Wednesday, February 18, 2015

To:
California Energy Commission (CEC)
Dockets Office, HS-4
Docket No. 09-RENEW EO-01
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Bureau of Land Management
Vicki Campbell, DRECP Program Manager
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RE: Our Public Land Rights on the following:
   Desert Renewable Energy Conservation Plan (DRECP)

Minerals and Mining Collaboration;
We are the Minerals and Mining Advisory Council (MMAC) a National organization based out
of California representing all Minerals and Mining in California for this conversation. Also,
California Desert District Mining Coalition (CDDMC) of whom has been representing the
mining community on the Bureau of land Management Round Table Committee (BLMRTC) out
of Ridgecrest, CA for the last few years and now consulting for minerals and mining towards the
Desert Advisory Council (DAC), Non Renewable Resources until minerals and mining has
representation on DAC. As being a Party to many meetings we have seen the Public Lands
rapidly get dissolved and taken over by many acronyms like DRECP, WEMO, ACEC, NLCS,
ESA, EPA, AQMD, CWA, NEPA, SMARA, CEQA, DWMA, but not limited to. The above
listed acronyms are not compatible with 20 USC 612(b). (see Curtis-Nevada Mines case, cite:
611 F.2d 1277)

Regarding Minerals and Mining:
Under the 1872 Mining Law (30USC21a-54) and the Multiple Surface Use Act (30 USC 612(b)),
BLM has failed to recognize National Mineral and Mining Policy Act (MMPA) 30USC21a and
is in violation of the Federal Policy by excluding and not recognizing Minerals and Mining as
even the Federal Land Stakeholders (FMFS) and consultants. BLM is again failing (and in
violation), to exclude valid existing mining claims (historic and present) from ACEC’s
applications. ACEC’s priorities of non-use (wildlife habitat), is in direct conflict with valid
existing mining uses. Priority of use is determined by which came first, the mining claim
recordation or the change of the lands use. So an ACEC, cannot 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. FLPMA was not intended to disrupt “valid existing rights”. FLPMA did
not repeal the Mining Act (30 USC 22-54). This applies to many other land use and other
designations like DRECP (NLCS’s etc.). BLM’s authority under FLPMA to make rules regarding
ACEC’s (part 11) is tempered by the language in FLPMA (parts 3,7,8), especially the Multiple

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Surface Use Act (30 USC 612(b). In real simple terms, the BLM cannot designate an ACEC, DWMA etc. over the top of a valid unpatented mining claim without some form of clashing and materially interfering with the rights of the miner to extract under the mining law 30USC21a. If a mining claim were located prior to 1976 (FLPMA), having had any new ACEC/DWMA placed on it would violate part 3 of FLPMA.

Renewable Energy, land designation, closures, road designation projects and/or expansion areas are not considered compatible with the Multiple Surface Use Act (30 USC 611 4a-b) for the Minerals and Mining Federal Stakeholders. Everything is based on Federal and Congressional Statutes, Laws and published cases. It is illegal to close public lands, roads and entrance for mineral entry and mineral and mining development unless there has been a past congressional mineral withdrawal, and any current decisions and approvals must include consulting the Mineral and Mining Federal Stakeholders currently CDDMC and or MMAC.

Mining needs the roads to get to the claims and are guaranteed by Congress that it shall happen.

In Conclusion for Minerals and Mining:

DRECP: Minerals and Mining does not endorse or agree with the DRECP, or anything else that does not reflect or create new long-term high-paying jobs, that takes away mining rights and land. The participation of the CDDMC in the land use planning processes identified earlier would bring an important voice for resource development to these discussions. In these times of recession and anemic recoveries, jobs have been cited by both sides of the aisle as the priority for government. Few industries produce as many high-paying long-term jobs as the mining industry (20-50 years depending on permits), and I am certain that CDDMC’s participation would lead to an increase in the number of mining industry jobs.

Renewable energy is short-term jobs. Once the plants are built, jobs are gone.

In addition, MMFS shall be recognized and a part of the process. CDDMC and MMAC shall consider the DRECP Alternatives a NO-ACTION area and there shall be NO decision(s) on use of the public lands listed in the DRECP Indexes, alternatives and Appendices until MMFS is conferred with and the Parties agree too. There are too many issues requiring modification, clarification, missing information and flawed analysis that would substantially change conclusions.

Signed
Minerals and Mining Advisory Council http://www.mineralsandminingadvisorycouncil.org
California Desert District Mining Coalition http://www.cddmc.com
Response to Comment Letter E26
Minerals and Mining Advisory Council and California Desert District Mining Coalition
February 19, 2015

E26-1 Thank you for your comment. No change in the document is required as a result of this comment.

E26-2 Site-specific management plans will be developed for each ACEC and NLCS unit to address protection of the specific values of those units. The BLM will follow national guidance for management of NLCS units, found in Manual MS-6100. All known rock hounding sites were reviewed prior to land use designation decisions to avoid and minimize potential impact to access and use.

E26-3 The BLM recognizes your position related to the application of the laws affecting mining on public lands; however, the BLM does not fully agree with your analysis of what can be done and the impacts related to the future implementation of the DRECP. The Multiple Surface Use Act, 30 U.S.C. 612, is the law that provides the BLM and other land management agencies the authority to authorize the use of mining claims for other activities. Prior to this act the use of a mining claim was restricted to the claimant for mining purposes. The designation of ACEC’s and other special land use restrictions recognize the valid existing rights of a mining claim and will authorize proposed mining activities that have met the requirements of the law. Valid existing rights are determined at the time a proposed action is submitted to the BLM under the Surface Management Regulations found at 43 CFR 3809. Subsection 43 CFR 3809.100 specifically describes what the BLM will do when it receives a Plan of Operations or Notice.

E26-4 The BLM agrees that there is a legal right to access to mining claims with valid existing rights via approved access routes that have been properly analyzed and approved under a Plan of Operations.

E26-5 This comment is not directed toward any specific discussion or the analysis presented in Draft EIR/EIS Chapters III.23 or IV.23 (Socioeconomics and Environmental Justice). This is a general comment or opinion that BLM will consider during its LUPA decision process.

E26-6 By providing comments for the DRECP land use planning effort the BLM does recognize that your organizations have standing related to future decisions rendered under this planning effort.
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