



June 22, 2020

Mr. Eric Sklar
President
California Fish and Wildlife Commission
Sacramento, CA 94244-2090

Via Email to: fgc@fgc.ca.gov

Re: Petition to List the Western Joshua Tree (*Yucca Brevifolia*)

Dear President Sklar,

The California Wind Energy Association (CalWEA) is a 20-year-old trade association representing wind energy companies that own, operate and develop projects located in California. I write to express great concern over the possibility that the Commission may list the western Joshua tree as a threatened or endangered species under the California Endangered Species Act. Taking such action is not warranted and would have a very detrimental impact on the limited remaining potential to develop wind energy in California, which is an essential component of cost-effectively achieving California's goal to wean itself off of the fossil fuels causing climate change.

At the outset, CalWEA urges the Commission to postpone consideration of this issue from its June 24-25 meeting to the Commission's August 19-20, 2020, meeting, or longer if possible. This will enable CalWEA to more fully study the petition filed by the Center for Biological Diversity, which we only recently became aware of.

If the Commission decides to act on the petition at its June meeting, CalWEA strongly urges the Commission to reject it, for two primary reasons discussed below, based on our review of the Department's evaluation of the petition¹ ("Department Evaluation").

¹ California Department of Fish and Wildlife, *Evaluation of a Petition from the Center for Biological Diversity to List Western Joshua Tree (*Yucca Brevifolia*) as Threatened Under the California Endangered Species Act* (February 2020).

1. The Department Evaluation did not sufficiently consider federal-land protection of the western Joshua tree

The Department Evaluation insufficiently considers the fact that approximately 72 percent of the western Joshua tree's distribution is on federal land.² The petition itself acknowledges that the species "is therefore protected to some degree from development impacts"³ and the Department states that "management of these lands has an important role in determining the continued viability of western Joshua trees in California." But the Department Evaluation does not adequately consider that protection. It states that:

[T]he majority of western Joshua tree habitat on federal lands is on BLM land, which is governed by BLM's California Desert Conservation Area (CDCA) Plan. The Northern and Eastern Mojave Plan and West Mojave Plan are amendments to the CDCA Plan that cover the California range of western Joshua tree. The 2016 Desert Renewable Energy Conservation Plan (DRECP) amendments also cover the entirety of western Joshua tree's range in California. The Petition states that these plans do not provide adequate protection for western Joshua tree ***because the species is not addressed in the plans, the plans include weak or nonexistent avoidance and conservation measures***, and/or the plans include activities that will actively degrade western Joshua tree habitat.⁴

There is no further discussion of the DRECP in the Department Evaluation. The quoted statement of the petition is false in two major respects, and the petition itself mischaracterizes the DRECP.

First, the DRECP does, in fact, address the western Joshua tree. One of the conservation objectives of the DRECP was to conserve areas of Joshua tree woodland for the sake of the

² Department Evaluation at pp. 12 and 21-22. The Department's Evaluation states that 96 percent of the geographic area in which the YUBR North population is located is on federal land and 48 percent of the geographic area in which the YUBR South population is located is on federal land. No information is presented on the fraction of the overall population of the western Joshua tree that exists within the two geographic areas, and no information is presented regarding whether these two population clusters separately warrant listing. Therefore, it is reasonable to reference the overall percentage of western Joshua tree that exists on federal land, and unreasonable to focus on the fact, as did the petitioner and as referenced by the Department Evaluation, that "only 50 percent" of the YUBR South population is on federal land.

³ *Id.* at p. 21.

⁴ *Id.* at pp. 26-27. Emphasis added.

species and as part of the habitat necessary for other species.⁵ When a distinct Joshua tree species was noted in the plan, it was always *Yucca brevifolia*, the western Joshua tree.

Second, approximately 96 percent of the high-quality wind resources on Bureau of Land Management land was permanently put off limits to wind energy development as a result of the new land designations made for conservation under the DRECP in 2016. Only 78,779 of the 2.1 million acres of high-quality wind resource areas that were previously available for potential development on BLM land in the DRECP area remain available for potential development under the DRECP. This area comprises less than 1 percent of BLM land in the DRECP area.⁶ Severe restrictions on solar development were also imposed. As a result, new renewable energy developments have all but stopped in the DRECP area.⁷

By contrast, the DRECP added “4.2 million new acres of conservation areas with new or strengthened protections, including: 2.8 million acres of California Desert National Conservation Lands identified to protect nationally significant cultural, ecological and scientific values, 3.9 million acres of Areas of Critical Environmental Concern that need special management to protect important historic, cultural, scenic and/or wildlife values,” and other protections.⁸

2. Listing species based on anticipated climate change projections will undercut the very solutions to climate change that the State of California has prioritized

The Petition relies substantially on the argument that climate change, and its related impacts such as wildfire, is a threat to the future existence of the western Joshua tree. But the Department Evaluation states that the petition “does not provide evidence of a range-wide population trend”⁹ and that the information available to the Department “indicates that western Joshua tree is currently relatively abundant.”¹⁰

⁵ See California Desert Biological Conservation Framework, at pp. A-3, A-115 and A-119 (December 2016), which was developed as part of the DRECP planning process. Available at: https://energyarchive.ca.gov/drecp/documents/docs/conservationbio/CA_Desert_Bio_Conservation_Framework_w_Appendicies.pdf

⁶ See CalWEA Comments on DRECP Land Use Plan Amendments (March 22, 2018), available at: <https://www.calwea.org/article/calwea-comments-blm-notice-intent-amend-drecp>.

⁷ *The Desert Sun*, “Solar and Wind are Booming – Just Not in the California Desert (May 8, 2017). (“In the eight months since the desert plan was finalized, just one solar company has filed paperwork expressing interest in building in a development zone, said Greg Miller, from the federal Bureau of Land Management’s California Desert District. No wind companies have expressed interest.”)

⁸ “DRECP Conservation Designations” (September 2016). Available at: https://www.energy.ca.gov/sites/default/files/2019-12/DRECP_Conservation_Fact_Sheet_ada.pdf

⁹ Department Evaluation at p. 8.

¹⁰ Department Evaluation at p. 2.

Climate change threatens widespread impacts on ecosystems around the planet and, with melting glaciers and rising seas, the very planet as we know it.¹¹ If all species are to be listed as threatened and endangered on the basis of anticipated climate change impacts, the list will be exceedingly long. And the impact of such listings will undercut the very solutions to climate change that we need.

California has adopted a target of shifting the state's electricity system entirely off of fossil fuels by 2045 and its plan to achieve that target includes a doubling of the amount of wind energy on California's electrical grid by 2030.¹² The DRECP restrictions imposed on wind energy, noted above, have already substantially hindered the ability to achieve this goal.¹³ Listing the western Joshua tree would complicate and potentially derail further wind energy developments in southern California. The extensive review process under CEQA ensures that impacts on the western Joshua tree and other sensitive species will be avoided to the extent possible and properly mitigated, as has been the case with wind energy projects.

Wind energy development is necessary to cost-effectively achieve California's goal to eliminate fossil fuels from our electricity system and, in turn, address the major environmental threat of climate change. The petition is not warranted and would undercut this goal.

Sincerely,



Nancy Rader
Executive Director

cc: Alice Reynolds, Senior Advisor to the Governor for Energy

¹¹ See, e.g., Department Evaluation at p. 2.

¹² See California Public Utilities Decision 20-03-028 (issued April 6, 2020) at Table 8, and California Energy Commission, *Tracking Progress, Renewable Energy* (updated December 2018) at Figure 7.

¹³ See note 6 *supra*.
