Due to issues requiring modification, clarification, missing information and flawed analysis that would substantially change conclusions;

The thousands of miners and mining claims in California and specifically in the California Desert District that must be considered a stakeholder in this process under their CAMC designations. California Desert District Mining Coalition on behalf of all miners and miners in the designated areas of the DRECP and new ACEC's are requesting a forty five (45) day extension from February 23rd 2015 due to conflicts of agencies and law to be clarified, and corrected.

FLPMA did not repeal the Mining Act (30 USC 22:54). (Conflict 1)

Can an ACEC be placed over the top of an already existing (exclusive) use of land with a documented priority of use claimed in good faith for mining purposes? No. FLPMA was not intended to disrupt “valid existing rights” (Conflict 2)

Therefore, the most effective comment that could be made regarding these ACEC’s is the BLM is failing to exclude valid existing mining claims (historic and present) from ACEC’s application. Said another way would be that ACEC’s priorities of non-use (wildlife habitats) is in direct conflict (Conflict 3) with valid existing mining uses. Priority of use is determined by which came first, the mining claim reservation or the change of the lands use.

BLM’s authority under FLPMA to make rules regarding ACEC’s (part 11) is tempered by the language of FLPMA (parts 2, 3, 4, 5) especially the Multiple Surface Use Act (30 USC 612b). In real simple terms, the BLM cannot designate a ACEC over the top of a valid patented mining claim without some form of clashing and mutually interfering with the rights of the miner to extract under the mining law. If a mining claim was located prior to 1976 (FLPMA) had any new ACEC placed on it that would violate part 3 of FLPMA. (Conflict 4)

At first blush, the question needs to be asked: Are NLCS and ACEC compatible with the Multiple Surface Use Act, specifically 30 USC 612b. We would like a FOIA (Freedom of Information Act request) from all legal authorities BLM is using for NLCS and ACEC. It looks like at a glance that that there are many conflicts. (Conflict 5)

Signed
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Response to Comment Letter E126

California Desert District Mining Coalition
December 11, 2014

E126-1 The Draft DRECP and EIR/EIS had a 5-month comment period (9/23/14 through 2/23/15), which included one extension.

E126-2 As set forth in the Planning Criteria (Volume I, Section I.3.1.1), the Land Use Plan Amendment will recognize all valid existing rights. Administration of individual mining claims is an implementation decision, and thus outside the scope of the DRECP.

E126-3 Comment noted; no change in the document is required.

E126-4 The authority to designate ACECs comes from the Federal Land Policy and Management Act (FLPMA, 1976) Title I, Sec. 103(a), and Title II, Sec. 202(c)(3). The National Landscape Conservation System was established by act of Congress in the Omnibus Public Lands Management Act of 2009 (PL 111-11) and the purpose and definition is found under Title II, Subtitle A. Further policy and guidance for management of the National Conservation Lands are found in the BLM Manual MS-6100.
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