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Southern California Edison • SunPower Corporation, Systems • The Nature Conservancy
The Vote Solar Initiative • The Wilderness Society • Torresol Energy*

January 27, 2012

The Honorable Ken Salazar
Secretary of the Department of the Interior
1849 C Street SW
Washington, DC 20240

Re: Joint Comments on Supplemental Draft PEIS for Solar Development

Dear Secretary Salazar:

The signatories to this letter are a group of conservation, utility and solar developer stakeholders who have spent hundreds of hours of time in thinking, writing, and talking about the issues that are central to the Supplement to the Draft PEIS for Solar Energy Development in Six Southwestern States (“PEIS”). This letter states the agreements we have reached with regard to various issues presented in that document. Individual and groups of stakeholders will send their own comments on issues that we have either not addressed as a group or were unable to reach agreement on at this time.

The parties generally agree that (1) solar energy development in the right places on public lands is necessary to achieve our renewable energy goals; protect desert ecosystems, landscapes and species; and fight rapid climate change; and (2) zones are an accepted land use planning tool that can facilitate solar development, especially by clustering projects around transmission, minimizing other infrastructure needs and reducing the footprint of that development.

We further agree the zones proposed thus far are only a starting point in the process and we are recommending initiation of the next steps necessary to create a more robust system of zones. Those steps will ensure the identification of new zones which are adequate in size and location to which transmission can be built and in which clustered large-scale solar development can occur.

We agree that the current PEIS moves us closer to the model described above, and represents an unprecedented effort by the Department of the Interior and Bureau of Land Management, in cooperation with the Department of Energy, to use public lands strategically to produce clean energy. In recognition of these facts, we have come together to develop recommendations to assure that the BLM ROW application process remains flexible to accommodate “smart from the start” near-term development as well as to promote the prompt identification and designation of new zones in accordance with the framework addressed in the PEIS, as modified by these comments. The parties further agree that BLM must complete the Solar PEIS by the end of fiscal year 2012.

RECOMMENDATIONS

1. Pending Applications

We agree that BLM should scrutinize pending applications to assure that they meet financial and technical qualifications and are proceeding with due diligence. BLM’s recent actions to assure

qualifications and due diligence in California resulted in fewer pending applications. We urge a similar process in Arizona and Nevada.

We agree that the pending applications identified in Appendix A should be processed under current rules, not new rules under the Supplemental Draft PEIS (see box on page 1-9).¹ In addition, the solar industry has identified applications that appear to be pending but are not on the list.² These applications should also be processed under current rules, provided that BLM confirms the filing dates for these applications and that it did not deliberately exclude one or more of these applications from Appendix A for failure to comply with diligence or other requirements.

In addition, the reference to denying pending applications because of their location in proposed exclusion areas (page 1-11) should be removed.³ We urge BLM not to change the deadline for these applications again.

2. Variance Process

We agree that the variance process is intended to be the exception, not the rule, consistent with the framework proposed in the Supplement. We are committed to working together to develop new zones so that use of the variance process can be minimized. Until then, the variance process requires some modification. For example, the Supplement articulates a set of variance factors, and states that they will be considerations in processing variance applications. However, we agree that the first variance factor (demonstration of technical and financial capabilities) should be enforced as a requirement, consistent with existing Instruction Memoranda. As further stated below, we also agree that there should be a requirement regarding Desert Tortoise. We do not yet agree on a recommendation for the contents of a Desert Tortoise requirement, except to say that neither Option 1 nor Option 2 is adequate.

a. Low resource value factor

The variance factor that takes into account “Low resource values and minimal conflict with adjacent lands” (page 2-35, line 8) should be replaced by the following language:

¹ All page references are to the Supplement to the Draft PEIS.

² These applications are the following:

1. Siberia (CACA-049421) filed under Solar Partners V, LLC. Received by BLM 4-27-07. 13,920 acres.
2. Palo Verde II, aka Sonoran West (CACA-051967) filed under BrightSource Energy. Received by BLM 5-12-09. 12,269 acres.
3. Pahrump Valley, aka Sandy Valley (NVN-090476) filed under BrightSource Energy. Received by BLM 1-21-11. 15,190 acres.
4. Rio Mesa Solar (CACA-053138) filed under BrightSource Energy. Received by BLM 2-14-11. 3,054 acres.
5. Mule Mountain III (CACA-50390) filed by SolarReserve on 8-22-08 (second in line application); SolarReserve notified of status as a first in-line application on 5-16-2011. 8,160 acres.
6. Sandy Valley III (NVN-[# TBD]) filed by Sandy Valley Solar III, LLC. Received by BLM 10-21-11. 10,804 acres.
7. NextEra Sandy Valley (NVN-[# TBD]) filed under Boulevard Associates. Accepted by BLM 10-21-11. 3,200 acres.

