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VIA EMAIL, FAX AND MAIL

Re: Staff Assessment and Draft Environmental Impact Statement and Draft California Desert Conservation Area Plan Amendment for Blythe Solar Power Project

Dear Ms. Shaffer and Mr. Solomon:

The following comments regarding the Staff Assessment/Draft Environmental Impact Statement ("SA/DEIS") and Draft California Desert Conservation Area ("CDCA") Plan Amendment for the Blythe Solar Power Project ("project") are being submitted on behalf of the Sierra Club by its California/Nevada Desert Committee.

Sierra Club recognizes the need to develop the nation's renewable energy resources and to do so rapidly in order to respond effectively to the challenge of climate change. Unique natural resources here in California are already being affected by climate change,

including, for example, the pikas of Yosemite National Park and the Joshua trees in Joshua Tree National Park. We also recognize that renewables development can help create jobs in communities that are eager for them, because of the nation's economic crisis. For these and other related reasons, our organization is working with regulators and project proponents to move renewable projects forward. That said, renewable development is not appropriate everywhere on the public lands and must be balanced against the equally urgent need to protect unique and sensitive resources of the California Desert Conservation Area (CDCA), especially the need to retain core, landscape-level undisturbed lands for species movement likely to be caused by climate change. California is fortunate to have sufficient renewable resources, including solar resources throughout the State, to do their development in an environmentally and fiscally sensitive way.

We support a reduced Blythe Solar Power Project alternative and/or a conjunctive use alternative that avoids the microphyll and dry wash woodland habitat in the western part of the project, as requested during scoping and outlined below. However, we object to development of the full 10 square mile proposal because of its intrusion into high value habitat in the western portion of the project. Intrusion into this area is not necessary to achieve a legitimate project purpose and need, and it causes serious unmitigated direct, indirect and cumulative impacts. The project SA/DEIS has a number of significant flaws which require revision and recirculation of the document before any action may be taken. Additionally, the Bureau of Land Management ("BLM") is embarking on approval of vast land conversion for renewable energy on a scale that was not in any way contemplated by its underlying planning documents (the CDCA Plan and the Northern and Eastern Colorado Desert Coordinated Management Plan). Therefore soon BLM will be out of compliance with its mandates under the Federal Land Management Policy Act of 1976 ("FLPMA"). Thus, BLM must revise its Management Plan to properly determine what level of acceptable change is sustainable, particularly given the uncertainties regarding the effects of climate change on sensitive species and habitats.

INTRODUCTION

The project site is located approximately two miles north of U.S. Interstate-10 (I-10) in an unincorporated area of Riverside County, California (Figure 1-1). The Blythe Airport is about one mile south of the site. The Applicants have applied for a right-of-way (ROW) grant from BLM for about 9,400 acres of flat desert terrain. The total area within the ROW that will be disturbed by Project construction and operation will be about 7,030 acres. The area inside the Project's security fence, within which all Project facilities will be located, will occupy approximately 5,950 acres of the ROW. The Proposed Project site is approximately 10 miles west of Blythe on the north side of Interstate (I-) 10, and borders the McCoy Mountains to the west.

We do commend the applicant for choosing a site adjacent to transmission and urbanization. However, the Colorado Desert, where the project would be located, is an extraordinarily sensitive and largely intact ecosystem. The entire project disturbance area of over 10 square miles is intact natural desert land. As stated in the SA/DEIS Executive Summary:

> Access to the site will be provided by a new public road. The BSPP site is nearly completely vacant and undisturbed and is almost entirely owned by BLM; two 160-acre private parcels exist within the ROW but neither of these is currently planned for use by the Project. There are no existing structures on the site.

In addition to threatened desert tortoise and Nelson's bighorn sheep, the SA/DEIS notes the diversity of wild predators in section 5.4:

> Large mammalian predator activity was documented across the BRSA during spring 2009. Predator digs, in round-tailed ground squirrel burrows, kit fox burrows and desert kangaroo rat complexes were numerous. The majority of predator activity in the BRSA appears to be by American badgers (Taxidea taxus) and desert kit foxes (Vulpes macrotis arsipus). Both badger dens and many mammal burrows with badger claw marks (where badgers were foraging for mammal prey) were present. Coyote (Canis latrans) activity was also noted, but more commonly observed on the eastern portion of the BRSA. Bobcat (Lynx rufus) scat was sometimes observed in several of the desert dry wash areas. Mountain lion (Felis concolor) likely uses the BRSA but no definitive sign for this species was observed.

Clearly, although the Blythe farming community is nearby, the project area is still a wild, diverse natural area. The project-caused direct, indirect and cumulative damage to desert biota and ecological processes is likely to be irreversible for hundreds of years or permanent, whereas the project's benefits are only temporary (30 years). Nonetheless, the California Energy Commission ("CEC") and United States Bureau of Land Management ("BLM") are rushing through critical environmental reviews and omitting essential information for the sake of the project applicant's arbitrary timetables. An applicant's supposed time constraints are not a recognized exception to the requirements of either the California Environmental Quality Act ("CEQA") or the National Environmental Policy Act ("NEPA") nor Federal Land Policy Management Act ("FLPMA"). It is crucial that a complete and thorough inquiry into the project's impacts be made *before* the CEC and BLM commit themselves to allowing irreversible environmental damage.

The SA/DEIS fails to comply with CEQA and NEPA in several distinct ways. First, it omits essential information and, as a result, fails as an informational document. Second, the SA/DEIS unlawfully defers the formulation of various studies and mitigation measures. Third, the assessment of the project's environmental impacts is inadequate. Significant impacts are deemed insignificant and impacts that can be mitigated are mistakenly found to be unavoidable. Fourth, significant unstudied changes have been made to the project not addressed in the SA/DEIS, and significant new information is planned to be added to the SA/DEIS at a future date, so the SA/DEIS must be re-circulated and an additional public comment period provided. Fifth, the discussion of Alternatives is inadequate insofar as it failed to properly analyze the distributed generation alternative and the use of alternative technology onsite. BLM rejected a private land alternative on the sole basis that it is inconsistent with the *applicant's* purpose and need, and

declined altogether to evaluate conjunctive use of public and private lands as a project alternative. Sixth, the SA/DEIS unlawfully segments the project by failing to consider the impacts of the related gen-tie transmission and natural gas pipeline required for the project. Seventh, the SA/DEIS does not address the fact that the BLM's governing planning documents are inadequate to guide the proposed action.

For these reasons, the SA/DEIS must be revised and re-circulated.

THE SA/DEIS OMITS CRUCIAL INFORMATION AND FAILS AS AN INFORMATIONAL DOCUMENT

NEPA requires agencies to take a "hard look" at how the choices before them affect the environment, and then to place their data and conclusions before the public before decisions are made and actions taken. CEQA is similarly intended to inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities. In violation of these fundamental precepts, the SA/DEIS fails to include critical information and a number of important studies whose inclusion is necessary for both the public and CEC/BLM to fully understand the environmental consequences of the project. For example, the specific location of the project-required gen-tie transmission lines and new natural gas lines has not been specified. A "possible transmission line route" is drawn on a few maps, but the SA/DEIS fails to positively define the area or disclose any evidence of surveys, analysis or recommended avoidance or mitigation measures for impacts caused by the needed transmission and pipelines:

> Generally speaking, the gen-tie line is expected to proceed directly south from the project site, eventually crossing I-10 and turning westward to SCE's planned Colorado River substation. This route may have a potential impact to the Blythe Airport and will be discussed in the Supplemental Staff Assessment publication in early July 2010.

