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**Attorney General**

**State of California**  
**DEPARTMENT OF JUSTICE**



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**VIA E-MAIL AND U.S. MAIL**

Joseph Ross  
Project Manager  
Twentynine Palms Proposed Training Land/Airspace Acquisition Project  
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RE: Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Acquisition of Lands and Establishment of Airspace Contiguous to the Marine Corps Air Ground Combat Center, Twentynine Palms, California

Dear Mr. Ross:

The Attorney General of the State of California submits these comments to the United States Department of the Navy ("Navy") in response to its Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Acquisition of Lands and Establishment of Airspace Contiguous to the Marine Corps Air Ground Combat Center, Twentynine Palms, California ("Twentynine Palms").<sup>1</sup>

We commend the Navy for committing to prepare a draft Environmental Impact Statement ("DEIS") and for its efforts to seek comments on issues that should be addressed in the DEIS, including alternatives and mitigation measures, in compliance with the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321 *et seq.* (2003 & Supp. 2008).

We write, however, to urge the Navy, in preparing the DEIS, to consult and coordinate with all the agencies and parties involved in planning for the future of this area. The Mojave

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<sup>1</sup> The Attorney General submits these comments, made on behalf of the Attorney General, not any other California agency or office, in furtherance of the public interest, and pursuant to his responsibility to protect the natural resources of the State from pollution, impairment, or destruction. *See* CAL. CONST. art. V., § 13; CAL. GOV'T CODE §§ 12511, 12600-12612; *D'Amico v. Bd. Of Medical Exam'rs*, 11 Cal.3d 1, 14-15 (1974).

Desert is a multi-faceted but limited resource, and we must use it wisely. As the Navy has recognized, the Mojave offers vast open spaces suitable for Marine Corps training exercises; it is also home to unique and sensitive desert species, such as the threatened desert tortoise, and has been identified as a world-class location for solar power and other renewable energy projects. Given these conflicting demands, we can use the Mojave wisely only with coordinated planning. In addition, we urge the Navy to address in the DEIS any impact the proposed expansion is expected to have on greenhouse gas emissions and global warming.

**In Preparing the DEIS, the Navy Should Acknowledge the Conflicting Demands and Stresses on California's Desert Areas, And Consult With All Parties Active in the Mojave**

California's desert lands are fragile, and are key to the survival of many at-risk species. According to the California Natural Diversity Database, a number of rare and sensitive species have been found to occur near Twentynine Palms, including the desert bighorn sheep and the state and federally threatened desert tortoise. Twentynine Palms's proposed eastern expansion area, which exceeds 200,000 acres, provides a critical movement corridor for desert bighorn sheep as they travel between mountain ranges. Proposed expansion areas to the west of the current base, totaling between 100,000 and 200,000 acres, include habitat for the state and federally threatened desert tortoise. Wildlife in the region is already under pressure from years of worsening drought, increasing land development, the expansion of off-highway vehicle use, and failed efforts to relocate desert tortoises from Fort Irwin. Overall, the expansion of Twentynine Palms could force desert wildlife into ever-decreasing areas, and closer to extinction.

Moreover, California's desert lands are subject to other, competing, demands. Land in these areas, including the Mojave Desert, is expected to play a critical role in developing the renewable energy sources California needs to achieve the California Global Warming Solutions Act of 2006, California Health and Safety Code § 38500 *et seq.* ("AB 32"), Executive Order S-03-05, which sets a target of reducing GHG emissions in California to 80% below 1990 levels by 2050, and California's goal of achieving 33% renewables by 2020. The rapid, scaled-up development of renewable energy projects and associated transmission is expected to be critical to California's ability to comply with mandated renewable portfolio standards and combat climate change.<sup>2</sup> Desert areas, particularly the Mojave, are crucial to the development of renewable energy projects (particularly concentrated solar power and wind), which are expected to play an important role in this effort.

Given the increasing stress on California's desert areas and the importance of the Mojave both to wildlife survival and the achievement of California's renewable energy goals, it is all the more important that agencies take a comprehensive approach to land use in the Mojave Desert. Thus, in conducting its impacts analysis (including its cumulative impacts analysis), the Navy should consult and coordinate not just with the Bureau of Land Management, the Federal Aviation Association, the U.S. Fish and Wildlife Service, the California Department of Fish and

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<sup>2</sup> See generally Executive Order S-14-08, available at <http://gov.ca.gov/executive-order/11072>.

