



DESERT TORTOISE COUNCIL

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Via email only

Ms. Linda Mawby, Senior Planner
County of San Bernardino, Land Use Services Department, Planning Division
385 North Arrowhead Ave. First Floor
San Bernardino, CA 92415
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RE: San Bernardino County General Plan Renewable Energy and Conservation Element

Dear Ms. Mawby,

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 this species. Established in 1975 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 geographic range.

The Council appreciates this opportunity to comment on the April 2017 Draft Plan. The comments we submitted on 1 November 2016 are still pertinent and have been provided again as an attachment to this new comment letter. The intent of the current comment letter is to provide new, additional information relative to our comments last November. In that letter, we documented that the 40 square-mile± area located north of Kramer Junction, comprised of both private and public lands regulated by San Bernardino County and managed by the Bureau of Land Management (BLM), respectively, fail to satisfy nine of the 11 criteria identified in the Desert Renewable Energy Conservation Plan (GRECP) for Development Focus Areas (DFAs) and in the Draft Plan on page 36. 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.

A team of 22 biologists led by Council Board member, Ed LaRue, trapped 11 Mohave ground squirrel (MGS) grids in the Bowling Alley between March 8 and June 22, 2016. During that 55-day volunteer trapping effort, the biologists live-trapped and released 13 MGS, including four adults and nine juveniles, on six of the 11 grids trapped. Evidence of desert tortoise was found on 7 of 11 grids, and 9 other special status plant, bird, and mammal species were identified. A copy of the technical report (LaRue 2016) is attached for your consideration.

The results of this trapping effort were presented to the California Department of Fish and Wildlife (CDFW) and BLM at the Mohave Ground Squirrel Technical Advisory Group (MGS TAG) meeting on 26 October 2016. During that meeting, MGS TAG Chairperson, Dr. Scott Osborn, who is the Statewide Coordinator for Small Mammal Conservation with CDFW indicated that "...the 2016 results support a determination that this [Bowling Alley] should be considered more as a Key Population Area than a linkage area" (taken from the minutes of the MGS TAG meeting on 10/26/2016; available upon request). Dr. Osborn indicated that the Bowling Alley will be identified as a Key Population Center for MGS in its Final Conservation Strategy for the Mohave Ground Squirrel, which is expected to be released later in 2017. Amy Fesnock, representing the BLM at the MGS TAG, acknowledged that BLM is looking for recommendations given in the CDFW's MGS conservation strategy to determine the final DRECP-designation of the region encompassing the Bowling Alley, which we interpret to mean that the region will not be designated as a DRECP-DFA.

Based on the results of the LaRue (2016) study and other information given above, we consider the BLM's intent to exclude this area from focused energy development to be a new incentive for the county to follow suit and exclude private lands within the Bowling Alley from further consideration as a focused development area. We believe that this recommendation is supported by the Draft Plan, as follows.

On page 4 of the Draft Plan, we note that one of the CORE (community-oriented renewable energy) values of the Countywide Vision is the "Conservation of Natural and Cultural Resources: Stewardship that conserves and responsibly uses environmental, scenic, recreational, and cultural assets, *ensures healthy habitats for sensitive plants and wildlife*, enhances air quality and makes the county a great place for residents and visitors alike [*emphasis added*]." Protection of the threatened resources that occur in the Bowling Alley, particularly the desert tortoise and MGS, will promote the Countywide Vision.

One of the Guiding Principles of the Draft Plan (page 6) is to locate renewable energy development in previously disturbed areas (reiterated in Point 1 on page 10 and Siting Policy 1 on page 34 of the Draft Plan). With the exception of a single, abandoned facility near the center of the Bowling Alley and the Air Force facility to the south, there are no existing residential or commercial developments in the Bowling Alley. With the exception of sheep grazing on two BLM ephemeral allotments, the entire Bowling Alley is relatively undisturbed. On 7 of the 11 grids where human impacts were tallied [see Table 15, page 38 in LaRue (2016)], biologists found 50 off-highway vehicle tracks, 23 roads, 17 mine pits (on southernmost grids), 4 pieces of litter, 1 rifle shell, 1 shooting target, 1 old tire, and 1 paved road. The report concluded, "Excluding sheep grazing, these impact levels are NOT considered to be high or prevalent. Based on 27 years of tallying human disturbances in the Mojave Desert, LaRue concludes that these disturbance levels are much lower than most regions in the West Mojave."

Another of the Guiding Principals in the Draft Plan (page 6) is to "Conserve and sustain sensitive natural resources and habitats" (reiterated in Point 3 on page 10 of the Draft Plan). The only two MGS studies conducted in the Bowling Alley detected three MGS at the three camera stations established in 2011 and the 13 animals captured in 2016 [see Figure 18 on page 38 of LaRue (2016)]. The Bowling Alley was identified as part of the Mohave Ground Squirrel Conservation Area in the West Mojave Plan (BLM 2006), and in spite of public disapproval and in the absence of any new data, was withdrawn from the conservation area in the DRECP, pending additional input within five years following DRECP adoption.

