



February 23, 2015

Subject: DRECP NEPA/CEQA

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To whom it may concern:

The draft Desert Renewable Energy Conservation Plan (DRECP) and Environmental Impact Report /Environmental Impact Statement (EIR/EIS) was released for public comment on September 18, 2014. I would like to present several items for consideration in the final DRCEP and EIR/EIS.

### **General Comments**

Is the NCCP in compliance with the California Endangered Species Act and the California Native Plant Protection Act of 1997, especially in regards to the definition of a “rare” native plant? Please explain why an EIR/EIS under CEQA would not be required to consider/include within the Covered Species list those rare and/or state-listed plant species that could potentially be affected by renewable energy development within DFAs.

In the DRECP CMAs, avoidance/mitigation of/for rare plant occurrences on private lands is only required for plant species on the Covered Species list. This excludes many arguably “rare” plants. On privately-owned lands, would any protection be afforded for these species?

Please clarify or rephrase the following sentence in Section II.3.1.2.2, “DRECP Proposed Covered Species List”: “Under the NCCPA, Covered Species are afforded take authorization from Covered Activities and for those species on the list that are not listed at the time of Plan approval”. Does this mean that if species are added to the Covered Species list after Plan approval, then those species are also afforded take authorization from Covered Activities?

### **Comments on Appendix B *Selection of DRECP Proposed Covered Species: Process and Methods***

I believe that insufficient rationale was given for the exclusion of some rare plant species from the Covered Species list in the draft DRECP and EIR/EIS. I propose that 11 plant species be reconsidered for listing as Covered Species (Tables 1 and 2). Note that because the Covered Species list is a central tenant of the DRECP, additions to the Covered Species list might require additional analyses of environmental consequences and effects (DRECP Volume IV).

The “Draft\_DRECP\_Covered\_Species\_Summary” spreadsheet documents the selection of Covered Species for the draft DRECP. 21 plant species in the “AllTaxa” worksheet are on CNPS list 1B and occur within or very near to Developed Focus Areas, but they were considered to be at “Comparatively reduced conservation risk (CDFW/USFWS)” in Filter C of the “All Taxa\_v8” worksheet, and were therefore excluded from further analyses. Notes in the metadata (“Read Me” worksheet) for Species Filter C describe a “Maybe” determination for Filter C as “Likely to have a comparatively reduced conservation risk and are less likely to require immediate, specific conservation management actions to maintain viability than the ‘Yes’ taxa in this Species Filter”. A more detailed explanation of this rationale is not available in Appendix B. The “Maybe” determination for Filter C is ambiguous in several ways: 1). The meaning of “comparatively reduced” and “less likely” in this context should be more carefully defined

relative to a ranking or other measures of rarity and risk; 2). The time frame in this context is not defined; a species that might not require a specific management action to maintain viability in the short term might require it in the long term. For the final DRECP and EIR/EIS, Appendix B should explain in detail why plants at “comparatively reduced conservation risk” were not further considered as covered species.

Considering that portions of the California desert are under-documented and under-explored botanically, it is possible that plant species on CNPS list 1B have significant portions of their ranges within DFAs. If this were the case, lack of occurrence data would falsely exclude these species from consideration as Covered Species. A more inclusive plant Covered Species list would provide protection to species that may occur in under-explored areas. The draft DRECP and EIR/EIS should consider that some species could occur within a DFA that are potentially eligible for listing as Covered Species, but which are not currently known from a DFA and were therefore excluded from consideration as DRECP Covered Species by Filter B.

Because such large areas of the California desert have not been systematically surveyed by botanists, it is possible that new plant species will be discovered during the process of surveying and siting proposed renewable energy developments. If it has not already done so, the REAT should consider defining and adopting clear procedures for the avoidance of plant species new to science that are discovered within DFAs.

Species Filters applied in the Covered Species selection process do not consider the potential cumulative effects of renewable energy development combined with non-native invasive plant invasion, off-road vehicle use, and other anthropogenic disturbance. This is an especially important consideration for plant species on CNPS list 1B that are known to occur in or near DFAs. In these cases, cumulative effects could potentially lead to local extirpation or other adverse impacts, and could cause a trend towards state or federal listing.

Of plant species on CNPS list 1B that were considered to be at “comparatively reduced conservation risk”, I propose that six be reconsidered as Covered Species. In Table 1, I provide a brief justification for further analysis for each species.

Table 2 lists five additional plant species which were removed from various stages of the Covered Species list for several reasons (see additional notes in Table 2). I propose that these five species also be reconsidered for inclusion on the plant Covered Species list.

### **Comments on Appendix M *U.S. Fish and Wildlife Service General Conservation Plan***

Language throughout the draft DRECP and EIR/EIS mentions take of Covered Species. However, the Endangered Species Act does not have a permitting process for the take of federally listed plants, on lands under either federal or non-federal jurisdiction. In the draft DRECP and EIR/EIS, plant Covered Species within DFAs on private lands are protected under CMAs, which require “surveys and avoidance of all plant Covered Species”, and compensation for unavoidable impacts. In the General Conservation Plan, please consider clarifying that ESA section 9 prohibited acts for federally endangered wildlife species differ from those for federally endangered plant species. Also consider clarifying that on GCP lands, plant Covered Species are protected under CMAs.