As discussed more fully below, nearly *every* section of the SA/DEIS mentions an omitted study. Because the SA/DEIS fails to include critical studies and information necessary to fully understand the impacts that the Project will have, it violates both CEQA and NEPA.

Moreover, the SA/DEIS fails to provide adequate information regarding project alternatives and its reasons for rejecting environmentally preferable alternatives. For example, the SA/DEIS discussion on alternative solar technology (PV) simply provides conclusory statements in lieu of facts and analysis.. Because the SA/DEIS fails to provide a foundation for its rejection of viable and environmentally preferable alternatives, it again violates both CEQA and NEPA.

THE SA/DEIS IMPROPERLY DEFERS THE FORMULATION OF MITIGATION MEASURES AND STUDIES

Both NEPA and CEQA are intended to help decision makers make those decisions based upon high quality information. For this reason, both statutes prohibit agencies from relying on studies and documents that may be developed at a future date. Agencies are similarly prohibited from

conditioning the approval of projects upon the adoption of mitigation measures that may be recommended in a future study.

Here, the SA/DEIS unlawfully relies on a number of future studies and conditions project approval upon the adoption of mitigation measures that have not yet been created. For example, the Army Corps of Engineers has not yet determined whether waters of the United States occur onsite. However, mitigation of impacts to such waters are predicated on this finding pursuant to section 404 of the Clean Water Act. As identified in the Executive Summary, several other issue areas remain incomplete as to studies, analysis and/or mitigation:

> Where applicable, staff has identified any outstanding issues in the technical sections of the RSA. To resolve these issues, staff requires either additional data, further discussion and analysis, or is awaiting conditions from a permitting agency prescribing mitigation. Staff will work to resolve the outstanding issues and *plans on issuing a Supplemental Staff Assessment publication in early July 2010. In addition to the Cultural Resources, Land Use and Traffic and Transportation sections mentioned above, the Supplemental Staff Assessment will also have information from the following sections: [the following were listed: Air Quality, Biological, Transmission Engineering]*[emphasis added]

A Drainage, Erosion and Sedimentation Control Plan "that ensures protection of water quality and soil resources" is also incomplete, as is the Stormwater Damage Monitoring and Response Plan. Similarly, an examination of the historically significant cultural resources present at the site has not been completed.

Therminol VP1 is the heat transfer fluid (HTF) that will be used in the solar panels to collect solar heat and transfer it in order to generate steam to run the steam turbines. "Therminol is highly flammable and fires have occurred at other solar generating stations that use it. Approximately 1,300,000 gallons of HTF will be stored at the BSPP." (C.4-8) A Safety Management Plan, intended to reduce the likelihood of a hazardous waste spill, is still unformulated [c.4.22], as is a Construction Security Plan [c.4-20], Hazardous Materials Business Plan, a Spill Prevention, Control, and Countermeasure Plan, Process Safety Management Plan and an Operation Security Plan . Nor is a Decommissioning Plan formulated:

> The Draft Conceptual Decommissioning Plan (AECOM 2010d) does not provide sufficient information to guide the decommissioning of the channel or restoration of the Project Disturbance Area, nor does it provide any information that could be used to develop an estimate of the funding needed for those activities. Regulations promulgated by BLM at 43 CFR 3809.550 et seq. require a more detailed reclamation plan and an estimate. (C.2-77)

Additionally, the Programmatic Agreement to ensure mitigation of certain cultural impacts is not complete, depriving the public on an opportunity to comment on this aspect of the proposed project. Finally, the Biological Resources Mitigation Implementation and Monitoring Plan also is not developed:

> The Project owner shall develop a Biological Resources Mitigation Implementation and Monitoring Plan (BRMIMP), and shall submit two copies of the proposed BRMIMP to the BLM-Authorized Officer and the CPM for review and approval. (C.2-121)

The sheer volume of omitted information is staggering. The public is prevented from assessing the adequacy of the nearly all of the project's most important mitigation measures because they have not yet been created. Whether or not these unformulated mitigation measures will themselves have environmental impacts is impossible to determine, potentially in violation of CEQA and NEPA. The CEC and BLM must re-circulate the SA/DEIS when all of these omitted studies, analyses and mitigation measures have been completed and included in the SA/DEIS. Without these studies, the SA/DEIS is incomplete as a matter of law.

THE DISCUSSION OF THE PROJECT'S ENVIRONMENTAL IMPACTS IS INADEQUATE.

Both NEPA and CEQA require agencies to identify the significant environmental effects of their actions. CEQA also requires that an action agency impose all feasible measures to mitigate these impacts, or make a finding of overriding considerations. All significant impacts *must* be mitigated *unless* mitigation measures to reduce these impacts are infeasible. Here, the SA/DEIS (1) fails to identify certain impacts altogether; (2) mislabels other significant impacts as insignificant; and (3) fails to adopt mitigation measures for those impacts found to be significant.

Biological Impacts

> The SA/DEIS summarizes project biological impacts as:
>
> The Blythe Solar Power Project (Blythe Project or Project) would have significant impacts to biological resources, eliminating all of the Sonoran creosote bush scrub and other native plant and wildlife communities within the approximately 7,077-acre site. The Blythe Project would also directly and indirectly affect an extensive network of desert washes comprising over 550 acres of state jurisdictional waters. The Blythe Project would significantly alter the hydrology of the area by re-routing these waterways through five engineered channels.

Desert Wash and Microphyll Woodland

Clearly, the lead resource issue is avoiding/protecting the microphyll woodlands and associated wash vegetation that occur throughout the western portion of the project. The rarity and sensitivity of this riparian community is the main environmental concern. As identified by the biological consultants, the western

portion of the proposed project includes an unusually rich example of these woodlands and the related fauna dependent on these associations:

> In general, several species are likely to use habitat on the disturbance area, especially the ephemeral desert washes and associated wash-dependent vegetation communities... Movement by large mammals such as coyote, kit fox, mule deer, bobcat, American badger, and mountain lion would likely be concentrated in the wash areas because these areas may provide greater foraging opportunities.

Although the SA/DEIS acknowledges impacts to the extensive high value microphyll woodland on and offsite, it fails to adequately evaluate and avoid those impacts. As more fully discussed below, Sierra Club believes the project can and should avoid this habitat, by removing the power blocks in the western half of the proposed footprint, and if more than a 500 MW project is desired, potentially utilizing the private and public lands to the east of the current footprint. Most of these lands have been assessed for biological impacts in the SA/DEIS East Mesa alternative and been found to have substantially lesser value.

Desert Tortoise

The Mojave Desert Tortoise was listed as a "threatened species" under the Federal Endangered Species Act in 1990 because of the precipitous decline in desert tortoise numbers due to human-caused mortality and the destruction and fragmentation of desert tortoise habitat. Although the east half of the project is low value desert tortoise habitat, the west side has higher value and extensive microphyll woodland habitat consituents favorable to tortoise. Developing the project, especially the west half, on occupied desert tortoise habitat would contribute directly to the continued decline of the Mojave desert tortoise.

