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January 12, 2016

Gerald Perez, California State Director  
Bureau of Land Management  
2800 Cottage Way, Suite W-1623  
Sacramento, CA 95825

Re: Final Environmental Impact Statement for the Desert Renewable Energy Conservation Project

We appreciate this opportunity to provide comments on the Proposed Land Use Plan Amendment and Final Environmental Impact Statement (FEIS) of the Desert Renewable Energy Conservation Project (DRECP). The Pew Charitable Trusts has a keen interest in BLM's land management plans across the West, engaging with our partners in the public process of developing a balanced set of management proscriptions for our nation's public lands.

We view the DRECP as a critical land use plan not only for California and the lands directly under the purview of the plan, but also as a template that has wider implications for how the BLM balances renewable energy development and conservation across the West. Given the President's direction for significantly increasing renewable energy production from our nation's public lands, in addition to Secretary Jewell's recent remarks about the methodology of and lessons learned from this plan, the DRECP will reverberate across much of the West. As such, it is of paramount importance to ensure that DRECP provides a template for responsibly balancing durable conservation while identifying areas for renewables development.

We focus our comments on the Proposed DRECP to the areas which we addressed in our letter during the development of the Draft LUPA and EIS (see 2/23/15 Pew comment letter). The relevant issues we raised then include:

- BLM's requirement to inventory and assess management for all lands with wilderness characteristics within the planning area;
- Lands with wilderness characteristics should be explicitly protected to retain wilderness values;
- The need to remove or redraw certain Development Focus Areas that overlap lands with wilderness characteristics to ensure that these lands fall outside the DFAs;
- The addition of certain areas to the National Conservation Lands system;
- The need for BLM to explicitly acknowledge that additions to the National Conservation Lands system cannot be reversed through agency action and can only be undone by Congress; and

- The need for mineral withdrawal recommendations for National Conservation Lands and Areas of Critical Environmental Concern (ACECs).

### **BLM's requirement to inventory and assess management for all lands with wilderness characteristics within the planning area**

Between the Draft and Proposed DRECP, the BLM inventoried significantly more acreage of land for wilderness characteristics. This is a positive development in terms of providing a fuller picture of this important resource across the planning area. Thanks to a strong commitment by the state office to partner with the Student Conservation Association to inventory lands with wilderness characteristics, the inventory of such lands doubled from approximately 600,000 acres in the draft to over 1.2 million acres in the final EIS. While we applaud the BLM for making this concerted effort, we are disappointed that after several years of planning and analysis, the inventory of lands with wilderness characteristics is still incomplete in the DRECP planning area.

The BLM acknowledges that inventories remain incomplete for the Ridgecrest and Palm Springs Field Offices and does not provide information regarding when these areas will be addressed. We urge the agency to complete inventories for these areas by the close of 2016, and in the interim not allow any actions on these lands that could adversely impact their wilderness characteristics. With regards to management of future lands acknowledged as possessing wilderness characteristics, we applaud the agency for committing to a planning process that will address these areas once inventoried. On page II.3-74, BLM states that it "...will propose lands to be managed to protect wilderness characteristics through a plan amendment." While this is a worthy commitment by the agency, we request that a clear timeframe for completing inventories is provided in the Record of Decision.

We would also like to share our disappointment in the BLM's failure to release information related to its inventory of lands with wilderness characteristics in a timely fashion. Despite a strong commitment to completing as much of the inventory as possible prior to the publication of the Proposed DRECP, BLM did not release any information regarding these inventories until several weeks after its publication, while some areas *still* have yet to be released to the public. BLM's Instruction Memorandum 2013-106 provides clear guidance on being transparent and timely with releasing inventory information to the public, stating,

*(t)he BLM field offices should make finalized and signed wilderness characteristics inventory findings (using the forms provided in BLM Manual 6310, Appendix B) available to the public as soon as practicable after their completion and before the inventory data is used to inform decisions. If possible, this should occur prior to, and no later than, the publication of the draft NEPA analysis associated with the action*

We urge the agency to immediately make available its complete inventory information.

And lastly, we express our disappointment that despite quality inventories in areas addressed by the Student Conservation Association, other inventories "conducted" by the BLM fall woefully short in accuracy, much less adherence to BLM Manual 6310. Reliance on artificial boundaries, factually incorrect conclusions, missing areas, and faulty logic are relatively common, particularly in assessments completed by the Needles Field Office. We reference information provided by the California Wilderness Coalition in their Protest letter dated December 14<sup>th</sup>, 2015, particularly that information provided on pages 24 through 29. We urge the BLM to promptly correct, update, and

improve its wilderness characteristics inventory so that it meets the minimum compliance standard as defined by BLM Manual 6310. While all existing inventory information should be released immediately, we request that the agency complete all corrections and clarifications to the inventory by the close of 2016, prior to initiating a land use plan amendment for managing these areas.

