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September 14, 2009

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**VIA OVERNIGHT UPS & INTERNET FORM**

Solar Energy PEIS  
Argonne National Laboratory  
9700 S. Cass Avenue, EVS/900  
Argonne, IL 60439

**Re: Comments of LSA, SEIA, and CEERT on Solar Energy Study Areas and Solar Energy Zones**

To whom it may concern:

On behalf of the Large-scale Solar Association (LSA), the Solar Energy Industries Association (SEIA), and the Center for Energy Efficiency and Renewable Technologies (CEERT), we are pleased to submit the following comments on the U.S. Bureau of Land Management's (BLM) Solar Energy Study Areas (SESAs). These comments have been submitted via overnight UPS and the form at <http://solareis.anl.gov/involve/comments/index.cfm>.

The Parties. LSA, SEIA, and CEERT are coalitions of utility-scale solar companies (and, in the case of CEERT, other renewable energy companies and environmental organizations) whose goal is to promote the environmentally-responsible development of renewable energy and associated transmission. LSA, SEIA, and CEERT are committed to working with the Departments of the Interior (DOI), Energy (DOE), and Defense (DOD), environmental groups, and other stakeholders to achieve this goal.

The SESA/SEZ Effort. BLM's efforts to establish SESAs and Solar Energy Zones (SEZs) represent an unprecedented and commendable effort to evaluate and promote responsible solar energy development of public lands. With certain important modifications, BLM's SESAs and Solar Energy Zones (SEZs), and the larger planning effort of which they are part, can serve a vital role in the timely siting and permitting of solar energy projects, adequately protecting our natural environment, and focusing the construction of new transmission capacity necessary to deliver renewable energy.

We understand that BLM's SESAs are but one aspect of the Solar Energy Programmatic Environmental Impact Statement (PEIS) being prepared jointly by BLM-DOE under the National Environmental Policy Act (NEPA). The PEIS should lead to the establishment of a focused program for promoting and managing responsible solar development on federal public lands. Such management should include designation of appropriate lands

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for solar energy development in the short and long terms, based on environmental and technical analyses (including solar insolation levels), transmission, and other considerations. We concur that this designation should not be exclusive with respect to development on public lands, but rather indicate those lands where more intensive analysis has been completed, where the siting process may thus be expedited, and where new transmission may be focused. Thus, while our comments below are aimed at making the SESAs and any SEZs as effective as possible in this role, they also necessarily concern the relationship of the PEIS and possible SEZs to existing BLM processes and existing solar energy development applications.

Staffing and Resources. Finally, we are aware of BLM's staffing and resource constraints. The evaluation of SESAs and SEZs will require substantial resources, which we understand will be provided by the American Recovery and Reinvestment Act (ARRA). The industry is ready to assist BLM in ensuring that it has the resources it needs to effectively perform each of the many tasks before it, including identifying additional ARRA funds to be used in evaluating SESAs and SEZs.

We stress that no resources should be re-allocated toward the SESA/SEZ evaluation effort and away from the processing of existing solar energy development applications. Such action would strain existing investments and likely would cause capital currently devoted to solar energy projects to be shifted into other investments, dramatically and adversely affecting the solar energy industry and governmental renewable energy and greenhouse gas emission reduction goals.

**I. Background**

**A. The Solar Energy PEIS**

On May 29, 2008, DOE and BLM published in the Federal Register a Notice of Intent to prepare the Solar Energy PEIS to develop and implement agency-specific solar energy development programs and to evaluate solar energy development on BLM-administered public lands. *See* 73 Fed. Reg. 30,908 (May 29, 2008). We understand that the final PEIS is not expected to be published until early to mid-2011.

**B. The SESAs**

As part of the preparation of the PEIS, on June 30, 2009, BLM published 24 proposed SESAs in Arizona, California, Colorado, Nevada, New Mexico, and Utah. *See* <http://solareis.anl.gov/eis/maps/index.cfm>. Complete information regarding the maps is at <http://solareis.anl.gov/>.

