

**APPROVED December 7, 2016**

**MBCA BOARD MEETING MINUTES**

***ONE-TIME CHANGE TO Tuesday, Nov. 8, 2016***

**5:00 – 7:00 PM, Yucca Valley Community Center**

**Board members present:**

<input checked="" type="checkbox"/> Steve Bardwell	<input checked="" type="checkbox"/> Ruth Rieman
<input checked="" type="checkbox"/> David Fick	<input type="checkbox"/> Claudia Sall
<input checked="" type="checkbox"/> Pat Flanagan-15 min.	<input type="checkbox"/> Seth Shteir
<input checked="" type="checkbox"/> Meg Foley	<input checked="" type="checkbox"/> Laraine Turk
<input checked="" type="checkbox"/> Sarah Kennington	<input type="checkbox"/> Marina West (w/notice)

**Meeting was called to order at 5:05 PM.**

**Introduction of Guests, Board Directors, and Advisory Members – no guests.**

Laraine agreed to take minutes in Marina's absence.

Pat needed to leave early but before she left she shared some information about the "Gathering of Tribes on the Oasis of Mara" program. They received more funding recently. Although it's not a "general public" event, Board members are welcome to attend; *Pat will send us the agenda*. Sarah noted that we want to publicize our sponsorship of the event after it's over. Total cost will be \$23,678.

**Agenda Input and Approval**

No additions were made.

**Approval of Minutes from September 8 & October 13, 2016**

***Ruth moved approval of both the September 8 and October 13 minutes; Laraine seconded. All present voted in favor.***

**Treasurer's Report**

Steve provided the monthly report; we currently have \$51,140.69 in the bank, with some additions and deductions to come related to the Tribes event. Steve explained the use of our credit card to hold rooms for the Gathering event but that is temporary and the amounts will be refunded. There is also the need to investigate and purchase liability insurance for the meeting room in 29 Palms.

The Treasurer's report was accepted.

## **Capacity Building & Organizational Issues**

### **1) Finance Committee report: Chamber memberships;**

policy TBD: ethics (CS & MF) & fiscal sponsorship – SB, MW

Steve reported that *the committee* hasn't met recently but *will soon be working on the annual budget. They will also address the 2 policies mentioned above, ethics and a policy outlining under what conditions we will be willing to be fiscal sponsors.*

### **2) D&O insurance status – SB**

Steve said we will send a new request after publication of the new website.

### **3) Grants status: Rose “Indigenous Place, Space, & Presence” – SB**

See above.

### **4) Grants status: DWL / AWAC & Edison grants – CS & committee**

Steve reported we received the SCE grant for 2016-2017. Claudia can update us next month or at an upcoming Event Committee meeting.

### **5) Pilot Project – RR**

Ruth suggested we wait until our next meeting for an update.

### **6) Advisors Gathering: reschedule – SK**

We discussed the possibility of having a reception for the Advisors before or after the Annual Meeting. There might be a bit of a problem “clearing the room” after the meeting before we could get together – perhaps for lunch in another room at the YVCC. *We'll decide at the next Board meeting. Sarah asked Laraine to provide her with a list of Advisors who haven't yet renewed their memberships.*

### **7) Nominations Committee (RR, MF, SK) & recruitment packets (LT/CS)**

Laraine reported that Cathy Zarakov said she's still interested in the long run, but has taken on additional responsibilities with the Center for Healthy Generations and couldn't join the Board of Directors in the coming year. No nominations were made for new Board members for 2017.

### **8) Student membership \$5 added & end-of-year donation appeal – SK**

Sarah is working on an end-of-year donation request and will mention the \$5 student membership, and also request people buy memberships for others, especially for millennials. Another suggestion was to give student memberships to Cindy Zack's ecology class students in the future. (Cindy doesn't have the ecology class this year and Steve noted she told him it's getting harder to get the numbers she needs to hold the class.)

9) Clean 'n Green Team re-mobilization – SK  
We'll mention at the Annual Meeting – need a team leader.

### **Outreach / Communication**

1) mbconservation.org report - LT

Laraine reported we're very close to a "beta testing" phase on the new website where we will give access to a number of people with various levels of computer skill and knowledge/interest in MBCA to get feedback for improvements. Nora and Laraine are devising a plan for this.

2) MBCA receives LaurenEl.com Excellence in Communication award – SK, LT  
*Laraine will put the Lauren Ell Awards on the website with photos.*

3) DWL rept.: Sept. 24, 2016 Program Moving Toward Community-Based RE - CS  
Claudia provided most of the information at our last meeting. Ruth summarized that the main issues told to us were that there was a bit too much content and not enough time for the local presentations. "Less might be more." She added that member Donna Thomas told her she was amazed at the content and especially thanked us for having MWA there. New member Marinna Wagner also especially liked the MWA presentation.

4) MBCA Annual meeting & Program 2017: topic; recognition long-time volunteers - CS  
Ruth reported that LT, SK, and RR just met prior to this meeting and sketched out a preliminary program for 2 – 2 ½ hours on Saturday, January 21.

### ***DRAFT PROGRAM***

9:00 – 9:15	<i>Socializing, coffee and breakfast-type snacks</i>
9:15 – 10:00	<i>President's report, MBCA issues, accomplishments, goals, honoring volunteers, new student memberships, Cindy Zacks on the importance of scholarships, scholarship.</i>
10:00 – 10:15	<i>Break</i>
10:15 – 11:00 or maybe later if necessary	<i>"State of the Basin's Water," Panel on water issues with journalist moderator (Samy Roth? Ian James? Other?). Sarah to send Eblast asking for input on questions to ask. Create largescale map to show where water is outside of agency boundaries; quantity of water being used; recharge; sewer in Warren Basin; conservation.</i>  <i>29P, JBWD, HDWD, BDVWA, and MWA? Golden State? Maybe horizontal meeting setup in Yucca Room as they did</i>



	<i>for the “state of the Basin” meeting a few years ago?</i>
12 or 12:30?	<i>Sometime after meeting adjourns, a lunch meeting with Advisors?</i>

5) Ruth Denison scholarship: publicity, application, award –SB, LT, MW

*Steve and Laraine will set appointments in November/December with appropriate staff at all local high schools to explain and provide application forms.*

**Conservation Issues**

1) Eagle Crest final EA / BLM Eagle Mt. segregation – SS

Thanks to Seth for the letter. Steve noted the pressure of last minute letters and how it's frustrating trying to have time for input and editing before the final is sent. We had some discussion about protocols for that, but acknowledged there's often a time limit, and we also discussed that we should “know” or “know about” other groups in coalition letters, especially when we're the lead.

Meg suggested we have a pre-approved list for sign-on letters. (No assignment was made to do this – perhaps a future agenda item, or via email?)

2) Planning Commission Mtg. report – SB

Thanks to Pat for her op-ed and also for her feedback on the community plans that has been posted on the website. There's still opportunity for comment on the RECE plan. We should find out details and get the information to supporters if appropriate. Most of the content seemed good, but it's policy. How it folds into the development code later is even more important.

3) Altamira housing CEQA lawsuit - DF

David reported. A lawsuit was filed in the CEQA court on Friday, October 28. They have to serve the County and the proponents, so the details are not yet public information. Fundraising will be needed. Comments made at the Nov. 3 Planning Commission meeting made it sound like they're backtracking a little. Key people involved include David, Janet Johnston, Pat Flanagan, Babak Naficy-attorney, Kipp Duff, and Robert Rutenberg.

4) Draft Supplemental EIS MCAGCC tortoise translocation/comments by 11/14/16 - SK

Sarah has tried contacting Ileene Anderson (CBD biologist) for more information but hasn't been able to communicate with her yet. CBD sent out a request for signatures. Sarah hasn't been able to get concrete data but is impressed by what the Marine Corps presented at their recent meeting.

5) Listing Joshua tree as endangered: pros & cons (11/14 WildEarth deadline) – SS  
We had earlier dialogue about this, and agreed we just wanted to get pro and con information out there, not take a stance. Let's keep an eye on this but there's no urgency.