³ Pending applications in proposed exclusion areas may qualify as high conflict projects under either Instruction Memorandum 2011-061 (February 7, 2011) or the recommendations dated December 22, 2010 that were previously submitted by some of the signatories to this letter.

Documentation that the proposed project is in an area with low or comparatively low resource conflicts. Examples of such lands and others where development could present comparatively low conflicts if conflicts can be resolved include the following:

- Lands specifically identified for solar or wind energy development in BLM land use plans;
- Previously disturbed sites or areas adjacent to previously disturbed or developed sites;
- Locations that minimize construction of new roads and/or transmission lines;
- Lands adjacent to designated transmission corridors;
- Lands that are not excluded due to their visual resource classification, subject to review and additional mitigation where required;
- Lands identified as suitable for disposal in BLM land use plans;
- Areas repeatedly burned and invaded by fire-promoting non-native grasses, at least in the Sonoran and Mojave deserts;
- Department of Defense operating areas, including areas with significant radar, airspace, or land use conflicts, where conflicts can be resolved;
- Areas where project development may adversely affect lands acquired for conservation purposes, where conflicts can be resolved;
- Areas with low or relatively low conflict characteristics that are adjacent to private lands that might be used for development; and
- Areas where water extraction does not pose a significant threat to species or systems. However, variance applications where groundwater extraction may impact groundwater dependent ecosystems, and especially within groundwater basins that have been over appropriated by state water resource agencies, may qualify where the developer commits to provide mitigation measures that will provide a net benefit to that groundwater resource.

These examples are intended to reinforce the intent of the variance process – i.e., to allow development on sites with low or comparatively low resource conflicts, without undermining the goal of moving toward zone-based development.⁴

b. Factors with the word “minimize”

The factors pertaining to “minimizing” certain impacts should be replaced with the following language:

Minimize need to build transmission and infrastructure (page 2-37):

Documentation that the proposed project will minimize the need to build new roads and that it meets one or more of the following transmission sub-criteria: (1) transmission with existing capacity and substations is already available or (2) only incremental transmission

⁴ We agree that variance applications could not be sited on lands previously identified as high conflict such as those in Instruction Memorandum 2011-061. The examples of low and comparatively low resource conflicts are adapted from Instruction Memorandum 2011-061. We also agree that the following are not low impact or comparatively low conflict areas: (1) “[l]ands with wilderness characteristics outside Wilderness and Wilderness Study Areas that have been identified in an updated wilderness characteristics inventory” pursuant to Section 201 of the Federal Land Planning and Management Act, 43 U.S.C. §§ 1701, 1711, and Instruction Memorandum 2011-154 (July 25, 2011), not a Visual Resource Inventory; or (2) “[s]ensitive habitat areas, including important eagle use areas, priority sage grouse habitat, riparian areas, or areas of importance for Federal or state sensitive species.” *Id.*

is needed, e.g. re-conductoring or network upgrades, and development of substations, or (3) new transmission upgrades or additions to serve the area have been permitted or are planned sufficiently to reasonably be expected to be available in time to serve the generation project.

Minimize impact on water (page 2-37):

Documentation that demonstrates that the proposed project is designed to use the best available technology⁵ for limiting water use that is applicable to the specific generation technology as well as during construction and operations, subject to review and additional mitigation.

c. Desert Tortoise

We are in agreement that protection for desert tortoise habitat and populations in the variance process should be a requirement rather than a factor to be considered. However, we also agree that Options 1 and 2 in the Supplemental Draft PEIS are inadequate. At this time, the signatories to this letter have not reached an agreement on a recommendation as to the specific content of a requirement for diverse geographic areas. We intend to continue to work as a group on the development of appropriate recommendations.

3. Use of Height and Technology Limitations in Designated SEZs

We agree that BLM should remove the SEZ height and technology limitations applied to areas described as requiring VRM Class II or III “consistent” mitigation (pages C-58 and C-343, Section C.7.3 and Draft Table A.2.2). These VRM considerations should be dealt with on a case by case basis in the NEPA process.

4. Slope and Insolation Exclusion Criteria

Slope and insolation are technical criteria or constraints. They should be listed separately from other exclusion criteria.

We agree that there could be some flexibility to develop on lands with greater than 5% slope.

a. Slope

With regard to lands with greater than 5% slope, we propose:

- Allow developers to file a ROW application on variance lands that includes some lands with up to 10% slope to avoid or minimize resource conflicts, provided that the upslope area is proximate to the variance lands in the application, not otherwise excluded from development, and does not create any significant new or additional conflict. The identified conflict lands would be excluded from future development.
- Create a pilot program by which BLM will allow developers to file a ROW application on variance lands that includes lands with up to 10% slope to generate additional solar energy, provided that the upslope area is proximate to the variance lands in the application, does not exceed 33% of the acreage of the proposed project, and is not otherwise excluded. The application must address all variance factors. An equal amount of similar or better quality land would be removed from variance lands in the vicinity of the upslope lands. BLM would allow a maximum use of

⁵ Use of the term “best available technology” is not intended to import the definition of that term from the Clean Water Act, but is instead used in a generic form.