Game, and the California State Lands Commission, but with the many other agencies, both state and federal, and parties active in the area. This includes the California Department of Water Resources, the California Energy Commission, and participants in the Renewable Energy Transmission Initiative (“RETI”) process.

As the Navy is no doubt aware, RETI is a statewide planning process intended to identify the transmission projects needed to accommodate California’s renewable energy goals.<sup>3</sup> RETI aims to assess all competitive renewable energy zones (“CREZs”) in California and neighboring areas that can provide significant electricity to California consumers by 2020.<sup>4</sup> Among other things, the January 2009 RETI Phase 1B Final Report identifies those CREZs that have the most cost-effective large scale renewable resources in the state.<sup>5</sup> The vast majority of these geothermal, wind, and solar resources are located in southern California, specifically in the Tehachapi Mountains, the Salton Sea area, and the Mojave Desert.<sup>6</sup>

In addition, the Navy should work to coordinate military airspace restrictions with efforts to develop wind energy systems. One method of doing so could be to employ the type of radar that minimizes the need for restrictions. And in accordance with the Navy’s statement in the Federal Register notice that it would “evaluate opportunities for co-use of the land, as part of the evaluation of alternatives,”<sup>7</sup> the DEIS should evaluate whether, and to what extent, land used for military training purposes also could be used for renewable energy generation and/or associated transmission—or whether, as mitigation, other sections of Twentynine Palms not suitable for training could be so used.

### **The DEIS Should Consider Global Warming Impacts, Mitigation Measures, and Alternatives to Reduce Global Warming Impacts**

To the extent that increased vehicular activity, heavy equipment use, and/or additional air and ground activities attributable to the proposed expansion could have significant direct, indirect, or cumulative global warming impacts, the DEIS should identify and evaluate effective alternatives and mitigation measures to avoid, reduce, and mitigate these impacts.

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<sup>3</sup> See <http://www.energy.ca.gov/reti>.

<sup>4</sup> See *id.*

<sup>5</sup> See RENEWABLE ENERGY TRANSMISSION INITIATIVE, PHASE 1B FINAL REPORT, PART II: ECONOMIC ANALYSIS OF COMPETITIVE RENEWABLE ENERGY ZONES, at 1-1–1-5 (2009), available at <http://www.energy.ca.gov/reti/documents/index.html>.

<sup>6</sup> *Id.* at 1-5.

<sup>7</sup> Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Acquisition of Lands and Establishment of Airspace Contiguous to the Marine Corps Air Ground Combat Center, Twentynine Palms, CA, 73 Fed. Reg. 64,604, 64,605 (Oct. 30, 2008).

Mitigation measures could include, but are not limited to, expansion of Twentynine Palms's existing solar array and/or cogeneration plant, and adoption of a mandatory "green construction" policy for any necessary construction. The DEIS also should consider feasible measures to mitigate and/or reduce emissions of GHGs and criteria pollutants (including black carbon, a potent climate-forcing agent, and other particulate matter, including dust) from Marine Corps vehicles and jets. Such measures could include, for example, requiring retrofitting of diesel vehicles with particulate traps, replacing diesel vehicles with the lowest-emitting available alternative fuel vehicles, and requiring that all new vehicles have the lowest level of emissions feasible. Emissions of criteria pollutants remains a critical health issue for the region, which does not meet attainment standards for ozone and particulate matter.<sup>8</sup>

We recognize that, as the Nation's expeditionary force, the U.S. Marine Corps must be adequately trained to successfully deploy immediately, anywhere in the world, to help protect our national security. As discussed, however, the Mojave is a unique and irreplaceable resource that will face multiple competing demands in the coming years. Accordingly, the Navy must consider a full range of alternatives that recognizes the diverse value of these sensitive areas.

Global warming presents California with one of its greatest challenges to date. The Navy has the opportunity to take steps to address the problem of climate change, and the opportunities posed by renewable energy development, while educating the public and decision-makers—and without impairing national security. We urge the Navy to meet the challenge with its DEIS.

Thank you for your consideration of these comments. Please add us to the distribution list for the DEIS and all notices associated with this project, and do not hesitate to contact us if the Attorney General's Office can be of any assistance.

Sincerely,

/S/

LAURA J. ZUCKERMAN  
Deputy Attorney General

For EDMUND G. BROWN JR.  
Attorney General

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<sup>8</sup>See generally [www.arb.ca.gov](http://www.arb.ca.gov); see also, e.g., California Air Resources Board, Health Effects of Diesel Exhaust, [http://www.oehha.org/public\\_info/facts/dieselfacts.html](http://www.oehha.org/public_info/facts/dieselfacts.html).