



**COUNTY OF RIVERSIDE
TRANSPORTATION AND LAND MANAGEMENT AGENCY**



Juan C. Perez
Agency Director

Patricia Romo
Assistant Director
Transportation Department

Steven A. Weiss
Planning Director
Planning Department

Mike Lara
Building and Safety Official
Building and Safety Department

Greg Flannery
Code Enforcement Official
Code Enforcement Department

February 23, 2015

Mr. Chris Beale
Acting Executive Director, Desert Renewable Energy Conservation Plan
California Energy Commission
Docket Office, MS-4
1516 Ninth Street
Sacramento, CA 95814-5512

RE: RIVERSIDE COUNTY'S CEQA/NEPA COMMENTS ON THE DRAFT EIR/EIS FOR THE DESERT RENEWABLE ENERGY CONSERVATION PLAN (DRECP) (CEC Docket No. 09-RENEW EO-01)

Dear Mr. Beale:

The County of Riverside ("County") appreciates the opportunity to provide comments on the draft Desert Renewable Energy Conservation Plan ("DRECP" or "Plan"), including the Draft Environmental Impact Report/Environmental Impact Statement ("EIR/EIS") contained therein. The DRECP was prepared by the Renewable Energy Action Team ("REAT") which is comprised of the California Energy Commission ("CEC"), California Department of Fish and Wildlife ("CDFW"), the Bureau of Land Management ("BLM"), and the United States Fish and Wildlife Service ("USFW"). According to the Executive Summary, the DRECP (also referred to herein as "the Plan") is a land use plan and habitat conservation plan which "would create a framework to streamline renewable energy development by planning for the long-term conservation of threatened and sensitive species and other resources on more than 22 million acres in Imperial, Inyo, Kern, Los Angeles, Riverside, San Bernardino, and San Diego counties." The DRECP preferred alternative is slated to cover 1,846,000 acres of federal land in Riverside County and 301,000 acres of nonfederal land in the County. Of the 301,000 acres of non-federal land included in the DRECP in the County, 97,217 acres are identified as "Development Focus Areas" and 31,030 acres are identified as "Conservation Planning Areas" under the Preferred Alternative. The DRECP addresses 31 Natural Communities and 37 Covered Species throughout the entire DRECP area. The Draft EIR/EIS prepared for the Plan is stated to be a Programmatic EIR/EIS which describes, in general terms, potential environmental impacts of the Plan, including cumulative and growth-inducing impacts.

The County is a recognized leader in the protection of natural communities and endangered species. It developed both the Coachella Valley and Western Riverside Multi-Species Habitat Conservation Plans and the County has been implementing its Habitat Conservation Plans ("HCPs") for over a decade. These HCPs balance environmental protection and economic development objectives, while simplifying compliance with endangered species laws. Consistent with this leadership role, the County has actively participated in the DRECP process, monitoring the Plan as it evolves. We greatly appreciate all the outreach efforts, meetings and public workshops that have been held by DRECP staff, the REAT agencies and the Governor's Office during this public comment period.

The County supports renewable energy production and acknowledges the positive effects it will have generally on the national, statewide, and regional level. However, the County also recognizes that at the

local level, large-scale renewable energy projects permanently alter the landscape and preclude all other potential uses including, but not limited to, agricultural, recreational, commercial, residential and open space uses. Conversely, the County also recognizes that the conservation contemplated by the DRECP may result in local impacts in the form of lost economic development potential (jobs, property tax revenue, etc.), lost recreation potential and lost historical resources (farmland, historic sites, etc.). Without further explanation in the Plan and appropriate ways to reduce and balance these impacts, Riverside County remains concerned that its residents, businesses and visitors will either disproportionately bear the burden for renewable energy production for the state because it is uniquely suited for the location of such renewable energy facilities or will disproportionately bear the burden of conservation for the state resulting in other lost opportunities. The DRECP needs to provide more certainty in its Plan to ensure that a proper balance is achieved to provide both renewable energy opportunities and environmental protections in the County.

