

California Desert & Renewable Energy Working Group
c/o Resources Legacy Fund
555 Capitol Mall, Suite 675
Sacramento, CA 95814

May 2, 2011

Mr. Robert Abbey
Director, Bureau of Land Management
United States Department of the Interior
1849 "C" Street, NW
Washington D.C. 20241

Dear Director Abbey:

The California Desert & Renewable Working Group (CDREWG) is pleased to offer these comments in response to the Draft Programmatic Environmental Impact Statement (PEIS) for Solar Energy Development in Six Southwestern States released in December 2010 (Draft Solar PEIS).

The CDREWG, a dialogue between representatives of the renewable energy industry, the electric utility sector, and the environmental community, seeks to protect ecosystems, landscapes, and species while supporting the timely development of renewable energy resources in the California desert. For the past two years, we have been working together to improve planning and permitting for large-scale solar energy development on public lands in the California desert. The recommendations we offer are based on our extensive experiences as renewable energy industry, environmental, and utility stakeholders, and are the result of hours of thoughtful discussion within our group.

Notwithstanding our diversity, the members of the CDREWG agree that the solar energy plan outlined in the Draft Solar PEIS falls well short of the goals articulated by Interior Secretary Salazar for solar energy development on public lands. On June 29, 2009, the Secretary said:

This environmentally-sensitive plan will identify appropriate Interior-managed lands that have excellent solar energy potential and limited conflicts with wildlife, other natural resources or land users.... With coordinated environmental studies, good land-use planning and zoning and priority processing, we can accelerate responsible solar energy production that will help build a clean-energy economy for the 21st century.

The two most significant shortcomings of the Draft Solar PEIS are: 1) its failure to evaluate adequately the suitability of the proposed Solar Energy Zones (SEZs) for solar energy development from a technical, environmental, transmission, and cultural perspective and, as a result, 2) the plan's failure to provide a strong basis for planning or clear permitting benefits to developers for siting projects in the SEZs. The recommendations we are providing below address both of these shortcomings. We urge the Secretary to evaluate these recommendations and adopt them as a part of the final Solar PEIS.

Our recommendations are provided in addition to detailed comments on the draft Solar PEIS being provided to the Bureau of Land Management (BLM) by many of the members of the CDREWG. This letter is the result of a process of negotiation and compromise with the undersigned stakeholders and represents areas of agreement, taken as a whole package, for a comprehensive solar energy program on public lands.

I. Adopt a comprehensive Solar Energy Program that facilitates and greatly incentivizes development in Solar Energy Zones (SEZs) and Areas for Facilitated Development (AFDs).

As part of the final Solar PEIS, the Bureau of Land Management (BLM) should set up a clear process to identify, study, and designate Areas for Facilitated Development (AFDs), a term we use to distinguish these areas from the SEZs addressed in the Solar PEIS. As we make clear in this letter, AFDs would be created in addition to the SEZs adopted in a final Solar PEIS, would be identified pursuant to comprehensive technical, environmental, transmission and cultural criteria, and would be subjected to thorough environmental and other reviews. Accordingly, they would deliver multiple benefits to applicants who site projects within them as described more fully in Section IB below and in Appendix A. In this section, we make specific recommendations on how to identify, study, designate and prioritize development in AFDs, outline a process for considering "Variance Applications," (applications for land outside SEZs and AFDs), and offer some additional guidance on implementation.

A. Identify Areas for Facilitated Development.

The Bureau should identify AFDs that are suitable for solar energy development based on evaluations of technical, environmental, transmission, and cultural and transmission considerations, as outlined below. We believe that the BLM must embrace an integrated, forward-looking approach to solar energy development conducted at a landscape scale that starts with concurrently identifying appropriate areas for development and for conservation. In order to be determined suitable for designation as an AFD, an area must be assessed against all four of the requirements outlined below.

1. Technical considerations: A number of technical factors determine the suitability of land areas for large-scale solar energy development: the quality of the solar resource, measured as insolation (generally, kWh/m²/day), terrain, and proximity to existing load and infrastructure.

