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**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

Renewable Energy)	Docket No.
Executive Order)	09-Renew EO-01

**COMMENTS OF THE
CALIFORNIA WIND ENERGY ASSOCIATION
ON DRAFT BEST MANAGEMENT PRACTICES & GUIDANCE MANUAL**

The California Wind Energy Association (CalWEA) is a trade association comprised of over 20 wind energy companies, including wind project developers and operators, manufacturers and related vendors. CalWEA has reviewed the draft *Best Management Practices & Guidance Manual* (BMP Manual) proposed to guide the development and implementation of the *Desert Renewable Energy Conservation Plan* (DRECP), and respectfully submits the comments set forth below.

CalWEA has been following the activities of the Renewable Energy Action Team (REAT) since it was established in 2008. On March 31, 2009, CalWEA submitted comments explaining why we do not see a great advantage to our membership in securing coverage in the DRECP for wind development activities. Our letter of November 17, 2009, on the DRECP Draft Planning Agreement discusses this view and related concerns in more detail. CalWEA’s letter of October 29, 2009, expresses concerns regarding the DRECP mapping process; the data and methodology for mapping should be discussed publicly prior to drafting maps. Finally, in response to statements made by REAT officials at the Victorville meeting that they are eager to meet with parties to discuss the issues, we have repeatedly requested such a meeting, with no response to date.¹

Within this background, we offer the following specific comments on the draft BMP Manual.

¹¹ Requests for a meeting were sent by email from Nancy Rader to Scott Flint, Paul Richens and others on October 29th, November 3rd, and November 17th, with a phone message left with Scott Flint on November 17th.

1. The geographic boundaries of the DRECP planning area should be the Congressionally designated California Desert Conservation Area (CDCA).

In Figure 1 of the draft BMP Manual, the geographic boundaries of the DRECP planning area have been drawn inconsistently, excluding the San Geronio Wilderness Area, the western part of Joshua Tree National Park and certain desert portions of Inyo County, while including portions of several national forests and other areas not generally considered to be part of the desert nor containing the types of species, such as desert tortoise, that are described in the draft BMP Manual. The geographic boundaries of the DRECP planning area should be the BLM California Desert Conservation Area (CDCA), especially since the BLM and USFWS are parties to the DRECP.² The CDCA Plan boundary is a Congressionally designated distinct boundary that, with several amendments, has long been managed as a single land management unit since 1976.

Finally, in several locations, the draft BMP Manual references Competitive Renewable Energy Zone (CREZ) boundaries. In the California Renewable Energy Transmission Initiative (RETI), no explicit CREZ “boundaries” exist; rather, locations are approximated for pre-identified projects and hypothetical for proxy projects. Hence, DRECP should not refer to CREZ “boundaries,” nor base any specific mapping decisions on approximated and hypothetical RETI depictions of project boundaries, which were not intended to serve such a purpose, only to serve as a general indication of location.³

2. The DRECP identifies as one of its goals the creation of a “more efficient process for timely permitting” but, upon review of the draft BMP Manual, significant streamlining is not apparent.

In order to expedite application processing, renewable energy developers are encouraged to complete several “recommended critical actions” before they file applications with lead agencies. But most of these actions are self-evident. Developers know, for example, that they will have an easier time with sites that do not require a change to land-use plans, and developers place a priority on identifying such sites because it is in their interest to do so. So the draft BMP Manual doesn’t streamline anything by simply stating the obvious.

Nor does the draft BMP Manual streamline anything by suggesting that developers obtain interconnection agreements and power purchase agreements, or work out conflicts with the military, prior to filing a permit application. The problem there is that developers reasonably pursue these items concurrently with the application process because any one of them can influence the decision of whether to proceed with the project. Further, the California ISO and utilities want to see progress in the site permits before they want to proceed with a project – so

² In CalWEA’s November 17, 2009, letter regarding the DRECP Planning Agreement, we inadvertently identified the BLM’s California Desert District (CDD) instead of the CDCA as we intended.

³ See, e.g., pages 5 and 6 of the draft BMP Manual.

there is a chicken-and-egg problem in requiring everything other than the permit to be put in place first. By making these tasks sequential instead of concurrent, the BMP Manual would actually cause projects to be delayed, rather than expedited.

In addition, it is beneficial for all stakeholders, including environmental advocates, that the permitting process be able to have an exchange of information with the interconnection process, and for that exchange not to occur only after interconnection studies are completed: for example, a project that may be initially envisioned as 100 MW may need to be reduced to 50 MW in order to address habitat requirements. That in turn affects the electrical studies the utilities have to conduct for interconnection.

Both from an environmental as well as an industry perspective, having the access route, transmission path, and turbine locations set prior to the evaluation of environmental impacts is a recipe for risk. Indeed, one of the goals of environmental analysis is to find ways to eliminate or minimize these impacts, but if key aspects of the project configuration are already locked in through other processes, such as interconnection studies and power purchase agreements, the environmental impacts may become unavoidable. In order to prevent such a dilemma, CalWEA recommends allowing a project proponent to propose a basic set of preliminary project attributes, such as the access route(s), transmission path, substation and turbine locations, that would be sufficient to initiate environmental review for a Plan of Development, while giving both the project proponent and regulatory agencies the flexibility to propose modification of project attributes to minimize any potential environmental impacts that may be discovered.