Thus, the County of Riverside seeks to see a number of issues addressed in order to ensure the DRECP fulfills its promise as an effective regional planning tool. These issues revolve mainly around **ensuring an appropriate level of certainty in the Plan; ensuring local agencies retain their land use authority; ensuring that the County's own adopted HCPs are not in any way impacted by the Plan; ensuring adequate financial provisions are included in the Plan; defense and indemnification by the State for local agencies implementing the Plan;** and addressing a number of specific land use and resource impact issues that would affect the County and other local jurisdictions and agencies. Before the County can support the DRECP, as well as its Draft EIR/EIS contained therein, the County respectfully needs to see the following concerns addressed and questions resolved:

- As voiced throughout the DRECP drafting process, it is of critical importance that the County maintains its land use permitting and CEQA lead agency authority to approve or disapprove renewable energy development projects on private lands under the County's land use jurisdiction.
- As mentioned above, the County has two highly regarded HCPs. Although the physical boundaries of the DRECP do not currently overlap either of the County's HCPs, it is also of critical importance to the County that the DRECP does not in any way conflict with, overlap or impact the County's HCPs which were carefully developed and considered at the time of adoption.
- Without further detail and analysis in the DRECP, the County is concerned about the DRECP's impact and effect on development projects that are located just outside the DRECP boundaries but that are directly adjacent to DRECP Reserve Design Lands. For example, Appendix H references a 140-mile radius buffer outside the DRECP boundaries. It is important to the County that any edge effects due to reserve design are truly minimal and that all effects along all boundaries of the DRECP area are fully disclosed, discussed and analyzed in the DRECP so that the County can make a meaningful decision as to whether or not support the DRECP. The DRECP should not impact development outside of the DRECP boundaries in any way and the County must retain all land use permitting and CEQA lead agency authority on all lands immediately adjacent to the DRECP boundaries without increased scrutiny or permitting requirements placed upon it by the Wildlife Agencies for such projects.
- Given the number of large-scale solar power and wind energy projects already approved, under construction and operational in the County and that the County is uniquely situated for renewable energy development due to County's favorable weather conditions, easy transmission access, and expansive open space, the County should be invited to be a formal plan participant along with the state and federal agencies already identified as plan participants regardless of whether

or not the County develops its own plan tiered from the DRECP or obtains take authorizations under the General Conservation Plan ("GCP") and Natural Community Conservation Plan ("NCCP") included as part of the DRECP. Additionally, funding for County involvement as a plan participant and participation in the Public Agency Working Group should be identified in the DRECP.

- Who will manage the private lands acquired for DRECP conservation? How will the DRECP work with the local jurisdictions? What role will the County have in management of the private lands acquired for conservation, if any?
- For counties in which DRECP conservation areas will be located, the avenues for meaningful contribution to the management of said conservation areas appear limited (for example, only DRECP signatories will be guaranteed steering committee representation). However, with a 25-year lifespan for the Plan, which is shorter than the potential life of the permits issued for renewable energy projects – and certainly shorter than the impacts of those projects, it is possible that counties and other local agencies will end up taking over land management responsibilities after the DRECP expires. What mechanisms are included in the DRECP to ensure this does not result in an unacceptable burden on the local agencies?
- How does the DRECP actually streamline permit review for local jurisdictions? Does the level of streamlining depend upon whether a local jurisdiction is a signatory to the DRECP? The DRECP needs to include a detailed explanation of how federal, state, and local permitting for renewable energy development will be streamlined via the DRECP implementation measures. Further, the DRECP should identify available funding or ensure that resources are sufficient to effectively achieve streamlined permitting.
- The DRECP plans for specific renewable energy resources (solar, wind, geothermal) are difficult to decipher. Will the types of renewable energy permits eligible for streamlining under the DRECP in the Development Focus Areas be limited to just the types considered likely in the specific Development Focus Area as identified in the Draft EIR/EIS? Given the assumptions used in the Draft EIR/EIS, how does the DRECP ensure impacts would not be greater as a result of actual energy permit applications received?
- Distributed generation projections included in the DRECP are out of date, as are large-scale solar projections. The DRECP briefly discusses distributed generation and the discussion is limited to utility-scale ground mounted renewable energy development less than 20 MW in size. Rooftop or other building or infrastructure-mounted systems do not appear to be considered. The DRECP should encourage distributed generation that addresses local needs while allowing excess energy to be sold to the grid. How does the DRECP plan to address distributed generation? Additionally, the DRECP does not adequately address energy conservation methods, even though energy conservation would serve to mitigate some of the adverse impacts associated with the DRECP. Will the DRECP incentivize projects that would provide generation in proximity to demand, minimize transmission line development and, in particular, occur on previously disturbed lands (to minimize impacts to pristine natural desert habitat?). If so, how will those projects be incentivized?
- The lack of upper limit to the amount of renewable energy development potentially allowed within the DRECP (either by county or by ecoregion) creates several environmental impact issues that are not adequately addressed in the Draft EIR/EIS. First, although the document estimates Development Focus Area ("DFA") acreages for planning purposes, there is no mechanism to