6) Solar project updates: Soda Mountain; Palen Solar; JT Airport –  
David reported on the Airport project. They were given a fencing permit so they built a fence with a 2-foot-deep, 1-foot-wide trench before the fence, but with no tortoise fencing. Giving them the fence permit was illegal. The project is being purchased by Baywa (sp?), a German company that works with unions, a concern because other litigants are unions. Code enforcement head Andy Wingert visited the site but didn't see evidence of demolition because he hadn't seen it before the demolition. The tortoise fence problem was reported (by whom?) to CA FWS, with photos of the open trench. There is now a covering on the fence. They haven't removed the major buildings. There's a possible court date of November 17 when we can start an injunction against what they're doing. It's unusual that it's being sold now while in litigation.

7) So. CA. energy + water + green living 2016 summit report: Oct. 26, 27 – LT, MW, CS

Laraine, Marina, and Claudia attended. Laraine gave a brief overview and will write up a summary and share it.

Ruth reminded us that David Crane indicated he might come to speak for us next September, and asked if she should make more definite contact about that. We looked at the calendar and suggested our Fall 2017 program be on Saturday, September 16.

*Ruth will pursue it with Crane.*

8) Morongo Basin Solar Contractors list – SB

Steve created the list and Laraine has put it online under Resources. She noted that Aerosun's website doesn't exist so took it off. We added a sentence "PLEASE NOTE: Inclusion on this list is not an endorsement by MBCA."

*Steve will look into "HERO program authorizations" to see if there may be more installers/contractors in the area to add, and will notify Laraine to add them.*

### **Community Reports & Events**

2) Community Plan Workshops #2 *Roadmap to Making it Happen:*

Pioneertown (Nov. 15); Morongo Valley (Nov. 16); HVCC (Nov. 17);

All are on the website calendar.

## **REMEMBER DATES**

DWL Landscape Tour – April 23-24, 2017 – *confirmed*.

MBCA Annual Meeting – January 21, 2017 – *confirmed January 21, morning*.

DWL Fall Program - September 16, 2017 – *Added this as tentative date*.

Adjourned: 6:45 PM.

<b>Next Regular Meeting: Thursday, Dec. 8, 5:00 PM / YV Community Center</b>
--

# MBCA



**morongo basin conservation association**

November 8, 2016

Assets –	Checking	\$29,495.93
	CD	<u>\$21,644.76</u>
	Total	\$51,140.69
Deposits:	memberships	\$25.00
	Donations- (Michelle Strong)	\$75.00
	Southern California Edison Grant	\$1,000.00
	Interest checking	<u>\$1.37</u>
	Total	\$1,101.37
Expenditures	Quickbooks (note an increased from \$12.95/mo )	\$15.00
	KCDZ (fall DWL advertising)	\$500.00
	Ruth Rieman (fall dwl refreshments)	\$134.09
	Cash check (For Honoraria for Gathering singers)	\$3,000.00
	PayPal fees	<u>\$3.20</u>
	Total	\$3,652.29

RE: Gathering of Tribes,

The MBCA Bank card has been used to hold the Motel 6 reservation for housing for the 30 singers - \$2,570.40. The cost for the housing is being funded by the Costo Foundation - \$2,000.00 and the Cultural Conservancy - \$500.00. It is anticipated that the checks from these organizations will arrive before the event.



# Online Communication Excellence

THIS CERTIFICATE IS PROUDLY PRESENTED TO

## Morongo Basin Conservation Association

FOR OUTSTANDING ONLINE COMMUNICATION

*Lauren Ell*

OCTOBER 22, 2016

LAUREN ELL, EDITOR OF  
LAURENELLOFTHIDESERT.COM



November 4, 2016

Jerome E. Perez, State Director  
Bureau of Land Management  
California State Office  
2800 Cottage Way, Suite W-1623  
Sacramento, CA

**RE- Eagle Crest Pumped Storage Project Transmission Line Environmental Assessment  
Comments**

Dear Director Perez:

The undersigned desert conservation organizations and individuals oppose the Eagle Crest Pumped Storage Project due to the profound harm it would cause to Joshua Tree National Park, desert tortoise, golden eagle, bighorn sheep and regional groundwater resources. We urge the Bureau of Land Management (BLM) to conduct a full Environmental Impact Statement (EIS) for the project's associated Transmission Line, not merely an EA, to better protect Joshua Tree National Park and so that decision makers can understand the project's many significant impacts.

**BACKGROUND**

The Eagle Crest Energy Corporation is currently undergoing an Environmental Assessment (EA) for a right-of-way grant from the BLM to construct approximately 12 miles of transmission and gen-tie line for the transmission of energy associated with the Eagle Crest Pumped Storage Project. The project area is approximately 30 miles west of Blythe, California, and within the vicinity of Desert Center.

The BLM states that the EA under consideration will tier to the 2014 Final Environmental Impact Statement (EIS) prepared by the Federal Energy Regulatory Commission (FERC) for the Eagle Crest Pump Storage Facility. The environmental assessment will focus on the right-of-way for gen-tie and water supply lines, and the Plan Amendment for the sections of the gen-tie line that do not fall within designated utility corridors.

**INTRODUCTION**

The transmission line, gen-tie line and water pipeline that are currently being evaluated are essential components of the proposed Eagle Crest Pumped Storage Project, an energy project, which would be located less than two miles from Joshua Tree National Park and surrounded by the park wilderness on three sides.

The Department of Interior (DOI) has stated that, "Eagle Crest's Project threatens to adversely impact Park resources, resulting in both immediate and long term negative consequences for the preservation and management of the Park." In its July 21, 2014 Request for Rehearing and Stay sent to the Federal Energy Regulatory Commission (FERC), the NPS outlines the project's violations of the National Environmental Policy Act (NEPA), which include failing to obtain adequate baseline data and surveys of resources in the project area; inaccurately characterizing the effects of the project on bighorn sheep, failing to address the effects of the project's brine ponds on birds; inadequately addressing effects associated with the treating and disposing of acid mine drainage and failing to give equal consideration to the enhancement of fish and wildlife values, including habitat values.

We submit the following comments regarding the Eagle Crest Transmission and Water Pipeline EA that is currently under consideration.

**FAILURE TO EXAMINE A COMPLETE RANGE OF ALTERNATIVES**

Scoping for the Eagle Crest transmission line and water pipeline was initiated on November 25, 2015 and the public comment period closed on December 28, 2015. BLM reports there were over 8500 comments from individuals, organizations and agencies.

In their December 17, 2015 scoping letter to the BLM, the EPA states under the topical heading of “Alternatives Analysis”.

“Reasonable alternatives should include, but are not necessarily limited to, alternative configurations and routes for the pipeline and transmission line. The Draft EA should provide a discussion of the reasons for the elimination of alternatives which are not evaluated in detail.”

BLM’s National Environmental Policy Act Manual states in 6.6.3 “Alternatives Considered but Eliminated from Detailed Analysis,” states that, If you consider alternatives during the EIS process, but opt not to analyze them in detail, you must identify those alternatives and briefly explain why you eliminated them from a detailed analysis.” The Manual further specifies this should also be done with an Environmental Assessment.

MBCA contends that the BLM has failed to follow this directive because it has not provided an explanation of why certain alternatives were not fully analyzed in the EA or alternatively why all suggested scoping alternatives weren’t analyzed. The BLM’s scoping document included many suggestions, but one that was not addressed is this scoping comment, the “Analysis should consider a private lands alternative and alternatives that eliminate impacts to wildlife through subsurface transmission lines.”

While subsurface transmission lines do have some considerable environmental impacts, a presentation by the California Institute for Environment and Technology (CIET) in 2012 also cites their benefits as including zero visual impacts and no hazard to wildlife, especially migrating birds. This alternative for the transmission line must be addressed and analyzed fully in a subsequent EIS, or at the very least there must be a cogent explanation for its rejection.