I respectfully urge the REAT to consider the addition of eleven species to the plant Covered Species list, or to provide additional justification for non-inclusion of those rare species. I would also suggest that a portion of funds from the DRECP endowment/mitigation fees be awarded as grants to study carbon sequestration in desert ecosystems.

If you have further questions or would like clarification regarding any of these comments, please contact me at (218) 398-3487. Thank you for making interim planning documents available for public review, especially those related to the development of the Covered Species list.

Sincerely,

Mary Crawford

**Table 1:** Subset of species on CNPS List 1B that were described as being at “Comparatively Reduced Conservation Risk (CDFW/USFWS) in column K (“Brief Rationale for Inclusion or Exclusion from June 2013 Proposed DRECP Covered Species List”) of the “All Taxa\_v8” worksheet in the “Draft\_DRECP\_Covered\_Species\_Summary.xlsx” (available at drecp.org). I propose that these six species be reconsidered for listing as plant Covered Species, along with the five species in Table 2. Note that none of the plant species in Table 1 are Federally Listed.

<b>Scientific Name<sup>2</sup></b>	<b>Common Name<sup>2</sup></b>	<b>CNPS Rank<sup>2</sup></b>	<b>Rationale for further analysis/consideration as a plant Covered Species</b>
<i>Astragalus nyensis</i>	Nye milk-vetch	1B.1	Occurrences in California are within the Parhump Valley DFA. Extensive renewable energy development within this DFA could adversely affect the California Nye milk-vetch population. Further analysis seems needed in order to determine whether Covered Activities would cause a trend towards federal listing.
<i>Eriogonum bifurcatum</i>	forked buckwheat	1B.2	Many occurrences are within the Parhump Valley DFA. Extensive renewable energy development within this DFA could adversely affect individuals and populations, and could reduce the extent of this species' range in CA.
<i>Pediomelum castoreum</i>	Beaver Dam breadroot	1B.2	This species has been documented within DFAs in Barstow and Newberry Springs. Although some records are historical, the species is likely still present in this area. Where it occurs, it is often scarce (collection records). Local extirpation would be a concern within DFAs, and renewable energy development could reduce the extent of this species' range in CA.
<i>Pholisma sonora</i>	sand food	1B.2	In CA, this species is only found in the Imperial Valley area. A number of occurrences are in the Imperial Valley DFA. This species is endemic to the Sonoran Desert but is considered rare throughout its range <sup>1</sup> . Large populations have been documented in Algodones Dunes, but the combined threats of OHV use, military activities, non-native plants, and potential renewable energy development might affect population dynamics and cause local extirpation.

Table 1 (Continued) Scientific Name <sup>2</sup>	Common Name <sup>2</sup>	CNPS Rank <sup>2</sup>	Rationale for further analysis/consideration as a plant Covered Species
<i>Plagiobothrys parishii</i>	Parish's popcornflower	1B.1	This species is endemic to CA. Occurrences are in or near the Owens Valley, Lucerne Valley, and Lancaster DFAs. Individuals and populations might be adversely affected by renewable energy development in these areas, and development could cause local extirpation. Further analysis seems needed in order to determine whether Covered Activities within DFAs could cause a trend towards federal listing.

**Table 2:** The species in Table 2 are on CNPS List 1B and fall into one of three categories: 1.) They were Proposed Covered species in 2013 analyses (“Draft\_DRECP\_Covered\_Species\_Summary.xlsx”) but were removed from the Covered Species list in 2014; 2.) They were not listed as proposed Covered Species because of Filter B, or 3.) insufficient baseline occurrence data were available. Along with the six species in Table 1, I propose that these five species be reconsidered for listing as plant Covered Species in the final DRECP and EIR/EIS. Note that of the five species in Table 2, only *Nitrophila mohavensis* is Federally Listed (Endangered). *Nitrophila mohavensis* was not considered for listing as a Covered Species in the draft DRECP and EIR/EIS because it did not pass Species Filter B (intersection with a DFA/TA polygon). However, it is possible that suitable habitat for *Nitrophila mohavensis* occurs within or near to the Parhump Valley DFA. It is also possible that groundwater pumping associated with renewable energy activity could impact Critical Habitat for this species.