Insolation: Solar developers generally prefer areas with insolation greater than 6.0 kWh/m²-day. Above this threshold value, higher insolation values provide significant benefits for solar generation facilities. For instance, a reduction of 1 kWh/m²-day in insolation is equivalent to approximately a 10% reduction in efficiency and, in turn, a proportional increase in costs and land use footprint (due to the need for additional solar collection equipment to provide the same quantity of energy). Different types of insolation are most relevant to the different large-scale solar generating technologies. For concentrating solar technologies, direct normal insolation is most relevant, while, for photovoltaic (PV), global tilt insolation is the appropriate measure of the solar resource. We recommend that the BLM analyze both the direct normal insolation and the global tilt insolation for any areas being considered for AFDs.

Terrain: Most solar generating technologies must be sited on relatively flat ground to ensure that the solar collectors can utilize the solar resource effectively. Depending on the technology, the required slope can range from less than 2% up to over 5%, although lower slopes are generally better for siting solar generation. Many solar generation facilities that use tracking systems typically require slopes lower than 3%, as the land must be uniform for the automated adjustment of the solar collectors to function properly and ensure that the sunlight is efficiently harnessed for energy. Specifically, the PEIS states that parabolic trough facilities require the slope to be less than 2%, and preferably less than 1% to use the technology, while developers generally prefer to site power tower facilities on sites with lower slopes, as the Draft Solar PEIS notes, the technology is “fairly tolerant of slope change [and] ... [i]f good reasons exist to use lands with higher slopes, power tower facilities may be engineered to accommodate slope change across a site.” For PV, construction will be more complex on steeply sloped land (>5%). However, PV facilities could be engineered to accommodate more steep slopes (in the range of 7-10%) if good reasons exist to use the site.

Proximity to infrastructure: To the extent that lands close to infrastructure (transmission, roads, etc.) are available and appropriate for development, siting in these locations may reduce the overall costs for developing new infrastructure to reach and serve new solar generation facilities. In addition to reducing the development costs, proximity to existing infrastructure reduces the environmental footprint of the generation facility, resulting both in less disturbance and, in turn, less mitigation required based on the smaller footprint. As new AFDs are being considered, we request that the BLM catalog the existing infrastructure serving these areas, as outlined in Section I.A.4 of this document.

2. Environmental considerations: The public lands managed by BLM in the California desert offer some of the region’s most intact landscapes, wildlife corridors and ecological resources, and represent significant conservation value. Moreover, human understanding of these arid ecosystems and species, and how they may be affected by various conservation, management and development actions, is constantly evolving. Given these realities, we recommend the final Solar Program be designed to accommodate both a near-term least conflict approach and a long-term landscape-scale approach for identifying potential AFDs and areas for conservation.

The Least Conflict Approach: The Least Conflict Approach can provide near-term assistance for identifying those areas that may be most appropriate to develop from an ecological perspective and that should be further analyzed first as potential AFDs. These are areas that provide comparatively less ecological value and have the potential to provide low conflict as AFDs. Examples include areas near the Chocolate Mountains and in the West Mojave, as discussed in Section I.E. of this document. The criteria for identifying Least Conflict areas are included in Appendix B.

The Landscape-Scale Assessment Approach: The Landscape-Scale Assessment Approach should be used to identify other potential AFDs that may be appropriate for development based on landscape-scale ecological assessments now underway and planned in the future, such as the as the Desert Renewable Energy Conservation Plan (DRECP) in California, BLM Ecoregional Assessments, and landscape-level multi-species habitat conservation plans (MSHCPs). This approach is used to ensure protection of ecological values, by identifying which areas must be protected to meet specified ecological goals, while also promoting solar development. The overarching goal of the landscape-scale assessment should be to contribute to the persistence, distribution and diversity of the ecoregional biota and all its natural components and processes today and in the future, while pursuing and accommodating renewable energy development and adapting to climate change.

The landscape-scale assessment should:

- Contain an evaluation of both public and private lands in a geographic area that makes sense from a biological perspective and other critical issues such as water availability and soil conservation.
- Clearly define objectives that guide selection of conservation targets/goals, structure of impact analyses, and the targets and measures selected for monitoring.
- Evaluate the impact of various planning scenarios on the biodiversity and ecosystem function goals as well as on the target species.
- Implement and improve upon existing conservation and recovery plans.
- Assess the degree of intactness and disturbance.
- Result in a conservation reserve design¹ that best satisfies this suite of biological goals while also meeting renewable energy goals.