### **TIERING FROM THE 2014 FERC EIS FOR THE CURRENT EAGLE CREST TRANSMISSION LINE EA IS INAPPROPRIATE AND THERE IS A NEED FOR A FULL AND COMPREHENSIVE EIS**

The BLM justifies the selected option of tiering the current Eagle Crest Transmission Line off of the 2014 FERC Final EIS as follows in the current EA:

“The FERC FEIS analyzed the Project ROW on federal lands and made a decision to issue the License. The Council for Environmental Quality NEPA regulations, and the BLM’s NEPA Handbook allow BLM to tier to existing NEPA to reduce redundant analysis and “allow [the BLM] to narrow the scope of subsequent analysis, and focus on the issues that are ripe for decision-making.” (BLM NEPA Handbook, H-1790-1 (2008), Section 5.2 (2008).”

2. “As explained in BLM’s NEPA Handbook, “[t]iering is using the coverage of general matters in broader NEPA documents in subsequent narrower NEPA documents.” (NEPA Handbook, H-1790-1 (2008), Section 5.2.2).

3. “Further, “[a]n environmental assessment prepared in support of an individual proposed action can be tiered to a programmatic or other broader-scope environmental impact statement.” (43 CFR 46.140(c)).”

4. “Here, BLM prepared this EA in support of its ROW and PA decisions, and it tiers to the entirety of a broader-scope EIS, i.e., FERC’s FEIS. In the tiered document (ROW EA), BLM focuses on those issues and mitigation measures specifically relevant to the narrower action (ROW Grant) but not analyzed in the larger document (FERC FEIS) in sufficient detail to support BLM’s ROW and PA decisions.”

But this argument is really a selective use of the BLM NEPA handbook which ignores additional guidance on this subject:

1. "This (Tiering) allows the tiered NEPA document to narrow the range of alternatives and concentrate solely on the issues not already addressed."
2. "Before you tier to a NEPA document, evaluate the broader NEPA document to determine if it sufficiently analyzed site specific effects and considered the current proposed action." (p.27)

MBCA argues that the 2014 FERC EIS:

- Fails to provide adequate scientific data, information and analysis for many critical natural and cultural resource impacts and that these important issues were never addressed in the original 2014 FERC EIS, rendering tiering inappropriate. The only way to address them is to develop a full and comprehensive EIS.
- There is a long history and documentation that myriad aspects of the 2014 FERC EIS is woefully inadequate and contains huge gaps and deficiencies in resource data, despite the fact that FERC denied Request for Rehearing claims from the Department of Interior and others. This fact is underscored by unresolved issues highlighted in the Department of Interior's Request for Rehearing letter and reiterated in the National Park Service's scoping letter for the Eagle Crest Transmission Line.

Additionally, the Environmental Protection Agency (EPA), which rates the quality of EIS documents gave the FERC Eagle Crest DRAFT and FINAL EIS a resounding thumbs down.

The FERC draft EIS was issued on December 23, 2010 and on January 30, 2012 FERC issued a final EIS. Both documents were gravely flawed to the extent that the Environmental Protection Agency (EPA), which rates the quality of Environmental Impact Statements, gave both the draft and the final EIS a rating of EO-2-Environmental Objections- Insufficient Information rating.

This rating, as defined by the EPA signifies that, "the draft EIS does not contain sufficient information to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the proposal."

The rating also means that the EPA's review, "has identified significant environmental impacts that should be avoided in order to adequately protect the environment" and that "corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative)."

According the EPA's February 5, 2011 letter, the rating is due to the following:

- The staff alternative would contribute to the overdraft of the Chuckwalla Aquifer.
- Has potential direct and cumulative significant effects to groundwater quality and sensitive Wildlife species.
- Significant unknown impacts.
- Level of acid rock drainage production.

(EPA letter to FERC on draft EIS 2/5/11)

But perhaps the most important point is that in the subsequent follow up letter of March 8, 2012 evaluating whether the Final EIS had been improved and addressed the EPA concerns, the EPA stated, "EPA appreciates the broader discussion of cumulative impacts of groundwater drawdown in the context of the solar projects in the area; however, the issues that we raised regarding effects on ground water quality and the unknown extent of acid rock drainage that would result from filling the two reservoirs remain unresolved." The letter also reiterates concerns regarding social justice, groundwater depletion, wildlife and air quality. These issues were never addressed in the FERC EIS and thus render the BLM's decision to tier off that document fundamentally inappropriate.



### **Department of Interior Request for Rehearing Letter**

The FERC FEIS has myriad significant flaws, errors, shortfalls, mischaracterizations, and omissions that make it inappropriate for BLM to tier from.

In its July 21, 2014 Request for Rehearing Letter, the U.S. Department of Interior Solicitor's Office raised many resource issues regarding the FERC EIS:

These problems have yet to be addressed and will be submitted for consideration into the comment record by MBCA. They must ultimately be addressed by BLM, through an EIS process. In summary, they include the following:

FERC violated the NEPA by failing to obtain adequate baseline data and surveys of resources in the project area in violation of 40 CFR 1500.1 and 1502.24"

Specific issues are as follows:

- "Lack of Adequate Baseline Data for the Central Project Area Renders the FEIS Invalid"
- "The EIS Lacks Sufficient Data Regarding Wildlife"
- "The FEIS Lacks Sufficient Data Regarding Risks Associated with Acid Mine Drainage"
- "The Commission violated NEPA by relying on stale data about resources in the central project area."
- "The Commission violated NEPA by inaccurately characterizing the effects of the Project on bighorn sheep in violation of 40 CFR 1500.1(b) and 1502.24."
- "The Commission violated NEPA by failing to address the effects of the Project's brine ponds on birds."
- "The Commission's FEIS did not adequately address effects associated with treating and disposing of acid mine drainage that may result from the operation of the Project in violation of 40 CFR 1508.8(b)."

### **National Park Service (NPS) Transmission Line Scoping Letter**

MBCA joins federal land management agencies in requesting a subsequent full and comprehensive EIS. The NPS scoping letter dated December 28, 2015 states the following, "The NPS suggests that the compliance document be changed from an Environmental Assessment (EA) to an Environmental Impact Statement (EIS)," due to the controversial nature of the project and its potential significant impacts.

### **SIGNIFICANT IMPACTS- THE NEED FOR A FULL AND COMPREHENSIVE EIS**

BLM must develop a full and comprehensive EIS for the proposed action due to the proposed project's Significant Adverse Impacts on a wide variety of resource areas.

As mentioned above, the BLM National Environmental Policy Act Handbook H-1-1790 states that, "Actions whose effects are expected to be significant and are not fully covered in an existing EIS must be analyzed in a new or supplemental EIS (7.2, p.69). The Council on Environmental Quality (CEQ) regulations explained in 40 CFR 1508.27 state that the term "Significantly" as used in NEPA requires considerations of both context and intensity (7.3, p.70).

Context means that the action must be analyzed in several different contexts such as "Society as a whole (human, national), the affected region, the affected interests and the locality (7.3, p.70)." We believe, after reviewing the current EA, that merely conducting an environmental assessment fails to adequately analyze the proposed action and its cumulative impacts in terms of the affected region, affected interests, final DRECP land designations, the Joshua Tree National Park Eagle Mountain Boundary Study, wildlife, wilderness and Joshua Tree National Park.

The Council on Environmental Quality (CEQ) describes the term "Intensity" to mean, "The severity of the effect (7.3, p.71) and that in order to determine severity of the effect, you must look at direct, indirect and cumulative effects (40 CFR 1508.27 (b)(1)."

MBCA argues that the proposed action and its impacts pose a direct, indirect and cumulative, significant, severe and adverse effect to the following considerations that are highlighted in the BLM National Environmental Policy Handbook for evaluating the intensity of a proposed project. We believe that due to the fact that the proposed action has so many severe, significant direct, indirect and cumulative impacts, that the preparation of a full EIS with adequate time for stakeholder review is warranted.