In a press release concerning the SESAs, BLM explained that the 24 SESAs would be fully evaluated for their environmental and resource suitability for utility-scale solar energy production. If they are suitable for such development, they will be designated as SEZs, and projects located in them would be eligible for priority processing.

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Along with the maps (more on them below), BLM issued a press release (available at [http://solareis.anl.gov/documents/docs/press\\_release\\_sesa\\_june09.pdf](http://solareis.anl.gov/documents/docs/press_release_sesa_june09.pdf)) and a Notice of Availability in the Federal Register (available at [http://solareis.anl.gov/documents/docs/SESA\\_Maps\\_NOA.pdf](http://solareis.anl.gov/documents/docs/SESA_Maps_NOA.pdf)). Together these documents explained the following:

*Regarding the PEIS:*

- The PEIS will identify lands for solar development, and
- The PEIS will establish a list of comprehensive mitigation measures applicable to all future solar development on BLM lands.

*Regarding the SESAs:*

- They comprise 670,000 acres.
- They are areas BLM has identified for in-depth study to determine whether they should be designated as SEZs, which are “specific locations determined best-suited for large-scale production of solar energy.”
- “The objective [of developing the SESAs and SEZs] is to provide landscape-scale planning and zoning for solar projects on BLM lands in the West, allowing a more efficient process for permitting and siting responsible solar development.”
- Some or all SESAs may be designated as SEZs.
- SESAs were identified based on RETI, WGA WREZ, and BLM information. Criteria for identifying SESAs include requirements that the areas be:
  - At least 2,000 acres;
  - Near existing roads and transmission lines, or designated transmission line routes; and
  - Have a slope of less than 5%.
- “Sensitive” areas were not considered. These include:
  - National Landscape Conservation System lands (California Desert Conservation Area (CDCA) lands with no other designation were not removed from consideration, however);

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- Critical habitat;
- Backcountry byways;
- Areas of “known Tribal concern;”
- Areas of “known high cultural density;” and
- Areas designated for right-of-way (ROW) “avoidance” or “exclusion,” including Areas of Critical Environmental Concern (ACECs), areas with important visual resources, special recreation areas, lands managed for their wilderness characteristics, wildlife movement corridors, and areas where BLM has committed to taking certain actions with respect to sensitive species habitat.

*Effect of the SESAs on solar energy development applications:*

- ROW applications within SESAs:
  - Applications for projects within the SESAs will be eligible for priority processing.
  - Projects located within the SESAs would be able to tier to the PEIS in the course of their site-specific environmental reviews.
  - Submitted before June 30, 2009: BLM will continue to process the applications under current procedures.
  - Submitted after June 30, 2009: BLM will process the applications in accordance with the Solar Energy PEIS Record of Decision.
- ROW applications outside of SESAs:
  - BLM will process such applications under current procedures.
- “Any” ROW grant issued after the PEIS Record of Decision is published “may” be subject to the ROD’s requirements.
- BLM will continue to accept new ROW applications for solar energy projects on BLM lands. BLM is analyzing other lands that may be considered for solar energy development in the PEIS, but not as extensively as the SESAs. Maps of these additional lands are not available.

We strongly support BLM’s commitment to continuing to process existing applications, to process new ROW applications outside of SESAs and SEZs, and not to make SEZs

exclusive areas for solar development. Core siting criteria must be applied to the evaluation of SESAs, SEZs, and any ROW application, but those criteria should be applied neutrally without regard to SEZ designation. Rigorous processing requirements will also reduce the sheer number of applications to be considered.

## **II. Comments on the SESAs**

### **A. The process for selecting SESAs needs to be clarified.**

If the SESAs (and ultimately the SEZs) are to be useful and effective, the process BLM uses to designate them must be transparent and apply consistent criteria. Yet the criteria used to identify and designate the SESAs are vague, difficult to document, and appear to be incomplete.

