

SOLAR DONE RIGHT



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To: US Bureau of Land Management
Supplemental Draft Solar PEIS Comments
Argonne National Laboratory
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Submitted electronically via: <http://solareis.anl.gov/involve/comments/index.cfm>

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RE: Comments on the Supplemental Draft Solar Programmatic Environmental Impact Statement

To whom it may concern:

On behalf of Solar Done Right, its members and associates, we submit the following comments on the Supplemental Draft Solar Programmatic Environmental Impact Statement (DPEIS).

These comments also constitute those, each and collectively, of the Western Lands Project, Basin & Range Watch, the Desert Protective Council, Desert Biodiversity, and the San Luis Valley Renewable Communities Alliance, all of which are founding organizations in the Solar Done Right coalition.

Solar Done Right and its affiliates hold that there is a proper hierarchy of priority for strategies to end our nation's addiction to fossil fuels. We should begin the transition by using the most cost-effective strategies for renewable energy production, which also happen to be the least environmentally destructive.

In descending order of priority:

- **Reduce demand.** According to some estimates, an aggressive program of conservation and energy efficiency using currently available technology could reduce US power consumption by one third or more. A recent efficiency regulation on power cords for electronics chargers in the state of California is projected to save as much power as that used by 350,000 homes each year. The Rocky Mountain Institute estimates that the application of California's efficiency standards nationwide could reduce coal burning by two thirds or more.

- **Generate renewable energy at a smaller scale (1 to 100kW) at or near the point of use.** Distributed solar generation on homes and businesses is cost-competitive, more reliable, and does not incur line losses or heat-related reductions in output. Such losses may equal or exceed any increased insolation found at remote sites, so (net) capacity factors in urban load centers are similar to those of large desert installations. Installation time for local projects is measured in weeks rather than years. Ratepayers benefit through improved property values, reduced utility bills and/or sales of power into the grid. Germans installed 2,000 MW of rooftop solar in December 2011 alone, thanks to a feed-in tariff that has proven to be a dramatic success.
- **Generate renewable energy on a larger scale (100kW-20 MW) within the built environment.** Most cities and counties possess large industrial spaces including warehouse roofs, brownfields, large parking lots, airports, depleted and fallowed agricultural lands, and other areas that could be either converted to or augmented with renewable energy production using the same modular technology used for remote industrial solar-PV. Emerging technologies offer promise for additional methods to incorporate solar energy production into new residential and commercial construction and store power cleanly and efficiently. These projects have the additional benefit of being appropriately sized and serving as “community solar gardens,” which could ameliorate some of the social and economic inequities our energy infrastructure perpetuates.

It should be noted that a focus on both large- and small-scale distributed generation in the built environment is anticipated to create many more jobs than the remote, centralized model now being pursued. A UC Berkeley study published in 2010 concluded that if California instituted a feed-in tariff for projects up to 20 MW in order to achieve its Renewable Portfolio Standard, it would create 3 times as many jobs as without, and would result in \$2 billion in tax revenues and billions in new investment.

The approach described above can meet our electrical energy needs without sacrificing biologically valuable desert and grassland ecosystems with large-scale solar power plants.

Should these common-sense methods fail to meet our society's long-term demand for renewable energy, centralized solar power plants should be the very last resort, and sited only on available disturbed, degraded and contaminated lands that offer little carbon sequestration, wildlife habitat or other natural resource values.

Supplement offers no improvement

A fundamental error in the Administration’s approach to renewable energy has been to assign a 21st-century task to a Department of Interior that still resides in the 19th century. This choice not only perpetuates the error of using public lands as a sacrifice area for industrial exploitation, it denies this country the opportunity to swiftly implement effective and environmentally sound renewable-energy systems.

With 253 million acres in BLM-managed lands alone, it may seem that the public lands, and their potential for use, are endless. Yet much of this area is already damaged or fragmented by mining, urban encroachment, roads, oil and gas operations, transmission, wind and geothermal developments, livestock grazing, motorized recreation, and other uses. Large, contiguous areas that retain their ecological integrity are increasingly rare, and yet these areas are acutely threatened by large-scale uses such as industrial solar, which will essentially privatize the land and convert healthy and resilient multiple-use lands into single-use, permanent industrial zones.

The Bureau of Land Management's outmoded, entrenched, dangerously utilitarian approach to our public land is nowhere better demonstrated than in its refusal to put meaningful restrictions on the territory it makes available to industrial-scale solar developers.

The purported improvements introduced in the Supplement are rendered meaningless by the fact that the overall amount of public land kept available in the agency's Preferred Alternative is reduced by only 6 percent--from 21,581,154 acres to 20,324,863 acres.