The CEQ regulations include the following ten considerations for evaluating intensity which is a key indicator of whether an impact is significant and thus whether a full EIS is warranted:

- 1) Impacts that may be both beneficial and adverse
- 2) Public Health and Safety
- 3) Unique Characteristics of the Geographic Area
- 4) Degree to which effects are likely to be highly controversial
- 5) Degree to which effects are highly uncertain or involve unique or unknown risks
- 6) Consideration of whether the action may establish a precedent for future actions with significant impacts
- 7) Consideration of whether the action is related to other actions with cumulatively significant impacts
- 8) Scientific, cultural, or historical resources, including those listed in or eligible for listing in the National Register of Historic Places
- 9) Threatened or Endangered Species and their critical habitat
- 10) Any effects that threaten a violation of federal, state or local law or requirements for the protection of the environment.

MBCA argues that the proposed Eagle Crest Transmission line fits the first 9 conditions and possibly all 10 criteria. Brief reasoning is listed below.

- 1) The project and its associated transmission line would store some energy from renewable energy applications and provide energy for some consumers, but would deplete groundwater supplies; adversely impact bighorn sheep, golden eagle, desert tortoise and a wide variety of other wildlife; potentially have adverse impacts on air quality and human health; jeopardize the ecological integrity of Joshua Tree National Park and BLM ACECs; harm water quality through acid mine drainage and is utilizing public lands in a manner in which they cannot be restored in any reasonable amount of time.
- 2) The project and its associated transmission line could increase the risk of Valley Fever and decrease air quality as noted in the EA.
- 3) The area has unique characteristics including the adjacent Joshua Tree National Park, BLM ACEC and National Conservation Lands, buildings associated with the Kaiser Mine that are on or eligible for the National Register of Historic Places and Native American archaeological, cultural and spiritual sites.
- 4) The Eagle Crest Project and its associated transmission line is one of the most controversial projects in the entire California desert. More than 8500 comments were received by BLM during the scoping period for the Eagle Crest transmission Line. The Department of Interior challenged the entire project in a Request for Rehearing, citing numerous deficiencies in the FERC Eagle Crest EA and finally the EPA has rated the FERC Eagle Crest EIS, the document to which the EA is tiered, with an abysmal rating of EO 2, meaning there are grave deficiencies with the document. Finally, the National Park Service has raised and reiterated resource concerns about impact to Joshua Tree National Park and stated they believe the correct compliance document should be an EIS.
- 5) There's a great deal of uncertainty about the impacts of the project and its associated transmission line to groundwater, golden eagle, desert tortoise and bighorn sheep and air quality which is reflected in the frequent condition verbiage of the EA, framing impacts as possibilities, but not certainties. This is due to a lack of relevant and comprehensive scientific data and analysis.

- 6) There is considerable concern from many entities about the appropriateness of the Crest Transmission line tiering off the FERC EIS that was found deficient by the Department of Interior, which oversees the BLM that is preparing the EA.
- 7) There is a significant amount of renewable energy development in the area that must be considered, as well as other potential developments that could impact the region's resources. Additionally, this EA impacts both the DRECP and the National Park Service's Joshua Tree National Park Eagle Mountain Boundary Study.
- 8) The area and region have a wide variety of historic resources and protected public lands that are listed in #s 1 and 3.
- 9) Federally threatened desert tortoise are being impacted by the creation of two artificial reservoirs which will subsidize predators like ravens that eat desert tortoise, the construction of transmission lines which serve as perches to ravens, the fragmentation of habitat, harm to tortoises from construction related actions and damage to tortoise environment from the introduction of water.

### **FAILURE TO TAKE A "HARD LOOK" AT ENVIRONMENTAL IMPACTS**

#### **A HARD LOOK-**

[http://www.blm.gov/wo/st/en/prog/planning/nepa/webguide/document\\_pages/examples\\_of\\_how\\_ibla.html](http://www.blm.gov/wo/st/en/prog/planning/nepa/webguide/document_pages/examples_of_how_ibla.html)

NEPA requires the BLM take a "hard look" at potential environmental impacts and reasonable alternatives to proposed actions. Specifically, it requires that the agency take a hard look at the environmental consequences of a proposed action and reasonable alternatives before making a decision about any proposed project.

The Bureau of Land Management guidance on NEPA states that it is useful to consider a proper "hard look" analysis to meet the following criteria:

- Assumptions spelled out,
- Inconsistencies explained,
- Methodologies disclosed
- Contradictory evidence rebutted
- Records referenced,
- Analysis solidly grounded in science,
- Guesswork eliminated, and
- Conclusions supported in a manner capable of judicial understanding

Additionally, the Council on Environmental Quality states that, "'Accurate scientific analysis, expert agency comments and public scrutiny are essential to implementing NEPA.'" (p. 1 CEQ NEPA).

MBCA argues that the BLM has failed to take a "Hard Look" at the following critical resource areas based on the BLM's own protocol:

#### **Golden Eagle**

The Eagle Crest EA notes the presence of numerous raptor species and golden eagle nests in the vicinity of the Eagle Crest Project. During golden eagle surveys that were conducted in the spring of 2010 in a 10 mile radius, 34 golden eagle nests were distributed among nine active and five inactive eagle territories within the project region.

The EA acknowledges that other raptor species that were encountered included American kestrel, barn owl, Cooper's hawk, great horned owl, long-eared owl, northern harrier, osprey, peregrine falcon, prairie falcon, red-tailed hawk and Swainson's hawk (FERC FEIS, pp. 144).

Although golden eagle surveys conducted in 2012 and 2013 did not find any nests, this does not suggest that A) all the nests were located B) There was no nesting activity occurring subsequent to these surveys. This is particularly



true because golden eagles incidence and success rate in nesting year to year vary with a wide variety of factors including available food and weather conditions. In fact, what these surveys really point to is the need for updated surveys.

The actual scientific references in the golden eagle section are more or less limited to the following which are grossly inadequate for analysis or conclusions regarding impacts or successful mitigation. Scant specific information is included.

This section merely includes the following meager scientific data and analysis which does not meet the standard of the BLM's standards for a "Hard look" or their memo on golden and bald eagle which will be presented later on in this discussion. Conditional verbs and phrases, indicating uncertainty and a lack of actual, project specific scientific data and analysis are highlighted and underlined.

- "Several sensitive raptor species, including prairie falcon and golden eagle, could suffer effects of project construction if there are active nests near activities proposed in the central project area."
- "Loud staccato noises and vehicle noise could disrupt nesting activities or cause nest abandonment."
- "The proposed project gen-tie line has the potential to affect raptors or other species due to in-flight collisions with conductors or electrocution. For example, biological monitoring of avian mortality conducted by the DSSF on their gen-tie line in the Chuckwalla Valley found a total of 13 avian mortalities over a 2-year monitoring period. None of the avian mortalities associated with the DSSF gen-tie line were of State or Federally-listed species (Ironwood, 2015)."
- "Additional perching or nesting sites associated with the transmission line could have beneficial effects on some raptor species, but could also cause increased predation on local wildlife (FERC FEIS, pp. 165)."
- "Constructing new gen-tie line support towers would increase perching and nesting structures for birds, including desert tortoise predators. However, constructing these new towers in areas where similar towers already exist would limit the spatial distribution of these resources. While the new towers would still present potential nesting and perching structures, the proximity of these structures to the existing structures could limit their suitability. Both ravens and other raptors nest in defended territories and are not likely to nest near pre-existing nests. Therefore, constructing the new line adjacent to existing lines would limit the creation of new nest sites. The gen-tie alignment would be co-located with existing structures and removed from mountainous nesting habitat (FERC FEIS, pp. 165-166)."

MBCA also contends that the BLM statistic cited in this section grossly underestimates the true impact of transmission lines on birds from electrocution and collision, referencing a study that found 13 avian fatalities over a period of 2 years.

This doesn't corroborate with the true impacts that the USFWS has found across the nation regarding collisions and electrocution by power lines. The USFWS estimates somewhere between 12 and 64 million birds killed annually at power lines from both electrocution and collisions.

<https://www.fws.gov/migratorybirds/pdf/management/lossetal2014powerlines.pdf>

Finally, MBCA finds that the BLM has failed to comply with its own directives related to golden eagles. On July 13, 2010, the BLM enacted Instruction Memorandum No. 2010-156 on the subject of the Bald and Golden Eagle Protection Act in terms of the National Environmental Policy Act and Avian Protection Plan Guidance for Renewable Energy.