For example, some lands that appeared to qualify based on the criteria discussed or implied in the SESA announcements and maps were nonetheless excluded, without explanation, while some lands that do not appear to meet the criteria were included. In addition, it appears that different criteria were used in different states. An area that qualified in one state might not have qualified in another. For example, whereas California includes lands in SESAs that already are subject to ROW applications, other states exclude from SESAs all lands with existing applications. In Arizona, it appears that the state Fish & Game agency eliminated most of the state from consideration, with little if any documentation. And, as discussed below, high insolation areas in Nevada were excluded without explanation. While there may be valid reasons for using different criteria in different states, there should be a core set of criteria used in all states, and any differences in criteria should be made transparent.

To address these issues, we request that BLM more fully articulate the criteria it used to select the SESAs and explain why a given area does or does not meet those criteria. In particular, the PEIS should document for each state (1) which criteria were used and (2) how those criteria were applied, including maps and links to GIS data. In terms of the criteria that should be applied, we suggest the following: (1) proximity to existing or future transmission infrastructure that is environmentally sound and appropriate, with an emphasis on designated transmission corridors; (2) high quality of solar insolation; (3) slope appropriate to different technologies; (4) the nature and extent of adjacent land uses (i.e., the potential suitability of those lands for solar energy development and low probability of land use conflicts); and (5) no known resource conflicts. Regarding the nature and extent of adjacent land uses, adjacent lands may be private, managed by a federal agency other than BLM, or otherwise suitable for solar energy development. We discuss this point further below.

Finally, some SESAs contain existing solar applications while others do not. While this discrepancy presents potential issues of its own, particularly in California (*see* Section II.E below), it is especially problematic where SESA boundaries contain part, but not all, of

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one or more existing applications. We urge BLM to reconfigure the boundaries of such SESAs, where doing so would not violate important environmental criteria, to include the full existing application(s) within the SESAs.

**B. The PEIS needs to consider additional areas for designation as SESAs.**

**1. The SESAs must not be a prescriptive constraint on development.**

It is critical that the 24 already-designated SESAs do not become a prescriptive constraint on utility-scale solar energy development. Accordingly, and as we explain in more detail below, BLM should consider designating additional areas, outside of those areas that already have been designated as SESAs (and may be designated as SEZs), as SESAs in the PEIS. At the very least, BLM should make clear in the PEIS and the associated Record of Decision that developers will continue to be able to nominate additional parcels, outside of designated SESAs/SEZs, for potential development. Such consideration would employ set environmental and development criteria, to be developed in coordination with BLM and environmental stakeholders. (BLM has already stated this intent in its June 30 documents, but the intent should be repeated in the PEIS and Record of Decision themselves.)

Additional SESAs and/or the ability to nominate other parcels for development are needed to establish a level playing field for renewable and non-renewable energy development. BLM's leasing regulations strongly favor, through relatively simple lease application and NEPA review processes, oil and gas development. Meanwhile, the SESAs/SEZs and the solar energy ROW application process run the risk of making solar energy development of federal lands extraordinarily difficult. This is not consistent with, and in fact will stymie, DOI's policies encouraging renewable energy development or with other emerging climate change and renewable energy goals and mandates.

**2. Additional areas should be considered for designation as SESAs.**

Despite large swaths of land that may be suitable for solar energy development, BLM has proposed SESAs totaling just 670,000 acres. Large areas of high insolation and a slope of less than 5% have been completely omitted, e.g., the West Mojave. BLM should consider additional SESAs, both to satisfy NEPA's requirements to consider a reasonable range of alternatives, and to address the possibility that not all lands within the already-designated SESAs will be found suitable for development.

In identifying additional SESAs, BLM should give consideration to areas suggested by environmental and industry stakeholders. Industry interest in a particular parcel or area is the best indicator of which lands may be most suitable for development in terms of solar

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insolation, slope, environmental considerations, and financial feasibility. This recommendation is not intended to suggest an endorsement of SESA designation of any particular area.

In addition, many SESAs are too small. The 10-MW threshold is far too low; projects of that size are too small for developers to be able to afford the expense of the NEPA process.