ensure that these assumptions are *maximums*. Because of this lack of upper limit, the environmental impacts analyzed and mitigated in the Draft EIR/EIS should have assumed and evaluated the worst-case scenario for the Development Focus Areas in a given county (or ecoregion) that could develop due to a high number of renewable energy projects being developed in the Development Focus Area. What guarantees does the DRECP include that would support the build-out assumptions used? How does the DRECP ensure that impacts are not greater than those outlined in the Draft EIR/EIS?

- DRECP staff has stated that the implementation fees collected under the Plan will be based “per activity,” not on a per-acre or other fixed schedule, and will, in essence, need to be negotiated on a project-by-project basis. How does this provide the funding certainty that the GCP and NCCP need, and just as importantly, the certainty that the private sector’s need? How will the DRECP ensure that adequate funding is collected through the implementation fees? Also, funding does not appear to be sufficient to cover the adaptive management plans called for in the DRECP. How will the DRECP ensure that adequate funding is collected to cover the adaptive management plans called for in the DRECP, not just the land acquisition?
- How will the DRECP interface with the existing agreements between the State, federal, counties (Riverside and Imperial) and Tribal governments, and the Salton Sea Authority tasked with managing the recovery of the Salton Sea region? In particular, will the DRECP inhibit or impede any of the planned land exchanges/swaps proposed for the Salton Sea area? As you know, the Salton Sea Authority has a Memorandum of Understanding (MOU) with the U.S. Department of Interior and the six agencies it oversees. One of the purposes of that MOU is to enable land transfers or swaps where feasible to help eliminate barriers to restoration facing the Salton Sea region. Currently, it appears that the intent of the DRECP is compatible with the MOU, however, continued care must be taken, particularly with BLM LUPA plans, to ensure this does not change.
- The Development Focus Areas in the County appear to currently include riparian and wetlands areas. These areas are rare in the desert and should be removed from the Development Focus Areas or appropriate mitigation measures for such areas should be fully discussed in the DRECP.
- The Development Focus Areas should also be refined to minimize impacts to sand dunes and sand transport areas.

The Draft Implementing Agreement (“IA”) for the DRECP was made available for public review and comment on December 23, 2014, approximately 90 days after the Draft DRECP was released. County staff is still reviewing the Draft IA but provides the following comments in the interim:

- The obligations of local agency permittees under the NCCP should be listed in a separate part of the IA and not combined with the obligations set forth in Parts 2 and 3 so that local agency permittees can have a clear understanding of their obligations.
- The IA does not appear to contain any type of defense and indemnification language. In order for the County to meaningfully participate in the DRECP as a signatory to the Plan, the County needs assurances in the IA that the State will defend and indemnify the County for any legal challenges regarding the adoption of, implementation and participation in the Plan. This is a standard requirement in the existing HCPs in the County and a critical issue for the County.
- “Appendix X” and “Chapter X” are used throughout the IA as placeholders to refer back to the Plan. For example, Section 2.1.3 of the IA states that the Executive Policy Group, Coordination

Group, Program Manager, and Adaptive Management Team are “further described in Chapter X.” In order to effectively review and comment on the IA and its relation to the DRECP which is approximately 8,000 pages in length, the references to the DRECP contained in the Plan need to be complete.

