February 23, 2015

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

Re: DRECP NEPA/CEQA

On behalf of the Desert Valleys Builders Association (DVBA) representing nearly 200 member companies active in the Coachella & Imperial Valleys, this comment letter is written to address two (2) very specific areas of concern within the proposed DRECP Plan document.

The first area of concern is the proposed 140 mile radius extending beyond the proposed DRECP boundary zone. This item is referenced in Appendix H, pages 26-27, stating that the scale of the analysis for potential take situations would warrant an extension of the boundary lines. The direct negative impact this extension would cause is to supersede and overlap on the currently authorized Coachella Valley Multi Species Habitat Conservation Plan (CVMSCP). This plan was formally permitted by US Fish & Game on September 8, 2008 and US Fish & Wildlife on October 1, 2008.

The second area of concern is the proposed formation of an Incidental Take Permit as applies to the Golden Eagle. This area of concern also relates to the first issue noted above, as the extension of the DRECP boundary zone would cause the Incidental Take permit to become required in the previously approved CVMSCP area. This is of significant concern to our members within the western portion of the Coachella Valley, specifically as it pertains to the renewable energy industry & wind generation sites. Existing sites within this area is placed under the process of the CVMSCP and therefore must continue to be reviewed under that land use designation.
Our office has had several conversations with Ken Corey, USFW (DRECP Contact personnel) and John Kalish, BLM Palm Springs Manager, with regards to these two issues. With regards to both of these issues, we were "assured that there was no extension of DRECP boundary lines beyond the current Alternative Plan Proposal — map design" but subsequently we ascertained that statement to be erroneous with regards to the aforementioned issue #2.

Additionally, we attempted to make contact with Amedee Brickley of USFW for further discussion regarding the Golden Eagle Take Permit, but have not received any return response to our written inquiries or calls.

Therefore, this Letter of Comment is to request the following:

1) No extension of any boundary zone of the DRECP Proposed Plan into the CVMSCHP zone.

2) No requirement of Incidental Take Permit for Golden Eagle within the previously approved designated zone.

Thank you for review of this correspondence.

Regards,

[Signature]

Desert Valleys Builders Association

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Response to Comment Letter E44

Desert Valley Builders Association
Gretchen Gutierrez
February 23, 2015

E44-1 The 140-mile extension of the DRECP Plan Area boundary described in Appendix H of the Draft DRECP and Draft EIR/EIS was only for estimating the local area population of Golden Eagles and the potential take level that could occur within that buffer area. It would not have extended the provisions of the DRECP into the 140-mile buffer. For example, the DRECP’s Covered Activities, Development Focus Areas, conservation and management actions, incidental take authorization requirements, and other features would not have extended into the 140-mile buffer. The DRECP, as it was proposed in the Draft EIR/EIS, would not have superseded, overlapped, or interfered with the CVMSHCP in any way.

E44-2 Under Phase I of the DRECP, the DRECP BLM LUPA and Final EIS considers renewable energy development only on BLM-administered lands. For renewable energy projects on nonfederal lands, the Draft DRECP and Draft EIR/EIS proposed a programmatic General Conservation Plan (GCP) process for permitting incidental take of species listed under the Endangered Species Act; the proposed GCP did not apply to the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) Area. Incidental take permitting options for nonfederal lands will now be considered in Phase II of the DRECP, and will not apply to the CVMSHCP Plan Area. The DRECP BLM LUPA and Final EIS does not cover nonfederal lands, does not include a GCP component, and will impose no incidental take permit requirements for renewable energy within the CVMSHCP Plan Area. Land use for existing renewable energy facilities within the CVMSHCP Plan Area will continue to be recognized by the CVMSHCP, and will not be affected by the DRECP BLM LUPA in any way.

E44-3 The USFWS and BLM representatives contacted by the commenter correctly described the DRECP boundaries as not affecting the CVMSHCP Plan Area. The 140-mile extension of the DRECP Plan Area boundary described in Appendix H of the Draft DRECP and Draft EIR/EIS was only for estimating the local area population of Golden Eagles and the potential take level that could occur within that buffer area. It would not have extended the provisions of the DRECP into the 140-mile buffer. For example, the DRECP’s Covered Activities, Development Focus Areas, conservation and management actions, incidental take authorization requirements, and other features would not have extended into the 140-mile buffer. The Draft DRECP, as it was proposed in the Draft EIR/EIS, would not have superseded, overlapped, or interfered with the CVMSHCP in any way.

E44-4 There is no extension of any DRECP boundary for renewable energy development into the CVMSHCP Plan Area. The BLM’s Proposed LUPA considers Development Focus Areas for renewable energy only on BLM-administered
lands, and excludes all development lands within the CVMSHCP Plan Area. Land use for existing renewable energy facilities within the CVMSHCP Plan Area will continue to be recognized by the CVMSHCP, and will not be affected by the DRECP BLM LUPA in any way.

**E44-5** The BLM Proposed LUPA imposes no permit requirements within the CVMSHCP Plan Area. Within the Coachella Valley, the CVMSHCP covers the siting and construction of renewable energy facilities, including new ground disturbance associated with repowering or development of new wind energy facilities. However, the CVMSHCP does not include the Golden Eagle as a Covered Species under the Federal or State permits for that plan. In addition, please note that the CVMSHCP does not provide take authorization for any species resulting from operations of renewable energy facilities, including wind turbine operations. Avian injury and mortality, including injury and mortality of Golden Eagles, resulting from operation of wind turbines is not covered by the CVMSHCP. Operations of all existing and new renewable energy development, including wind facilities, within the CVMSHCP Plan Area must comply with the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act, regardless of the DRECP. For any wind energy facility with potential for injuring or killing Golden Eagles during turbine operations, the facility owner or operator is responsible for applying for the appropriate take permit under the Bald and Golden Eagle Protection Act.