The *Desert Tortoise Recovery Plan* states: "Habitat outside DWMAs may provide corridors for genetic exchange and dispersal of desert tortoises among DWMAs" (1994, 60). Valleys are especially valuable for species connectivity as they may provide corridors for genetic exchange and dispersal among tortoise populations. This genetic exchange is essential for the long term survival and recovery of threatened desert tortoise. Therefore, by virtue of destroying habitat and/or a potential corridor connection for desert tortoise as acknowledged in the SA/DEIS will cause a significant impact by contributing to the continued decline of this imperiled species. The SA/DEIS has not adopted mitigation or avoidance to lessen those impacts.

Clearance surveys and translocation are <u>not</u> mitigation; they are a salvage operation to clear a proposed construction site of animals that are occupying the land. Moving desert

tortoises from the site of any proposed solar power project will almost certainly lead to the death a significant percentage of the animals. Timothy Gowan and Kristin Berry (2010) report a mortality rate of 44 percent among a sample of 158 tortoises translocated from Fort Irwin's Southern Expansion Area in the Spring of 2008.

Even though translocating or relocating tortoise is largely ineffective, it is important to stress that it be done prudently, with thorough disease testing. Relocating tortoise without disease testing could imperil the health of both the animals to be moved and the resident populations into which tortoises will be released. Based on the reports of Berry, et al. (2008), Mack, et al. (2008) and Mack and Berry (2009) that disease is not uniformly distributed across geographical areas, it is reasonable to assume that there will be pockets of diseased animals and pockets of healthy animals within the 5 kilometer range of the project site. Not fully testing animals that are to be "relocated" could result in the introduction of diseases into otherwise healthy populations. And not testing the host populations within the 5 kilometer range could result in the introduction of healthy tortoise from the project site into a population that is diseased. [1]

Therefore, any translocation should follow the Desert Tortoise Council *Guidelines for Handling Desert Tortoise During Construction.* Additionally, any tortoises that are moved more than 1000' should be fully tested for disease (including by ELISA) and the host population should be tested to the same extent as well.

Nelson's Bighorn Sheep

Additionally the SA/DEIS fails to fully disclose and avoid or mitigate for potentially significant impacts to Nelson's bighorn sheep, a BLM designated sensitive species whose NECO Plan defined management area is within one half mile of the project footprint. Definite sign of Nelson bighorn was observed on the Project site, but at 5.4 the SA/DEIS acknowledges that:

> Nelson's bighorn sheep scat and tracks were observed within the disturbance area during 2009 surveys, indicating that the species uses the site for dispersal and seasonal movement. Nelson's bighorn sheep is known within the region. While the species is generally associated with mountainous areas, desert floor areas are important for dispersal and seasonal movement.
>
> Populations of bighorn sheep within individual mountain ranges are often small, and there is typically considerable movement between mountain ranges; these intermountain movements are particularly important to long-term population viability. Bighorn sheep were documented moving through the disturbance area during 2009 field surveys (Figure 5.3-9).

[1] Desert Tortoise Council comments on Draft Ridgecrest Solar Power Project Desert Tortoise Clearance and Relocation/Translocation Plan. Attachment DR-B10-54, April 19, 2010

But no focused surveys for the species were conducted or required:

> While bighorn sheep sign was observed, focused surveys for this species were not conducted and this sign was noted incidentally during wildlife and botanical surveys. To quantify the use of this site by this species, focused surveys would need to be conducted.

NEPA and CEQA mandate full information and analysis of impacts that would restrict the range of this sensitive species. The SA/DEIS must include focused surveys, full analysis and quantification of impacts, including barriers to dispersal, dispersal requisite to ensure gene flow among neighboring metapopulations, and analysis of noise impacts of the project which are considerable. In the context of cumulative impacts of other solar project applications which fill the entire McCoy Valley, the responsible agencies have an affirmative duty to examine habitat connectivity for Nelson's bighorn and desert tortoise and address it now while greater options exist to ensure gene flow into the future.

American Badger and Other Protected Species

With regard to American badger, and several of the other sensitive species in the project disturbance area, the SA/DEIS contains no real quantification regarding the Project's impacts, save that they appear to have greater numbers in the western portion of the project site. This is because there were no focused surveys or analysis to gather adequate information, as acknowledged in the SA/DEIS:

> *Without focused surveys* for badgers it is difficult to determine the population size and dynamics as badger dens and evidence of foraging were observed incidentally during other general wildlife survey and focused surveys for other species. However, based on the distribution of burrows and burrows showing evidence of recent predation by badgers (claw marks) it can be concluded that this species is using the western portion of the disturbance area more heavily than the eastern portion.[emphasis added]

Thus, the SA/DEIS failed to perform adequate surveys, analysis and avoidance or mitigation for impacts to Nelson bighorn sheep and other sensitive species and habitat connectivity corridors.

No Surveys for Offsite Infrastructure

Additionally, the BLM and CEC have improperly segmented the environmental review for the project by failing to include the entire project in this SA/DEIS:

> Biological Resources Study Area includes the disturbance area acreage plus additional surrounding buffer areas around the site that are covered by the investigation in order to comply with regulatory requirements. The Project transmission line that will interconnect the Project with the regional grid is not included in this AFC because the route has not yet been finalized, as discussed earlier. The facility footprint encompasses the entire area within the fence line of the facility footprint, and also will include the transmission line when the route is finalized.

Plant Impacts

The SA/DEIS also fails to disclose significant impacts to all special-status plant species. For example, the SA/DEIS failed to require Fall surveys for sensitive plant species. In view of the scale of the project disturbance, 10 square miles, there is great potential for narrow endemic plants to occur onsite.

The SA/DEIS omitted to require fall surveys even though the specific issue arose during scoping. [2] The SA/DEIS fails to provide adequate analysis of project impacts to rare plants. Only Spring plant surveys were conducted, from February into April of 2010, and no fall surveys were required by the SA/DEIS. Unless all required plant surveys are completed *before* the mitigation measures are adopted, it is impossible to tell whether the mitigation measures will be effective. Moreover, fall surveys for special-status plant species have not yet been prepared. Because of these informational inadequacies, the SA/DEIS is legally deficient.

Cultural Impacts

The SA/DEIS discussion of impacts to cultural resources is incomplete and inadequate. Assessment of the short and long term adverse impacts to cultural resources is relegated to a programmatic agreement yet to be completed. The SA/DEIS states that:

> Mitigation for project impacts to cultural resources will be handled in a Programmatic Agreement (PA) negotiated among all stakeholders- federal, state, and private. Development of the PA by the BLM is underway, but will not be completed until mid-summer.

However, Native American activists assert that the project would have significant cultural impacts and would cause "desecration of the geoglyphs located in the project area."[3]

Not only has the SA/DEIS failed to adequately inform the reviewer as required by law, but also BLM has failed to satisfy its obligations under section 106 of the National Historic Preservation Act ("NHPA"). The NHPA requires agencies to take into account the impact of effects of their actions on historical resources *"prior to the issuance of any license."* Instead of completing this required process, BLM is opting to use a programmatic agreement to defer evaluation, mitigation, and treatment.