**Lands with wilderness characteristics should be explicitly protected to retain wilderness values**

We applaud the agency for its strong commitment to protecting wilderness characteristics within the DRECP planning region, as evidenced by the proposed plan's management of 730,000 acres of land for wilderness characteristics. While the areas chosen for special management deserve protection, as we note above there are numerous areas that remain un-inventoried or exposed to incorrect conclusions regarding their status. As such, it is critical for the agency to correct and complete its inventory by end of 2016, then initiate a plan amendment process that will re-evaluate management for areas not covered by the Proposed DRECP.

**The need to remove or redraw certain Development Focus Areas that overlap lands with wilderness characteristics to ensure that these lands fall outside the DFAs**

While BLM has not released GIS data for inventoried lands with wilderness characteristics, it appears that the same areas we highlighted in our Draft DRECP comments remain within Development Focus Areas (DFAs) in the Proposed Plan. This includes large swaths of the Big Maria Mountains, Mule Mountains, McCoy Wash, Palen, and other units identified by the California Wilderness Coalition. We are disappointed in the agency's decision to retain these special places as DFAs, despite the strong justifications we and others provided regarding these areas' wilderness values. We urge the BLM to minimize conflict between renewable energy development and wilderness values by removing these citizen-identified areas from the DFA footprint, at least until they have been assessed by the BLM and a full explanation can be provided regarding their wilderness values.

**The addition of certain areas to the National Conservation Lands system**

We applaud the BLM for including Silurian Valley in the National Conservation Lands of the Proposed DRECP. This critical change provides for a landscape-level approach to conservation in this area that spans from the Kingston Range in the East to the Avawatz Mountains the West. The Silurian Valley, as an intact landscape, also serves an important hydrological function for Salt Creek and the larger Amargosa River watershed.

We also applaud the agency for adding the majority of the Cadiz Valley and Iron Mountains to the National Conservation Lands in the Proposed DRECP. This tremendous, intact landscape is one of the largest unprotected roadless areas remaining in California and serves as important habitat for wildlife such as bighorn sheep. Unfortunately, the undeveloped portions of the Bristol Lake area, in the northwestern portion of the valley are designated as a Development Focus Area. We believe the wilderness and wildlife characteristics of this area are similar in value and extent to the proposed protected areas to the southeast, and therefore urge the BLM to protect this area rather than identify it for potential development.

Two other areas we urge the BLM to protect as National Conservation Lands in the Record of Decision are the eastern Sacramento Mountains and Centennial Flat. The eastern Sacramento Mountains, near the California town of Needles, have fascinating rock formations and feature birds like the Gila woodpecker, vermilion flycatcher, and the Arizona Bell's vireo. The Gila woodpecker

and the Arizona Bell's vireo in particular are state endangered species. These mountains feature many pristine, undiscovered, and unroaded areas in their diverse terrain.

Lower Centennial Flat, in Inyo County, lies between Inyo National Forest and Death Valley National Park. The land is a nursery for a dense forest of young Joshua trees and is expected to be important habitat for the species as it responds to climate change. These lands hold two springs, which support a great diversity of plants and animals like golden eagles, Mohave ground squirrels, Townsend's big-eared bats, and yellow warblers. These lands also hold important cultural values, especially for the local Paiute tribes and the Timbisha Shoshone Tribe, which owns 640 acres in the area.

**The need for BLM to acknowledge that additions to the National Conservation Lands system cannot be reversed through agency action and can only be undone by Congress**

We strongly support BLM's interpretation of the Omnibus Public Land Management Act of 2009 that directs the agency to identify lands for inclusion in the National Conservation Lands. We see this as a critical and positive change from previous language in the Draft DRECP and applaud the agency for responding to public comment on the matter. Since additions to the National Conservation Lands are being made pursuant to congressional direction, we concur with BLM's conclusion that these additions cannot be undone through a subsequent land use planning process. While the BLM has been given the authority to identify and designate BLM lands in the California Desert Conservation Area (CDCA) for conservation purposes, it has not been given the power to abolish or reduce those areas once established.

**The need for a mineral withdrawal recommendation for National Conservation Lands and ACECs**

As previously noted, when Congress passed the Omnibus Public Land Management Act of 2009, it formally created the National Landscape Conservation System, or National Conservation Lands. These areas are, as dictated by statute, to be managed "in a manner that protects the values for which the components of the system were designated." 16 U.S.C. § 7202(c). Furthermore, Secretarial Order 3308 goes on to state that "BLM shall ensure that the components of the NLCS are managed to protect the values for which they were designated, including, where appropriate, prohibiting uses that are in conflict with those values."

