



## California Association of 4 Wheel Drive Clubs Natural Resources Consultant - South

Over 50 years advocating for recreation

February 19, 2015

California Energy Commission  
Dockets Office, MS-4  
Docket No. 09-RENEW EO-01  
1516 Ninth Street  
Sacramento, CA 95814-5512

Email Address: [docket@energy.ca.gov](mailto:docket@energy.ca.gov)  
Subject: DRECP NEPA/CEQA

These comments are submitted on behalf of the California Association of 4 Wheel Drive Clubs (CA4WDC) and its membership. CA4WDC represents clubs and individuals within the State of California that are part of the community of four-wheel drive enthusiasts. Many of our members and supporters live in and/or recreate in the area covered by the *Draft DRECP and EIR/EIS, in accordance with the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.) and California Environmental Quality Act (CEQA) (Cal. Pub. Resources Code, § 21000 et seq.)*. This document shall not supplant the rights of other CA4WDC agents and organizational or individual members from submitting their own comments and the agency should consider and appropriately respond to all comments received to this proposed planning project.

While the main focus of CA4WDC is to protect, promote, and provide for motorized recreation opportunities on public and private lands, many of our members participate in multiple forms of recreation; including but not limited to hunting, fishing, camping, hiking, horseback riding, bicycle riding, and gem and mineral collection.

We recognize the positive health and social benefits that can be achieved through outdoor activities. We also recognize that motorized recreation provides the small business owners in the local communities a significant financial stimulus. And, our members are directly affected by management decisions concerning public land use.

Our members subscribe to the concepts of: 1) public access to public lands for their children and grandchildren; 2) condition and safety of the environment; and 3) sharing our natural heritage. The general public desires access to public lands now and for future generations. Limiting access today deprives our children the opportunity to view the many natural wonders of public lands. The general public is deeply concerned about the condition of the environment and personal safety. They desire wildlife available for viewing and scenic vistas to enjoy. They also want to feel safe while enjoying these natural wonders. Lastly, the public desires to share the natural heritage with friends and family today as well as in the future. How can our children learn and appreciate our natural heritage when native species are allowed to deteriorate and historic routes are routinely blocked or eradicated from existence?

CA4WDC supports the concept of managed recreation and believes it is prudent and appropriate management to identify areas where off-highway vehicle use is appropriate. Such use must be consistent

with the public lands management plans, the Plan Standards, and all other requirements found in the Plans, as well as state and federal regulations. Recreation, especially recreation off of paved or gravel roads, is the leading growth in visitors to public lands. Improvements in the planning processes help minimize conflicts and potential resource damage while providing for recreation access to public lands.

In November 2008, the the California Department of Fish and Wildlife (CDFW), California Energy Commission (CEC), the Bureau of Land Management (BLM), and the United States Department of Fish and Wildlife (USFWS) signed a Memorandum of Understanding (MOU) to jointly create a California Renewable Energy Action Team (REAT).

The MOU tasked the REAT to create a programmatic desert conservation and renewable energy “incidental take” mechanism for listed species under the California Endangered Species Act (CESA) and the Federal Endangered Species Act (FESA). The issue of “programmatic document” is important.

The CDFW, CEC, BLM, and USFWS entered into a Planning Agreement (PA) that identified the goals, objectives, guidelines, criteria, and procedures for the preparation of the Desert Renewable Energy Conservation Plan (DRECP), including an Natural Communities Conservation Plan (NCCP) and one or more Habitat Conservation Plans (HCP).

The overall goal of the DRECP is to provide a streamlined process for the development of utility scale renewable energy generation and transmission consistent with federal and state renewable energy targets and policies, while simultaneously providing for the long-term conservation and management of Covered Species as well as other physical, cultural, scenic and social resources within the Plan Area with durable and reliable Regulatory Assurances.

DRECP is comprised of three elements that form an integrated interagency plan for permitting renewable energy and electric transmission line development in the Mojave and Colorado/Sonoran deserts of southern California: 1) BLM’s proposed Land Use Plan (LUPAs) Amends to the California Desert Conservation Area Plan; 2) the USFWS’s proposed General Conservation Plan; and 3) California Department of Fish and Wildlife’s proposed Natural Community Conservation Plan.

Of these plans, the USFWS’s proposed General Conservation Plan and the California Department of Fish and Wildlife’s proposed Natural Community Conservation Plan are “habitat conservation plans” that are “programmatic” in nature; framework documents. Programmatic documents are frameworks for subsequent decision making processes and provide guidance to formulate the decision based on additional project level/specific issue scoping.

