size, scope, and potential significance of revising the DRECP, that the new analysis will be presented to the public in the form of a Draft Supplemental Environmental Impact Statement (herein "Draft SEIS" or other pertinent environmental document). A Draft Environmental Assessment would be unacceptable to the Council given the potential significant impacts resulting from a more development-friendly DRECP.

2. We understand that this new planning effort is prompted by Executive Order 13783, “Promoting Energy Independence and Economic Growth,” which states “It is in the national interest to promote clean and safe development of our Nation’s vast energy resources, while at the same time avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation.” We do not understand the relationship between Executive Order 13783 and previous executive orders including E. O. 13653 of November 1, 2013 (Preparing the United States for the Impact of Climate Change), E. O. 12893 of January 26, 1994 (Principles for Federal Infrastructure Investments), Presidential Memorandum of August 31, 2011 (Speeding Infrastructure Development through More Efficient and Effective Permitting and Environmental Review), E. O. 13604 of March 22, 2012 (Improving Performance of Federal Permitting and Review of Infrastructure Projects), and Presidential Memorandum of May 17, 2013 (Modernizing Federal Infrastructure Review and Permitting Regulations, Policies, and Procedures). Please be sure in the Draft EIS to describe how each of these executive orders is incorporated into and affects the drafting of the amended DRECP.

3. Public meetings during the planning process and DRECP documents stated that the plan was intended to streamline permitting and facilitate renewable energy development while promoting conservation of Agassiz’s desert tortoises and other rare biological resources within the 22-million-acre planning area. However, Executive Order 13783 and this renewed planning process imply that the DRECP fails to accomplish these goals; that economic production has somehow been encumbered, economic growth constrained, and new jobs prevented. The Draft SEIS must analyze positive and negative economic impacts on new renewable energy development since DRECP implementation to determine if the executive order is violated or not. If the finding is that there are no economic encumbrances, constraints, or lack of new jobs, we recommend that the BLM communicate this finding to the Administration with a statement that the existing DRECP fulfills the intent of Executive Order 13783.

4. Given that the record of decision for the DRECP was signed in September 2016 (BLM 2016), there have been about 18 months for that plan to operate. We ask that the Draft SEIS document how renewable energy development was affected by passage of the DRECP. In this respect, we expect that there would be a baseline analysis of renewable energy development before and after plan adoption that tests the notion that the implementation of the DRECP may have had an adverse impact on renewable energy development.

5. The previous consensus building planning effort for the DRECP, which lasted eight years, received considerable input from the scientific community, special interest groups, local governments, and general public. The Council was very active, submitting a 100-page comment letter on 23 February 2015 during the initial planning effort. Herein, we incorporate that document by reference and provide it as one of two attachments to this comment letter.

6. Various press releases and editorial articles suggest that revisiting the DRECP would likely result in more widespread development of renewable energy, but would also facilitate new opportunities for intrusive vehicle recreation, mining, and grazing. The information in these articles is supported by the very broad language in BLM’s NOI that states that “This notice initiates the public scoping process for the potential plan amendments” and “the BLM seeks additional comment on the DRECP Record of Decision,” which include numerous issues beyond development of renewable energy.

7. Given that the existing DRECP was designed to create a balance between new renewable energy development [while inexplicably creating more recreational opportunities in Extensive Recreation Management Areas (ERMAs) and Special Recreation Management Areas (SRMAs)], the Draft SEIS must analyze how existing conservation areas will be expanded to counterbalance new energy development, recreation, mining, grazing, and other activities (if those new activities are facilitated by the revised DRECP).

8. Under the Preferred Alternative in the DRECP EIS (BLM 2015), a total of 8,000 acres of Critical Habitat designated by the U.S. Fish and Wildlife Service (USFWS) for Agassiz's desert tortoise (USFWS 1994) was made available for renewable energy development. The DRECP, if revised, should exclude all renewable energy development from tortoise Critical Habitat, particularly if it identifies new Agassiz's desert tortoise habitats as Development Focus Areas. Avoidance of Critical Habitat is necessary to counteract persisting declines in tortoise populations, which have fallen precipitously throughout California between 2004 and 2014. For example, in the West Mojave Recovery Unit, tortoise populations have declined by 51% during that time period (USFWS 2014). It should also be written to exclude all areas that have or will be used for tortoise translocation areas and connectivity areas to link tortoise conservation areas (e.g., mitigation areas, translocation areas, designated Tortoise Conservation Areas, etc.). Tortoise Conservation Areas and Areas of Critical Environmental Concern (ACECs) intended to conserve tortoises should include buffer areas to prevent indirect effects from adversely affecting the functions and values of those areas.