BLM should consider the following specific areas to add to and/or expand the existing SESAs:

- *Other federal lands.* BLM should consider the proximity of SESAs to other federal lands that may be appropriate for solar energy development and/or mitigation, such as those managed by the DOD, DOE, the Forest Service, or the Bureau of Reclamation.
- *Adjacent lands.* BLM evidently excluded some BLM lands that were too small by themselves but may be adjacent to suitable (e.g., degraded) private or other restricted lands. BLM should consider adjacent non-BLM federal lands and private lands (such as disturbed private lands) that, when combined with BLM lands, could support large solar energy projects and/or mitigation efforts.
- *Areas based on suitable technologies.* It is unclear whether BLM excluded certain areas because they could not support certain solar energy production technologies, without considering whether they could support other technologies. For example, some areas with limited water availability or higher slopes might not support wet-cooled solar thermal facilities, but could support photovoltaic or dry-cooled solar thermal facilities. BLM should not exclude as SESAs those areas that, assuming other criteria (environmental sensitivity, etc.) are met, could support one or more solar technologies simply because they cannot support all possible solar technologies.
- *Other areas.* We encourage BLM to continue to look for other areas with high solar insolation that should be considered based upon the application of criteria for environmental sensitivity. We will continue to work with other stakeholders and BLM to identify these areas. We understand that existing Resource Management Plans may have to be amended to accommodate any additional areas.
- *Specially-designated areas.* Certain specially-designated areas may be suitable for development.
  - BLM has stated that the Record of Decision for the Solar Energy PEIS may be used to amend existing Resource Management Plans, including the West Mojave Plan, the WEMO Plan, the NECO Plan,

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and so on. If this is true, the areas covered by these Plans should not automatically be rejected.

- The West Mojave Desert has the highest solar insolation levels in California. *See* attached map. The West Mojave Plan, moreover, permits 1% ground disturbance in certain wildlife conservation and management areas. Given the high levels of solar insolation and the 1% disturbance allowance, these areas should not automatically be rejected by virtue of their special designations. In the same vein, BLM has not yet developed clear guidance regarding how the 1% area should be allocated for renewable energy and/or other projects, but should do so.
- BLM has excluded areas of the East Mojave because of possible legislative protection for those lands. However, legislation is now being considered for introduction that would require BLM to consider federally managed lands for use as mitigation for solar projects. Some of the excluded East Mojave areas may be appropriate for such consideration. BLM should consider the environmental and other values of such land. Such consideration will inform policy makers of the relative environmental and wilderness attributes of those lands, particularly as legislation affecting the availability of those lands for solar energy and mitigation may proceed.
- The Mojave Desert areas may also have been excluded from the SESAs by virtue of the segregation of lands near the 29 Palms Marine Training Area. However, the military has relinquished the segregation on those lands and it is likely that they will segregate the remaining areas withdrawn by BLM. This is a changed circumstance that warrants re-evaluation of these areas for inclusion in the SESAs.

**C. The designation of SEZs should employ clear and consistent criteria using a comparative analysis.**

As noted above, BLM should develop and consistently apply a clear and, to the extent possible, uniform set of criteria to apply to all lands for identifying and comparing SESAs for possible designation as SEZs.

In evaluating which SESAs should be designated as SEZs, the PEIS should include a *comparative* analysis among the proposed SESAs (and the alternatives of which they are part) to ensure that the designated SEZs provide the most energy with the fewest resource conflicts, environmental impacts, and development hurdles.



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**D. SESA analysis should incorporate programmatic consultation under Section 7(a)(2) of the Endangered Species Act (ESA).**

We understand that, consistent with several previous PEISs, the U.S. Fish & Wildlife Service (FWS) does not view the Solar Energy PEIS as a specific plan for activities that may impact species. As a result, FWS believes that Section 7(a)(2) consultation is neither necessary nor appropriate for the PEIS as a whole. Rather, Section 7(a)(1) consultation is appropriate for the PEIS, while Section 7(a)(2) consultation is more appropriate for site-specific projects.