Here again the assessment of impacts and the formulation of mitigation measures is impermissibly deferred. At SA/DEIS 5.4-1, CEC and BLM assert:

> With implementation of *planned additional investigations* and appropriate mitigation measures, Project impacts on cultural resources *would be expected* to be less than

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[2] Sierra Club Blythe Solar Power Project scoping comments, December 23, 2009

[3] Declaration of Greenaction for Health and Environmental Justice Against 09-AFC-8, 09-AFC-6, and 09-AFC-7

> significant. Based on archival research, systematic field survey, and consultation with interested parties, 200 archaeological sites and one historic architectural resource were inventoried for the Project. At the historic architectural resource, and at 41 of the archaeological sites, the potential exists for significant impacts as defined by CEQA. [emphasis added]

The cultural resource surveys are incomplete and the cultural mitigation is not formulated. The SA/DEIS is incomplete because it omits critical information and mitigation and also fails to identify the potentially significant impacts shown above. Additionally, as noted below, the project transmission gen-tie lines and natural gas lines, key project components, have not yet been identified. Therefore all information, cultural or otherwise, is lacking for those yet-to-be-delineated, surveyed, analyzed or mitigated areas of impact:

> The cultural resources pedestrian survey included transmission line alignments which have since been abandoned due to changes in the location of a planned electrical substation. Although the cultural resources found along those transmission lines are presented in the attached Class III survey report, they are not reported here as they are no longer part of the proposed BSPP. When the transmission route is finalized, additional studies will be performed and the information provided to the agencies and other stakeholders. (5.4- 18)

Moreover, Alfredo Figueroa, representative of the Native American community has repeatedly rejected the applicant's studies, calling into question the credibility of the SA/DEIS cultural assessment. Before committing to the permanent destruction of irreplaceable cultural resources, CEC and BLM must, at the very least, determine the nature and extent of the cultural heritage they are obliterating.

Hydrology and Soils Impacts

The SA/DEIS' assessment of impacts to soil and water resources is likewise deficient,. The project is characterized as air-cooled; however there is some significant wet-cooling contemplated in summer months, causing a geometrical increase in groundwater use. The SA/DEIS is unclear on this subject, and needs to acknowledge if this is a hybrid wet cooled power plant, and how the increased groundwater consumption in an arid environment is justified, especially in view of the project's modest power output (2000 MWH a year, about 22% capacity factor. Thus, the project's generation capacity factor is only marginally better than PV, if at all, and at a far greater consumption of scarce groundwater resources.

Also, the project's impacts on waters of the United States are unknown. The project has the potential to cause massive amounts of runoff and erosion. Whether or not these impacts will be significant has yet to be determined because the SA/DEIS fails to include sufficient information.

> Jurisdictional waters delineations by Project scientists indicate that there are unlikely to be waters on the site considered jurisdictional by the U.S. Army Corps of Engineers (USACE), but USACE concurrence has not yet been obtained.

The project's consistency with section 404 of the Clean Water Act is uncertain. The SA/DEIS asserts that the project drains into a closed basin. In view of the project's slope to the Colorado River, we find this assertion less than credible, and no explanation of the "closed basin" referred to in the SA/DEIS is provided. This information must also be included in a re-circulated SA/DEIS.

Land Use Impacts

CEQA and the Warren-Alquist Act require the CEC to discuss any inconsistencies between the proposed project and applicable general plans and regional plans. In conflict with this requirement, the SA/DEIS fails to disclose two such inconsistencies. First, the Project is inconsistent with the Riverside County General Plan land use designation for the area.

Most importantly as stated above and further described below, the project (cumulatively if not individually) conflicts with BLM's own master planning documents, namely the CDCA Plan and the Northern and Eastern Colorado Desert CDCA Plan Amendment.

With regard to land use impacts, the SA/DEIS only acknowledges that "the proposed project may conflict with applicable Riverside County land use LORS regarding the project's impact on Blythe Airport operations. Staff is still investigating this issue and a final determination will be made in the supplement to the Staff Assessment" [C.6-16] However, the discussion of land use impacts is inadequate because (1) the project has unresolved inconsistencies with the Riverside County General Plan: "the project is located on land designated open space and rural desert. The project would convert almost 6,000 acres to industrial solar."[C.6-10]

Then the SA/DEIS proceeds to acknowledge that the :

> Open Space Rural" land use designation is applied to remote privately owned open space areas with limited access and a lack of public services and requires that "structures be designed to maintain the environmental character in which they are located...Ensure that development does not adversely impact the open space and rural character of the surrounding area [C.6-6 &7]

But, instead of clearly identifying the project's inconsistency with an existing General Plan, the SA/DEIS cryptically states: "Staff anticipates comments from Riverside County staff on this staff assessment related to the projects compliance with the Palo Verde Valley Area General Plan's Land Use Element." [C.6-11] This does not constitute the requisite analysis and avoidance or mitigation under NEPA and CEQA.

(2) The SA/DEIS fails to acknowledge that BLM's own governing planning documents are inadequate to provide guidance for this scale of land conversion.

The CDCA Plan is intended to provide comprehensive, long-range guidance with goals and specific actions for the management, use, development, and protection of the resources and public lands within the CDCA, based on the concepts of multiple use, sustained yield, and maintenance of environmental quality. The Plan should provide a desert-wide perspective of the planning decisions for each major resource or issue of public concern as well as more specific interpretation of multiple-use class guidelines for a given resource and its associated activities. However, clearly, neither the CDCA Plan nor its successor NECO Plan ever contemplated or addressed land conversion of the scale and intensity proposed by this and other large renewable energy projects throughout the California desert and immediate region.

With regard to the NECO Plan, the SA/DEIS acknowledges:

> The planning area encompasses over five million acres. The NECO Plan amended the CDCA plan in 2002 and is currently undergoing evaluation for further amendment. The CDCA Plan/NECO is related to the Draft Solar Energy Programmatic Environmental Impact Statement which is expected to be leased in 2011 and could give guidance as to how and where solar projects can be built on BLM lands. [C.6-6]

The issue of CDCA/NECO Plan inadequacy to provide guidance and limits of acceptable change for land conversion on the scale proposed by this and other solar projects.was raised in scoping comments, but apparently disregarded. [4] A re-circulated SA/DEIS must address this threshold issue.

Decommissioning and Other Missing Plans

As mentioned above, in violation of NEPA and CEQA, the SA/DEIS has no Decommissioning Plan:

> The planned operational life of the project is 30 years, but the facility conceivably could operate for a longer or shorter period depending on economic or other circumstances. If the project remains economically viable, it could operate for more than 30 years. However, if the facility were to become economically non-viable before 30 years of operation, permanent closure could occur sooner. In any case, a Decommissioning Plan would be prepared and put into effect when permanent closure occurs.
>
> The procedures provided in the decommissioning plan would be developed to ensure compliance with applicable LORS, and to ensure public health and safety and protection of the environment. The Decommissioning Plan would be

[4] Sierra Club Blythe Solar Power Project scoping comments, December 23, 2009

> submitted to the CEC and BLM for review and approval prior to a planned closure.

Not only is this study not available for public review, but also the mitigations proposed for decommissioning could have impacts of their own. Unfortunately, this, and several other operational plans are completely lacking in the SA/DEIS. It is incumbent upon the responsible agencies to include a full Decommissioning Plan and other requisite plans in a re-circulated SA/DEIS for full public review.