9. We note the following Conservation Management Action (CMA) in the existing DRECP: **"DFA-BIO-IFS-4:** The [Development Focus Area] DFA in the 'North of Edwards' Mohave ground squirrel key population center is closed to renewable energy applications and any activity that is likely to result in the mortality (killing) of a Mohave ground squirrel..." And, "BLM will assess new Mohave ground squirrel information, in coordination with the CDFW, to determine if modifications to the DFA or CMAs are warranted based on new Mohave ground squirrel information." We are pleased to inform you and provide as an attachment, a document entitled "Mohave ground squirrel 2016 trapping results for 11 grids in the 'Bowling Alley,' San Bernardino County, California," where "Bowling Alley" refers to the same "North of Edwards" region described above in the CMA.

Based on these new data (LaRue 2016, which is attached) that were collected since the adoption of the DRECP, we request that the BLM remove the North of Edwards Key Population Center for MGS (herein "Bowling Alley") as a DFA from the revised DRECP, and rather, designate it as a MGS Conservation Area, which is how it was designated in the West Mojave Plan (BLM 2005):

a. Importantly, this North of Edwards DFA fails to satisfy 10 of the 11 criteria identified in the DRECP for DFAs on page 36 of the draft plan (BLM 2015). The only criterion that is fully met is that the area, often referred to as "North Edwards," "North of Kramer," and herein "Bowling Alley," is located near existing transmission facilities.

b. Between March 8 and June 22, 2016, 22 biologists trapped 11 grids in the region north of Edwards Air Force Base, which has been colloquially referred to as the "Bowling Alley" [North of Edwards key population center]. Thirteen Mohave ground squirrels (MGS), including 4 adults and 9 juveniles, were captured on 6 of the 11 grids.

c. That 13 Mohave ground squirrels were captured from the north end to the south end of the study area during the 2016 trapping effort is considered reliable evidence that the MGS occurs throughout the Bowling Alley, persists within this area even though regional populations are in decline and may have been extirpated from the southern and western portions of the historic range (Leitner 2015), and in spite of recent years of drought.

d. The Bowling Alley is comprised of suitable substrates; moderate-to-high diversity of perennial plants; a prevalence of ecologically-important spiny hopsage and winterfat plants; habitat for at least 10 other special status plant and animal species (particularly tortoises) and other protected resources detected during the study; and is minimally affected by low levels of human impacts (with the exception of sheep grazing).

e. The following special status species were identified among the 11 sites, which is evidence that these are viable, native habitats that should be conserved: Desert tortoise, burrowing owl, LeConte's thrasher, loggerhead shrike, American badger, desert cymopterus, Swainson's hawk, Vaux's swift, northern harrier, and creosote bush rings larger than 10 feet in diameter, which were identified as a protected resource in the DRECP (BLM 2016).

Herein, the Council incorporates by reference our previous comments, which are attached and were submitted to the BLM on 23 February 2015, for the initial planning effort of the DRECP. We felt at the time that many of our comments were not given adequate consideration and see this as an opportunity to obtain substantive answers to many of our unanswered concerns in this new DRECP planning effort. Although we expect new environmental analysis and documentation to address each of our comments of February 2015 in light of new developments and changed circumstances supported by the new planning effort, we especially want the following issues to be addressed in the new document(s):

1. There should be no opportunity for development of Agassiz's desert tortoise Critical Habitat under the revised DRECP. New information regarding tortoise population declines provided by the U.S. Fish and Wildlife Service (USFWS 2014, 2015, 2017) must be considered in the Draft SEIS. Given the significance of the tortoise population declines, the Council contends that Critical Habitat must receive more protection than was envisioned in the previous DRECP EIS (BLM 2015) where up to 8,000 acres became available for renewable energy development. [Unless otherwise noted, herein "Critical Habitat" refers to those areas that were designated as essential to the conservation and recovery of Agassiz's desert tortoise in the USFWS (1994) Federal Register Notice.]

2. Under a revised DRECP, the Council maintains that all desert tortoise Critical Habitat be designated as National Conservation Lands (NCL). We note that Critical Habitat designations are one of the four criteria BLM is supposed to use to designate NCLs, but that the earlier DRECP (BLM 2016) designates less than half of tortoise Critical Habitat as NCLs.