However, we also understand that FWS believes Section 7(a)(2) consultation is appropriate for any specific solar energy development zones evaluated and designated in the PEIS. We concur that Section 7(a)(2) consultation is necessary and appropriate for SESAs and SEZs, and will help ensure that the PEIS is legally and substantively strong. Compared to site-specific consultations for individual projects, a broader programmatic consultation for SESAs and SEZs will have several benefits. First, site-specific consultations favor projects for which ROW applications already have been filed, reducing the benefits to be had from a broader planning-level effort, which can better identify the best sites for development and the best ways to protect sensitive species. Second, a programmatic consultation presumably will be more efficient and result in greater consistency than multiple site-specific consultations (*see next paragraph*). A completed Section 7 consultation with incidental take coverage for particular sites will enhance the value of those sites for potential developers, thus expediting permitting and review processes.

Of course, programmatic consultation will be most useful to the extent that it thoroughly evaluates the effects of solar energy development in designated SESAs and SEZs, with an appropriate level of streamlining for site-specific biological evaluations and consultations. To the extent possible, this Section 7 consultation also should seek to provide project-level take coverage under the federal Endangered Species Act. Toward these ends, Section 7(a)(2) consultation for the SESAs/SEZs should result in the development of best management practices (BMPs) for projects within those SESAs/SEZs. Similarly, Section 7(a)(1) consultation should result in the development of BMPs for projects located outside SESAs/SEZs.

Coordination with state agencies, such as the California Department of Fish & Game and its counterparts in other states, will improve the chance of realizing the benefits of in-depth consultation on the SESAs and SEZs.

**E. State- and area-specific concerns**

Apart from the general comments above, certain BLM lands should have been considered as SESAs because they are ecologically disturbed. In contrast, some designated SESAs have problems such as mountain shading, drainage control, seasonal flooding, and so on.

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For example, there is substantial degraded desert rangeland in the Southwest on which tens of thousands of acres of native vegetation communities were destroyed long before BLM's existence. The vegetative community that exists today is a combination of woody brush (e.g., mesquite, saltbush, and shrubby oak), cactus, and invasive annual grasses. These areas have lost (and not regained) much of their natural biological value and should be a high priority for solar energy projects.

The SESAs in particular states also bear attention. In California, the proposed SESAs overlay those areas that already are the subject of active ROW applications. This is not the case for SESAs in other states. This discrepancy raises two issues. First, unless other areas are designated as SESAs, and/or BLM permits projects outside of SESAs, utility-scale solar energy development will be severely and unnecessarily curtailed. Second, many applications in the already-designated SESAs are for projects that are unlikely to be built. BLM must develop actionable criteria by which to reject ROW applications for such projects. *See also* Section III.B.

In Nevada, only two SESAs were designated for the entire state. However, additional sites, outside of environmentally sensitive areas, are suitable for utility-scale solar energy development, including in the Boulder City and northeastern Las Vegas areas. These areas should be reconsidered for SESA designation.

Finally, Owens Dry Lake, in Inyo County, California, is an area of high insolation, low slope, and predominantly disturbed lands that BLM should consider for inclusion in a SESA.

### **III. Comments on the SEZs**

#### **A. The SEZs should not be a prescriptive restraint on development.**

We understand that many environmental stakeholders would prefer that utility-scale solar energy projects be located only in designated SEZs. However, as we discussed above, BLM should preserve the ability to site projects meeting set environmental and developmental criteria outside of zones (in addition to those few "fast track" projects and other projects with pending ROW applications that are located outside of any zones) to better facilitate environmentally responsible renewable energy development. This need is especially clear where new applications are close to existing transmission.

Toward this end, BLM should develop criteria that will ensure that environmentally appropriate projects move forward, and that will avoid the unnecessary sprawl of energy generation and transmission infrastructure. Specifically, BLM should develop environmental sensitivity criteria for projects that are proposed for areas outside of designated SEZs. (*See* Sections II.A and II.B.1 above for suggested criteria.) Examples of projects that might be encouraged outside SEZs include, but are not limited to, projects on brownfields or other disturbed lands. However, other projects that meet siting criteria should also be expressly allowed.

