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California Energy Commission
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1516 Ninth Street
Sacramento, CA 95814-5512

California Energy Commission

DOCKETED

09-RENEW EO-1

TN # 74558

FEB 18 2015

Re: Desert Renewable Energy Conservation Plan (DRECP) NEPA/CEQA

On behalf of the City of Hesperia, I want to thank you for providing the comment period regarding the recently released Draft Desert Renewable Energy Conservation Plan (DRECP) and Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR), California, 79 Fed. Reg. 57971 (September 26, 2014).

It has been, and remains, our expectation that the DRECP, once completed, will lead to more opportunity and certainty for renewable energy project proponents as well as for conservation efforts and that it will result in a more efficient permitting process for renewable energy projects. However, based on the City's review of the draft DRECP to date, various concerns have been identified that we believe the agencies must address in order to develop and adopt final plans that meet the needs of industry, maintain local control over private land, and provide for critically needed conservation better than the *status quo* permitting options. With less than one week left in the comment period for the draft DRECP, the City feels very strongly that time is of the essence in identifying potential remedies for the significant shortcomings. The following are the City of Hesperia's concerns:

DRECP Scope

- The DRECP as it is currently proposed will usurp the authority of local governments to make local land-use decisions in the future. It will act as a zoning overlay on County and City General Plans.
- If approved without substantial changes the land use goals and policies established by local governments to direct growth and ensure economic viability will become secondary to the overreaching and vast bureaucracy of the DRECP.
- The DRECP involves large scale planning for renewable energy development on 22.5 million-acre and defines the land use of 93 percent of existing private lands (approximately 4,423,000 acres) within the plan area as either a renewable energy

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development zone or as part of a vast conservation reserve design. The depreciation of property values that industrial development of this nature will have on the community and the disruption in the quality of life of residents should be thoughtfully considered.

- The DRECP designates approximately 2.2 million acres as Development Focus Areas (DFAs) for renewable energy development (of which approximately 1.7 million acres are private lands). According to the DRECP only 177,000 acres will be developed by renewable energy projects. It is not clear why the DRECP chose to site the 177,000 acres of proposed renewable projects on private lands when there are over 13.9 million acres of federal lands (not including federal military lands) within the plan area to accommodate renewable energy projects. These public lands provide the resource agencies with both land use and regulatory authority. By locating renewable projects on private lands DRECP directly places the burden of renewable energy development on our communities without “streamlining” the process.
- The DRECP also designates approximately 14.9 million acres as a Reserve Design Envelope (RDE) where mitigation measures are to be implemented (of which approximately 2.7 million acres are private land). Within the RDE, the primary mitigation measure identified is acquisition of private land.

DRECP Preempts Local Land Use Authority

- The DRECP falls short in protecting local land use authority because existing laws, regulations, and policies require that all future planning efforts be consistent with established plans. For example, a standard question in the California Environmental Quality Act (CEQA) process asks whether the proposed project (such as a development project or General Plan Update) is in conflict with provisions of an adopted Habitat Conservation Plan (HCP) or Natural Conservation Community Plan (NCCP). If the proposed project is in conflict with an adopted plan such as the DRECP, a finding of significant impacts must be made under CEQA. In order for the project to go forward, mitigation must be provided or a statement over-riding considerations must be adopted. In addition, should a local government choose to develop its own HCP and/or NCCP or seek a “take” permit from the wildlife agencies, existing planning guidance requires that their planning effort be consistent with previously adopted plans, in this case the DRECP.

Based on the above, if a local government considers allowing development within a designated conservation area and, possibly, even development within a proposed DFA that is not renewable energy, a case could be made that the project would be in conflict with the DRECP. From this perspective, the 177,000 acres of allowable land taken through the DRECP could be interpreted as the maximum allowable build out of private land within the entire planning area. This would prevent local governments from utilizing their authority to implement their general plans, zoning ordinances and codes.



City of Hesperia

The lack of clarity in the proposed DRECP and EIS/EIR creates many unintended consequences for Hesperia and the surrounding desert communities. In order to resolve these consequences so the desert can truly thrive, the DRECP needs meaningful collaboration with local governments and the appropriate time to find real solutions that can work for all communities involved. By modifying the existing plan to remove sensitive private lands from consideration will allow us to get back to work developing a real renewable energy economy, one that does not compromise a coveted landscape and the communities that reside within it.

Thank you for your time and consideration of this matter.

Sincerely,

Mike Podegracz
City Manager

cc: Commissioner Karen Douglas, *California Energy Commission*
State Director James Kenna, *Bureau of Land Management*
Chief Deputy Director Kevin Hunting, *California Department of Fish and Wildlife*
Alexandra Pitts, Deputy Regional Director, *U.S. Fish and Wildlife Service*