The BMPs for completion of power purchase agreements and interconnection studies prior to initiation of the permitting process should be removed, and more generally, the BMP Manual should emphasize how the REAT agencies should expedite project permitting through concurrent rather than sequential processes. In project management, a synonym for making processes run concurrently is “fast tracking,” which is what we understood to be the goal of the Executive Order.

In addition, under the new CAISO cluster study process, mitigation measures of indirect project impacts are not finalized until after the Phase II study process. If developers have to wait until that time to file a permit application, it would be impossible to finish the permitting process prior to the deadline of executing an interconnection agreement under federal rules. As stated by CalEnergy in its October 27, 2009, comment letter, “[s]ystem improvements determined as being necessary beyond the first point of interconnection are beyond the regulatory authority of the [Energy] Commission. Therefore, the requirement to perform and submit a CEQA analysis for system improvements required beyond the first point of interconnection prior to submitting an initial application to a lead agency should be omitted.”

- 3. Examples of actions that could streamline siting would be: (a) the BLM could recognize the difference between applications for meteorological towers and site development, (b) the BLM could expeditiously incorporate wind energy resource development in its Resource Management Plans, as described by Instruction Memorandum No. 2009-043, and (c) the state could amend its CEQA guidelines to facilitate certain qualifying projects.**

The document refers to project permitting without clearly distinguishing permits for resource assessment. The document should clearly state that its recommendations apply only to applications for project development and not for resource assessment.

CalWEA has repeatedly complained to the BLM that applications for resource assessment (“Type II”) permits are routinely and severely delayed because Field Offices are improperly treating them as if they were destined to be wind farms. This treatment is inconsistent with national BLM policy. Type II ROWs generally disturb a tiny amount of land on a temporary basis. Moreover, a plan of development is based on the results of a meteorological study of the wind resource; the steps are sequential. The more sites that are evaluated, the more flexibility developers will have in choosing sites with the fewest conflicts, which is in everyone’s interest.

The BLM could facilitate placement of resource assessment equipment by establishing criteria under which categorical exclusions under NEPA would be appropriate. These Type II applications should be reviewed and processed within the context of a short-term, temporary land-use permit framework that does not result in cumulative impacts.

Similarly, to make more efficient compliance with CEQA for resource measurement equipment and low-impact wind projects, California could establish criteria (such as project location, type, size, proximity to existing wind development, and similarity of site characteristics) under which, based on a site-specific evaluation, projects could qualify for efficiencies such as categorical exemptions and focused EIRs.

Another action that would streamline permitting of wind energy projects is for the BLM to evaluate the potential impacts of wind energy development in all Resource Management Plans (RMPs) and revisions. Through the land use planning process, areas compatible for wind energy development will be defined for future use. This process would have extensive public involvement and will allow for a broad consideration of wind energy development balanced with the demands of other public land values and uses. Once this is done, future applications for wind energy development within the defined areas will not require a land use plan amendment and will allow for opportunities to “tier off” of the Environmental Impact Statement (EIS) that was prepared for the RMP or revision thus streamlining the process.

4. The BMP Manual should eliminate reference to the Interim USFWS wind-wildlife guidelines, and reference only the final, implemented USFWS Guidelines.

The USFWS has effectively withdrawn its Interim Guidelines and, in acknowledgement of their deficiencies, the Secretary of Interior convened a thorough, multi-stakeholder, collaborative process by the Wind Turbine Guidelines Advisory Committee to prepare new guidelines. Currently, Fish & Wildlife Service does not recommend that wind projects follow the Interim Guidelines. Further, the CEC/CDFG Guidelines do not agree in many places with the recommendations in the Guidelines, so recommending both be followed would create delay, confusion, and added unnecessary costs.

We understand that new guidelines will be finalized next year between May and July, but will require training and implementation steps that will delay their implementation until 2012. Consequently, the Renewable Energy Action Team should remove recommendations to follow the Interim Guidelines.

The BMP Manual should recognize that the new federal guidelines will be phased in over a period of two years, following adoption in 2010. Upon implementation, the new federal guidelines will be the appropriate document to guide wind project development, particularly on federal lands.

5. In addition to addressing the broader comments above, the REAT agencies should make various specific changes to the draft BMP Manual.

We recommend several specific changes to the draft, including changes on the following points. We intend to further discuss these points and identify additional issues in a follow-up letter. In particular, we highlight these issues:

- Clarify that the manual should not be interpreted or administered as policy or regulation.
- Distinguish the compatibility of wind projects with Williamson Act contracts.⁴
- Acknowledge the lack of CEQA jurisdiction for REAT agencies regarding possible transmission system impacts beyond the first point of interconnection.
- Allow use of guy wires for meteorological towers.
- Modify BMPs to account for local permitting processes.

Several of these general issues were raised in the letters submitted by CalEnergy and Inyo County in this docket (on October 27 and October 20, 2009, respectively). In addition, CalWEA

⁴ The correction should be made on BMP Manual pages 2, 8, and 17.

concur with CalEnergy that the draft BMP Manual “implies that all potential impacts must be reduced to ‘net zero’. While this is an admirable goal, impacts can seldom be economically reduced to this level.” The BMP Manual should state that reduction of impacts should be reduced to acceptable levels, not necessarily to “net zero.”

We are happy to meet with you further to discuss these and other concerns. In the meantime, if you have any questions, please feel free to contact me directly.

Sincerely,



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