20,000 acres of lands with greater than 5% slope and up to 10% slope in California, Nevada, and Arizona.

b. Insolation

- The parties have discussed the issue of insolation, and tried to agree upon a pilot project parallel to that on slope. However, the parties could not agree on the parameters of such a pilot project. We hope to continue to work on this issue and make further recommendations.

In all of these cases a land use plan amendment would have to be adopted to permit the slope exception.

5. Areas where future applications for large-scale solar development should be prohibited

We agree that new applications for large-scale solar development in the Ivanpah Valley (CA and NV) and the Pispah Valley should be prohibited.⁶ This prohibition on new applications would not apply to amendments to pending applications, provided that such amendments either (1) do not change the boundaries of the pending ROW application or (2) are related to avoiding resource or land use conflicts, adapting the project to third-party owned infrastructure constraints, or using or designating translocation areas or mitigation lands.

6. Protocol for New SEZ Identification, Including West Mojave SEZ

We agree that the identification and designation of new zones is critical to the enduring success of a zone-based solar energy development framework as is the prompt designation of new zones. In general, in designating a new SEZ, BLM should base its decision on NEPA studies which demonstrate that resource conflicts are low or can be addressed and development prospects are high. SEZs should ideally be large enough to allow for siting flexibility and the development of multiple projects (1 GW or more).⁷ They must be in areas with access to roads and a suitable workforce. New zones should be located where it is reasonable to anticipate sufficient transmission to serve the quantity of generation planned for the zone can be made available, considering current transmission planning processes and environmental considerations.

The solar industry and environmentalists have previously urged BLM and DOI both individually and collectively to look for new zones in the West Mojave and other areas of the California Desert and to initiate such efforts prior to completion of the Solar PEIS. We intend to continue to work as a group on the development of further recommendations for the designation and processes to be used for adoption of new zones. At this time, we have agreed upon the following recommendations:

- DOI should commit, in the final PEIS and in the ROD, to making a final decision on the designation of new zones, including a potential new zone in the West Mojave, by the end of 2013. Specifically, in the area being addressed in the DRECP planning area, BLM should commit that new zones will be considered in the DRECP.

⁶ Due to the divergent views of the industry and the conservation community on the issue of previously-approved applications, this section of this letter does not address amendments to approved applications in these areas.

⁷ We say "ideally" because other than the Riverside East SEZ most or all of the SEZs are too small to accommodate multiple projects. It is possible that SEZs will need to be smaller, but ideally they should be large, so as to facilitate needed transmission.

- DOI and BLM should make this decision-making process their highest priority to ensure that the 2013 deadline is met.
- The Department should actively support and provide strong leadership for planning and related processes currently underway – e.g., DRECP, West Chocolate Mountains and RDEP – to ensure timely zone outcomes as well as consistency between these efforts and national renewable energy programs, policies and implementation.⁸
- In addition to playing a lead role in the identification of new zones in the DRECP, DOI's leadership role in that effort should also encompass transmission planning and permitting.
- The Department should commit to the development of regional mitigation plans for SEZs, including a West Mojave SEZ, if one is designated.
- BLM should encourage developers, utilities and other stakeholders to nominate new zones.

7. SEZ Mitigation Plan Recommendations

We are in agreement that the solar energy program should include the elements of a mitigation program that are transparent, systematic, and based on sound science, require ongoing monitoring, and address clear conservation priorities. Such a program will provide certainty to developers about the requirements and costs of mitigation, and assurances to the conservation community and other stakeholders that conservation priorities can be maintained and preserved in perpetuity. The development of the specifics of this mitigation program must not delay the adoption of the PEIS or review of pending applications. At this time the signatories to this letter have not reached agreement on a recommendation on the specifics of the elements for a mitigation program. We do agree that the mitigation program should follow the mitigation hierarchy of avoid first, then minimize, then restore, then offset. We intend to work as a group on the development of appropriate recommendations.

8. Transmission

We agree that identification of solar energy zones (SEZs) and related transmission network upgrades and additions, through integrated land-use and transmission planning efforts informed by the DRECP, will provide greater certainty, resulting in a more orderly, rational, timely, and cost-effective state and regional transmission planning process.

We agree that coordination of local, state and regional land-use and transmission planning efforts will facilitate cost-effective, environmentally sound planning and permitting for transmission network upgrades and additions and transmission corridors to support SEZs.