¹ From an ecological perspective, the following must be considered as part of developing the reserve design under the landscape-scale assessment:

- Locations that support sensitive biological resources, including: federally designated and proposed critical habitat; significant populations of federal or state threatened and endangered species, significant populations of sensitive, rare and special status species, and rare or unique plant communities.
- Areas of Critical Environmental Concern, Wildlife Habitat Management Areas, proposed HCP and NCCP Conservation Reserves.
- Landscape-level biological linkage areas required for the continued functioning of biological and ecological processes and allow for long-term shifts in distribution of native species in response to climate change
- Wetlands and riparian areas, including the upland habitat and groundwater resources required to protect the integrity of seeps, springs, streams or wetlands.

- Include an adaptive management framework.
- Address technical, cultural, and transmission objectives as outlined in these comments.

The Solar PEIS states that “all BLM-administered lands are not appropriate for solar energy development.” The landscape-scale assessment should incorporate and build off of the areas that are excluded from solar development to the extent they have been identified by the Solar PEIS as inappropriate for solar energy development based on environmental criteria. Those areas are detailed in the Draft Solar PEIS in Table 2.2-2 Areas for Exclusion under the BLM Solar Energy Development Program Alternative, beginning on page 2-8.

3. Cultural considerations: Performing adequate cultural resources evaluation and consultation is essential to reducing the concerns of local Native American tribes with traditional and cultural ties to these landscapes and whose members continue to use public lands for cultural and religious purposes. Litigation on several projects, as well as comments received from tribes on “fast track” projects, illustrate the urgent need to improve the agency’s current cultural resources practices. It is in the interest of all stakeholders that these important issues be addressed and that cultural resource evaluation and government to government consultation improve significantly going forward.

As the BLM begins identifying potential AFDs, the Bureau must consult with State Historic Preservation Officers, Native American Tribes and other parties as required under Section 106 of the National Historic Preservation Act and other laws to determine if there are significant cultural resources within potential AFDs. The purpose of these consultations will be to identify and avoid investing further resources on potential AFDs where there are high densities of cultural resources.

4. Transmission considerations: Transmission upgrades and additions will most likely be needed to safely and reliably interconnect and deliver renewable energy resources from remote, prime resource areas of the state to population centers. State and regional transmission planning efforts have identified some likely transmission upgrades and additions needed to meet today’s renewable energy goals, based upon best available information but largely without thorough evaluation of biological resources and cultural resources. Uncertainty remains as to the precise location, amount, and type of renewable energy projects that will be developed to meet these goals and where those projects will be sited. Identification of AFDs and related transmission upgrades and additions (as necessary) will provide greater certainty, resulting in a more orderly, rational, timely, and cost-effective state and regional transmission planning and permitting process as well as result in the least-impacts to biological resources.

• Areas that support a geophysical or other ecosystem process upon which sensitive biological resources depend.

When evaluating potential AFDs, the BLM should:

- Identify transmission upgrades and additions, including collectors, network upgrades, downstream upgrades, corridors, and related infrastructure (such as roads), sufficient to support renewable energy development in the AFD.
- Utilize existing roads and transmission rights-of-ways wherever possible, consistent with all applicable reliability planning criteria required by North American Electricity Reliability Corporation (NERC), Western Electricity Coordinating Council (WECC) and the California Independent System Operator (CAISO).
- Coordinate with the CAISO’s Revised Transmission Planning Process (RTPP) to ensure that transmission upgrades and additions needed to support renewable energy development in areas identified by BLM as potential and designated AFDs are considered for inclusion as “policy driven projects”.
- Coordinate with the WECC regional transmission planning efforts to ensure consistency and compatibility across the western region.
- Analyze transmission upgrades, additions, new or expanded corridors, and related infrastructure in sufficient detail so as to facilitate timely permitting by local, state and federal entities.

5. Size: In addition to the criteria outlined above, we recommend that AFDs be at least 5,000 acres in size and designed to accommodate more than two projects.² We also encourage the identification of AFDs adjacent to appropriate private lands that may be appropriate for solar development consistent with the above criteria.

B. Study and Designate Areas for Facilitated Development

To give stakeholders confidence that a more orderly and efficient solar program is within reach, the Department of Interior must set, publish, and keep to a firm timetable for the identification and implementation of AFDs, one that specifies exactly when environmental review documents, mitigation plans and cultural surveys will be completed for each AFD as outlined below.

