



DESERT TORTOISE COUNCIL

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Date: 16 April 2013

To: San Bernardino County Board of Supervisors

From: Desert Tortoise Council, Ecosystems Advisory Committee

RE: Desert Renewable Energy Conservation Plan (DRECP)

Dear Supervisors,

The Desert Tortoise Council (Council) is a private, 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 this species. Established in 1976 to promote conservation of tortoises in the deserts of the southwestern United States and Mexico, the Council regularly provides information to individuals, organizations and regulatory agencies on matters potentially affecting the desert tortoise within its historical range.

Herein, the Council provides San Bernardino County Supervisors with a list of its current concerns with regards to DRECP planning.

Interactions with Existing Plans

General Plans

1. Each County, City, and Town within the DRECP planning area has spent years developing general plans that suit their current and future needs. Will the DRECP compliment these existing plans? Or, will it require substantial changes to the general plan regulating San Bernardino County?
2. Since renewable energy is only one of many forms of development within San Bernardino County, how will other uses such as mining, residential and commercial development, and nonrenewable utility development such as pipelines and fiber optic cables, for example, be affected by the DRECP on private lands, in particular?

Tortoise Recovery Plan

3. The Council concurs with the stated intent of the DRECP to incorporate goals, objectives and conservation measures from the U.S. Fish and Wildlife Service's (USFWS) 1994 and 2011 Revised Recovery Plans for the desert tortoise (and from the plans for other listed species) into the DRECP conservation strategy. Recovery of the Mojave population of desert tortoise should be a primary planning goal of the DRECP. The USFWS recovery strategy for the tortoise should be detailed in the text of the DRECP. Actions that would "protect existing populations and habitat" are discussed in the Revised Recovery Plan (2011, pages 67 to 78). The 1994 Recovery Plan specifies both recommended regulations and recommended actions for desert tortoise recovery (see pages 56 to 61). We believe that implementation of a well-conceived DRECP should facilitate recovery rather than detract from it.

Existing Bureau of Land Management Bioregional Plans

4. The public was presented with a series of maps depicting proposed alternatives in July 2012. Draft Alternatives 3 and 5, and Alternatives 1 and 2, less so, would concentrate renewable energy development on the population segment of tortoises occurring in the San Bernardino and Kern County portions of the West Mojave area, which is, arguably, already the most imperiled tortoise population segment within the DRECP planning area. Concentrating renewable energy in the West Mojave significantly adds to the cumulative impacts of expanding military bases (both by the Army at Fort Irwin and by the Marines at Twentynine Palms), existing Bureau of Land Management (BLM) vehicle open areas, cattle and sheep grazing allotments, and the proximity to expanding urban areas of the Antelope Valley, Victor Valley, Barstow, and Morongo Basin (Yucca Valley to Twentynine Palms as per Alternatives 3 and 5).

5. The DRECP must fully mitigate its own impacts that would not occur but for the plan. With the adoption of three regional BLM plans and numerous other plans already in place, the DRECP must complement existing protective measures without compromising the effectiveness of these plans. Existing designations and plans that are already intended to protect desert tortoises include designation of desert tortoise critical habitat in 1994, development of the recovery plan in 1994, revision of the recovery plan in 2011, hundreds of federal biological opinions issued by the USFWS, etc.

6. Given these concerns, we are dismayed to learn that recent planning of the DRECP intends to elevate the allowable ground disturbance in Desert Wildlife Management Areas (DWMAs) from the 1% identified in the West Mojave Plan up to 10%! There are no new data that support such an apparently arbitrary increase in allowable development in the last best places managed for tortoise conservation and recovery in the most imperiled portion of the DRECP planning area. There are no available data that demonstrate tortoises are better off now than in 2004 when the West Mojave Plan identified the 1% cap on development within DWMAs.

7. Success of the West Mojave Plan assumed that development of tortoise habitats on public lands managed by the BLM would not exceed 1% of those lands within DWMAs. If the DRECP seriously expands this 1% cap on development of BLM lands in a California Desert Conservation Area (CDCA) Plan Amendment, it will likely seriously undermine the efficacy of the West Mojave Plan to protect tortoises. The Council would not support a DRECP plan that undermines existing protection, conservation, and recovery of tortoises, particularly in the West Mojave.

8. How does the DRECP propose to restrict and manage development within an expanded 10% area to renewable energy development, only? If a CDCA Plan amendment opens large areas of DWMAs to energy development, how will water and communication-based utility companies, residential and commercial developers, miners, and other non-energy developers be prohibited from developing their other types of projects in those areas?

9. How can the DRECP avoid the placement of multiple energy development sites in a concentrated area within a DWMA? If a substantial part of the 10% allowable ground disturbance in a given DWMA happened to occur within one valley or region, like is occurring in Ivanpah Valley for example, it could seriously undermine tortoise conservation of the entire DWMA. What are the measures that would prevent this type of clustered development?

