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United States Senate
WASHINGTON, DC 20510-0504
<http://feinstein.senate.gov>

March 22, 2010

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

DOCKET
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DATE <u>MAR 22 2010</u>
RECD. <u>MAR 30 2010</u>

Dear Mr. Secretary:

I am writing to follow up on your assurance during a recent hearing in the Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies that renewable energy projects proposed for private lands are a Department priority. I believe a California project that you plan to visit today demonstrates that the Department has not yet leveled the playing field between projects proposed on public and private lands. I bring this to your attention with the hopes that you and Deputy Secretary Hayes will act expeditiously to address this pressing problem and report back to me with a plan for action.

Last week my staff met with Abengoa Solar to discuss the difficulty of permitting projects on disturbed private land. I believe you are visiting Abengoa's project site with Governor Schwarzenegger today in order to announce the creation of a mitigation bank program. I would first like to thank the Department of the Interior for creating the mitigation bank, which I proposed in the California Desert Protection Act of 2010. I believe this bank will speed up permitting and improve endangered species protection at the same time.

Abengoa's story demonstrates that problems permitting renewable energy on disturbed private lands continue. Their current plan is to apply for a loan guarantee with DOE, which will require a NEPA review. In this situation, the Fish and Wildlife Service will consult with DOE under Section 7 of ESA, which has firm deadlines for action. This is in stark contrast to

Section 10 of the Endangered Species Act, under which the Fish and Wildlife Service has told developers it could take nine years to obtain a permit.

Unfortunately, until DOE takes up the application, there is no one at DOE with whom the Fish and Wildlife Service must “consult,” and the project languishes. The firm described their current situation to my staff as “permitting no-man’s land.” While the California Energy Commission is aggressively working to permit this project by October, the Federal government is not acting.

Other private lands projects in California face the same situation. Meanwhile projects on public lands are being pushed through the “fast track” BLM permitting process, which I support. But these projects have the advantage of having BLM as the lead agency for NEPA review. DOE will largely adopt BLM’s own Environmental Impact Statement into its reviews to help these projects get loan guarantees more quickly. So public lands projects are expected to obtain faster permits and faster loan guarantees.

During the hearing, you informed me that you believed that the Department’s work with California on a Desert Energy Conservation Plan (DECP) would provide a path forward for private lands projects, but that plan isn’t scheduled to be done until the end of 2012, and it is already months behind schedule. More importantly, that plan doesn’t do anything for the projects trying to get permits and put people to work now. Companies who found good sites on private lands must wait, while projects on pristine public land are rewarded with high level attention and fast permits.

I believe the Federal government can and should do better. I ask you to take two steps in this area:

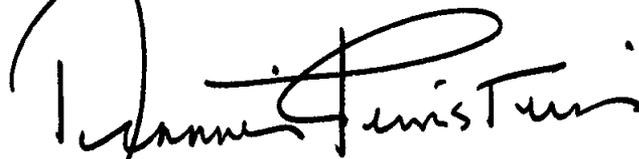
- Develop a plan to level the playing field in time to help current projects. I ask your department to develop a clear list of near term solutions to help private lands projects through the Federal permitting process within the next two weeks.
- Specifically intervene to make sure the short list of viable solar projects proposed on California’s private lands, which are rapidly proceeding through the State and County permitting processes, are

able to (1) begin ESA review immediately and (2) receive expedited review at Fish and Wildlife Service that will take no longer than it takes on public land under Section 7 of ESA.

I greatly appreciated the commitment you made to improve permitting on private lands during our recent hearing, and I look forward to working with you to bring this about. I sincerely hope that this letter will provide a specific example of a project on private lands – which you will visit today – that the current process disadvantages.

I look forward to seeing your creative and viable solution to this pressing problem. Best regards.

Sincerely,

A handwritten signature in black ink, reading "Dianne Feinstein". The signature is written in a cursive style with a large, looping initial "D".

Dianne Feinstein
United States Senator

DF/mbn