Scientific Name <sup>2</sup>	Common Name <sup>2</sup>	CNPS Rare Plant Rank <sup>2</sup>	Brief Rationale for June 2013 Coverage Decision <sup>1</sup>	Brief Rationale for Proposed Coverage in 2014 Draft DRECP <sup>1</sup>	Rationale for further analysis/consideration as a plant Covered Species
<i>Astragalus preussii</i> var. <i>laxiflorus</i>	Lancaster milkvetch	1B.1	Despite statewide extreme rarity (5 or fewer element occurrences), likely lacks sufficient information to develop a conservation strategy (lack of recent records).		Additional individuals may exist within the eastern Lancaster DFA; historical occurrences have likely been extirpated. Possibly under-documented within Plan Area; new and existing occurrences not on BLM land could be extirpated or adversely impacted if Covered Activities were to occur in such areas. Consider listing as a Covered Species because of extreme statewide rarity

Table 2 (Continued) Scientific Name <sup>2</sup>	Common Name <sup>2</sup>	CNPS Rare Plant Rank <sup>2</sup>	Brief Rationale for June 2013 Coverage Decision <sup>1</sup>	Brief Rationale for Proposed Coverage in 2014 Draft DRECP <sup>1</sup>	Rationale for further analysis/consideration as a plant Covered Species
<i>Chamaesyce platysperma</i>	flat-seeded spurge	1B.2	June 2013 recommendation reflects information from mid-2013. Despite extreme statewide rarity (5 or fewer element occurrences), lacks recent records or substantial background information. Expert model (occurrences buffered by 1 km) barely overlaps a DFA. Coverage decision was reviewed again during 2014.	Removed from proposed coverage: lacks sufficient rationale to override species filter results. Considered for coverage on the June 2013 proposed Covered Species List but not enough baseline information to provide assurances or issue take coverage. Conserved through dune CMAs.	Two occurrences are close to DFAs. Probably under-documented within Plan Area; new and existing occurrences not on BLM land could be extirpated or adversely impacted if Covered Activities were to occur in such areas. Consider listing as a Covered Species because of extreme statewide rarity

Table 2 (Continued) Scientific Name <sup>2</sup>	Common Name <sup>2</sup>	CNPS Rare Plant Rank <sup>2</sup>	Brief Rationale for June 2013 Coverage Decision <sup>1</sup>	Brief Rationale for Proposed Coverage in 2014 Draft DRECP <sup>1</sup>	Rationale for further analysis/consideration as a plant Covered Species
<i>Nitrophila mohavensis</i>	Amargosa niterwort	1B.1	Lacks sufficient rationale to override species filter results.		This species is federally endangered. Development within the Parhump Valley could indirectly impact this species. Is there alkali sink, wetland, or playa habitat within the Parhump Valley DFA where <i>Nitrophila mohavensis</i> could occur? Would possible groundwater pumping associated with renewable energy development have the potential to impact Critical Habitat for this species?
<i>Penstemon albomarginatus</i>	white-margined beardtongue	1B.1	Sufficient baseline data (e.g., for species distribution modeling) and information to develop a conservation strategy. Given general habitat, likelihood of renewable energy impacts. High Index of Conservation Concern.	Removed from proposed coverage: lacks sufficient rationale to override species filter results. Considered for coverage on the June 2013 proposed Covered Species List but minimal potential for effects by Covered Activities; surveys and avoidance required on BLM lands.	Has potential to be affected by a transmission development; current threats include ORV use and non-native invasive plants. Likely under documented within Plan Area; new and existing occurrences not on BLM land could be extirpated or adversely impacted if Covered Activities were to occur in those areas

Table 2 (Continued) Scientific Name <sup>2</sup>	Common Name <sup>2</sup>	CNPS Rare Plant Rank <sup>2</sup>	Brief Rationale for June 2013 Coverage Decision <sup>1</sup>	Brief Rationale for Proposed Coverage in 2014 Draft DRECP <sup>1</sup>	Rationale for further analysis/consideration as a plant Covered Species
<i>Phacelia parishii</i>	Parish's phacelia	1B.1	Sufficient baseline data (e.g., for species distribution modeling) and information to develop a conservation strategy (e.g., present on West Mojave HCP Covered Species List). Two element occurrences possibly extirpated, and others with likelihood of renewable energy impacts based on location (near BLM-verified wind and solar project applications). High Index of Conservation Concern.	Removed from proposed coverage: lacks sufficient rationale to override species filter results. Considered for coverage on the June 2013 proposed Covered Species List, but known occurrences primarily located on BLM lands where surveys and avoidance would be required.	Occurrences are possible/probable in Parhump Valley and in DFAs near Barstow and Newberry Springs. Removed from proposed Covered Species list because known occurrences are primarily on BLM lands; was a range model considered? Likely under-documented within Plan Area; new and existing occurrences not on BLM land could be extirpated or adversely impacted if Covered Activities were to occur in those areas

## References for Tables 1&2

<sup>1</sup>Appendix B, Selection of DRECP Proposed Covered Species: Process and Methods. Available: [www.drecp.org](http://www.drecp.org).

<sup>2</sup>Calflora: Information on California plants for education, research and conservation. [web application]. 2015. Berkeley, California: The Calflora Database [a non-profit organization]. Available: <http://www.calflora.org/> (Accessed: Feb 22, 2015).

Reference for plant collection data: Data provided by the participants of the Consortium of California Herbaria ([ucjeps.berkeley.edu/consortium/](http://ucjeps.berkeley.edu/consortium/)).