Once it has been determined that a potential AFD is suitable for solar energy development, BLM should take a number of important steps to facilitate that development and ensure that the full range of benefits associated with development in AFDs – environmental review, ESA compliance, mitigation, cultural review, among others – are delivered to all stakeholders.

² The 5,000 acre minimum is intended to apply to AFDs that are solely on public lands. There should be no minimum acreage for AFDs on public lands that are being considered adjacent to and in conjunction with private lands suitable for solar development.

Environmental review: Proposed new AFDs should be analyzed through a new NEPA/land use amendment process pursuant to the National Environmental Policy Act (NEPA) and the Federal Land Planning and Management Act (FLPMA). BLM should conduct a thorough environmental review of the proposed AFD so future reviews of applications within its borders can tier off that environmental impact statement (EIS) and utilize an environmental assessment (EA), instead of a new EIS as would be required based on the analysis provided in the Draft Solar PEIS. This has been identified by developers as a major benefit of AFDs. In the process of preparing the EIS on the proposed AFD, the BLM should seek a Section 7(a)(2) consultation with US Fish and Wildlife Service to provide for faster project-level Endangered Species Act permitting once the area is designated – another major benefit. The Department should establish strict schedules for the completion of EAs on applications within designated AFDs after Notices of Intent (NOIs) are published, and the expectation should be that all DOI agencies should complete their work within those schedules. The Department should also establish inter-agency teams to: expedite service to projects in AFDs; provide a single point of contact for all Interior agencies responsible for coordinating environmental reviews and consultations; ensure timely performance of agencies; and facilitate stakeholder reviews.

Mitigation: While completing an EIS for each proposed AFD, state and federal agencies should consider the environmental impacts of multiple solar facilities within the AFD at once and develop a mitigation plan that both simplifies and improves the mitigation process. An AFD-wide mitigation plan will not only increase permit efficiencies and financial predictability for developers, it will also enhance the ability of state and federal agencies to invest in larger scale conservation that benefits sensitive species through higher quality habitat, improved connectivity between habitat areas, and better long-term protection. In the California desert, the DRECP will also provide a framework for developing such mitigation plans. To the extent that public lands are used to mitigate for the impacts of solar development whether in or out of the AFDs and SEZs, the BLM must ensure that any mitigation lands are protected to provide enduring conservation benefits.

Cultural review: The EISs that designate AFDs will be accompanied by cultural surveys and models that ensure AFDs have low densities of cultural resources and identify areas of significant cultural resources to be avoided. Cultural surveys must be based on thorough and complete consultation with State Historic Preservation Officers and other consulting parties, thorough and complete consultation with Native American tribes as required under Section 106 of the National Historic Preservation Act and other laws, and an analysis of the cumulative impacts of development within the AFD. Addressing cultural issues for the entire AFD will simplify the permitting process for developers and lower the cost of compliance with cultural resource protection laws by reducing the risk of encountering resources requiring avoidance or on site data recovery.

Facilitate transmission permitting: As part of the process of studying AFDs, BLM should identify and, to the maximum extent possible, analyze the interconnection, network upgrades, downstream facilities, corridors, and other infrastructure (e.g., roads) needed to support renewable energy development in the AFD. BLM should request the CAISO and

California Public Utilities Commission (CPUC) to enter into a memorandum of agreement (MOA) with the Bureau to formalize coordination regarding both planning and permitting for the BLM's new solar program, ensure that the transmission projects described immediately above are considered for inclusion in the Revised Transmission Planning Process, and obtain the assistance of the CAISO and the CPUC in identifying and analyzing those projects. The BLM should seek similar MOAs with the relevant regulators and transmission planners in the other five states within the PEIS study area that will result in prioritized consideration of necessary lines.

Application Processing: Given the substantial public investment required to prepare an AFD for solar energy development, and the urgency of expanding clean energy production in the United States, it is important that the BLM take steps to ensure that only the most viable projects be considered for siting in these areas. Applicants seeking to locate a project in an AFD should be allowed nine months to demonstrate compliance with all technical and financial screening criteria, and should be rejected if they cannot meet these criteria. Moreover, applicants should be required to make a deposit into escrow sufficient to cover processing costs.