The purpose of the IM was to provide direction for complying with the Bald and Golden Eagle Protection Act (Eagle Act), including its implementing regulations (i.e., September 11, 2009, Eagle Rule (Rule) 50 CFR parts 13 and 22) for golden eagles, and to identify steps that may be necessary within the habitat of golden eagles to ensure environmentally responsible authorization and development of renewable energy resources.

The IM stipulates a certain protocol for dealing with golden eagles that must be incorporated into the BLM's NEPA process, which to our knowledge, to date, the BLM hasn't followed.

The following potential impacts must be considered in the NEPA document when evaluating a project:

- 1) To consider golden eagle habitat as part of the affected environment whether breeding territories/nests, feeding areas, roosts, or other important golden eagle use areas are located within the analysis area. The analysis area should be determined on an individual project-specific basis, and should be made in coordination with the FWS.
- 2) A Direct and Indirect Effects Analysis: Use the best available demographic, population, and habitat association data to analyze impacts to golden eagles or their habitat, then include the following within the analysis area determined for the action/authorization which includes the following:
  - The potential direct and indirect impacts to individual birds and their habitat (e.g., direct mortality, destruction of eggs, nests, individual breeding territories, communal roosts, migration corridors, fragmentation of habitat, reduction in habitat patch size, disturbance from human presence, noise, commotion, etc).
  - The potential direct and indirect impacts, if any, to the local or regional eagle population and their habitat.
  - The potential short-term and long-term effects of the project on golden eagle populations and their habitat.
- 3) Cumulative Effects Analysis: An analysis of cumulative effects for golden eagles should be conducted if the NEPA analysis indicates that the project would cause direct or indirect impacts to the golden eagle. Complete the cumulative effects analysis using appropriate geographic and temporal boundaries and best available information. Normally this would be at a broad scale. The analysis will not be speculative, and the appropriate scale of analysis will be determined on a project-specific basis, and may deviate from what the FWS has recommended in interim guidance if substantiated with a rationale documented in the project's administrative record.
- 4) Best Management Practices: Best Management Practices that avoid or minimize the possibility of the unintentional take of eagles are expected to be developed by agencies, industries, or companies with the FWS in coordination with the BLM, and will be applied to projects where appropriate as a condition of the right-of-way grant until Advanced Conservation Practices (ACPs) are developed and implemented.
- 5) Avian Protection Plans: If the proposed project has the potential to impact golden eagles or their habitat, an Avian Protection Plan (APP) will be required by the BLM as a condition of the right-of-way grant. The APP will be developed by the applicant, in coordination with the FWS and the BLM, to evaluate options to avoid and minimize the project impacts. The APP must address siting, operations, and monitoring.
- 6) Interagency Coordination: Coordination with the FWS should occur early and throughout the project planning process regarding golden eagles and their habitat. **All projects must document and include as part of the administrative record any and all written correspondence from the FWS indicating whether or not the project, as proposed, is or is not likely to take golden eagles.** Correspondence must also address whether or not the FWS considers the development of an APP an option for the project as proposed, or if an alternative project proposal should be considered. This coordination must be completed as early in the process as possible and incorporated into the NEPA document for the project. If FWS considers an APP to be an option for the project, a letter of concurrence must be sought and received from the FWS that addresses the adequacy of the APP. The letter of concurrence should be included in the administrative record. It is anticipated that assessment of operational impacts would be ongoing and additional mitigation may be required post construction (refer to the Bald and Golden Eagle Protection Act Compliance Stipulation below).

What is missing in the BLM's analysis of the proposed project's impact on golden eagles is the following:

- Meaningful, scientifically based analysis of cumulative impacts
- Assumptions for this section are not spelled out.
- Inconsistencies are not explained.
- There's scant methodological data.
- There is merely one letter documented from the USFWS on the subject which is doubtfully the entirety of the correspondence between USFWS and the BLM or even sufficient to understand the scope of that communication.
- No contradictory evidence is rebutted because NONE is presented
- Little scientific data is presented and analyzed
- Guesswork has not been eliminated
- Conclusions are premature for both the project analysis and cumulative impacts

### **Brine Pond Relocation and Birds**

The Draft EA points out that the project's brine ponds will be relocated in order to better protect desert tortoise habitat and that the BLM has consulted with the USFWS and FERC regarding this issue. It states that the brine ponds will be relocated to a site in an already disturbed area that was once the trailer park for the Town of Eagle Mountain and that relocating the brine ponds will result in a reduction of impact to desert tortoise habitat of 47.7 acres.

While the relocation of the brine ponds may benefit desert tortoise, MBCA is concerned that this relocation may have an adverse impact avian species and that the current amount of scientific data and analysis that are present in the EA are insufficient, leading to the conclusion that the BLM has failed to take a "Hard look" at the potential impacts of this significant change to the project footprint. This concern is underscored by the fact that the NPS brought up the potential impacts of the brine ponds on avian species as a deficiency in the 2014 FERC EIS in their Request for Rehearing letter.

Finally, the Desert Center area lies under the Pacific Flyway an avian super highway for migrating birds. Ebird bird data for the area related to endangered, special status or rare species must be included and analyzed in a subsequent EIS as that data demonstrates that the Desert Center area has 254 species, approximately the same number of species as the BLM's Big Morongo Canyon Preserve, which is designated as an Area of Critical Environmental Concern (ACEC) and an Important Bird Area (IBA). The article, "An Ebird Enterprise: An Integrated Approach to the Development of Citizen Science" by Sullivan et al. in the journal Biological Conservation, underscores the validity of ebird data and methodology: "Management agencies and conservation organizations are beginning to recognize that ebird provides invaluable year-round data on species distribution and abundance, at wide range scales, but also with fine spatial and temporal resolution"(38-39).

### **Desert Tortoise**

The BLM has also failed to take a "Hard look" at the impacts of the proposed project to desert tortoise. The data and analysis in the Eagle Crest Transmission Line EA are inadequate in terms of direct, indirect and cumulative analysis of the proposed action's impacts to tortoise. Both the project specific and the cumulative impacts assessment fail to disclose or analyze the overall significance of the area to desert tortoise, particularly in terms of desert tortoise connectivity.

The BLM reports that the USFWS found that the disturbance of up to 10.48 acres of habitat from construction of the gen-tie line, water supply pipeline, and associated stub and access roads may result in accidental death or injury of sub-adults, adults, and juvenile desert tortoises and eggs from crushing, trampling, or burial (USFWS, 2012 p. 50). Other construction and operations activities along the right of way and may impact up to three sub-adult and adult desert tortoises, up to 13 juveniles, and up to 17 eggs per year during the life of the Project.



However, because of the imprecise nature of this estimate and conditional assertion, the actual number of individuals that may be moved out of harm's way along, injured or killed along the linear components is unknown. This uncertainty is directly related to the BLM's failure to conduct adequate surveys along the project area's right of way and is evidence that BLM has not taken a "Hard look" at the impacts of the proposed project on desert tortoise.

Further study and analysis should be conducted along the Transmission line Right of Way to gain a better understanding of how many tortoises- adult and juvenile- may be affected by the proposed action. This should be documented in a subsequent EIS.

Furthermore, the significance of the area to desert tortoise is not disclosed. The Joshua Tree Eagle Mountain Boundary Study states the following about the Boundary Study area which encompasses the Eagle Crest Project and Transmission Line Project area in its eastern portion:

"Known and modelled habitat for the desert tortoise exists within and surrounding the study area, especially on the eastern and western ends. There is important habitat for the desert tortoise along the eastern end of the project area and is pinched between the project area and the Desert Sunlight Solar Farm (Nussear 2009). This area is one of the only connections of desert tortoise habitats found within Joshua Tree National Park (Pinto Basin) and the Upper Chuckwalla Valley, Upper Pinto Wash, Pinto Mountain and Chemehuevi Critical Habitat Units and Desert Wildlife Management Areas. The protection and restoration of this corridor is necessary to the conservation of the desert tortoise."(p. 141)

And that:

"Map 4-12: Desert Tortoise Habitat - Study Area shows a narrow corridor of occupancy between the mine area and low potential habitat to the southeast. This area is of great interest in the regional conservation of desert tortoise as it is the main link between highly protected habitats in Joshua Tree National Park and habitats south of I-10. This area was described in detail by the biological opinion written by the U.S. Fish and Wildlife Service for the Desert Sunlight Solar Farm Project (Desert Sunlight) depicted in Map4-12: Desert Tortoise habitat - Study Area."