3. Due to the significant declines in Agassiz's desert tortoise populations throughout all but the northeastern portion of its range, the Council maintains that all SRMAs and ERMAs delineated in the BLM's (2016) Record of Decision (ROD) for the DRECP where they overlap with desert tortoise Critical Habitats be rescinded. The Council maintains that increasing off-highway vehicle (OHV) recreational use in Agassiz's desert tortoise Critical Habitat will not promote tortoise conservation or recovery, and that "but for" the DRECP, increased recreational vehicle activity would not occur in designated Critical Habitat areas.

4. Further, no competitive recreational vehicle events should be allowed in Critical Habitat, ACECS, or NCLs, which are allowable under the original DRECP (BLM 2015). The Council was very outspoken in our February 2015 comments that “but for” the DRECP then-current management did not allow commercial and competitive recreational events in tortoise Critical Habitats. Now, the BLM has an opportunity to rescind that earlier decision in light of persisting tortoise declines in Critical Habitats (USFWS 201, 2015, 2017).

5. Due to unmitigated tortoise declines, the Council maintains that no new transmission line development occur in Critical Habitat, ACECs, or NCLs.

6. No lands specifically acquired to offset impacts to tortoises, including the large-scale exchanges associated with the Catellus Corporation and the expansion of Fort Irwin National Training Center, should occur in DFAs. When purchased, these lands were to be protected in perpetuity; designating them for streamlined renewable energy development is in violation of formal state and federal agreements made among proponents, regulatory agencies, and land managers, particularly the BLM.

7. Given that the first DRECP effort was obligated to ensure that “...the impacts of the taking are minimized and fully mitigated by measures that are roughly proportional in extent to the project-related impact to the species...,” the Council maintains that if the new planning effort results in more loss of tortoise habitat to renewable energy, mining, and recreation than was available under the previous plan, then the new DRECP plan must provide for relatively more tortoise conservation to maintain that balance and meet the fully mitigate standard.

8. Prior to the earlier DRECP (BLM 2016), then-current management required that habitat compensation occur at a ratio of 5:1 in Desert Wildlife Management Areas (DWMAs); for each acre or impact, five acres would be acquired and managed for tortoise conservation. Although DWMAs were eliminated, those same areas are now embodied in ACECs. However, the earlier DRECP indicated that 5:1 compensation would apply only to Critical Habitat areas. The Council maintains that the revised DRECP require 5:1 compensation for all projects in ACECs *and* Critical Habitat, which constituted current management prior to the DRECP ROD (BLM 2016).

We appreciate this opportunity to provide input and trust that our comments will further protect tortoises during authorized project activities if the DRECP is revised. Herein, we ask that the Desert Tortoise Council be identified as an Affected Interest for this and all other BLM projects that may affect desert tortoises, and that any subsequent environmental documentation for this particular project is provided to us at the contact information listed above.

Regards,



Edward L. LaRue, Jr., M.S.  
Desert Tortoise Council, Ecosystems Advisory Committee, Chairperson

There are two attachments, including:

LaRue, E.L. 2016. Mohave ground squirrel 2016 trapping results for 11 grids in the “Bowling Alley,” San Bernardino County, California. Unpublished report prepared for the Mohave Ground Squirrel Technical Advisory Group. Wrightwood, CA.

Desert Tortoise Council. 23 February 2015. Comments on the Draft SIS for the DRECP.

### **Literature Cited**

LaRue, E.L. 2016. Mohave ground squirrel 2016 trapping results for 11 grids in the “Bowling Alley,” San Bernardino County, California. Unpublished report prepared for the Mohave Ground Squirrel Technical Advisory Group. Wrightwood, CA.

Leitner, P. 2015. Current status of the Mohave ground squirrel (*Xerospermophilus mohavensis*): A five-year update (2008–2012). Endangered Species Recovery Program, California State University, Stanislaus, One University Circle, Turlock, California 95382. Published in *Western Wildlife* 2: 9–22.

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U.S. Fish and Wildlife Service. 1994. Endangered and threatened wildlife and plants; determination of critical habitat for the Mojave population of the desert tortoise. Federal Register 55(26):5820-5866. Washington, D.C.

U.S. Fish and Wildlife Service. 2014. Status of the desert tortoise and critical habitat. Unpublished report available on the Desert Tortoise Recovery Office’s website: “02/10/2014 Status of the Desert Tortoise and Critical Habitat (.704MB PDF).” Reno, NV.

U.S. Fish and Wildlife Service. 2015. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2013 and 2014 Annual Reports. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. 44 pages.

U.S. Fish and Wildlife Service. 2017. Status of the desert tortoise and Critical Habitat (dated 11 October 2017). Unpublished report prepared by the Desert Tortoise Recovery Office of the USFWS. Reno, NV. 24 pages.