

February 22, 2015

California Energy Commission
Dockets Office, MS-4
Docket No. 09-RENEW EO-01
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Draft DRECP document and related Environmental Impact Report/Statement

With over 20 years of active support of conservation and preservation efforts in the California desert and with a renewable energy business focused on utility-scale projects in areas of lesser environmental impact, the initial opportunity to have a comprehensive discussion on how best to protect the fragile desert and to do something to reduce global warming was welcomed.

The desert has been subject to some less than perfect land use decisions in the past. The primary impacts are the direct and indirect effects of urban sprawl. Similarly, off-highway vehicular use, if not carefully managed, can have a lasting detrimental impact. Global warming is clearly having a significant impact. To add to all of the above, the California desert area, covered by the Desert Renewable Energy Conservation Plan (“DRECP”), was found to have some of the best renewable energy resources in California. It is wholly appropriate that any proposed utility-scale project be subject to the highest review standards and be restricted geographically.

Renewable Energy Goals – Solar

Solar energy development is perhaps the more widespread renewable energy impact to the California desert. With respect to solar renewable energy, land use siting policies on Bureau of Land Management (“BLM”) managed lands were revised with the issuance of October 2012 Approved Resource Management Plan Amendments/Record of Decision (ROD) for Solar Energy Development. Large-scale solar energy renewable energy projects were largely restricted to two Solar Energy Zones (“SEZ”), principally the I-10 corridor in eastern Riverside County. The BLM also introduced a variance land concept for consideration of additional areas. Since 2012, I believe that no solar energy project has actually been permitted on variance lands. Most recently, a large solar project north of Baker, California has been apparently denied.

If the Solar Programmatic Impact Statement (Solar PEIS) is prohibiting solar development from most of what is not already protected, conserved or preserved in the California desert, then there should be additional compelling reasons for implementing the recommendations of the DRECP. With respect to solar, the status quo or no action alternative should be based on the inclusion of

the Solar PEIS and from that document, reasonable assumptions made as to what are the additional “Renewable Energy Goals” promoted by the DRECP.

BLM-managed lands are not the only lands potentially attractive to solar developers. Recently in fact, they are not at all attractive. For the past few years, almost all solar power purchase agreements with major utilities have only been executed for projects on private lands. Therefore, it is necessary that the DRECP renewable energy goals on private lands be a critical element. As indicated the Solar PEIS did not specifically cover private land solar development.

The DRECP has an excellent partner for developing a land use plan for solar development on private lands in the various local jurisdictions that largely regulate private land use. The counties, with various levels of financial assistance from the State of California, have moved to update and develop such land use plans for their counties. The DRECP proposes that over 80% of the renewable energy Development Focused Areas (“DFAs”) be located on private lands. It is critical that these DFAs be consistent with the land use planning efforts of the impacted counties.

Surprisingly, the DRECP DFAs do not seem to be based on the representative county’s land use plans for renewable energy development. Without consistency, the DFAs are arguably less than accurate and open to challenge. It is reasonable to assume that their effectiveness is largely diminished if the proposed project is inconsistent with county or local jurisdiction land use plans.

With the DRECP being rushed to publication before many of the counties have completed or modified their land use plans, many believe the point of the DFAs is to present a sufficiently large geographic area that might conceivably meet the stated planning goal of 20,000MW. Whether these lands might be ultimately considered for their stated purpose may be secondary. Moreover, by including large areas of county-jurisdictional lands in DFAs without coordinating with the county land use plans, the result has the intended consequence of presenting a compelling picture to preservationists and conservationists as to why we must expedite a BLM Land Use Plan Amendment (“LUPA”) to further preserve BLM-managed lands, when in fact the ‘threat’ is likely to be much less and the BLM-managed lands are already largely protected from future solar development (Solar PEIS).

To summarize, for solar development land use policies on BLM-managed lands, there are few compelling arguments as to why the recently adopted Solar PEIS is not adequately working. For private lands, there seems to be little compelling reasons why the DRECP is expediting new land use policies when the local jurisdictions are arguably a better arbitrator on local land-use issues.

Renewable Energy Goals – Wind

For wind energy development, the DRECP will provide significant new regulations. Unlike solar, wind energy development on BLM-managed lands is not subject to a specific Programmatic EIS for California but rather various regulations and land use policies. Although there were many wind testing applications from 2007 through 2011, covering vast areas of the California desert, few were ever pursued into full development. Most of the remaining wind test applications and grants still open are waiting for BLM to process their termination.

