

Karen Douglas
Commissioner
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Charlton H. Bonham
Director
California Department of Fish and Game
1416 Ninth Street
Sacramento, CA 95814

James G. Kenna
State Director, California State Office
Bureau of Land Management
2800 Cottage Way
Sacramento, CA 95825

Ren Lohofener
Regional Director, Region 8
U.S. Fish and Wildlife Service
2800 Cottage Way
Sacramento, CA 95825

January 15, 2013

Re: Enabling Solar Development Under the
Desert Renewable Energy Conservation Plan

Dear Director Bonham, Commissioner Douglas, Director Kenna and Director Lohofener,

As representatives and supporters of the utility-scale solar industry in California, we are concerned, based on our review of the draft documents released in December (the “Description and Comparative Evaluation of Draft Alternatives for the Desert Renewable Energy Conservation Plan”), that the California Desert Renewable Energy Conservation Plan (“DRECP”) will fail to achieve its renewable energy objectives. We recognize that the agencies intend the DRECP to promote renewable energy in the plan area, and not to generate a plan that is widely opposed by renewable energy interests. Unfortunately, as it stands today, it appears as if the DRECP would significantly increase, rather than decrease, both the burden and expense of developing renewable energy projects. We are hopeful that the agencies will adopt the significant changes from the draft document needed to correct the course, including adopting the recommendations discussed below. We expect to provide additional comments on the December document, although we would appreciate additional time to prepare and provide those comments.

The DRECP was intended, as initially announced in California Executive Order S-14-08 (“E.O. S-14-08”), to “accelerate” development of California’s renewable energy potential, which it termed “some of the best renewable energy resource areas in the world, providing immense potential for clean, valuable electricity generation in the state,” and to help eliminate “substantial barriers to generation siting, permitting and transmission that must be addressed” to achieve California’s renewable energy goals. Notably, the Executive Order explicitly

recognized that compromise would be essential to the success of the DRECP, concluding that “deployment of new renewable energy technologies across the state will require utilizing new areas of biologically sensitive land.”

The December documents would take the DRECP in a different path, elevating avoidance of conflict over achieving the state and the nation’s renewable energy goals in an economic and reliable manner, and leaving renewable energy only what was left after other interests were considered.¹ This approach would lead to increased expense, decreased energy system reliability, and either the failure of the renewable energy goals or the shift of development out of the state –contrary to the purposes of the plan that were outlined for it from the outset.

In order for solar development to succeed in the DRECP planning area, which, as the Executive Order recognized, contains some of the world’s best solar resources, the final plan must contain the following elements:

1) Available Land for Development: Quality, Quantity & Flexibility.

The DRECP alternatives appear to be built on the mistaken presumption that so long as a sufficient quantity of land is made available, development can attain projected levels. This, unfortunately, is not the case. Successful development is dependent not just on quantity of land, or even the apparent presence of basic attributes such as general insolation or degree of slope of the terrain.² The suitability of land for development, much like the environmental or cultural characteristics of land, require resource-intensive assessments. Most importantly, over the period of time contemplated for the DRECP, significant factors that may tip the balance in favor of or against development in specific areas may change, including changes in transmission; road, natural gas or other infrastructure; the presence of other development; discovery of cultural or other resources; or new technology. The dynamic nature of the suitability of land for renewable energy development requires flexibility over the planning horizon.³ This flexibility was essential to the Solar PEIS, and is reflected in its adoption of both variance lands and the ability to nominate new zones.

There undoubtedly are areas outside of the proposed DFAs that are, or will become, fully desirable for development, would not cause undue conflict with natural or cultural resources, and would be helpful to achieving California’s goals. There is no justification for

¹ For example, precluding any development where there is any off-highway vehicle areas or access areas elevates that use above renewable energy development in all circumstances, which has not been justified.

² It is important to note that for actual development, even those basic characteristics can only be accurately determined on a site-specific basis; the high-level mapping that the DRECP is relying upon cannot provide a sufficient basis to make decisions that are to last for the full length of the plan horizon.

³ The adoption of a firm slope restriction, which contrary to the document was not supported by industry, is one example.

excluding development in those areas for the duration of the plan simply because they are not large enough or were otherwise not considered for inclusion in a DFA. The suggestion that increased flexibility to develop outside of DFAs necessarily would require additional mitigation or conservation reserves has no justification; mitigation is dependent upon impact, not flexibility, and allowing development to be located in those places that are most suitable does not necessarily result in any increased impact whatsoever - the actual case may be quite the contrary. In fact, excluding areas that are otherwise suitable for development would subject the DRECP to challenge over time and make it less robust, ultimately increasing development pressure on other, potentially more sensitive areas. We cannot support a plan that limits development to Development Focus Areas (“DFAs”). Flexibility for development that is at least equivalent to that provided in the Solar PEIS is essential to solar development in the DRECP planning area.

2) Mitigation & Conservation Costs and Reserve Design.