And finally:

"Surveys completed for the Desert Sunlight project found high densities of desert tortoises in the western portion nearest to the Eagle Mountain site. The study area also contains the important, regional north/south habitat connection that links the desert tortoise habitat corridor in Joshua Tree National Park to valuable habitat south in the Orocopia and Chuckwalla Mountains. This habitat corridor is one of the last remaining in the area and is vital to the population's genetic diversity as well as to the ability of desert tortoises to move between large blocks of suitable habitat."

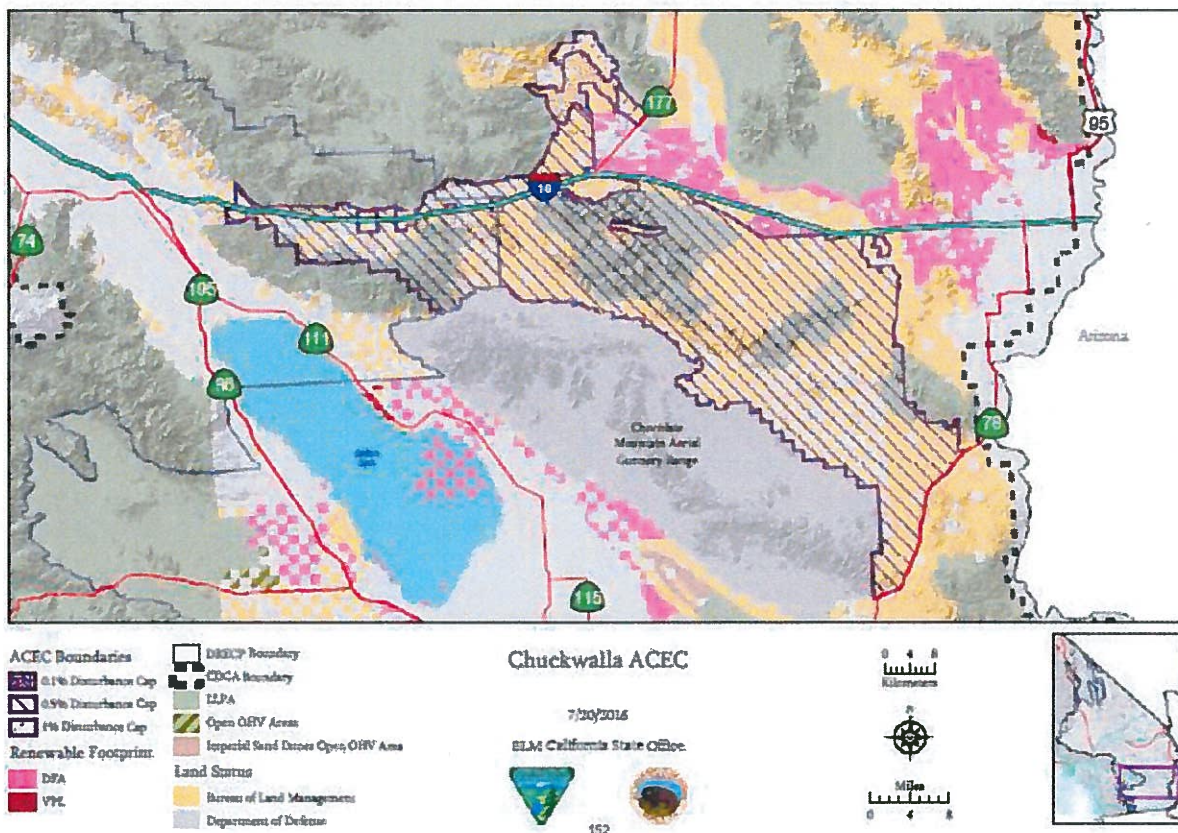
# Map 4-12 Desert Tortoise Habitat- Study Area (P. 144)

Eagle Mountain Boundary Study Including Possible Land Withdrawal Environmental Assessment

Map 4-12: Desert Tortoise Habitat - Study Area



Additionally, the proposed project lies within the Chuckwalla ACEC, that has the stated goal, "To maintain desert tortoise habitat connectivity between the Chuckwalla and Chemehuevi ACECs."



This ACEC's Nationally Recognized values are highlighted in the DRECP, "NLCS lands would protect an area of highest value desert tortoise habitat in northeastern Riverside County (2009 USGS Desert Tortoise Habitat model). It would provide critical desert tortoise habitat connectivity between the two major desert tortoise

populations identified in the Colorado Desert (i.e., the Chuckwalla and Chemehuevi critical habitat units) and Joshua Tree National Park.” (154-155 Appendix B Final DRECP)

This goal, resource value and designation fundamentally makes the Eagle Crest Transmission Line Project fundamentally unacceptable for the ACEC, despite the fact that some of the lands that would be used for the proposed project have already been withdrawn by FERC.

A subsequent full and comprehensive EIS must divulge the direct, indirect and cumulative impacts of tortoise individuals, habitat, connectivity and their ultimate survival in the region from the proposed transmission line project. To date, BLM has failed to take a “Hard look” at the proposed project’s impacts to desert tortoise.

### **Bighorn Sheep**

BLM has once again failed to take a “Hard look” at the proposed project’s impacts on bighorn sheep.

The BLM acknowledges that, The Central Project Area is located in BLM’s Joshua Tree National Park Desert Bighorn Sheep Wildlife Habitat Management Area (FERC FEIS p. 141) and that populations in the Project vicinity include the Little San Bernardino Mountain population, located north of I-10 west of the Project, and the mountain populations of Chocolate, Orocopia, and Chuckwalla, south of I-10. It goes on to recognize that the movement of individuals between these populations contributes to gene flow and promotes genetic diversity of the meta-population and that construction of barriers between these populations, including I-10 and the Metropolitan Water District’s canal, reduce this gene flow and could reduce fitness for populations that are isolated from the meta-population (Epps et al., 2005).”

But the BLM has failed to revise their scientific data and analysis as suggested by the National Park Service’s Request for Rehearing letter. That letter essentially states that:

- 1) There is significant movement and intermingling of sheep living in the Coxcomb and Eagle Mountains and that there is a significant bighorn migration corridor that utilizes the Eagle Crest project area.
- 2) That, “bighorn will avoid a wide range of roads in this region, from freeways to off road vehicle trails,” suggesting that the construction and infrastructure of the proposed transmission line and water line will constitute a significant impact to bighorn sheep.
- 3) That in the 2014 FERC EIS, the agency incorrectly states that project construction impacts to bighorn would be minor and temporary and that vehicular activity or road maintenance would not affect bighorn sheep safety or create barriers to movement.
- 4) BLM also ignores facts in the 2014 FERC EIS, asserting that there has been a significant amount of human, construction and mining related activity in the area and that the construction of the proposed project would be a similar condition. This is fundamentally false. The National Park Service Request for Rehearing letter points out that bighorn within the project area have been largely undisturbed since the cessation of large scale mining activities ceased in 1983.

BLM has failed to take a “Hard look” at the proposed project’s impacts to bighorn sheep and must do so in a subsequent, comprehensive EIS.

### **Water**

The BLM has failed to take a “Hard look” at groundwater quantity in the Eagle Crest Transmission Line EA.

Much of the data presented in the EA does not meet the BLM’s own criteria and is rife with assumptions and inconsistencies without the contradictory evidence presented or evaluated and without the conclusions being supported by a broad range of scientific experts besides BLM resource staff.