The BLM’s Land Use Plan (LUPAs) is a comprehensive land use plan amendment that applies to activities on public land administered by BLM within the DRECP Plan Area. The BLM’s proposed LUPAs Amends to the California Desert Conservation Area Plan is a working decision document that depends on “programmatic” features outlined in the habitat conservation plans and subsequent site specific/project specific scoping and other tiered documents.

The conservation strategy of the DRECP relies heavily on the LUPA. The DRECP functions more like a “site-specific” land use plan by designating certain areas as compatible with renewable energy development and setting others aside for conservation. DRECP compliance on private lands would be voluntary in theory, but potentially less so in practice. DRECP compliance on public lands would be subject to the LUPA.

In perspective, the DRECP provides for creation of “programmatic framework” documents (habitat conservation plans) concurrent with the development of the “decision” document, the LUPA.

DRECP is advertised to be a long-term framework utility-scale renewable energy and conservation plan. It should not provide or allow for site-specific or project-specific approval. However, there is language in the programmatic framework that is site/project specific and does make mandated decisions.

Identifying National Conservation Land Scape (NCLS) lands or Areas of Critical Environmental Concern (ACEC) or other land/habitat designation, within a programmatic (framework) structure is problematic. Those actions are site/project specific and should be subject to appropriate scoping and public review under the National Environmental Policy Act (NEPA) to determine disclose and analyze the proposed project impact on the natural environment.

CA4WDC is concerned that the final changes in the programmatic (framework) documents will dictate and force a change in the land use management plan that the public has not had the opportunity to adequately review and comment on. For example, final language concerning the ACECs, Conservation Focus Zones and Development Focus Zones may introduce sideboards affecting current designated routes for travel and hamper future OHV route designation/management efforts. This is an decision action under the auspices of the LUPA concerning land use management concepts and must be properly disclosed and analyzed with public involvement as required by NEPA..

CA4WDC is concerned that the habitat conservation plan (NCCP and HCP) components of the DRECP will actually create a situation where a mandated route evaluation is pushed forward and unintended consequences adversely affect OHV recreation opportunity without proper disclosure, analysis, public review and comment as required by NEPA,

CA4WDC recommends separating the LUPA (land use planning decision document) out of the overall DRECP as a separate document that is then based on final approved language of the two programmatic components. This would allow changes to be made to the two programmatic documents and then evaluated for impact on the LUPA and appropriate disclosure, analysis, public review and comment.

### **Additional Comments**

**Ocotillo Wells SVRA** -- All action alternatives of the DRECP propose to designate BLM lands within the Ocotillo Wells SVRA as the Ocotillo Wells East Special Recreation Management Area (SRMA). An SRMA designation will allow the BLM to manage these lands with an emphasis on recreation, and the existing MOU with State Parks would continue. However, the action alternatives also propose a geothermal-only Development Focus Area (DFA) overlay across most of the BLM parcels in this proposed SRMA.

Throughout the DRECP, renewable energy development is not allowed in a SRMA because it is not compatible with recreation. However, should a geothermal-only Development Focus Area (DFA) overlay a SRMA, geothermal development will be allowed with a "no surface occupancy" restriction, as is the case in the Preferred Alternative, Alternative 1, and Alternatives 3 and 4. Alternative 2, however, would break from this restriction and would allow geothermal energy development on these BLM parcels with surface occupancy.

CA4WDC recommends establishment of a "No Surface Occupancy" restriction for any geothermal development in the proposed Ocotillo Wells East SRMA.

**Spangler Hills OHV Open Area and Christmas Canyon ACEC** -- In 1980, BLM established the Christmas Canyon ACEC, about 85% of which is within the Spangler Hills OHV Open Area. In 1988, the BLM developed a Management Plan for the ACEC that set forth actions to protect cultural resources within the OHV Open Area. These included a requirement that competitive events be held on existing routes only. The 2006 West Mojave Plan, in both the text and maps, acknowledges that the ACEC is

located nearly entirely within the OHV area. Furthermore, the area is currently being managed by BLM for OHV open use.

The DRECP, however, contains irregularities with regard to the ACEC and the Open Area. The BLM worksheet in Appendix L for the ACEC clearly states the following:

*All Action Alternatives* – Remove ACEC from the Open Area. Reclassify ACEC as Limited Use Land. Designate routes within this new Limited Use area.

*No Action Alternative* – This area would be managed as it is currently managed. Most of the ACEC is within a recreational vehicle Open Area. Under the No Action Alternative, open use by vehicles would continue.

Furthermore, the DRECP document states that the plan will not add or remove any OHV open area lands. Also, the BLM has advised that anything found within the DRECP to the contrary is in error and should be pointed out in comments.