Cumulative Impacts

Both NEPA and CEQA require agencies to consider the cumulative impacts of their actions. The project will have numerous impacts, some of which were not disclosed, and none of which were adequately mitigated.

> approximately one million acres of land are proposed for solar and wind energy development in the Southern California desert lands. The conversion of these lands would preclude numerous existing land uses including recreation, wilderness, rangeland, and open space, and therefore, would result in a significant immitigable cumulative impact. C.6-24

First, the Project will have cumulative impacts on the biotic resources of the region, some of which are identified in the SA/DEIS:

> For cumulative impacts to biological resources, the BSPP adds incrementally to the overall loss, fragmentation and degradation of native plant communities and wildlife habitat and impairment of wildlife connectivity. The combined effects of all existing and future projects are likely to remain significant even with implementation of project-specific mitigation because of these residual cumulative effects. Such cumulative effects can only be addressed through a regional and coordinated effort aimed at preserving and enhancing large portions of intact wildlife habitat and linkages, including maintaining connections between Desert Wildlife Management Areas and other desert tortoise habitat. (B.2-11)

> The BSPP is located in an area that could support local dispersal opportunities and provide habitat connectivity for special-status species, including DT, Nelson's bighorn sheep. DT and Nelson's bighorn sheep may move from the southwest to northeast or vice versa for population dispersal. While DT densities on the valley floor may be lower than in the adjacent mountain ranges, movement between local populations through intermountain valleys is important for long-term population viability. (Helix Biological Assessment)

However, the SA/DEIS fails to identify cumulative impact mitigation for Nelson's bighorn and other sensitive species adversely impacted by the project and other foreseeable projects. Proposed

mitigation for cumulative biological impacts apparently consists of plan amendments to designate some primarily tortoise acquisition areas and one special management area.

> That portion of the rest of the Chuckwalla DWMA in the Palm Springs South Coast Field Office would be managed specifically for tortoise critical habitat and targeted acquisitions. It would be managed as a ROW avoidance area subject to a 0.25 percent total surface disturbance. BLM would collaboratively develop an activity plan for off highway vehicle management strategies within this portion of the DWMA to manage OHV use in desert washes in this area. (Biological Resources,Appendix B)

In context with the vast land conversion contemplated with renewable energy development, the concept of setting aside landscape-level conservation areas to mitigate for severe cumulative impacts of the project is laudable, and it is mandated by NEPA and CEQA. However, there are some serious deficiencies in the proposed mitigation. Targeted acquisition areas make sense, but the Chuckwalla DWMA is already serving as a tortoise mitigation area, where the Eagle Mountain landfill and other proposed projects have acquired compensation land in the past and presumably continue to do so today. Designation of a targeted acquisition area is not necessary for this to happen.

Also, Plan amendments can be changed; they are not permanent. The proposed mitigation of only Plan amendments does not provide the necessary permanent, unchangeable mitigation for severe cumulative impacts that will persist at least for hundreds of years beyond the life of the projects. The mitigation does not specify management prescriptions, and it allows undefined activities, "Casual use of the area would remain unaffected." (Biological Resources,Appendix B) Additionally, the proposed mitigation does not address the cumulative impacts to the McCoy Valley and surrounding mountains and designated special management areas. In the context of other projects stacked up north of Blythe Solar, renewable energy development threatens to obliterate all meaningful natural resource values in this large, pristine interconnected landscape.

Second, the Project will have cumulative growth inducing impacts which have not been indentified, avoided or mitigated in the project review. The SA/DEIS concludes that no significant growth-inducing impacts will occur because the size of the project's workforce is modest. It then concludes that there will be no cumulative impacts. This conclusion is in direct conflict with CEQA, which directs that **"it must not** be assumed that **growth in any area is necessarily beneficial... or of little significance to the environment."** Guidelines § 15126.2(d). The SA/DEIS must attempt to quantify the growth inducing impacts of all other types of projects that are likely to spring up in east Riverside County after Project approval, because these impacts are "reasonably foreseeable."

Considered in the context of other proposed large energy projects in the region, the cumulative impacts of the project are significant in nearly every issue category. On a human time scale, these cumulative impacts will be permanent and pervasive, causing landscape-level biological, cultural and other impacts that will last hundreds of years or more after the expected lifetime of the projects. The SA/DEIS fails to identify all

cumulative impacts and to provide adequate avoidance and/or, permanent mitigation to offset project cumulative impacts.

THE SA/DEIS MUST BE RECIRCULATED WHEN THE MISSING INFORMATION IS ADDED.

As discussed above, critical information was omitted from the SA/DEIS and other information was inconsistent throughout the document. Given the importance and sheer volume of omitted information, the public has been deprived of the opportunity to comment on the project in a meaningful way. Under these circumstances, both NEPA and CEQA require recirculation of the environmental document. Because NEPA and CEQA are intended to provide the public with access to high-quality information, it is unlawful to release the DEIS and then attempt to fix its problems out of the public eye. If significant new information is added to the SA/DEIS, or existing information substantially changed, it must be re-circulated.

BLM UNLAWFULLY REJECTED SITE ALTERNATIVES, ALTERNATIVE TECHNOLOGIES AND DISTRIBUTED GENERATION ON THE BASIS OF INCONSISTENCY WITH THE APPLICANT'S PURPOSE AND NEED.

BLM's and CEC's Statements of Purpose and Need Reflects the Applicant's Needs, and Is Too Narrowly Drawn.

BLM failed to consider the East Mesa and other offsite alternatives under NEPA because none would accomplish the purpose and need for the proposed action:

> All site alternatives proposed to be located on lands not under the jurisdiction of the Bureau of Land Management are considered unreasonable by the Bureau of Land Management because none would accomplish the purpose and need for the proposed action, which is to is to respond to Palo Verde Solar I's application under Title V of FLPMA (43 U.S.C. 1761) for a ROW grant to construct, operate, and decommission a solar thermal facility on public lands in compliance with FLPMA, BLM ROW regulations, and other Federal applicable laws.

Similarly, BLM impermissibly rejected the use of alternative solar technologies onsite on the basis of inconsistency with the *applicant's* purpose and need:

> Alternative solar technologies are not required to be analyzed by the BLM because they fall outside BLM's purpose and need for the proposed action, which is to is to respond to Palo Verde Solar I's application under Title V of FLPMA (43 U.S.C. 1761) for a ROW grant to construct, operate, and decommission a solar thermal facility on public lands in compliance with FLPMA, BLM ROW regulations, and other Federal applicable laws.

Likewise, the BLM rejected the distributed renewable energy generation alternative on the same basis:

> Alternative solar technologies are not required to be analyzed by the BLM because they fall outside BLM's purpose and need for the proposed action.