As tabulated on page 9 and mapped in Figures 4 through 14 of LaRue (2016), nine different special status species and one special status resource (creosote rings larger than 10 feet in diameter) were either observed or detected along the 11 trapping grids between March 9 and June 22, 2016. Some of these species including desert tortoise, burrowing owl, LeConte's thrasher, loggerhead shrike, and American badger are resident animals that could have been observed or detected throughout the survey effort. Other rare species, including desert cymopterus, Swainson's hawk, Vaux's swift, and northern harrier are only detectable at certain times of year. For these species, and especially the birds, they would be expected to occur throughout the Bowling Alley and not just the few sites where they were incidentally observed during their migration or germination periods.

One of the Guiding Principals in the Draft Plan (page 6) is to "Prohibit renewable energy production in areas identified as critical habitat or as a wildlife corridor for species of special concern as defined in the Conservation Element, without comprehensive and feasible mitigation or avoidance of potential impacts." As documented in the MGS TAG minutes of October 2016, we note that the Final MGS Conservation Strategy will identify the Bowling Alley as a Key Population Center (the State does not designate critical habitat and MGS is not federally listed), the protection of which is considered essential to persisting MGS populations.

We note in Section V, page 35 of the Draft Plan that the County "...encourages utility-oriented RE [Renewable Energy] development on federal land in DRECP Development Focus Areas (DFAs)." As per the DRECP management prescriptions DFA-BIO-IFS-4 and DFA-BIO-IFS-5 in the Final DRECP, San Bernardino County, Kern County, and CDFW were given five years to determine the ecological importance of the Bowling Alley (therein "North of Edwards" Mohave ground squirrel key population center). The focused MGS trapping effort of 2016 was fully intended to provide this new information. Having received the results, CDFW indicated during the MGS TAG that it would formally designate the Bowling Alley as a key population center in the Final MGS Conservation Strategy, which will include the recommendation that the Bowling Alley not be designated as a DRECP DFA. As such, we ask that County Supervisors acknowledge this new biological information and not designate DFAs relative to private lands in the Bowling Alley.

In this same section also on page 35, the Draft Plan refers to the Supervisor's 16 February 2016 Resolution, which identifies five County development focus areas, including Site 2, which is the "North Edwards" area herein referred to synonymously as the "Bowling Alley." Given the new scientific data presented herein, we strongly recommend that the Draft Plan clearly specify that the North Edwards area identified in the Supervisor's 2016 Resolution be withdrawn from consideration as it fails to meet the County's CORE standards, Guiding Principles, and Siting Policies described in the Draft Plan.

As written, the Draft Plan expresses the County's intent to adopt the Supervisor's 2016 Resolution, which is incorporated by reference, but does not include maps of those areas in the Draft Plan. In the spirit of full transparency (see the last CORE value on page 4), we feel that the Draft Plan must include maps of the regions where it intends to focus renewable energy development, excluding Site 2 for reasons given herein. Failure to include these maps in the Draft, assumes that the readers know how to access the Supervisor's resolution and renders the Draft Plan a somewhat less-informative document.

With regards to Policy 5.5, page 37: “Coordinate with the Department of Defense on the siting of RE generation facilities in a manner that will not significantly impact military operations in the unincorporated county,” it is particularly important that the County planners communicate with Edwards Air Force Base about development in the Bowling Alley. It is our understanding that lands within the Bowling Alley were identified for retention and consolidation rather than disposal to compliment the flight program at Edwards and that some of the lands may have been acquired under the 1990 Land Tenure Adjustment Project.

With regards to 6.1.4, page 39: “Establish procedures and standards in the Development Code for new RE project applications that clearly identify the environmental review process, design standards, and permit requirements,” it is particularly important that the County continue to require and enforce requisite studies to ascertain impacts to rare species. There are specific survey protocols for desert tortoise (USFWS 2010), MGS (CDFG 2003 revised 2010), and burrowing owl (CDFW 2012), among others, that must be implemented to ensure that the County is reviewing reports employing the latest standards from qualified consultants for proposed energy projects that may affect these and other rare species.

We support alternatives to reduce the need for additional solar energy projects in the Mojave Desert. That alternative is rooftop solar. The City of Los Angeles has implemented a rooftop solar Feed-in Tariff (FiT) program, the largest of its kind in America. The FiT program enables the owners of large buildings (e.g., Wal-Mart Distribution Center) to install solar panels on their roofs, and sell the power they generate back to utilities for distribution into the power grid [<https://www.lamayor.org/mayor-garcetti-announces-completion-world%E2%80%99s-most-powerful-rooftop-solar-project>]. This approach puts the generation of electricity where the demand is greatest, in populated areas. It may also reduce transmission costs, the number of affected resources that must be analyzed under CEQA and NEPA, and mitigation costs. The County of San Bernardino should consider adding a program similar to the FiT program to its general plan.

Thank you for your time. Please be sure that the Desert Tortoise Council is on your distribution list(s) for this and other projects that may adversely affect or benefit the desert tortoise.

Regards,



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

California Department of Fish and Wildlife. 2012. Staff report on burrowing owl mitigation. The 7 March 2012 memo replacing 1995 staff report, State of California Natural resources Agency, Department of Fish and Wildlife. Sacramento, CA.

California Department of Fish and Game. 2003 (revised 2010). Mohave ground squirrel survey guidelines. Unpublished guidelines produced by CDFG (currently CDFW = California Department of Fish and Wildlife). Sacramento, CA.

U.S. Fish and Wildlife Service. 2010. Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*). USFWS Desert Tortoise Recovery Office. Reno, NV.