So how are the DRECP Renewable Energy Goals for wind energy development presented? With very limited exceptions, the answer is to almost wholly prohibit the potential for wind energy generation in the California outside the existing wind energy development areas. Large areas of rather unsuitable lands are identified for utility-scale wind energy development. For example, the urban areas of Los Angeles County are non-starters for utility-scale renewable energy development. Furthermore, to identify areas of marginal wind speed in the desert as DFAs for wind energy development is misleading or confusing at best.

If wind energy utility-scale development is not currently regulated on BLM-managed lands by a Wind PEIS, perhaps the DRECP does bring needed clarity to wind energy development policies. The answer may best be understood by the market for renewable energy types. Since 2010, the economies of solar energy have largely impacted wind energy development in southern California. That is not to say that wind energy development cannot be competitive; however, the project would likely have to be sited in a quality wind resource area.

Outside of Tehachapi and San Geronio Pass, the California desert has some areas of excellent wind resources. These areas also have environmental, recreation, military, visual and other impacts. Outside of existing wind resource areas, the DRECP proposes to largely prohibit wind energy development. This is unfortunate, as a real potential for representatives of environmental, recreation, residents, regulators and others to consider unique options for limited wind energy generation are being bypassed. To use just one example, it is perhaps sad to consider that desert tortoise seem to fare better on an existing wind farm than in the desert as a whole. This is not to say that there should be lots of wind farms – there shouldn't, but the wind industry can bring some value. We could do so much more to protect the unique and threatened species in the desert by expanding one or more Future Assessment Areas to undertake comprehensive studies.

Renewable Energy Goals - Streamlining

By establishing DFAs, the DRECP proposes that a project proponent will seek to locate a renewable energy project within the DFA so as to “obtain regulatory authorizations that is (sic) more efficient and coordinated”. The objective is laudable as the current process for permitting projects on BLM-managed lands has become very time consuming and expensive as to almost completely halt any new proposal. It is worth noting that almost all renewable energy projects developed on BLM-managed lands were initiated well before the Solar PEIS and were financially viable largely because of much higher (past) power purchase agreement prices.

However, with more than 80% of the DFAs proposed on private lands, the greatest potential for streamlining are for projects not proposed on BLM-managed lands. Here, the advantage of streamlining is less apparent. Currently, most utility-scale renewable energy projects proposed on private lands are solar projects. This may change with new technologies. Generally, the subject local jurisdiction is the lead agency under the California Environmental Quality Act (“CEQA”). For California State Land Commission managed lands, the subject county may not necessarily be the lead on CEQA.

The DRECP establishes a review process for projects seeking streamlining under the DRECP. This process includes avoidance, minimization and mitigation requirements. The process

references biological Conservation and Management Actions (“CMAs”) that apply to all projects and non-biological CMAs applicable to projects proposed on BLM-managed lands.

The DRECP proposes that a DRECP Coordination Group will be available to a project proponent to conduct an early informal review for consistency with DRECP requirements. This coordination group will evaluate and make revision recommendations to best ensure that the project is ultimately consistent with the DRECP requirements. After the necessary revisions and approval from the coordination group, a project proposal may then be submitted to the local jurisdictional agency to initiate the permitting process. Those projects that have received this initial positive assessment and remain consistent with that assessment may then be “eligible” to expedited review by participating agencies, namely the US Fish and Wildlife Service (“USFWS”) and the California department of Fish & Wildlife (“CDFW”).

Since more than 80% of DFAs are under county jurisdiction and since almost 100% of new utility-scale projects are proposed on lands under local jurisdiction, the key determinant of whether the DRECP streamlining process is a benefit will be whether it expedites permitting, or reduces costs and risk to developers. Traditionally, bureaucratic steps developed by regulatory agencies to better process projects have not always been successful.

The DRECP also provides that a proponent need not going through this DRECP Coordination Group, need not pay for studies necessary for the Coordination Group to determine how best the project might meet all subject objectives of the DRECP, need not delay the project whilst the Coordination Group undertakes its exhaustive review, and instead submit the project proposal directly to the discretionary authority of the local government. The DRECP Executive Policy Group and the DRECP Coordination Group will be required to show competencies and project management skills if they are to be effective in this new role. A plan to establish new layers of regulatory review usually has the opposite effect. It is critical that the Coordination Group Project Manager be aware of the concerns of the regulatory agencies and of the proponent.

Transmission – Streamlining

The DRECP states that “transmission would be streamlined both within and outside Development Focused Areas” – see Section 2.3 DRECP Executive Summary.