MBCA continues to challenge the following regarding groundwater resources related to the project:



- 1) Rate of recharge which as listed in the FERC EIS is several times higher than the National Park Service estimates.
- 2) The assertion that after 4 years of project pumping to fill the abandoned mine pits, the recharge will exceed pumping in the Chuckwalla Valley aquifer.
- 3) The amount of overdraft predicted by the FERC EIS.
- 4) The maximum drawdown of 50 feet of groundwater during the initial 4 years and the subsequent decrease and leveling off at about 14 feet thereafter that is referred to in the EA.
- 5) The potential harmful impacts on the Pinto Basin Aquifer from aggressive groundwater pumping in the Chuckwalla Valley Aquifer.
- 6) The assertion that adjacent wells that were active during, or have remained active since, the 1980s would likely not experience adverse production, requiring well modification or replacement as a result of Project pumping. Project-induced drawdown, either during the initial fill period or during the continued Project operation, would not exceed historical drawdown levels.
- 7) The assertion that the Eagle Crest Project's aggressive groundwater pumping will not likely substantially alter subsurface groundwater flow directions throughout the Chuckwalla Valley.
- 8) The claim that at the end of the potential 50-year License period, the aquifer storage, or cumulative change, would increase by about 74,000 acre-feet because recharge of the basin would exceed groundwater withdrawals for the majority of this period (FERC FEIS p. 98; State Water Board, 2013 p. 3.3-26).
- 9) The assertion that cumulative pumping within the region will not impact recharge to the Colorado River.

Moreover, BLM has not adequately studied the possibility of subsidence, which it states, "Could potentially occur as a result of Project pumping if drawdown levels are substantial (defined as greater than historical levels that were known not to have caused subsidence), causing the subsurface stratum to collapse. Subsidence could also potentially occur as a result of hydro-compaction of sediments wetted from reservoir seepage (FERC FEIS, p. 108).

The gravity of this impact and the EA's extremely brief inadequate data and analysis on it justify the production of a full and comprehensive EIS that examines this potential.

Furthermore, MBCA echoes the concern of the National Park Service, Environmental Protection Agency and thousands of stakeholders regarding the possibility of surface and groundwater contamination which merit further study and analysis.

### **CUMULATIVE IMPACTS**

The cumulative impacts analysis presented in the Eagle Crest Transmission Line is fundamentally inadequate and perfunctory and does not meet the standards required by the National Environmental Policy Act or the Council on Environmental Quality.

As previously mentioned, we contend that the BLM stating that it has "Considered" the Desert Renewable Energy Conservation Plan (DRECP) and information related to the 2015 Request for Rehearing and Stay, does not signify that this information has been incorporated, analyzed and truly evaluated in the NEPA planning process. Rather, it is clear from our review of the document that this is really lip service and that there are actually places where the current EA contradicts some of the information those specified documents.

We contend that this section is inadequate in the following ways:

- 1) The geographic scope for the analysis of cumulative impacts for terrestrial and threatened and endangered species is far too narrow.

2) Foreseeable development along the I-10 corridor, such as the 368 Transmission Corridor and Paradise Valley Development, has not been considered and need to be considered in terms of the cumulative impacts to a variety of wildlife species and their movement corridors, such as desert tortoise.

3) The geographic scope and cumulative analysis of water resources is far too narrow.

The aforementioned lead to an overall inadequate analysis of cumulative impacts for the Eagle Crest project.

The CEQ states the following regarding the geographic scope of cumulative impacts analyses:

[https://ceq.doe.gov/current\\_developments/CEQ\\_Regs\\_and\\_Guidance\\_Programmatics.html](https://ceq.doe.gov/current_developments/CEQ_Regs_and_Guidance_Programmatics.html).

“For a project specific analysis, it is often sufficient to analyze effects within the immediate area of the proposed action. When analyzing the contribution of this proposed action to cumulative effects however, the geographic boundaries of the analysis almost always should be expanded. These expanded boundaries can be thought of as differences in hierarchy or scale. Project specific analyses are usually conducted on the scale of counties, forest management units or installation boundaries, whereas cumulative effects analyses should be conducted on the scale of human communities, landscapes, watersheds and airsheds.” (P. 12).

It goes on to stipulate that:

“A useful concept in determining appropriate geographic boundaries for a cumulative effects analysis is the Project Impact Zone (PIZ) and that “For a proposed action or reasonable alternative, the analyst should:

1. Determine the area that will be affected by that action. That area is the Project Impact Zone.
2. Make a list of the resources within that area that could be affected by the proposed project.
3. Determine the geographic areas occupied by those resources outside of the Project Impact Zone. In most cases, the largest of these areas will be the appropriate area for the analysis of cumulative impacts.
4. Determine the affected institutional jurisdictions, both for the proposing agency and other agencies or groups.

(P.14)

The CEQ goes on to stipulate that:

“For land based effects, an appropriate regional boundary may be a “forest or range,” a watershed, an ecological region or socioeconomic region.”

(P.16)

[https://ceq.doe.gov/publications/cumulative\\_effects.html](https://ceq.doe.gov/publications/cumulative_effects.html)

However, the Eagle Crest EA ignores these directives. When it explains how it arrived at its current geographic scope of CESA’s (Cumulative Areas of Evaluation) they state in the current EA:

“The CESA for terrestrial resources would be lands above the Chuckwalla Valley Aquifer and Pinto Basin Aquifer, which includes portions of Joshua Tree National Park. This broad area was identified to address the potential for subsidence related to groundwater withdrawal to cumulatively effect terrestrial plants and wildlife. Other Project effects would also be limited to this geographic area.”

“The CESA (Cumulative Impacts Study Area) for other resources, including geological resources and soils; terrestrial and threatened and endangered species; cultural; socioeconomics; and air quality and noise, is that portion of the Chuckwalla Valley and I-10 corridor sufficient to encompass all Eagle Crest Project facilities, as well as construction and operation effects.” (P.128 EC Transmission Line EA)

### Groundwater Resources:

For terrestrial resources and water, the EA states that the CESA is the, “lands above the Chuckwalla Valley Aquifer and Pinto Basin Aquifer, which includes portions of Joshua Tree National Park. Given the following potential impacts of groundwater depletion and impacts to sensitive receptors, we believe that the CESA should actually be a much larger area.

Furthermore, we contend that the BLM merely stating that it has considered information in the 2014 FERC EIS and the DRECP, does not constitute an actual analysis and evaluation of this information, particularly when the Eagle Crest Transmission Line EA presents information and methodology that countermands or does not integrate these other sources. Such is the case with cumulative impacts here because what the Eagle Crest Transmission Line EA claims is the CESA for groundwater impacts is in reality a more localized and project specific geographic area. This CESA should be expanded in a subsequent EIS due to the following consideration about potential groundwater impacts and information:

The question here is why doesn't the CESA include the entirety of the Chuckwalla Valley Groundwater Basin and Palo Verde Groundwater Basin due to the following facts regarding the hydraulic connectivity of groundwater system in the area, the potential for impacts and their relationships to Colorado River recharge which are found in an Argonne National Laboratories report on water resources for the Riverside East Solar Energy Zone (A Groundwater Model to Assess Water Resource Impacts at the Riverside East Solar Energy Zone- Argonne- Dec. 2013- <http://blmsolar.anl.gov/sez/ca/riverside-east/groundwater/downloads/Riverside-East-Groundwater-Report.pdf>)