C. Establish a clear process to evaluate and designate new AFDs

Over time, it will be important to reassess the need for additional solar development on public lands. We believe that renewable energy will steadily become a larger portion of the national electric portfolio. Consideration of moving California's Renewable Portfolio Standard beyond 33% to 40% or 50%, for example, is already underway. Given this reality, BLM's Solar Program needs to outline a process for adding new AFDs to the system as the need for large-scale solar development increases beyond what is foreseen in the Solar PEIS, as we expect it will.

We recommend that, at least every five years, the BLM, in conjunction with the states and the Department of Energy, review the need for additional public lands for solar development and the capacity of existing AFDs and SEZs to meet that need. These assessments should look at new "Reasonably Foreseeable Development" scenarios (such as high, medium and low), incorporating any new state or federal policies that will affect projections, as well as reviewing experience to date with build-out of the existing AFDs and SEZs. The reassessment process should be open and transparent, with opportunities for substantial stakeholder involvement.

In addition to considering the amount of renewable energy needed across a six-state region to meet policy mandates, the assessment should consider technological advances in solar energy generation systems, identify where new energy is going to be needed, at what levels, and what other constraints exist. These additional factors will influence not just whether new AFDs are needed, but where it is most logical to site them in terms of transmission, load and solar resources. It may be, for instance, that additional AFD capacity remains in some states, but not proximate to where demand is greatest.

In addition to regular analyses, we recommend that the BLM establish a formal petition process to allow the public to request 1) a new assessment of need for new AFDs, 2) the

expansion or retraction of an existing AFD, or 3) the creation of a new AFD. Through an open, transparent NEPA process, the BLM, in cooperation with the Department of Energy and the states, should develop criteria for evaluating whether or not to accept a petition. Petitions must be subject to rigorous intake requirements, including:

- Submitted by a State, Tribe, or member of the public
- Submitted with adequate data to support petition
- Nomination fee paid

New areas proposed for AFD designation should be evaluated for their suitability for solar energy development based on both landscape-scale and actual site-specific evaluations of technical, environmental, transmission and cultural and transmission considerations, as outlined in Section I.A. above.

D. Implementation Steps

We recommend that the BLM adopt a solar program built upon “Areas for Facilitated Development” (AFDs) as outlined above, and take full advantage of processes already underway to expedite the development of this program and solar development more generally.

Specifically, *without waiting for completion of the Solar PEIS*, we strongly recommend that the Department complete the National Environmental Policy Act (NEPA) analysis for the area near the Chocolate Mountains that is already underway, *see* 75 Fed. Reg. 6698-99 (February 10, 2010) and continue to pursue that area as a possible new AFD. In addition, we recommend that a similar analysis of areas in the West Mojave potentially suitable for designation as a new AFD be launched by June 30, 2011 and that both analyses (Chocolate Mountains and West Mojave) be completed by June 30, 2012,. Both analyses would be consistent with the “Least Conflict Approach” outlined in Section I.A.2 above.

In addition, the Department of Interior should actively support completion of the Desert Renewable Energy Conservation Plan (DRECP), a joint NCCP/HCP that will provide the scientific foundation for the establishment of the next AFDs in California. The DRECP will essentially zone the California desert region, identifying areas that are most appropriate for renewable energy development and areas that must be protected for conservation. Through the DRECP, some areas will be taken off the table for development to provide conservation assurances, additional areas for solar development will be identified and BLM land use plans amended to reflect the addition of new AFDs. It is critical that the final Solar Program be designed to facilitate the adoption of a final DRECP.

In other states, the Bureau should use data from its own Rapid Ecological Assessments, as well as data from numerous existing landscape-scale evaluations of ecoregions and wildlife corridors from private and public sources, to inform the selection of new AFDs

and SEZs, and to examine the suitability of the SEZs proposed in the Solar PEIS for designation as AFDs.

In some cases, it will be appropriate to ‘upgrade’ a SEZ into an AFD through additional analysis. That additional analysis should only be undertaken where the investment is justified—that is, where the SEZ is not already “filled up,” or where a zone could be expanded, provided there is interest in pursuing its development.

With regard to the proposed SEZs in California, we recommend that the Iron Mountain SEZ³ be eliminated from further consideration.