Electrical transmission, by its nature, will be located inside and outside DFAs. It is unclear at this time what provisions are being initiated for streamlining high-voltage transmission lines outside of DFAs. The initial transmission studies conducted as part of the DRECP process included estimates for wind and solar development that have been largely superseded in subsequent drafts. The DRECP highlights new transmission corridors that have not been analyzed and are inconsistent with the transmission corridors that connected Competitive Renewable Energy Zones identified by the Renewable Energy Transmission Initiative.

In summary, the streamlining plan for high voltage transmission lines seems to lack clarity and analysis. The utility companies cannot know what is being proposed. The renewable energy industry cannot adequately plan for projects in DFAs where the potential for new transmission is based on a streamlining concept that may be similar to the review process proposed for DFA

streamlining; or not, since transmission will be proposed outside of DFAs. Finally, the potential environmental impacts of such transmission streamlining must be further considered.

No Action Alternative

Section II.2.1 of the draft DRECP describes the No Action Alternative as a continuation of current management practices. “Renewable energy and transmission development and mitigation for such projects in the Plan Area would continue to occur on an ad-hoc basis in a pattern consistent with past practices.”

This statement is incorrect and disingenuous in that it fails to acknowledge that solar energy development is now managed on BLM lands in accordance with the 2012 Solar PEIS. The adoption of the Solar PEIS is not even referenced in the Solar Energy Generation section (Section II.2.1.3.1) of the No Action Alternative. This recent document has substantially modified the procedures for siting and approving utility-scale solar development. Furthermore, the subject local permitting jurisdictions are currently expediting land use plans to establish new land use policies and procedures for private land renewable energy development.

The compelling need to authorize a new comprehensive conservation strategy for the California desert, to radically change the Multiple Use Classifications of BLM-managed lands, to significantly modify the California Desert Conservation Plan, to establish DFAs on private lands with little local participation or support seems hardly justified. Should solar and wind renewable energy development be the catalyst for driver for such a radical change, that argument may have had some justification in 2009. With the inclusion of the Solar PEIS and the change to distributed energy options, it would appear to have less bearing today.

However, should the DRECP move forward, it is requested that the following modifications or corrections to the DRECP documents be undertaken:

Requested Modifications

1. The interagency preferred alternative (Figure II.3-1) map designates the BLM-managed lands of the Lucerne Valley Solar project as both a Development Focused Area (partial), and under the proposed LUPA (Figure II.3-4) as the existing CDCA designations. Is it feasible to include all, rather than part, of the relatively small project area as a DFA for consistency?

The parcel details are:

27 0040N 0020E 019 ALIQ S2SE,NWSE
27 0040N 0020E 019 LOTS Lot 1 of SW
27 0040N 0020E 019 ALIQ S2 of Lot 2 of SW
27 0040N 0020E 020 ALIQ W2W2
27 0040N 0020E 029 ALIQ NWNW
27 0040N 0020E 030 ALIQ N2NE

2. Page 32 of the Executive Summary gives a brief Summary of the BLM Land Use Plan Amendment proposal within the Preferred Alternative. It states that:

Special Recreation Management Areas are public lands managed to be high-priority outdoor recreation areas. The Preferred Alternative would designate 32 Special Recreation Management Areas on BLM-administered land that total 2.7 million acres. The Preferred Alternative would not permit renewable energy in designated off-highway vehicle open areas.

This statement suggests that renewable energy may be permitted within a SRMA provided it is not in a "designed off-highway vehicle open area". Table II 3-46 indicates that as part of the refinement of variance lands SRMAs may prohibit all renewable energy development, unless the SRMA is in a Future or Special Assessment Area.

In Appendix L, all SRMAs do not make an exception for a Development Focused Area or a Future Assessment Area in their standard blanket prohibition on renewable energy development in each proposed SRMA. These statements are inconsistent with Table II 3-46 and should be corrected. Each SRMA should have a custom statement on renewable energy applicable to the specific area.

3. A Future Assessment Area is proposed for the area west of Barren Ridge in Kern County. This area represents some of the best wind resources in the State of California. It also has potentially significant avian concerns. We appreciate the opportunity to coordinate with all interested parties on any future assessment of this area consistent with the approved plan. It is noted that this area also overlaps the Jawbone Canyon SRMA; but is outside the Jawbone Canyon OHV area and ACEC areas. In fact, the area is largely fenced and restricts recreation use.

Appendix L Jawbone Canyon Special Recreation Management Area includes a portion of this Future Assessment Area (designated - Design Focus Area), but makes no exception for the Future Assessment Area in its prohibition of potential renewable energy. This is inconsistent with Table II 3-46 of the Preferred Alternative and should be corrected.

