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Subject: Urgent Need for Reform, Transparency, and Community Protections when implementing the Western Joshua Conservation Act and Plan

Dear Commissioners,

As a resident of the Morongo Basin and part of a community that lives alongside the Western Joshua tree every day, I am compelled to submit this letter to raise urgent concerns regarding the Western Joshua Tree Conservation Act (Act) and the Draft Conservation Plan.

Groundbreaking Precedent But a Flawed Process with Harmful Impacts

The Western Joshua Tree Conservation Act represents a **groundbreaking precedent in California**: It is the first time a plant species has been subject to such complex and restrictive land use permitting processes, coupled with high fees and mitigation costs. The Act is setting the stage for unprecedented regulation of private property, community growth, and infrastructure development.

However, this precedent has been created through a **deeply flawed process**:

- The Act was passed as part of the state budget, **behind closed doors**, without meaningful public review, input from local governments, or the communities most affected.
- The resulting regulations are **confusing, inconsistent, and burdensome** for residents and agencies.

- The Department is attempting to **delegate permit authority** to local governments—yet these agencies were not consulted in developing the Act or the permitting rules and many have **no interest in administering complex, unworkable rules**.

Harming Housing, Infrastructure, and Public Needs

The Act and Plan are already creating significant harm to:

- **Homeowners and housing developers**, by halting or delaying home construction in an area that has long been expected to grow to meet California’s housing needs.
- **Infill housing projects**, where existing urban and suburban areas are being blocked from reasonable development.
- **Critical infrastructure projects** for water, energy, and public safety—many of which now face **extremely high mitigation fees** and delays.
- **Wildfire safety projects**, where necessary fire hardening and vegetation management efforts are mired in permitting confusion.

The Plan also creates a **double penalty** for projects by requiring both:

- Costly **on-site mitigation or minimization measures**, and
- Payment of an **in-lieu fee** under the Act.
- It must be **one or the other**, not both. The Act itself allows for in-lieu fees as an alternative, and projects that effectively minimize impacts should not also be subjected to additional fees.

Definition of “Take” Must Reflect Plant Status — Not Animal Standards

The term "take" has always been defined in California law based on animals - wildlife species that **move**. The original **California Fish and Game Code Section 86** defines “take” as “hunt, pursue, catch, capture, or kill, or attempt to do so.”

Applying this same framework to a **stationary plant species** like the Western Joshua tree makes no sense, particularly when its physical relocation or minor impacts do not threaten its viability.

The Act itself acknowledges that **impacts are allowed** and that not every project must pay a fee—demonstrating that a rigid, zero-impact approach was never the legislative intent.

The Plan must:

- Provide a **reasonable definition of “take”** that accounts for the ecological realities of Joshua trees.
- Clearly define what activities constitute a "take."
- Respect the fact that **minimization and detrimental impacts are allowed** under the Act, and projects that minimize impacts should be supported with reduced permitting burdens and fees.

Commission Should NOT List the Species — Focus on Reforming the Act Instead

Given the **chaotic and opaque process** that produced the current Act and Plan, the Commission must:

- **Decline to list the Western Joshua tree as a threatened or endangered species** under the California Endangered Species Act.
- Instead, focus on advancing **meaningful, publicly vetted legislation** that protects the species while ensuring housing, infrastructure, and community needs are met.

The Commission must recognize that this is not simply about protecting a species—it is about setting a precedent for how California will balance **conservation, housing, infrastructure, wildfire safety, and community needs** in the future.

The current plan creates more harm than good. It threatens the very communities that live alongside the Western Joshua tree, and it was developed in a way that **excluded** those most affected.

I urge the Commission and the Department to engage in an open, transparent public process to develop workable solutions.

Thank you for your consideration of these serious concerns.

Sincerely,

[Your Name]

Morongo Basin Resident