However, BLM's statement of purpose and need for the SA/DEIS is too narrowly drawn. Courts have held that, although an agency has discretion to define the purpose and need of a project, it cannot use "unreasonably narrow" terms to define a project's objective. The Department of Interior ("DOI") regulation, 40 C.F.R. § 1502.13 merely requires that an EIS briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action. DOI's NEPA handbook explains that the "purpose and need statement for an externally generated action must describe the BLM purpose and need, *not an applicant's or external proponent's purpose and need.* " Department of Interior, Bureau of Land Management, National Environmental Policy Act Handbook 35, (citing 40 C.F.R. § 1502.13) (emphasis added)

Instead, according to the SA/DEIS, the BLM's purpose and need is "to respond to the Palo Verde I's application under Title V of FLMPA (43 U.S.C. 1761) for a ROW grant to construct, operate and decommission a solar thermal facility and associated infrastructure in compliance with FLPMA, BLM ROW regulations, and other applicable federal laws." For this reason, BLM has declined to examine any off-site alternatives, alternative technologies or distributed generation, despite its duty to comply with NEPA.

As the Energy Policy Act, and related Secretarial and Executive Orders direct BLM to "encourage the development of environmentally responsible renewable energy" while complying with existing environmental laws – the project purpose and need statement need not be so narrowly drawn as to preclude the consideration of alternative locations and technologies. To do so reflects the needs of the project applicant, not the needs of BLM, in violation of NEPA.

BLM Unlawfully Rejected Site Alternatives and Failed to Consider Conjunctive use of Public/Private Land.

BLM also rejected the East Mesa site alternative because the alternative did not fall within the BLM's jurisdiction. In fact, an agency's refusal to consider an alternative that would require some action beyond that of its congressional authorization is counter to NEPA's intent to provide options for agencies. BLM's determination to narrow its purpose and need to preclude the analysis of alternative sites, and to avoid analysis of offsite alternatives because they are outside of its jurisdiction, renders the SA/DEIS deficient.

Additionally, in spite of scoping requests to do so,[5] the responsible agencies failed to consider a project alternative comprised of the east portion of the project in conjunction with degraded private lands to the east and south of the project.

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[5] Scoping comments, Sierra Club California/Nevada Desert Energy Committee, Dec 23, 2009

> Additional requests were made that the private, disturbed lands immediately east of the BSPP be considered in conjunction with portions of the Blythe proposed site. (B.2.7)

Relocation to an Alternative Site or Conjunctive Public/Would Reduce the Project's Impacts.

The East Mesa (private land) alternative site "consists mostly of fallow agricultural fields and active orchards. The Burlington Northern and Santa Fe Railway... traverses the northern and eastern portions of the Private Land Alternative site. Surrounding lands to the west are mostly undeveloped BLM land, and to the east are comprised of mostly agriculture but also include a Riverside County dumping site, golf course, and rural residences."[6] With regard to the East Mesa alternative, the Biological Assessment for the project found that:

> Few impacts to special status plant and animal species would be expected because the Private Land Alternative site is largely active and inactive agricultural land...wildlife movement across the site is already affected by the disruption in native vegetation communities from agriculture, and by the railway, nearby paved roads to the east, and the I-10 further south [7]

The Biological Assement acknowledges the proposed project's virtually undisturbed state and environmentally sensitive resources, especially in the western half of the proposed project which is comprised of riparian threads and associated sensitive vegetation that is important habitat for protected species. The project Biological Assessment estimated 550 acres of jurisdictional waters on the proposed project, 245 acres of waters on the reduced project alternative, and only 54 acres of waters (including "a disturbed wetland that appears to have established from water releases from an irrigation aqueduct vent for an adjacent citrus orchard")[8] on the East Mesa alternative site.

An East Mesa or a conjunctive public/private land use alternative will greatly lessen the project's significant impacts, including destruction of vast amounts of desert wash resources as well as habitat and habitat connectivity for desert tortoise, bighorn sheep and other sensitive, threatened and endangered species. Accordingly, it is impermissible to reject the East Mesa alternative and to fail to analyze an alternative comprised of the east half of the project developed conjunctively with private lands (as requested during scoping.) These environmentally preferable alternatives should be properly analyzed and one of them adopted.

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[6] Helix Biological Reconnaissance Study for the Blythe Solar Power Project, Feb. 1 2010 p. 4

[7] Helix Biological Reconnaissance Study for the Blythe Solar Power Project, Feb. 1 2010 p.16

[8] Ibid, p. 5

BLM UNLAWFULLY REJECTED DISTRIBUTED GENERATION AND ALTERNATIVE TECHNOLOGY ALTERNATIVES WITHOUT ADEQUATE INFORMATION AND ANALYSIS

The SA/DEIS rejected the distributed generation and alternative technology alternatives, , asserting the following:

> Staff's analysis of renewable energy technology options indicates that contributions from each commercially available renewable technology will be needed to meet SCE's RPS requirements and to achieve the statewide RPS target for 2020 ...the combined contribution of the alternatives of wind, other solar technologies, geothermal, and biomass is needed to complement rather than substitute for the Blythe Solar Power Project solar thermal contribution to meeting SCE and statewide RPS requirements...each of these four alternative technology options when considered individually is insufficient to meet the project objectives related to the RPS.

The above statement begs the question: is the SA/DEIS asserting that it must not consider alternative technologies not proposed by the Blythe Solar Power Project (and by inference every other large centralized solar project) on the basis that its particular technology is essential to meet the statewide RPS requirements? Currently there are 15 centralized solar projects totaling over 7,000 MW being fast-tracked to qualify for stimulus funding in California, and a total of 72 renewable energy projects applied for BLM land alone, totaling over a million acres of public land dedication and tens of thousands of megawatts of renewable energy. According to the SA/DEIS rationale, then each and every one of these projects should be approved as proposed, because alternative renewable technologies may only *complement* rather than substitute for a project.

The numbers demonstrate that there are many times more centralized generation applied for than is actually needed to meet the RPS requirements, and the law mandates that the responsible agencies fully consider environmentally preferable alternatives to a project. Thus, the SA/DEIS's conclusory alternatives analysis fails to comply with State and Federal environmental laws which require consideration of a reasonable range of alternatives which, under CEQA, could substantially reduce or avoid any potentially significant adverse impacts of the proposed project, or under NEPA, would inform decision makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.

Solar Photovoltaic Generation Would Meet Project Objectives and Avoid Most Significant Project Impacts

For instance, the SA/DEIS fails to properly identify and weigh the use of solar photovoltaic (PV) generation rather than solar thermal for the proposed project or its alternative sites:

> In analyzing the use of utility scale solar PV onsite, the SA/DEIS concludes: Would reduce water use but *not substantially reduce impacts* of the Blythe Solar Power Project. Alternative solar technologies are not required to be analyzed by the BLM because they fall outside BLM's purpose and need for the proposed action. (SA/DEIS Alternatives TABLE 1)[9]

What the SA/DEIS fails to acknowledge in its unsubstantiated rejection of using of solar PV instead of solar thermal is that: 1) PV technology has proven to be cost competitive with solar thermal ; 2) use of thin film PV would avoid or greatly lessen many of the project's adverse impacts. Those impacts that solar PV would avoid include: the project's water use and groundwater impacts[10], fire and hazardous materials disposal problems, greenhouse gas emissions associated with project-required natural gas use, offsite piping for same, glare impacts to the nearby Blythe airport, noise impacts to both sensitive human and wildlife receptors; and 3) that by using less than a third of the acreage, the use of crystalline silicon tracking solar PV would enable the project to leave undisturbed the vast bulk of microphyll woodland and other sensitive habitats, avoiding the most serious habitat impacts.[11]

Equally important, use of PV in lieu of solar thermal generation would allow the project to be economically and compatibly reconfigured onto non-contiguous private land parcels. This is extremely important because non-contiguity of adjacent private lands was determined to be a major stumbling block to the East Mesa alternative. Use of PV would make the East Mesa and other joint use of private and public land alternatives to the immediate south and east of the proposed project viable as compared to the currently proposed solar thermal technology. This is because (unlike solar thermal trough technology) PV is silent, non-glaring, and can be deployed in discrete polygons that have enormous flexibility as to their size, shape and contiguity with adjacent development polygons.