The DRECP does appear to have made a good start in laying the groundwork for programmatic mitigation, which would address one complex and expensive element of permitting large-scale projects. However, the draft document proposes extremely extensive conservation measures, relative to the likely degree and impact of renewable energy projects in the planning area. In addition, the mitigation required for projects even within DFAs appears to be very high in many circumstances. These measures threaten to vastly increase the cost of permitting renewable energy projects rather than support their development, as was intended by the DRECP, and would take extensive areas out of consideration for renewable energy development.

It is not at all clear how these extensive conservation measures will be funded, particularly in early years when the number of renewable energy projects across which the costs would be spread would be minimal. The federal and state agencies should commit to ensuring that the conservation costs for projects within the DRECP will be no more than the mitigation costs would be for the projects in the absence of the plan. Additional conservation work may be desirable, but renewable energy projects cannot be expected to bear the cost of those societal objectives; they can, and should, only bear the reasonable costs of mitigating their own impacts.

The identification of extensive areas that would be off-limits to development has not been well-justified. It appears that the designation of reserve design areas is based on high-level modeling, which is well-known to be inaccurate. The lack of clear science and data to support these designations may result in a failure to adequately protect priority species, unnecessary limits on renewable energy development, and increased development pressure on areas that are in fact of greater importance to the priority species. Prior to adopting any prohibitions on development of land, a more significant, scientifically-based justification is necessary. We particularly object to the preclusion of development of land based on an arbitrary number of

individuals found on it, such as the proposed desert tortoise limitation; this approach was declined in the Solar PEIS, for good reason. Numbers of individuals at any given time, as ongoing research shows, may be indicative of weather or other events, does not necessarily reflect the importance of the habitat to the ongoing protection and survival of the species, and moreover is completely meaningless without reference to the geographical area at issue.

3) Concrete Permitting Improvements.

E.O. S-14-08 called for a 50% reduction in permitting time for renewable energy projects within areas that are selected for priority development. In contrast, the December draft does not offer meaningful, concrete permitting improvements for projects in DFAs, other than the programmatic federal and state endangered species permit for the DRECP species - which represents a small fraction of the overall permitting burden. If the DRECP is to be successful, it must contain specific measures to attract development to DFAs and demonstrate that the promised benefits can be counted upon.

The federal and state agencies have demonstrated that they have the ability, working through the Renewable Energy Policy Group and the Renewable Energy Action Team, to coordinate across the federal and state agencies and, most importantly, to set and achieve permitting deadlines. In this letter, we recommend adoption of three significant improvements, at a minimum, for projects within DFAs. First, the agencies should commit to completion of project permitting within eighteen months, including committing to corrective action if milestones are not met. Second, permits should be tracked through a public dashboard, with annual reports identifying time taken to complete permits, corrective actions taken to maintain schedule, and lessons learned that will be incorporated in future permitting to improve efficiency and reduce timeframes. Third, the agencies should establish an ombudsman office to address permit processing concerns; the annual permitting reports should include the issues brought to the attention of the ombudsman office and the actions taken to resolve those concerns. We will offer other suggestions in our formal comments to follow in the coming weeks.

4) Transmission Planning and Approval.

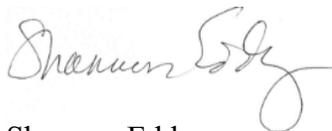
Delays in permitting transmission continue to be the primary cause for delaying large-scale renewable energy projects. Despite the fact that transmission takes only two years to build, assessing and reviewing transmission permits takes five years or more in addition. The DRECP should incorporate a transmission plan to serve the DFAs, and the DRECP agencies should commit to reviewing and transmission that is consistent with the DRECP plan as “tiered,” with final approval no more than 18 months from the time of the application. The DRECP agencies should also commit to supporting full cost recovery of transmission needed to implement the plan at the Federal Energy Regulatory Commission, including appropriate incentive rates, to assure the prompt financing and construction of these projects. Transmission

permitting should be subject to the same processes as generation permitting, with corrective action, public dashboard tracking, access to the ombudsman office, and annual reporting on permit processing performance. Lastly, the suggestion that transmission be required to be undergrounded should be rejected; undergrounding transmission vastly increases the costs and time needed for deployment, and can make renewable energy development prohibitively expensive. There may well be areas where undergrounding transmission is a reasonable alternative, but it cannot and should not be a broad requirement.

Finally, given the serious concerns shared by the industry and other stakeholders, we urge you to relax the schedule for this process to recalibrate for the changes necessary for a meaningful program.

Thank you for your ongoing efforts, time and consideration in this process, and please do not hesitate to contact us should you have any questions.

Sincerely,



Shannon Eddy
Executive Director
Large-Scale Solar Association



V. John White
Executive Director
Center for Energy Efficiency and
Renewable Technologies

Cc: David Harlow
Director
Desert Renewable Energy Conservation Plan

Chris Beale
Assistant Director
Desert Renewable Energy Conservation Plan

Michael Picker
Senior Advisor on Renewable Energy
Office of Governor Jerry Brown