E. Establish a clear process for considering Variance Applications

The solar energy program outlined above focuses on guiding solar projects to AFDs or SEZs through clear incentives. However, we also believe that the Department must have a clear process for considering Variance Applications, which we define as new applications for individual solar energy projects outside AFDs or SEZs submitted after the date of issuance of the Solar PEIS Record of Decision (ROD). These comments emphasize the importance and benefits of focusing development within SEZs and AFDs. The variance process provides an opportunity for exceptions to be considered while not undermining, but rather strengthening, the directed development approach we advocate. For example, variances may be needed in the near-term because sufficient AFDs may not yet have been designated or in order to allow a project to proceed on a small area of public lands outside of the existing SEZs and AFDs, if appropriate. Nonetheless, variances need to be limited in time and place so that the exceptions do not become the rule or take away from the directed development framework.

The Solar PEIS must outline a clear process and criteria for considering Variance Applications. The process established must ensure that Variance Applications meet criteria that are consistent with the principles we outline for suitable AFDs (as set forth above in Section I.A), including economic, technological, cultural and environmental criteria. Our group is working to come to consensus on specific criteria that meet this goal for BLM’s consideration and, once we do, we will forward them to the agency and the Department.

We believe that once the program outlined here is implemented, new AFDs will ultimately result in a diminishing need for new applications outside AFDs. In its review of the need for new AFDs (see Section I.D below), BLM should also assess the degree and extent to which Variance Applications are needed over time.

We also recommend that, at the time of application, applicants for variances be required to establish reimbursable accounts sufficient to reimburse BLM for all costs associated with accepting, reviewing, and processing a Variance Application including: conducting environmental review and related consultations; conducting cultural resource inventory

³ The conservation groups also oppose designation of Pisgah SEZ.

and related consultations; and conducting inventories for sensitive wildlife habitat or wild lands. To encourage developers to pursue new applications in SEZs and AFDs, and to reflect the reduction in administrative costs associated with development in those areas, application fees for Variance Applications should be higher than for applications in SEZs or AFDs.

In addition, we recommend that the BLM require variance applicants to assume all risk associated with a Variance Application and to understand that their financial commitments in connection with their applications will not be a determinative factor in the Bureau's evaluation process. The Solar PEIS and ROD should also provide that any lands found unacceptable for solar energy development as a result of the environmental review and screening of a Variance Application will be excluded from solar energy development by an amendment of the underlying resource management plan (RMP) at the cost of applicant.⁴

Finally, any and all data collected for processing a Variance Application should be made publicly available, provided that business and trade secrets are not compromised.

II. Transition to the new Solar Energy Program (Pending Applications)

The last question we want to address is how to proceed with Pending Applications. For purposes of these comments, the term "Pending Applications" refers to Right of Way applications on file as of February 2011. For any new applications filed after March 1, 2011, the BLM's decision on each of those individual applications will be governed by the terms of the Solar PEIS ROD. This rule should not apply to adjustment of an existing project application to a nearby area to avoid environmental or cultural conflicts, even if this technically requires a new application.

On June 30th, 2009, the BLM published maps of 24 Solar Energy Study Areas (SESA) and additional lands that the BLM proposed to open to solar development (blue lands) and to exclude from solar development ("pink" lands). Any application filed after June 30, 2009, on "pink" lands should be rejected on issuance of the ROD, except where a more recent application is filed to partially relocate an existing project application to a nearby area to avoid conflicts.

To improve the processing of other pending applications, the existing guidance for the administration of solar energy development on public lands must be improved and revised through such measures as:

1. A time limit (or "shelf life") needs to be set for pending first in line applications to reach NOI readiness. Applications that have not reached NOI readiness within that window should be rejected. When and if second in line and subsequent applications become first in line applications, they will be subject to this same requirement.

⁴ This language should not be construed to say that the applicant should be required to pay rent on the land excluded from development.

2. The BLM shall establish a new processing fee structure at a level sufficient to dampen speculation. All applicants must pay these fees in full into escrow before application processing begins.
3. The BLM must clearly define all POD requirements and enforcement mechanisms in regulation.
4. The BLM needs to adopt and use enhanced criteria-based screens for economic, technological, and environmental viability, using the environmental screens proposed by our group (CDREWG) in December 2010, instead of those adopted in IM 2011-061.⁵
5. DOI needs to coordinate with the Department of Energy, Treasury, and other federal agencies to apply screens within their expertise to ensure that limited public resources are focused on only the most viable applications.