Distributed generation would fulfill project renewable generation goals while avoiding virtually all project impacts

As for its rejection of distributed generation as an alternative to the project, the SA/DEIS found, at Alternatives Table 1:

> While it will very likely be possible to achieve 1,000 MW of distributed solar energy over the coming years, the limited numbers of existing facilities make it difficult to

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[9] Here again, BLM impermissibly rejects a project alternative based solely on its unlawfully narrow purpose and need statement.

[10] First Solar proposes to wash its panels once a year or less (personal communication Wayne Hoffman to environmental representatives)

[11] The land requirement varies from approximately 3 acres per MW of capacity for crystalline silicon to more than 10 acres per MW produced for thin film and tracking technologies (NRDC 2008c). Therefore, a nominal 1,000 MW solar PV power plant would require between 3,000 and 10,000 acres. (SA/DEIS at)

> conclude with confidence that this much distributed solar will be available within the timeframe required for the Blythe Solar Power Project.
>
> Alternative solar technologies are not required to be analyzed by the BLM because they fall outside BLM's purpose and need for the proposed action.[12]

And again at B.2-54:

> However, achieving 1,000 MW of distributed solar PV or solar thermal would depend on additional policy support, *manufacturing capacity*, and *lower cost* than currently exists to provide the renewable energy required to meet the California Renewable Portfolio Standard requirements so additional technologies, like utility-scale solar thermal generation, are also necessary. [emphasis added]

The SA/DEIS analysis of the distributed generation alternative and its potential to provide to meet the California Renewable Net Short ("RPS") is erroneous, conclusory, and not supported by substantial evidence in the record. Distributed generation is not wholly dependent on policy support. Such potential exists today.

Recently, a presentation by Black &Veatch, the consultants for CEC's own Renewable Energy Transmission Initiative at a December 9, 2009 initial meeting of a new Renewable Distributed Energy Collaborative of the CPUC analyzed current distributed generation potential. Black & Veatch used the Global Information System (GIS) to identify and count sites for both ground-mounted PV near transmission substations as well as for large urban rooftops of about 1/3 acre within three miles of a distribution substation. Estimates were also made for smaller rooftops. Black and Veatch reported a wholesale distributed generation potential of 17,300 MW. This value is conservatively based on using only one-third of the actual potential capacity (52,000 MW), for reasons that are not explained. Data on the PV capacity of existing substations provided to the California Public Utilities Commission by investor-owned utilities indicates that these substations can accept approximately 20,000 MW of distributed PV with no upgrades required to the substations.[13]

The studies cited above show an estimated distributed solar generation capacity by 2020 of between 25,000 and 50,000 MW, which corresponds to an electrical energy potential of 50,000 to 100,000 GWh/yr. These figures indicate that distributed solar generation can provide not only a substantial portion of the 37,897 GWh/yr RPS Net Short, but probably much more than that. Based on these kinds of studies, Black and Veatch has recommended a scenario to meet new renewable electricity generation goals which would

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[12] Here again, BLM impermissibly rejects a project alternative based solely on its unlawfully narrow purpose and need statement.

[13] Black and Veatch, Summary of PV Potential Assessment in RETI and the 33% Implementation Analysis, December, 2009:

"replace central station solar and wind with distributed solar PV"[14] corresponding to about 30,000 GWh/yr of wholesale distributed generation. As we have seen, such a scenario would utilize only a portion of the wholesale distributed generation potential indicated in the studies. The potential for distributed solar generation actually goes beyond the numbers in these studies, which represent the most accessible commercial PV installations. Other, smaller rooftops are available for commercial PV power in urban areas, as are carports, other disturbed land, rail and highway right of ways, and so forth.

Also, we note that the SA/DEIS asserts that distributed PV must achieve lower costs to be competitive. However, RETI ascertained that PV is more cost-effective than solar trough at current thin-film PV pricing of $3,700/kW a/c[15] and SCE has assured CPUC that its distributed commercial rooftop program in Ontario, CA will cost $3.50/watt d/c,[16] or less than $4,000/kWa/c, virtually the same price per kW as Blythe Solar Power Project,[17] but without any transmission penalty added.

Finally, the SA/DEIS rejection of distributed generation asserts it would be infeasible to ramp up 1000 MW of distributed renewable energy within the time frame for the Blythe project, which is 69 months, or just shy of 6 years. However, estimated worldwide thin-film PV production capacity at the end of 2009 was approximately 7,400 MW.[18] First Solar, an Arizona company, manufactured and shipped more than 1,000 MW of thin-film panels in 2009.[19] Estimated worldwide conventional polycrystalline silicon PV production capacity reached 13,300 MW per year in 2008, and it is projected to reach 20,000 MW per year in 2010.[20] As a result, worldwide PV production capacity substantially exceeds current worldwide demand. The current estimated oversupply of PV panel manufacturing capacity for 2010 is 8,000 MW.[21]

As Southern California Edison stated in its March 2008 application to CPUC build a 250 to 500 MW urban PV project, "Because these installations will interconnect at the distribution level, they can be brought on line relatively quickly without the need to plan, permit, and construct the transmission lines." Typically, transmission lines require a ten-year planning and construction cycle. Added Commissioner John A. Bohn, author of the decision, "This decision is a major step forward in diversifying the mix of renewable resources in California and spurring the development of a new market niche for large

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[14] Ibid

[15] RETI Phase 2B Final Report

[16] CPUC Proceedings, SCE Solar Roof Program, June 2009

[17] $4,000/kW is the cost claimed by Solar Millenium representatives (personal communication Alice Harron to Joan Taylor)

[18] Schreiber, D., EuPD Research, *PV Thin-film Markets, Manufacturers, Margins*, presentation at 1st Thin-Film Summit, San Francisco, December 1-2, 2008, p. 13.

[19] First Solar press release, *First Solar Becomes First PV Company to Produce 1GW in a Single Year*, December 15, 2009.

[20] Schreiber, D., EuPD Research, *PV Thin-film Markets, Manufacturers, Margins*, presentation at 1st Thin-Film Summit, San Francisco, December 1-2, 2008.

[21] B. Murphy, Fulcrum Technologies, Inc., *The Power and Potential of CdTe (thin-film) PV*, presented at 2nd Thin-Film Summit, San Francisco, December 1-2, 2009.

scale rooftop solar applications. Unlike other generation resources, these projects can get built quickly... and without the need for expensive new transmission lines. And since they are built on existing structures, these projects are extremely benign from an environmental standpoint, with neither land use, water, nor air emission impacts."