However, all of the DRECP's maps clearly depict Christmas Canyon as currently being outside the OHV area. When asked to clarify, the BLM State Office maintains that the ACEC has already been removed from the OHV open area. Yet, documentation disclosing and analyzing that action is not available.

CA4WDC recognizes that the unique and important cultural resources in Christmas Canyon require protection. CA4WDC is not opposed to the DRECP removing the ACEC from the OHV; as long as the plan replaces this lost open area acreage through a commensurate expansion of the Spangler Hills OHV Open Area.

CA4WDC requests that the BLM fully reconcile the discrepancies in the draft EIR/EIS regarding the status of these overlapping ACEC and OHV open use lands, and that any reduction in OHV open use acreage resulting from the removal of the ACEC from the OHV open area be offset by expanding the Spangler Hills OHV Open Area to include the lands between its southern boundary and Savoy Road (RM284).

**Conservation Focus Areas** -- The DRECP proposes to prioritize private parcels of “high value potential conservation lands” for acquisition from willing sellers. These areas of private lands are designated as Conservation Focus Areas. Many of these parcels are surrounded by public lands that support a designated motorized route network. These roads and trails frequently cross these private parcels that connect to recreational destinations such as campsites, hiking paths, and historic mining sites.

Additionally, much of the existing designated route system is along Township and Range boundaries which delineate many private parcel boundaries. These routes have historic right-of-way access to other public or private lands.

Because these Conservation Focus Areas will be purchased using DRECP developer fees and managed under the direction of the California Department of Fish and Wildlife, there is a likelihood that acquired parcels may be fenced off and motorized routes closed. This would render useless substantial portions of the designated motorized route network within entire regions and cut important and historic access to numerous key recreation destinations.

A similar situation occurs within the Development Focus Zones. A proposed development project boundary may include portions or segments of existing designated route system and be subject to closure without appropriate disclosure, analysis, public review and comment.

Overall, the acquired lands being under management of the California Department of Fish and Wildlife with adjacent lands under the management of Bureau of Land Management create a potential planning effort conflict that could inhibit public access to these lands with different management prescriptions.

CA4WDC recommends that existing designated roads and trails on acquired lands within these Conservation Planning Areas (and Development Focus Zones) or other DRECP activities (including modification of existing routes and restricted access or full closure of designated route to the public) that connect to the surrounding designated route network remain open. Where necessary, mitigation shall include the development of alternative routes to allow for continued vehicular access, with similar recreation experience. In addition to continued access, mitigation shall include construction of an OHV touring route which circumvents any closed area and allows for directional and interpretive signs to be placed at strategic locations along the route to maintain a contiguous travel network.

Further, CA4WDC recommends that all CFA acquired lands by brought under management of BLM to ensure consistent management oversight is applied to those and adjoining public lands.

**Special Recreation Permits** -- The DRECP achieves conservation by designating several new or expanded ACEC's, and by adding lands to the National Landscape Conservation System (NLCS). ACEC's and NLCS lands carry a variety of conservation management actions (CMA's) to foster the protection of resources. In some of these conservation areas the CMA's will negatively impact the availability of Special Recreation Permits (SRP's) for both competitive and non-competitive events.

CA4WDC recommends that restrictions on the availability of SRP's be examined through travel management planning processes rather than through a renewable energy conservation plan. SRP's are a recreation issue and not a renewable energy development issue.

**Expand SRMA's and ERMA's** -- Under the DRECP's action alternatives, existing OHV open use areas receive an SRMA designation. In most cases, the SRMA simply overlays the same acreage as in the open use area. However, the access routes that the public uses to enter are not included. There are many other areas across the desert that will not receive an SRMA or ERMA designation but are important to OHV and motor dependent recreation, such as the Vinagre Wash area between Yuma and Blythe.

Lastly, ERMA's are proposed only in the Preferred Alternative and are absent in all other action alternatives.

CA4WDC supports the creation and designation of new SMRAs (as appropriate) with the condition that DRECP include a comprehensive Trails and Travel Management Section to cover all management of routes in the California Desert Region as encompassed by the DRECP boundaries.

CA4WDC recommends that SRMA's which overlap OHV open use areas be expanded to include all access routes, and that other areas important to motorized recreation receive an SRMA or ERMA designation. Further, ERMA's, which are proposed only in the Preferred Alternative, should be included in one or more of the other action alternatives.

**Funding for BLM** -- The DRECP sets forth a funding mechanism through developer fees, none of which go directly to the BLM. Because the plan relies heavily on monitoring and adaptive management, it will become even more important for OHV users to use only the legally designated roads and trails, as noncompliance will lead to closures. This will require significant resources for travel management aids, such as signs, maps, training and law enforcement patrols and may put additional strain on the Division's Grants and Cooperative Agreements Program as well as existing agency resources.