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In any event, SEZs should be planned, with DOE assistance, to maximize renewable energy output and transmission use while minimizing overall greenhouse gas pollutants and other environmental impacts.

**B. There must be a clear and consistent process for determining which new projects will be accepted and rejected in the SEZs.**

BLM has not indicated how new applications would be accepted within the SEZs once they are designated. We and most other stakeholders agree that speculation should be deterred, that the lands most suitable for renewable energy development are well-utilized for that purpose, and that there must be a fair return for the use of public lands. Consistent with prior comments from the solar industry, competitive auctions are not well-suited to solar energy applicants or projects, not least because they increase speculation.

Finally, BLM should develop actionable criteria by which to reject ROW applications for projects that are unlikely to come online in designated SEZs. Such criteria should include, among other things, specific timetables for applicants to submit complete plans of development and demonstrate financial and technical feasibility.

To identify financially viable projects, BLM could adopt guidance requiring increasing scrutiny of financial viability as projects move toward approval. BLM should condition its final approval of a project on the developer having a power purchase agreement (PPA) and independent financing and/or satisfactory evidence of eligibility for a DOE loan guarantee. For projects in California, BLM also should require submission of an interconnection request to the California Independent System Operator (CAISO) and an associated queue position.

Regarding technical feasibility, BLM should require a project proponent to show that it has identified land, in terms of quality and quantity, that is reasonably suitable to its technology, taking into consideration the size of the intended project, applicable technical criteria, water availability, and compatibility with other prevailing environmental factors. By the time of project approval, the applicant should be required to show that its technology has been successfully demonstrated, or that it has qualified for a federal, state or local emerging technologies program.

**C. Intra-BLM, as well as state and federal, cooperation is essential in SEZ administration.**

BLM has indicated that, once a SEZ is designated, an Environmental Assessment, rather than an EIS, should be sufficient for satisfying NEPA's environmental review requirements for a solar energy project located within the SEZ (due to the previous environmental review associated with SEZ designation). In order for this tiered review to

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be effective, BLM should ensure that its field offices consistently adopt this approach, as well as streamlined ROW processing procedures.

In addition, BLM should work with the California Energy Commission (CEC) and the California Department of Fish & Game to develop correspondingly streamlined state permitting and environmental review processes, without which the SEZs will not reach their full utility in the state that has the majority of solar energy project applications thus far.

It is important to note that transmission remains a constraint to new renewable resource development, especially in California. BLM also should work with the CAISO to address transmission constraints on renewable energy development. Similar coordination with sister agencies in other states will be increasingly important as more solar development applications are filed in those states.

BLM also should ensure that it and the CEC's documents can be used interchangeably in federal and state permitting and environmental review processes. Such sharing will require coordinating data gathering, analysis and compiling processes, and assigning tasks to minimize duplication. The existing Memorandum of Understanding between BLM and the CEC goes a long way toward meeting these objectives; however, we believe there is room for more on-the-ground coordination pursuant to the MOU.

#### **IV. Comments on other PEIS issues**

##### **A. Coordination with other processes**

The nature and extent of BLM's coordination with existing processes establishing the SESAs is unclear, at least based on the initial SESA maps.

Such coordination is essential. Where no or inadequate coordination likely would lead to inconsistent approaches, uncertainty, and potential delay in the implementation of appropriate projects, effective coordination can and should lead to improved administrative efficiencies, through unified data gathering, analysis and compiling processes, and the assignment of tasks to minimize duplication and to allocate them to achieve effective and efficient results that meet all applicable requirements. To the extent possible, BLM's efforts should be undertaken in way that will provide documents that can be used directly in the other agencies' processes, which is particularly important given BLM's and those agencies' resource constraints.

For example:

- BLM coordination with the Renewable Energy Transmission Initiative (RETI) will allow required new transmission infrastructure or significant upgrades to be focused in SEZs.