In conclusion, distributed PV generation on commercial rooftops and disturbed lands near load centers and substations has vast potential to meet the RPS net short and obviate the need for many land intensive facilities such as the instant project. And since distributed PV is sited in developed areas, it can do so while avoiding virtually all biological impacts to sensitive desert resources. The SA/DEIS must seriously consider this alternative.

THE SA/DEIS UNLAWFULLY REJECTED THE CONSERVATION AND DEMAND SIDE MANAGEMENT ALTERNATIVE WITHOUT ADEQUATE ANALYSIS

The SA/DEIS alternative analysis erroneously rejected the alternative of conservation and demand side management without foundation:

> Conservation and demand side management programs would likely not meet the state's growing electricity needs that would be served by the Blythe Solar Power Project. In addition, these programs would not provide the renewable energy required to meet the California Renewable Portfolio Standard requirements.
>
> Conservation and demand-management alone are not sufficient to address all of California's energy needs, and would not provide the renewable energy required to meet the California Renewable Portfolio Standard requirements.
>
> Staff's analysis of renewable energy technology options indicates that contributions from each commercially available renewable technology will be needed to meet SCE's RPS requirements and to achieve the statewide RPS target for 2020 (between 45,000 GWhs to almost 75,000 GWhs according to the 2009 IEPR).

The SA/DEIS has summarily dismissed the conservation/demand side management alternative without adequate foundation. First, the SA/DEIS refers to the State's "growing electricity needs" but fails to acknowledge that California's energy usage has entered a downward trend. Considering the State-mandated standard of 100% efficiency, this assertion is even more questionable; such efficiency has been forecast to achieve an enormous reduction in electrical energy use. The SA/DEIS's conclusory analysis also failed to quantify or recognize the significant contribution that energy conservation makes to achieving RPS goals. That is, for every 1000 megawatt hours of electrical energy saved by conservation or efficiency, 333 megawatt hours less of renewable generation are needed for the load-serving entities to meet their RPS goals, because the net short "pie" has been reduced.

As outlined above, distributed commercial-scale PV generation can meet 2/3 of the "net short" of renewable energy to meet 33% renewables by 2020 at a competitive and probably more economical cost than these large utility scale remote transmission dependent solar thermal projects. Additionally, the potential for conservation and efficiency is enormous. Thus, the potential for energy efficiency alone or in combination with distributed generation clearly demonstrates that no individual utility scale solar project, or portion thereof, is indispensible. Indeed, the responsible agencies have an affirmative duty to seriously consider conservation and demand side management as a feasible alternative to avoid significant unmitigable impacts of a project, or even as an alternative to an entire project. The SA/DEIS has unlawfully failed to do so.

THE SA/DEIS UNLAWFULLY SEGMENTS THIS PROJECT BY IGNORING ITS RELIANCE ON OFFSITE TRANSMISSION AND NATURAL GAS

CEQA requires agencies to consider the environmental impacts of "the whole of [their] action" so as to ensure "that environmental considerations do not become submerged by chopping a large project into many little ones - each with a minimal potential impact on the environment - which cumulatively may have disastrous consequences." Guidelines § 15378

NEPA also requires that connected actions be considered together in the same EIS. Connected actions are those that (1) automatically trigger other actions potentially requiring EISs; (2) cannot or will not proceed unless other actions are taken previously or simultaneously; or (3) are interdependent parts of a larger action and depend on the larger action for their justification.

Here, the entire project is dependant on construction of the necessary transmission ties to the grid and 10 miles of new gas lines. Until requisite gen-tie lines and gas powerlines are completed, this entire project cannot proceed. Accordingly, "whole ... action" would include both of these "connected" projects; their environmental impacts must be considered in the same document. Guidelines § 15378(a); 40 C.F.R. § 1508.25. Here, however, the SA/DEIS simply defers any specific analysis of these connected projects to a future time: " ." SA/DEIS Because the SA/DEIS fails to include an assessment of the environmental impacts of the entirety of the project, it violates both CEQA and NEPA.

BLM APPROVAL OF THE PROJECT, ALONG WITH OTHER MASSIVE PROJECTS, VIOLATES FLPMA AND REQUIRES REVISION OF THE CDCA PLAN AND ITS NECO PLAN AMENDMENT

The SA/DEIS acknowledges that, although

> the site for the proposed project is currently classified within an MUC L area, solar power facilities are generally allowed, the CDCA Plan requires that newly proposed sites associated with power generation or transmission facilities not already identified in the Plan will be required in order to determine the suitability of the proposed site for renewable energy development, and to approve or not approve the site location.

However, the SA/DEIS fails to address the underlying deficiency in its master planning documents for the project area: namely, that neither the CDCA Plan nor its NECO amendment which govern actions in the Plan area, are adequate to review the scale and intensity of land conversion proposed. See above under discussion of Land Use Impacts.

The BLM and Department of Energy (DOE) are preparing a Programmatic Environmental Impact Statement (PEIS) on solar energy development in six states in the western U.S. (Arizona, California, Colorado, New Mexico, Nevada, and Utah) (USDOE 2008). As part of the PEIS, the BLM and DOE identified 24 tracts of BLM-administered land for in-depth study for solar development, some of which may be found appropriate for designation as solar energy zones in the future:

> The Draft PEIS should be published in 2010; the appropriateness of siting solar energy plants on various land use designations may be revisited in the PEIS.
> Executive Order S-14-08 requires the Renewable Energy Action Team to establish a Desert Renewable Energy Conservation Plan (DRECP) for the Mojave and Colorado Desert regions. The Planning Agreement regarding the DRECP is entered into by the Energy Commission, California Department of Fish and Game, BLM, and U.S. Fish and Wildlife Service and is charged with identifying areas suitable for renewable energy project development and areas that will contribute to the conservation of sensitive species and natural communities. A draft report identifying these areas is expected to be published in the first quarter of 2010.

Thus the SA/DEIS acknowledges that there is a lack of guidance for land use decisions on the scale of this and other solar projects, and that planning is underway to provide such guidance, but is far from complete. In the absence of planning level guidance, approval of vast solar development and its inherent irreversible commitment of resources clearly violates FLPMA's mandate to provide sustainable resource protection.

CONCLUSION

For these reasons, the SA/DEIS violates NEPA, CEQA and potentially FLPMA. Accordingly, it should be revised and re-released. Also, the CDCA and NECO Plans should be revised prior to approval of the substantial public land conversion currently proposed by this and other ARRA projects. With regard to the various project alternatives, a conjunctive public/private land alternative (conjunctive use) should be analyzed. This conjunctive use alternative is potentially a very supportable project and was requested in environmental organizations' scoping comments as well as discussions with the applicant. It would constitute deletion of the west half of the project

and development of the east half of the project in combination with the East Mesa alternative lands.

Additionally, the alternative technology and distributed generation alternatives should be reinstated for full NEPA/CEQA consideration as viable project alternatives, both as stand-alone project alternatives and in concert with a conjunctive public/private land use alternative to enable project use of non-consolidated private lands.

In terms of specific local impacts, we would like to reiterate that we support development of the eastern half of this project, but cannot support the portions that interfere with important habitat in the western portions. We urge that the project be scaled back and appropriate avoidance, minimization and mitigation be applied as discussed in this document.

Thank you for the opportunity to comment on this important project.

Very truly yours,

Joan Taylor, Chair
California/Nevada Desert Energy Committee
Sierra Club