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Thursday, December 11, 2014

**TO:**

California Energy Commission  
Dockets Office, MS-4  
Docket No. 09-RENEW EO-01  
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BLM Field Office and Manager Carl Symons  
300 S. Richmond Road Ridgecrest, CA 93555

**Subject: "DRECP NEPA/CEQA"**

**Due to issues requiring modification, clarification, missing information and flawed analysis that would substantially change conclusions;**

The thousands of miners and mining claims in California and specifically in the California Desert District that must be considered a stakeholder in this process under their CAMC designations. California Desert District Mining Coalition on behalf of all mines and miners in the designated areas of the DRECP and new ACEC's are requesting a forty five (45) day extension from February 23<sup>rd</sup> 2015 due to conflicts of agencies and law to be clarified and corrected.

FLPMA did not repeal the Mining Act (30 USC 22-54). **(Conflict 1)**

Can an ACEC be placed over the top of an already existing (exclusive) use of land with a documented priority of use claimed in good faith for mining purposes? No. FLPMA was not intended to disrupt "valid existing rights" **(Conflict 2)**

Therefore, the most effective comment that could be made regarding these ACEC's is the BLM is failing to exclude valid existing mining claims (historic and present) from ACEC's application. Said another way would be that ACEC's priorities of non-use (wildlife habitat) is in **direct conflict (Conflict 3)** with valid existing mining uses. Priority of use is determined by which came first, the mining claim recordation or the change of the lands use.

BLM's authority under FLPMA to make rules regarding ACEC's (part 11) is tempered by the language in FLPMA (parts 3,7,8), especially the Multiple Surface Use Act (30 USC 612(b)). In real simple terms, the BLM cannot designate a ACEC over the top of a valid unpatented mining claim without some form of clashing and materially interfering with the rights of the miner to extract under the mining law. If a mining claim was located prior to 1976 (FLPMA) had any new ACEC placed on it that would violate part 3 of FLPMA. **(Conflict 4)**

At first blush, the question needs to be asked: Are NLCS and ACEC compatible with the Multiple Surface Use Act, specifically 30 USC 612(b). ***We would like a FOIA (freedom of Information Act request) from all legal authorities BLM is using for NLCS and ACEC.*** It looks like at a glance that there are many conflicts. **(Conflict 5)**

Signed

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