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- California Governor Executive Order S-14-08 requires the Governor's Renewable Energy Action Team (REAT) to, among other things, create a Desert Renewable Energy Conservation Plan (DRECP) for the Mojave and Colorado Desert regions. The DRECP will contain endangered species permit assurances, facilitate approval of renewable energy desert projects, and provide for state and federal funding. If doing so would not cause significant delay in the issuance of the PEIS, BLM should consider making the California portion of the Solar Energy PEIS a joint EIS/Environmental Impact Report (EIR) (pursuant to the California Environmental Quality Act (CEQA)) that would lead to a federal solar program, federal SEZs, and a state National Communities Conservation Plan (NCCP) for endangered species. At the very least, BLM should actively participate in the development of the DRECP and coordinate that development with work on the PEIS. Such coordination would consist of, among other things, exchanging biological information and mitigation measures.
- If a joint EIS/EIR is not possible, BLM should ensure that the Solar Energy PEIS provides source material for the California Department of Fish & Game's solar energy EIR/NCCP, e.g., a full evaluation of state-only listed species and CEQA-required subjects, and analysis of whether CEQA's significance thresholds are met. California, in turn, should work with BLM to further federal and state goals and mandates.
- Coordination with the Western Governors' Association and WECC Westwide planning efforts also is important.

**B. Mitigation**

The Solar Energy PEIS should establish a robust, thoughtful, and straightforward process for establishing mitigation measures for utility-scale solar energy projects on public lands. This process, and the mitigation measures it yields, must yield comprehensive and positive environmental benefits, including protection of listed species, their habitats, and wildlife corridors. Separate processes and measures should be developed for projects inside designated SEZs and projects outside SEZs. Moreover, given the limited availability of private land available for acquisition in the vicinity of many of the proposed projects, BLM should consider off-site mitigation measures.

To the extent that any public lands that are suitable for development (under established criteria) are removed from consideration for such development pursuant to congressional legislation, those lands should be considered as part of any mitigation bank established for projects that are developed on other public lands to the extent that they are otherwise appropriate for mitigation purposes.

Finally, to the extent that lands covered by the West Mojave Plan are considered for development, that Plan imposes a 5:1 mitigation ratio for developing some areas. This

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ratio is financially infeasible and does not necessarily result in the best (i.e., most effective and tailored) protection for sensitive species. If BLM allows solar energy development in these areas, whether or not by amendment of the West Mojave Plan through the Solar Energy PEIS/Record of Decision, BLM should reconsider the efficacy and suitability of this mitigation ratio.

**V. Looking Forward**

The Obama Administration should develop a planning process, in consultation with the States, to establish and reach a renewable energy goal

BLM should develop a planning process with the States, utilities, transmission planners, and relevant federal agencies to establish national and to establish and reach state megawatt (MW) targets for renewable energy production on public lands. The targets would create a common set of expectations about the scope of renewable energy development envisioned for each state that would help BLM manage stakeholder expectations and concerns. These targets could be expressed as ranges but would not be a Renewable Portfolio Standard (RPS) requirement or another directive for utilities.

Because any renewable energy target for public lands will make an implicit judgment about renewable energy development on private land, the targets should be revisited at regular intervals and adjusted to reflect new policies and guidelines at both state and national levels and experience on the ground.

**VI. Conclusion**

LSA, SEIA, and CEERT sincerely appreciate BLM's efforts to promote responsible solar energy development of public lands through the establishment of SESAs and SEZs. BLM's SESAs and SEZs offer a unique opportunity to perform a landscape-level analysis of certain sites. With the important modifications we have discussed above, BLM's SESAs and SEZs, and the larger planning effort of which they are part, can serve a vital role in developing renewable energy while adequately protecting our natural environment.

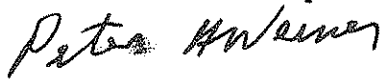
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Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Peter H. Weiner". The signature is written in a cursive, slightly slanted style.

Peter H. Weiner

PAUL, HASTINGS, JANOFSKY & WALKER LLP

on behalf of

the LARGE-SCALE SOLAR ASSOCIATION, the SOLAR ENERGY INDUSTRIES  
ASSOCIATION, and the CENTER FOR ENERGY EFFICIENCY AND  
RENEWABLE TECHNOLOGIES

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# Possible land for SESA