While we commend the BLM for making minor changes to ensuring that new National Conservation Lands are truly protected from developments such as industrial mining, the Proposed DRECP does not ensure that such areas will truly be protected "in a manner that protects the values for which the components of the system were designated." We strongly urge the BLM to strengthen its commitment to protecting National Conservation Lands in a manner that is consistent with the vast majority of other conservation units and appropriate for the setting in the DRECP planning area. Namely, these areas should be:

1) **Recommended for mineral withdrawal in the DRECP Record of Decision.** Currently, the Proposed DRECP only states that withdrawals will be considered on "a case by case, geographic specific basis," leaving considerable ambiguity around whether and when any unit of National Conservation Lands within the DRECP area will be protected from mineral entry.

2) **A clear timeline for the Phase 1 notice of segregation.** Appendix Z outlines a promising though ambiguous process by which BLM may initiate mineral withdrawals for components of

National Conservation Lands. While we support a two-phased approach to processing mineral withdrawals for these special areas, we call attention to the fact that without a timeframe specified for a notice of segregation, withdrawal recommendations can sit idle for years and sometimes decades without action. In order to provide protections that are appropriate for National Conservation Lands and consistent with the system as a whole, we strongly urge the BLM to provide a target date for action on Phase 1 withdrawals, preferably immediately following the issuance of the DRECP Record of Decision.

3) **Robust coverage for the Phase 1 notice of segregation.** We firmly believe that all National Conservation Lands should be withdrawn from mineral entry to ensure the values and resources for which they were designated are conserved and free from the threat of industrial mining. Accepting a two-phase approach, which will result in certain lands being vulnerable to new mining activity until the later phase is implemented, we strongly urge the BLM to include a robust set of sensitive lands in the Phase 1 segregation process. These lands should include those threatened by mining in the near to moderate future. In consultation with other groups, we provide a list of areas recommended for a Phase 1 segregation notice:

- **Areas already recommended for withdrawal.** These lands, proposed as National Conservation Lands, were identified in the Draft DRECP Appendix D, and contained BLM recommendations on mineral withdrawals, presumably from the existing ACEC management plans. These same proposals were carried over into the DRECP Proposed LUPA. Lands recommended by BLM for full or partial withdrawal include the following:
  - Afton Canyon;
  - Amargosa South;
  - Amboy Crater;
  - Ayers Rock;
  - Big Morongo Canyon;
  - Calico Early Man Site;
  - Chemeheuvi;
  - Chuckwalla (full withdrawal recommended for original ACEC boundaries);
  - Desert Lily Preserve;
  - Desert Tortoise Natural Area;
  - Dos Palmas;
  - McCoy Valley, McCoy Wash & Upper McCoy;
  - Patton Military Camps; and
  - Trona Pinnacles.
- **Areas with a previous commitment by BLM to withdraw from mining.** The 2006 WEMO Plan ROD proposed to withdraw three specific areas from mining:
  - 32,590 acres in the Rand Mountains Fremont Valley Management Area;
  - Afton Canyon ACEC, including expanded areas; and

- Coolgardie Mesa/West Paradise ACECs for Lane Mountain milk-vetch habitat (this last is the one pending segregation for approximately 10,000 acres).
- **Areas with a history of conservation commitment.** This is a BLM criterion in Appendix Z. Please see the list above of some longstanding ACEC designations that are recommended by BLM for closure to mineral entry.
- **Other areas of significant conservation values.** These areas are examples of lands that are not recommended for mineral withdrawal but which contain overriding values that should be protected by a mineral withdrawal.
  - Ayers Rock;
  - Christmas Canyon;
  - Chuckwalla Bench (entire National Conservation Lands acreage);
  - Conglomerate Mesa; and
  - Fossil Falls.
- **Areas that may face threats from mineral entry.** In addition to lands that do not have significant mining activity, BLM should research National Conservation Lands that may be threatened by mining activity. One such example is Conglomerate Mesa, in Inyo County. This unique and beautiful roadless area near Malpais Mesa Wilderness has been the subject of mineral exploration (gold) for many years. It contains an important vegetative community including a high elevation Joshua tree forest that may prove a refugium for Joshua trees as climate increasingly affects the Mojave desert.

We appreciate this opportunity to provide comments on the Proposed DRECP and its Final Environmental Impact Statement. We look forward to seeing the Record of Decision and hope that our input contributes to making the plan as strong as it can be for the outstanding natural and cultural heritage of the California desert. Please do not hesitate to contact us if we can be of any further service. Thank you.

Sincerely,



Ken Rait, Director  
U.S. Public Lands Program  
The Pew Charitable Trusts

cc: Janice Schneider, Elizabeth Klein, Neil Kornze, Jamey Anderson, Kristin Bail