In addition to implementing the improvements outlined above, we recommend that the BLM sequence pending applications for consideration as follows:

- Pending Applications should be required to demonstrate compliance with technical and financial screening criteria within six months of notice provided upon issuance of Solar PEIS ROD. Those that cannot demonstrate such compliance should be rejected.
- Pending Applications should be subject to environmental screening as follows:
 - 1) Early outreach prior to NOI (as provided under the February 2011 IM).
 - 2) Project Rating according to environmental criteria proposed in the December 2010 CDREWG letter, based on available data. Pending Applications should be grouped by likelihood of conflict as described in screens (high, medium and low) and applicants notified.
 - 3) All pending applications, regardless of when filed, that are determined by the BLM to be in “high-conflict” areas following consultation with the applicant and stakeholders, should be rejected.

Applicants with Pending Applications outside a SEZ that are in “medium” or “low” conflict areas should be given the option to move their applications to land not already under application in a SEZ or AFD (when designated) in the same state before any other new applications are accepted by BLM in those areas. AFD applications resulting from an applicant’s decision to move, as outlined herein, will receive first priority for processing once that AFD is established. Applicants who choose not to exercise the option to move their applications must comply with shelf-life and other requirements.

⁵ In expanding the application of these criteria from the 2011 projects to future projects, industry members of our group have concerns about including Wildlife Habitat Management Areas (WHMAs) in the list of high conflict areas. Environmental members of our group have concerns about not including the provision regarding National Park Service lands outlined in the IM referenced above.

Appendix A.

Benefits Associated With Areas for Facilitated Development (AFDs)

- BLM permitting will be faster and easier.
 - EISs that designate AFDs will allow for tiering for projects within their borders so that only EAs will be necessary.
 - Interior Department (DOI) will establish schedules for completion of EAs after NOIs are published and all other DOI agencies will complete their work within those timeframes.
 - DOI will establish inter-agency teams composed of at least BLM, FWS and the Solicitor's Office to expedite service to developers of projects in AFDs. Teams to provide "one-stop shopping" with, at a minimum, one singular point of contact for all DOI agencies responsible for coordinating environmental reviews and consultations, ensuring timely performance of agencies, facilitating stakeholder reviews, etc.
- FWS review and consultation will be facilitated.
 - EISs that designate AFDs will be accompanied by § 7(a)(2) consultations.
 - BLM and the Service will coordinate from the beginning in reviews of projects.
 - FWS will take into account the fact that AFDs were chosen to have fewer conflicts and fewer cumulative impacts and may decide that development in those areas should have lower mitigation ratios.
 - Developers will be able to mitigate biological impacts through funding conservation priorities that are identified in a regional mitigation plan. In completing a deeper analysis of AFDs, state and federal agencies will have the ability to consider the environmental impacts of multiple solar facilities within the AFD at once, and develop a mitigation plan that has the following benefits:
 - Permit efficiencies for the developer;
 - Greater financial predictability for developers;
 - Mitigation site planning, management, and monitoring efficiencies;
 - The ability to focus on large scale conservation in order to provide benefits to sensitive species through higher quality habitat, improved connectivity between habitat areas, and better long-term protection;
 - The ability to leverage and assist ongoing conservation efforts, and
 - Mitigation planning that will be more proactive and less reactive, more systematic and less haphazard, multifunctional rather than single purpose, large scale rather than small scale, and better integrated with other planning efforts, resulting in larger scale, more meaningful and cost-effective conservation that advances regional environmental goals.
 - The mitigation plan should be developed as part of analysis to allow for a tiered EA under NEPA and will need to consider:
 - Cumulative impacts of development within a SEZ (or AFD).
 - Ongoing conservation planning priorities (e.g., recovery plans for

threatened or endangered species, BLM Resource Management Plans, and, in California, the conservation priorities developed as part of the Desert Renewable Energy Conservation Plan.