Desert Tortoise Research Natural Area

10. In July 2012 when DRECP alternatives were revealed, the Council was dismayed that the Desert Tortoise Research Natural Area (DTRNA), which is located in Kern County and managed collaboratively by both the BLM and Desert Tortoise Preserve Committee (DTPC), was identified as a Development Focus Area (DFA) in four of the five alternatives depicted! Alternatives 3 and 5, in particular, would affect 80 to 90% of the DTRNA, which may be the only place within the listed range of Agassiz's desert tortoise where the regional population is stable or increasing. There are thousands of acres of mitigation lands acquired and managed by the DTPC within the DTRNA that would be adversely affected by implementing four of the five previously-identified alternatives. The DTRNA must be completely excluded from DFAs or any other designation that would directly or indirectly affect the desert tortoise in that important area. Situating DFAs on or immediately adjacent to the DTRNA in occupied habitats represents a serious new threat that would not exist "but for" the DRECP.

Special Recreation Management Areas

11. In the second map of the overview document from 25 July 2012, substantial portions of the Fremont-Kramer DWMA, the western portion of the Superior-Cronese DWMA, and more than half of the Ord-Rodman DWMA were shown as "Existing Special Recreation Management Areas." DRECP planners explained these as "...administrative units where the existing or proposed recreation opportunities and recreation setting characteristics are recognized for their unique value, importance, and/or distinctiveness; especially compared to other areas used for recreation." The Council is concerned that DRECP or BLM could use these designated areas for enhanced recreation in DWMA's, which are the only places ostensibly designated to conserve and recover tortoises.

Existing Mitigation Parcels

12. Although the map on page 63 of the DRECP overview provided on 25 July 2012 shows general areas where mitigation has occurred, the Council needs maps showing site-specific mitigation parcels relative to the DFAs envisioned by the alternatives. Since these mitigation lands were acquired in support of previous projects that have already been developed, they have been identified to provide tortoise conservation *in perpetuity*. Existing mitigation parcels must continue to be protected for tortoise conservation; otherwise, federal biological opinions and other legal agreements (i.e., implementing agreements for incidental take permits) would be violated. The Council requests that maps be published that show how existing specific mitigation parcels would be affected by the proposed DFAs. The Council would not support any development, whatsoever, on mitigation parcels previously acquired to offset impacts to desert tortoise-occupied habitats.

Habitats That Should Not Be Developed

13. The Council strongly discourages DRECP-authorized energy development in any of the following designated areas: existing DTRNA; expanded portions of the DTRNA to the east; any other Research Natural Areas (RNAs); desert tortoise critical habitat; DWMA's identified in the three BLM regional management plans; Areas of Critical Environmental Concern (ACECs) established for natural and cultural resources; Wilderness Areas; and National Parks. Development is most appropriate on the numerous available private lands in close proximity to urban and industrial developments along existing utility corridors.

14. In a comment letter to DRECP planners on 27 November 2011, the Council provided the following list (including some redundancy with the above list) as habitats that should not be adversely affected by renewable energy development: (1) The DTRNA; (2) Joshua Tree National Park and the southern portion of Death Valley National Park; (3) all lands designated as critical habitat in 1980 and 1994; (4) all lands included in DWMA as designated by BLM's three coordinated management plans in California. (5) all private lands that are in-holdings in the DTRNA, Joshua Tree National Park (tortoise habitat only), and within critical habitat; (6) lands not included within the 1980 and 1994 critical habitat designations but subsequently found to support significant populations of tortoises; (7) lands adjacent to critical habitat and for which development would have moderate to severe adverse impacts; (8) lands that serve to connect the DTNRA, critical habitat or parts of critical habitat, or the National Parks as "connecting corridors" with similar habitats; and (9) lands at elevations of 3,800-5,000+ feet outside critical habitat and currently with low densities of tortoises as these lands are likely to contain suitable habitat in the next 50 to 100 years with climate change. Any plan that would facilitate development of the above habitats would detract seriously from the recovery of the desert tortoise.

Development of Transmission Corridors

15. We are particularly concerned that all five alternatives distributed to the public on 25 July 2012 show the following transmission corridors:

(a) Two corridors running northeast from Kramer Junction to China Lake Naval Air Weapons Station. We are certain that neither of these corridors has been developed (i.e., there are no existing transmission towers), and don't believe that these are designated by the BLM in the CDCA Plan. Are these intended to transmit new energy from (or to) facilities that have not been developed? We note that none of the five alternatives proposes a DFA at the end or beginning of these dead-end corridors.