4. Appendix L Middle Knob Special Recreation Management Area includes a portion of a Future Assessment Area (designated Design Focus Area) but makes no exception for the Future Assessment Area in its prohibition of potential renewable energy. This is inconsistent with Table II 3-46 of the Preferred Alternative and should be corrected.
5. BLM managed lands parcels west of State Route 14 and north of State Route 58 and southeast of the Middle Knob ACEC in Kern County. The area has excellent solar and wind resources and is partially within the proposed Future Assessment Area. The private land parcels adjacent to the BLM-managed lands are currently being developed for solar projects and subdivided for residential development. The area is also a transmission corridor with the new LADWP Barren Ridge transmission line under construction. The Tehachapi Wind Zone (County of Kern) covers approximately half of the parcels and numerous wind energy projects exist to the south.

Other than the partial Future Assessment Area designation, the proposed DRECP Preferred Alternative has no special designation for this area. The BLM-managed lands are to remain as the existing land use designation. There is, however, a proposed Middle Knob SRMA that includes these parcels even though the parcels are not within the Middle Knob ACEC.

The BLM-managed lands southeast and outside of the Middle Knob ACEC display few if any of the unique recreation characteristics of the Middle Knob ACEC. The area has an aqueduct patrol road and a transmission line patrol road. Given the potential fragile nature of a cut-and-cover aqueduct, heavier recreation vehicles should be restricted in this area. Due to the high wind and solar resource value, low comparable recreational value, we request that in addition to the SRMA designation, the proposed Future Assessment Area also overlap this area and that the prohibition on renewable energy within a Future Assessment Area be corrected in the subject worksheet of Appendix L. The parcel details are listed below:

21 0320S 0350E 024	ALL	ENTIRE SECTION
21 0320S 0350E 026	ALIQ	N2NWNWNE,NESENE;
21 0320S 0350E 026	ALIQ	S2SWSWNE,SESWNE;
21 0320S 0350E 026	ALIQ	S2NWNW,N2SWNE,NESWSWNE;
21 0320S 0350E 026	ALIQ	SWNWNW,W2SENWNW;
21 0320S 0350E 026	ALIQ	SESENWNW,N2NESWNW;
21 0320S 0350E 026	ALIQ	SENEENW,N2NWSWNW;
21 0320S 0350E 026	ALIQ	SESWSWNW,NESESWNW;
21 0320S 0350E 026	ALIQ	SWNWSWNW,NWSWSWNW;
21 0320S 0350E 026	ALIQ	S2SESWNW,NESENW,N2NWSWNW;
21 0320S 0350E 026	ALIQ	SENWSENW,SWSENW,NESESENW;
21 0320S 0350E 026	ALIQ	S2SESENW,N2NENENW;
21 0320S 0350E 026	ALIQ	N2NENE,S2NENE,NENWNE;
21 0320S 0350E 026	ALIQ	S2SENE,SWNE,SENE;
21 0320S 0350E 026	ALIQ	N2NWNENW,S2NENW,N2NWNW;
21 0310S 0360E 024	ALL	ENTIRE SECTION
21 0310S 0360E 026	ALL	ENTIRE SECTION
21 0310S 0360E 034	ALIQ	N2,N2S2;
21 0310S 0360E 034	LOTS	1-4;
21 0320S 0360E 004	ALIQ	SE;
21 0320S 0360E 004	LOTS	5,6,8,10,11,12,14,15,16;
21 0320S 0360E 008	LOTS	1-20;
21 0320S 0360E 010	ALIQ	W2;
21 0320S 0360E 018	LOTS	3-22;
21 0310S 0362E 012	LOTS	1-4;
21 0310S 0362E 013	LOTS	1-4;
21 0310S 0362E 024	LOTS	1-4;
21 0310S 0362E 025	LOTS	1;

6. Under the No Action Alternative, in Section II.2.1.1, it is stated that the CDFW would approve a Natural Community Conservation Plan (“NCCP”) to provide for the conservation of Covered Species and to streamline future permitting of incidental take of California Endangered Species Act (“CESA”) listed species resulting from renewable energy projects and associated transmission. The proposed CDFW actions seem in contrast with the actions of the USFWS who indicate they will not approve the General Conservation Plan (“GCP”) to facilitate streamlining should the No Action Alternative be adopted.

Thank you for considering these comments and recommendations. Should you have any questions or require additional information, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in blue ink that reads "Leslie J. Barrett". The signature is written in a cursive style.

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