- Permitting of needed transmission will be facilitated.
 - In the process of designating AFDs, BLM will identify and, to the maximum extent possible, analyze interconnection, network upgrades, downstream facilities, corridors and other infrastructure needs such as roads sufficient to support projected solar energy development in the proposed areas.
 - BLM will participate in the CAISO's Revised Transmission Planning Process (RTPP) to ensure that transmission projects needed to support AFDs (as well as final zones designated by the BLM following completion of the Solar PEIS) are considered for inclusion in the RTPP plan.
 - BLM will request of the CAISO and CPUC that they enter into MOA with the Bureau to formalize coordination regarding both planning and permitting and the BLM's new solar program, adopted following the Solar PEIS process such that the transmission projects described immediately above are included in the RTPP and that the CAISO and CPUC will assist BLM in identifying and analyzing the activities listed in bullet #1 of this subsection.
 - BLM shall seek similar MOAs with the relevant regulators and transmission planners in the other five states within the PEIS study area that will result in prioritized consideration of necessary lines.
- Development on appropriate private lands will be encouraged by BLM.
 - To encourage development on *appropriate* private lands, if a project is in an AFD and its footprint is also on BLM land, offer all permitting incentives to the project as if it were fully on BLM land.
- Potential additional reductions in the cost of doing business on public lands that could be provided include:
 - A reduced capacity charge on energy generated within AFDs.
 - The imposition of a surcharge on rental fees outside those areas.
 - Provision of a longer phase in period for rental payments.

Appendix B.

The Least Conflict Approach:

We offer the following criteria to evaluate BLM lands that would provide minimal conflict as Areas for Facilitated Development:

- Mechanically disturbed lands such as fallowed agricultural lands.
- Brownfields, idle or underutilized industrial areas.
- Locations adjacent to urbanized areas and/or load centers where edge effects can be minimized.
- Locations that minimize the need to build new roads and that meet the one or more of the following transmission sub-criteria: transmission with existing capacity and substations is already available; minimal additional infrastructure would be necessary, such as incremental transmission re-conductoring or upgrades, and development of substations.
- Public lands of comparatively low resource value located adjacent to degraded and impacted private lands on the fringes of BLM-managed land. This combination of public and private lands could allow for a conjunctive use area, allowing for the expansion of renewable energy development onto private lands.
- Locations that have been repeatedly burned and invaded by fire-promoting non-native grasses.

In addition, the following areas should be *avoided* when identifying Areas for Facilitated Development because of the high degree of conflict that a proposal for development would cause:

- Lands within one mile of lands designated by Congress, the President or the Secretary for the protection of sensitive resources and values (e.g., units of the National Park System, Fish and Wildlife Service Refuge System, National Forest System, and the BLM National Landscape Conservation System), which would be adversely affected by development.
- Lands that have been formally proposed by federal agencies for designation as wilderness, or proposed for a national monument or wilderness designation in S.2921 (111th Congress).
- Lands that were originally part of a renewable energy right of way application and were eliminated from a ROW application by BLM or the applicant due to resource conflicts *prior to or following the finalization the PEIS*. For example, where the final project represents a smaller or different footprint to avoid wildlife habitat, rare vegetation or desert washes, the excluded portion of the right of way should no longer be available for development.
- Lands that have conservation value and were purchased with federal, state or private funds, and donated or transferred to the BLM for conservation purposes.
- Lands purchased with federal, state or private funds, and donated or transferred to the BLM expressly as mitigation for project impacts.
- Lands that have been: inventoried by trained citizen groups, conservationists and/or agency personnel using BLM protocols; found to meet Congress' definition of "wilderness characteristics;" and publicly identified as of November

19, 2010. Maps of these lands in the six study areas can be found at found at <http://www.nrdc.org/land/sitingrenewables/default.asp>.

Thank you for providing us this opportunity to comment on the draft PEIS for Solar Energy Development in Six Southwestern States. We look forward to discussing these recommendations with you and working with you to ensure the success of the Bureau Solar Energy Program.

Sincerely,



Darren Bouton
First Solar, Inc.



Barbara Boyle
Sierra Club



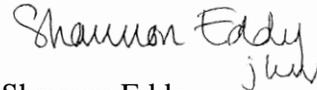
Laura Crane
The Nature Conservancy



Kim Delfino
Defenders of Wildlife



Pamela Pride Eaton
The Wilderness Society



Shannon Eddy
Large-scale Solar Association



Sean Gallagher
kRoad Power



Garry George
Audubon California



Arthur Haubenstock
BrightSource Energy



Michael Mantell, Chair
California Desert & Renewable Energy
Working Group



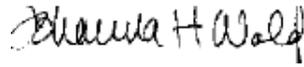
Nino Mascolo
Southern California Edison



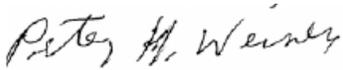
Wendy Pulling
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