(b) All five alternatives show a transmission corridor running through the northwestern corner of the Ord-Rodman DWMA. Is this already developed? Is this an existing BLM-designated transmission corridor? Why can't an alternative be identified where the corridor follows Interstate 40 and Highway 247 to avoid the DWMA?

(c) There are also two corridors running the entire width of the East Mojave National Preserve in *all five alternatives*. How can every alternative have the same two corridors? We understand the function of alternatives is to vary the infrastructure that would allow, or not, development of facilities and corridors in one area versus another. As presented, each and every one of these corridors is being considered in each and every alternative! There are no choices! Where is the opportunity to select one alternative transmission corridor over another one?

Habitats That Should Be Developed

16. The Council supports DRECP-authorized energy development on existing agricultural lands (both fallow and active) west of Highway 14; urbanizing areas elsewhere in the Antelope Valley and Victor Valley; on roof tops within urban and suburban areas; and other compromised habitats where neither tortoises nor potentially occupied habitats occur.

17. There is a strong perception that energy developers are seeking public lands as cheap lands available to be leased, bought, and developed rather than seeking private lands that are “cost prohibitive” to these for-profit energy developers. Although impacted by ongoing grazing and recreational uses, non-military public lands managed by the BLM still remain as the least impacted lands in the desert. The DRECP should encourage development of non-habitat private lands, regardless of the cost to the energy developers, and not identify BLM lands, for example, just because it costs less to develop those public lands.

Draft Biological Goals and Objectives for Mohave Ground Squirrel

18. With regards to draft biological goals dated 10 April 2013, we urge that the wording in Goal MGS1 for Mohave ground squirrel be changed from “Conserve suitable habitat (see Appendix A – Glossary of Terms) required for the long-term management and conservation of MGS; ~~excluding habitat within~~ Department of Defense (DOD) installations” to read as follows: “Conserve suitable habitat (see Appendix A – Glossary of Terms) required for the long-term management and conservation of MGS **outside** habitats within Department of Defense (DOD) installations.” We believe that this edit retains the original intent of the goal without specifically excluding management of habitat on installations, which is a decision left up to each military branch.

19. Edwards Air Force Base, in particular, has been very proactive in studying Mohave ground squirrel habitat and minimizing impacts. The Council feels strongly that Mohave ground squirrel habitats *outside* military lands should be protected without specifically stating those important lands *inside* military installations be excluded. We do appreciate that “Important Areas on DOD Lands” are shown in Maps 1 and 2.

20. We strongly encourage DRECP to clearly show how this current proposal differs from the MGS conservation area codified in the record of decision for the West Mojave Plan, which reflects current management. We appreciate that private lands, which are not currently protected under the West Mojave Plan, have been identified as important habitats. Listing hundreds of thousands of acres of suitable habitats, linkages, and corridors sounds impressive, but how does the current DRECP proposal compare to current management? There are extensive undesignated, white areas in Map 1 that are currently within the West Mojave Plan MGS conservation area but are not designated in the current iteration of the DRECP. In our experience, if it is not designated, it becomes available for multiple-use, including development. If so, it appears that implementing the DRECP approach to MGS conservation would provide even less protection than is currently provided by the West Mojave Plan, particularly if a CDCA Plan amendment adopts these land designations in lieu of the current one provided in the West Mojave Plan.

21. Note, too, that under the West Mojave Plan, there is a 1% allowable ground disturbance on BLM public lands in the MGS conservation area. Would the DRECP result in an increase of up to 10% allowable ground disturbance in MGS habitat as is currently proposed for tortoise habitats in DWMAAs?

August 2012 Review of the Independent Science Panel

22. The August 2012 scientific panel review of the DRECP unanimously concluded that, “DRECP is unlikely to produce a scientifically defensible plan without making immediate and significant course corrections.” We applaud the panel’s recommendation, “To the greatest degree possible, site all developments on previously disturbed land,” however there is no indication that the DRECP planning team has followed this recommendation. How can the random development of 10% of habitats within DWMA’s, including critical habitat, be construed as siting development in previously disturbed areas?

23. We also appreciate that the panel recommended that DRECP, “Implement and improve on conservation actions identified by existing conservation and recovery plans.” However, as described above, it appears that DRECP would function to reduce and minimize protections provided by other plans and not increase or support their function to protect important habitats.

As a whole, the Council neither endorses nor opposes the DRECP as presently written, but we expect that implementation of the plan must enhance tortoise recovery rather than detract from it. Unfortunately, as given herein, there are many existing preplanning issues that, unless they are substantially altered, will facilitate renewable energy development at the cost of undermining recovery efforts. Thank you for this opportunity to provide input.

Regards,

A handwritten signature in blue ink, appearing to read "E. LaRue, Jr.", is centered below the text "Regards,". The signature is written in a cursive style.

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