- Groundwater flows from northwest to southeast from the Chuckwalla Valley Groundwater Basin through the Palo Verde Groundwater Basin and into the Colorado River. Furthermore both these Basins replenish the Colorado River. (2,3)
- Allocations of water from the Colorado River are managed by a complex array of compacts, federal laws, court decrees and contracts that comprise, “The Law of the River.”(3)
- Accounting surface methods developed by the USGS determine static groundwater levels in contributing Basins that replenish the Colorado River. The Chuckwalla Valley and Palo Verde Groundwater Basins contribute to the replenishment of the Colorado River. Accounting surface elevation is between 238 and 240 feet in the Chuckwalla Valley system. If groundwater elevations go below the accounting surface elevation, then subsequent groundwater withdrawals are considered Colorado River extractions and infringe on water rights (3,4)
- According to the Argonne Study, there are 88 wells in the Riverside East Solar Energy Zone Project area and that during wet and dry years, these wells pulled between 4,400 to 5,700 acre feet/year. (p.8)
- The Transient Model put forth in the Argonne Laboratory report on the hydrologic properties of the Riverside East Solar Energy Zone estimate the impacts of solar build out in that zone and its impact on groundwater withdrawal. The high water demand scenario states there will be withdrawals of 16,898 acre feet/year, the medium scenario- 8450 acre feet/year. The low scenario estimates 672 acre feet/year for photovoltaic facilities, but states that this estimate is only for operations. Therefore, it can be assumed that the withdrawals from the Chuckwalla Valley and Palo Verde Groundwater Systems will be considerably more than that considering construction as well as operations, even assuming the low scenario is accurate.
- For the Medium Water Withdrawal Scenario, Argonne National Laboratories states that, “Although the drawdown is less than that seen in the high-water-demand scenario, there could be impacts on phreatic vegetation in areas that experience large drawdowns as a result of the pumping for the medium-water-demand scenario.” (23)

### **Terrestrial, Threatened and Endangered Species:**

Similarly, the CESA for terrestrial, threatened and endangered species is defined as, "is that portion of the Chuckwalla Valley and I-10 corridor sufficient to encompass all Eagle Crest Project facilities, as well as construction and operation effects." (P.128).

We argue here the area described is really a Project Impact Zone (PIZ) and not a CESA. A PIZ is defined by the Council for Environmental Quality Regulations on NEPA as, "the area that will be affected by the action." But in determining the appropriate scope and geographic area for the CESA, the CEQ also states that a second states that the analyst must also consider the following:

"Determine the geographic areas occupied by those resources outside of the Project Impact Zone. In most cases, the largest of these areas will be the appropriate area for the analysis of cumulative impacts."

This clearly has not been done for terrestrial, threatened and endangered species such as bighorn sheep, golden eagle, desert tortoise and/or a wide variety of other species. For example, a bighorn sheep CESA should include any areas with meta-populations that are directly or indirectly impacted by the project action, as well as an overview about how the proposed action will affect the long term persistence of bighorn in the California Desert District. An appropriate desert tortoise CESA, is not merely the area encompassing Eagle Crest facilities, but a much larger one that considers the latest, high quality scientific information about tortoise connectivity in the region and would definitely be a larger geographic area.

For example, the MBCA believes that the appropriate CESA for tortoise should be the Chuckwalla Desert Tortoise Critical Habitat Area that is defined by the Northern and Eastern Colorado Desert Coordinated Management Plan (NECO), a landscape level planning plan whose primary goal is to protect the Sonoran Desert ecosystem and iconic species like the desert tortoise.

Failure to Consider Cumulative Impacts to Wildlife Corridors along the I-10 for a Wide Variety of Species such as the Desert Tortoise:

The CEQ regulations require the consideration of cumulative impacts in NEPA documents and a cumulative impact "results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions (Taking a Harder Look at Direct, Indirect and Cumulative Impacts- Murray Feldman-2010- Rocky Mountain Mineral Law Foundation).

Here, we argue that the cumulative impacts analysis is perfunctory and does not consider all reasonably foreseeable projects such as the 368 Transmission Corridor and Paradise Valley Development that may, in conjunction, with the proposed project, may create significant, adverse and unmitigable impacts on wildlife corridors for avian, terrestrial and threatened and endangered species like the desert tortoise along the I-10 corridor. These must be included in a subsequent comprehensive EIS.

**In closing, the undersigned organizations thank the Bureau of Land Management for the opportunity to provide comments on the Eagle Crest Transmission Line Environmental Assessment. We urge the BLM to conduct a full and comprehensive EIS to better protect Joshua Tree National Park and so that decision makers can understand the true impacts of this project.**

**Sincerely,**

**SIGNATORIES**

**Sarah Kennington, President**  
**Morongo Basin Conservation Association**  
**PO Box 24, Joshua Tree, CA 92252**  
**(760) [366-9862-sarah@infinityranch.com](mailto:366-9862-sarah@infinityranch.com)**

**Dave Miller, President**  
**Friends of Big Morongo Canyon Preserve**  
**Morongo Valley, CA**

**Ryan Henson, Senior Policy Director**  
**California Wilderness Coalition**  
**Redding, CA**

**Dr. Allan Muth, Ph.D**  
**54-900 Desert Research Trail**  
**Indian Wells, CA 92210**

**Drew Feldmann, Conservation Committee Chair**  
**San Bernardino Valley Audubon Society**  
**San Bernardino, CA**

**Meg Foley, Executive Director**  
**Joshua Tree National Park Association**  
**Twentynine Palms, CA**

**Victoria Fuller, President**  
**Joshua Tree Community Association**  
**Joshua Tree, CA**

**Cody Hanford**  
**Transition Habitat Conservancy**  
**Pinion Hills, CA**



# BEAT thanks Supervisors Lovingood, Gonzales, Rutherford

By Victoria Fuller, Claudia Sall, Ruth Rieman and Pat Flanagan Morongo Basin | Posted: Friday, September 16, 2016 5:56 pm

We were members of the 2013 Basin Energy Assessment Team (BEAT), which was a citizen-led committee convened by request of 3rd District Supervisor James Ramos to provide expert recommendations to guide smart San Bernardino County renewable energy policy. Our goal was simple: help the county craft a sound, responsible renewable energy policy that would protect homeowners, the tourism economy, communities, iconic desert species and protected lands like our national parks.

We thank Supervisors Lovingood, Gonzales and Rutherford for their leadership in refusing to certify Soda Mountain Solar's state permits and for carrying out the intent of our recommendations. We are truly disappointed about Supervisor Ramos' vote in favor of this harmful project, especially because the supervisor was fully aware of the ecological importance of the Soda Mountain area. It has been identified as the most important restorable bighorn sheep migration corridor in the entire southeast Mojave Desert.

As members of the BEAT, we shared our views, experience and expertise on the often controversial subject of renewable energy and a rich dialog — and sometimes heated debate — occurred about the role renewable energy should play in our future. After hundreds of hours of work and a 49-page report replete with explanations and numerous recommendations, this document provided important input for the current county renewable energy ordinance.

For many of us, serving on the BEAT was a bittersweet experience. To have San Bernardino County look to its residents to forge a sound renewable energy ordinance and to see some of our ideas reach fruition in the final ordinance made us proud. But as time wore on, it became clear that the ordinance was tremendously open to interpretation, which continued to put our communities and public lands in jeopardy.

The Soda Mountain Solar hearing on Aug. 23 demonstrated the good judgement and sound decision making of Supervisor Lovingood, Gonzales and Rutherford. They chose desert interests above Silicon Valley, protecting our water, lands and wildlife when even the Department of Interior, who manages the lands, refused to do so.

And make no question about it — there is a scientific consensus about the damage the Soda Mountain project will cause — more than 80 nationally recognized independent scientists state it will irrevocably harm bighorn sheep, wildlife migration corridors, scenic vistas, birds and air quality — and contrary to the claims of Regenerate Power's legal counsel, these facts are expressed time and time again in the public record.

How could the very supervisor who convened and championed the BEAT vote to authorize a renewable energy project that would fundamentally undermine connectivity, habitat and the very persistence of this subpopulation of bighorn sheep? The excuse that the Soda Mountain project is to be developed on federal

land and that the county ordinance we helped craft was focused on private and county lands cannot be accepted.

The Soda Mountain issue is far from over, and when it returns, we urge Supervisor Ramos to make his vote represent our desert communities and the citizens who at his request volunteered hundreds of hours of their time to develop a responsible renewable energy policy to protect our quality of life and our national parks.

Victoria Fuller, Pat Flanagan, Claudia Sall and Ruth Rieman were leaders of the Basin Energy Assessment Team in 2013 and collectively have over 75 years-experience working on community and environmental issues. They reside in California's Morongo Basin.