The County of Riverside notes the following environmental issues that need to be resolved with respect to the DRECP’s Programmatic Level Draft EIR/EIS:

- As mentioned above, regarding local impacts of renewable energy development on Riverside County, the DRECP **does not limit or specify the maximum renewable energy development potential for any one county**. What assurances are there in DRECP that Riverside County will not bear a disproportional amount of either the impacts or the mitigation? The DEIR/EIS assumes “24,000 acres” of impacts within Riverside County; however Development Focus Areas in Riverside County total up to 97,217 acres of private land in Riverside County alone. In addition, the DRECP staff has stressed “local control” and indicated counties that wish to see *less* renewable energy development will have the ability to do so because local jurisdictions still retain their own land use jurisdiction. If this occurs, however, what guarantees are there to ensure that the remaining counties do not bear a disproportionate amount of renewable energy development given that the renewable energy mandates will still need to be met across the state? What protections will there be? How does the EIR adequately guarantee mitigation? Does the EIR analyze this scenario? If not, how can it be deemed to adequately mitigate for all reasonably foreseeable impacts of DRECP?
- The mitigation outlined in Volume IV, and elsewhere in the DRECP, is vague and incomplete. The County cannot adequately determine whether or not the listed measures would, as asserted, in fact adequately ensure mitigation of significant impacts within our County. As an example, Table I-6 (page I.9) in Appendix I (Cost and Funding) indicates the “estimated acreage-equivalent compensation for siting, construction, decommissioning and terrestrial operational impacts” for the preferred alternative is “51,843 acres.” Why was this acreage total not used for the impacts and mitigation discussions in Volume IV?
- The Draft DRECP and EIR/EIS recognize that the DRECP would create a demand for new or expanded law enforcement, fire, and emergency services facilities. However, the DRECP fails to address economic impacts to local agencies to handle such demands. The Draft EIR/EIS finds such impacts to law enforcement, fire and emergency services to be less than significant after mitigation but the only mitigation articulated is “Coordinate with Emergency Response Agencies.” (See Volume IV.26-26). This mitigation is vague and non-substantive. Impacts to law enforcement, fire and emergency services need to be better addressed in the DRECP and possibly included in a fee structure for the DRECP.
- The Draft EIR/EIS clearly anticipates renewable energy permits being issued well into the 2030s, all the way up to the year 2040 (for example, see page I.3 of Appendix I). However, current durability agreement plans only address conservation needs through the year 2040. Given this, how can the DRECP be said to ensure “long-term conservation and management of Covered Species”? How will the DRECP mitigate impacts for renewable energy permits issued in 2038-2040, given the 20-30 year lifespans associated with such renewable energy permits and the lifelong impacts of the projects? Why does the DRECP not cover the life of the permits it anticipates will be issued?

DRECP staff has stated that, “mitigation does not have to occur within the same county” that the renewable energy permit is issued in; mitigation is merely confined to being within the same ecoregion. If this is the case, how can a local jurisdiction, such as an individual county, ensure adequate mitigation for their local renewable energy projects given that some mitigation measures may be occurring outside of its jurisdiction?

- Why does the DRECP discount the potential for renewable energy development on existing disturbed agricultural lands? Based on past experience here in the County, it is reasonable to assume that some agricultural lands may be developed with renewable energy projects in the future and that development of renewable energy projects on disturbed agricultural lands may be a beneficial alternative use of those lands. Further, why are the mitigation ratios for agricultural lands roughly twice as high as for natural desert lands?
- Appendix I repeatedly refers to an “analytic team” but never identifies the members or organizations on such team. For transparency purposes, this information should be fully disclosed.
- Specific examples of the need for additional clarity in the DRECP, which should be addressed in any subsequent documents to improve understandability for the general public and decision-makers include the following:
 - The figures throughout the document are difficult to read because all figures use the same legend. Thus, there is no distinction between the terms applicable to the U.S. Bureau of Land Management (BLM) Land Use Plan Amendment (LUPA), which applies only to the federal BLM-managed lands within the Plan area versus the areas addressed by the General Conservation Plan (GCP), which only applies to the non-BLM lands.
 - Further, it is only possible to determine the DRECP’s specific impacts on the County of Riverside through extensive use of the DRECP Data Basin / Gateway resources, as well as the technical expertise of in-house (County) GIS staff. **The County highly recommends an appendix be added to the EIR/EIS breaking down all land uses (LUPA, GCP and NCCP—Conservation Priority Areas, Conservation Planning Areas/envelopes, DFAs, etc.) on a county-by-county basis.**
- There are significant issues with Section 3 (Implementation) of Volume II that make it difficult to read and understand. For example, the term “application” is used several times throughout Section 3.1.5. However, it is not always clear which application in the multi-step process is being referred to. The County recommends that every process, application and entity have a specific, clear label and that label is used consistently (and without substitution) throughout the entire document.