We agree that optimizing use of existing transmission and corridors for SEZs, and prioritizing the planning, permitting, and development of new and expanded transmission and corridors for SEZs, is important for both economic and environmental reasons.

We appreciate that BLM submitted on January 20, 2012, a study request to WECC asking TEPPC to perform such analyses for the 17 proposed SEZs. We will support the agency's request at WECC and work with WECC/TEPPC to assure that the studies address the most important cases and critical factors.

We agree that a methodology to identify transmission network upgrades and additions and corridors to support SEZs, and to evaluate the associated costs and environmental impacts, is important. We agree, however, that the methodology utilized in the Transmission Analysis in Appendix D is inadequate and could be misleading.

⁸ In making this recommendation, it is not our intention to discourage or have the BLM discourage novel solutions that might emerge from RDEP or any other process.

We offer the following recommendations to improve coordination, integration of land use and transmission planning, and to improve the transmission analysis methodology:

a. Coordination

- For California, enter into a memorandum of agreement (MOA) with CAISO and CPUC to formalize coordination in efforts to provide both the strategic planning and project permitting needs necessary to provide timely transmission network upgrades and additions to support SEZs.
- Coordinate with the CAISO's Transmission Planning Process (TPP) to ensure that transmission upgrades and additions needed to support SEZs are considered for inclusion as "policy driven projects".
- Coordinate with the CPUC Long Term Procurement Process (LTPP), as informed by DRECP, to direct renewable energy development to high resource value, low conflict SEZs.
- 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 transmission network upgrades and additions and transmission corridors to support SEZs.
- Coordinate with the WECC regional transmission planning efforts to ensure consistency and compatibility across the west.

b. Integration

- Prioritize the designation of seamless, contiguous, strategically sized transmission corridors on public and private lands to facilitate transmission network upgrades and additions to safely and reliably support SEZs throughout the west.
- Ensure designated corridors include sufficient right-of-way to support network upgrades and additions, over public and private lands. Designated corridors on public lands should be withheld from other uses by DOI consistent with PEIS planning horizons. Designated corridors on private lands should be held for future use consistent with PEIS planning horizons.
- Work with relevant transmission planning entities to ensure that they identify transmission system upgrades and additions to BLM, including collector substations, network upgrades, downstream upgrades, and related infrastructure sufficient to support renewable energy development in the SEZs and to maintain a reliable and safe electrical system.
- Proximity to existing transmission lines does not guarantee availability. Transmission lines located in proximity to SEZs may not necessarily have sufficient capacity to accommodate the anticipated renewable generation in SEZs.
- Encourage the use of existing roads, transmission rights-of-way, and corridors, wherever possible, consistent with all applicable reliability planning criteria required by the North American Electricity Reliability Corporation (NERC), Western Electricity Coordinating Council (WECC), and the California Independent System Operator (CAISO).
- Work to ensure sufficient transmission will be available at the time that generation is anticipated to be placed on line within the zone, by:
 - Working with relevant transmission planning entities to ensure that they identify 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.
 - Working with relevant permitting authorities to prioritize and expedite interagency permit processing for transmission network upgrades and additions in support of SEZs.

- Near-term priority should be given to transmission network upgrades and additions that may be needed to serve geographic areas that have been identified as potential high solar resource value, low environmental/cultural conflict locations such as the Western Mojave and Chocolate Mountains.
- Establish a policy to extend federal jurisdiction for Section 7 consultation to transmission network upgrades and additions and corridors, on federal and non-federal lands, that serve SEZs.
- Coordinate with state and federal permitting agencies to ensure that mitigation requirements for transmission network upgrades and additions and corridors are appropriate, and not redundant.
- Consider incentives to direct investments in high value solar technology to high resource value areas served by transmission.

c. Transmission Analysis

The Test Case Transmission Analysis for the Proposed Brenda SEZ is inherently flawed. The analysis was performed without taking into account other SEZs, and may suggest that power can be readily exported from the Brenda SEZ to the Los Angeles load center without downstream upgrades and without accounting for generation projects in the queue.

The final PEIS should instead provide for BLM to work with the relevant transmission planning entities to identify and designate transmission corridors sufficient to support transmission network upgrades and additions needed to deliver power from SEZs to load centers, taking into account all relevant factors, including the potential energy deliveries from a SEZ, optimizing existing infrastructure, and minimizing the need for new corridors and infrastructure.

CONCLUSION

The signatories to this letter have worked hard to reach the agreements set forth in this letter. We thank you in advance for your serious consideration of our recommendations.

Sincerely yours,



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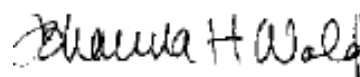
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