CA4WDC recommends that the DRECP alter the funding mechanism so that BLM receives direct funding from developer fees to help fund necessary management oversight.

**Assurances for OHV** -- Aside from the above concerns, the DRECP introduces a number of protections for OHV recreation in the planning area. First, OHV open use areas are excluded from renewable energy development, with the exception of geothermal development on BLM parcels in the Ocotillo Wells SVRA. Second, OHV recreation has received assurances that there will be no reduction of acreage designated for OHV open use. Thirdly, renewable energy development is by-and-large excluded from SRMA's and ERMA's. And, lastly, OHV routes and other recreational activities that are negatively affected by renewable energy development must be fully mitigated.

However, as noted, the DRECP does contain irregularities with regard to the ACEC and the Open Area; specifically in the Spangler Hills area and within the Ocotillo Wells area. And, potential for public access to public lands is at risk within both Conservation Focus Areas and Development Focus Areas.

While the primary discussion within the DRECP defines "recreation" as "OHV recreation", this is a blurring of the use of designated routes of travel within the region covered by the DRECP. While "OHV recreation" does receive some assurances, as noted above, there is a broader category of public access that is "recreation orientated" and has the potential of being eliminated from access to public lands.

While the main focus of CA4WDC is to protect, promote, and provide for motorized recreation opportunities on public and private lands, many of our members participate in multiple forms of recreation; including but not limited to hunting, fishing, camping, hiking, horseback riding, bicycle riding, and gem and mineral collection. It should be understood and defined the "OHV recreation" is inclusive of all activities that require the use of a motor vehicle.

CA4WDC believes that the loss of access to the Mojave and Colorado Desert regions for recreation opportunity is a direct loss. There are also indirect impacts that would result should this Proposed Action be approved and implemented causing displacement of recreational activities. Those cost include, but are not limited to: (1) the increased enforcement required at other sites when displaced recreational users seek out other areas that may be poorly identified as wildlife preserves or other resource-rich areas; (2) the loss of biological resources or habitat at other sites that displaced recreational users may utilize ; (3) the loss of nature education, (4) the loss of outdoor recreation opportunities, (5) the loss of outdoor access and experiences for children in the community; (6) the loss of familial traditions, custom, and culture of recreational and nature-oriented activities in the region; and (7) the loss of the region's history and traditions, specifically with respect to mining and recreational activities.

CA4WDC acknowledges that the public lands within the Mojave and Colorado Desert regions are classified as multiple use lands within applicable land management plans and open to study for conversion to exclusive use or other legislated purposes. However, it should be noted that within the approximately 25 million acre California Desert Conservation Area encompassing the Mojave Desert region, over 50% of the lands are classified through the planning process or legislation for reserved uses; public lands off-limits to public access.

Forest Service and Bureau of Land Management user surveys note an increasing trend for motorized recreation activities such as driving for pleasure and disbursed camping on public lands. The Mojave and Colorado Desert regions of the proposed project area offers excellent opportunities for addressing this growing trend in recreation desires by the public.

The region covered by the DRECP is a popular destination spot for multiple forms of recreation; including but not limited to, four wheel drive touring/driving for pleasure, rockhounding, photography, and wildlife viewing. These are activities that cannot be enjoyed, or replicated, in that diversity in other regions.

OHV recreation has been the fastest growing form of recreation in recent years. More members of the public are seeking a recreation opportunity and public lands is a destination for that opportunity. CA4WDC is concerned with the scope and magnitude of the DRECP and its potential to restrict public access to public lands.

CA4WDC recommends that the current designated route system within the boundaries of the DRECP be retained within the Conservation Focus Areas and the Development Focus Areas and any development (or conservation acquired lands) provide for continued historical access to destination points beyond the specific project boundaries. In all cases, loss of open lands, or access to lands, for disbursed recreation opportunity of any type should be mitigated to provide for appropriate and reasonable access for recreation opportunities.

Where necessary, mitigation shall include the development of alternative routes to allow for continued vehicular access, with similar recreation experience. In addition to continued access, mitigation shall include construction of an OHV touring route which circumvents any closed area and allows for directional and interpretive signs to be placed at strategic locations along the route to maintain a contiguous travel network.

CA4WDC appreciates the opportunity to comment on these important plans. CA4WDC is eager to assist land managers to formulate balanced and enforceable land use plans and we hope these comments have been helpful in beginning your journey. We understand comments such as these are not as clear or concise as they could be. Please do not hesitate to contact John Stewart, (619) 508-8840 if you have any questions or require clarification.

Thank-you,



John Stewart  
Natural Resources Consultant  
California Association of 4 Wheel Drive Clubs