Finally, as set forth below, we note that the Plan’s discussion and analysis of the County’s General Plan is in need of correction. On page III.11-22, the Draft DRECP EIR/EIS discusses the Riverside County General Plan’s Land Use Element. There are several corrections necessary in the discussion of the Riverside County portions of the DRECP. Specifically, the largest single land use designation for the “Eastern Riverside County Desert Areas” is the roughly 1,302,400 acres of “Open Space-Rural” (OS-RUR), which, although named Open Space, is a land use that allows residential development at one dwelling unit per 20 acres.

Although page III.11-22 of the Draft DRECP EIR/EIS notes the Riverside County General Plan policies from the Multipurpose Open Space Element that addresses renewable energy, it fails to mention the renewable energy policies from the Land Use Element that also have significant bearing on the DRECP. For example, General Plan Land Use Element policy LU 15.14 states, "Permit and encourage solar energy systems as an accessory use to any residential, commercial, industrial, mining, agricultural or public use." And policy LU 15.15 states, "Permit and encourage, in an environmentally and fiscally responsible manner, the development of renewable energy resources and related infrastructure, including by not limited to, the development of solar power plants in the County of Riverside." Lastly, it should be noted that the "Public Facilities" (PF) land use designation can also accommodate commercial-scale renewable energy development. None of these policies or other applicable General Plan policies are identified in the Draft DRECP EIR/EIS.

Further, the Riverside County Ordinance No. 348 authorizes solar power plants on lots ten acres or larger subject to a conditional use permit in a wide number of zone classifications, including: General Commercial (C-1/C-P), Commercial Tourist (C-T), Scenic Highway Commercial (C-P-S), Rural Commercial (C-R), Industrial Park (I-P), Manufacturing Servicing Commercial (M-SC), Medium Manufacturing (M-M), Heavy Manufacturing (M-H), Mineral Resources (M-R), Mineral Resources and Related Manufacturing (M-R-A), Light Agriculture (A-1), Light Agriculture with Poultry (A-P), Heavy Agriculture (A-2), Agriculture-Dairy (A-D), Controlled Development (W-2), Regulated Development Areas (R-D), Natural Assets (N-A), Waterways and Watercourses (W-1), and Wind Energy Resources Zone (W-E). In light of this information, the Draft DRECP EIR/EIS statement on page III.11-22 indicating that the "Rural Desert land-use is the only General Plan land use that specifically allows renewable energy project" is inaccurate and should be revised and re-evaluated accordingly.

Thank you again for the opportunity to provide comments on this Plan that will have a lasting impact on the County. The County respectfully requests that a revised draft DRECP be issued which addresses the concerns and questions set forth in this letter. The revised draft DRECP should undergo a peer review by local agencies in the DRECP plan boundaries. Moreover, there should be a second public comment period following the release of the revised DRECP. The County reserves the right to issue additional comments on the Plan and EIR/EIS as the Plan moves forward and additional information is known. Should you need clarification or additional information from the County concerning the comments made in this letter, please contact Deputy County Counsel Tiffany North at (951) 955-6300.

Sincerely,



Juan C. Perez, Director
Transportation and Land Management Agency

Cc:

Supervisor Kevin Jeffries, First District
Supervisor John Tavaglione, Second District
Supervisor John Benoit, Fourth District
Supervisor Marion Ashley, Fifth District
Jay Orr, County Executive Officer
Brian Nestande, Deputy County Executive Officer
Steven Weiss, Planning Director
Tiffany North, Deputy County Counsel