Yet even if the BLM were to select the Modified Solar Energy Zone alternative--reduced from 677,384 acres to 285,417 acres, it would be unacceptable. Considering the damage to desert sites, concomitant transmission requirements, and the fact that far superior alternatives exist, there is simply no reason to wage this industrial-scale assault on public lands.

This course poses great peril to our rich desert ecosystems, to ratepayers, and to taxpayers—who are unwittingly acting against their own interests by footing the bill through subsidies (amounting so far to about \$10.5 billion just in federal loan guarantees) and the myriad, cascading, externalized costs that will flow from this policy.

BLM has no mandate

The drive for solar development on public lands has been predicated on what the BLM and others repeatedly refer to as a “mandate” in the 2005 Energy Policy Act (PL 109-58). Yet the short provision regarding renewable energy on public lands in the legislation (Section 211) aspires to but does not require action:

"It is **the sense of the Congress** that the Secretary of the Interior **should**, before the end of the 10-year period beginning on the date of enactment of this Act, seek to have approved non-hydropower renewable energy projects located on the public lands with a generation capacity of at least 10,000 megawatts of electricity. "

The difference between a sense of Congress and a mandate goes beyond semantics. A sense of Congress resolution has no force of law. And while that does not render the provision irrelevant, neither does it provide the mandate upon which the Administration has built its public land-focused renewable energy policy and upon which the Secretary of Interior has based the PEIS.

Amended Federal Order 3285A1, issued by DOI Secretary Salazar on February 22, 2010, is also cited as the basis for using public lands for solar development. The Order takes its authority from the Energy Policy Act of 2005 (Section 3) and therefore also constitutes a DOI policy choice,

rather than a legally binding Order. Nevertheless, the Order states that “as the steward of more than one-fifth of our Nation’s lands,” the department has a significant role in coordinating and ensuring environmentally responsible renewable energy production....” The Order clearly states that the department should pursue solar leasing “while protecting and enhancing the Nation’s water, wildlife, and other natural resources.”

Given the significant impacts from large-scale concentrating solar that cannot be mitigated, the goal of “protecting and enhancing the Nation’s water, wildlife, and other natural resources” while implementing large scale “environmentally responsible” solar development, cannot be met through any of the alternatives being analyzed in the Supplemental DPEIS.

BLM’s scope, purpose, need, and alternatives are unreasonably narrow

The National Environmental Policy Act (NEPA) requires agencies to “[r]igorously explore and objectively evaluate all reasonable alternatives.” 40 C.F.R. § 1502.14. The courts have found that “The `existence of a viable but unexamined alternative renders an environmental impact statement inadequate.” And that the “touchstone for our inquiry is whether an EIS’s selection and discussion of alternatives fosters informed decision-making and informed public participation.”

As defined in both the DPEIS and the Supplement, the BLM’s scope is to analyze “use of multiple solar energy technologies at utility-scale over the next 20 years on lands within six southwestern states,” and its purpose and need, “to respond to the high interest in siting utility-scale solar energy development on public lands.” But the scope, purpose and need, and alternatives are all far too narrow to foster **informed** decision-making and public participation.

Truly informed decision-making and public involvement require an analysis of alternatives encompassing massively deployed PV in the built environment as well as siting solar development on the nation's millions of acres of disturbed, degraded, and contaminated lands.

The far saner and more effective alternative to public lands and ecosystem destruction is distributed generation-- solar PV installed on commercial and residential rooftops, parking lots, highway easements, and virtually any site in the built environment that has suitable space.

In addition, it is known that there are suitable sites for solar energy developments on a wide array of damaged, degraded, previously developed, and contaminated lands. The Environmental Protection Agency (EPA) Office of Solid Waste and Emergency Response has been identifying abandoned mine lands, brownfields, Resource Conservation and Recover (RCRA) sites, and federal and non-federal Superfund sites that may be suitable for solar and other non-fossil-fuel energy projects. This program, RE-Powering America’s Lands, should have been front and center in the PEIS.

In its original scoping letter on the Programmatic EIS, EPA pointed out the efficacy of siting renewables on hundreds of thousands of acres of contaminated sites around the country. Following the same methods used by the National Renewable Energy Lab to identify suitable concentrating solar generation sites, EPA has identified a "technical potential" of 920,000 MW of solar generation.

In addition to citing the EPA program, in our DPEIS comment letter we listed numerous other efforts that have pinpointed damaged, developed, or contaminated public and private lands suitable for solar development, adding up to about 380,000 acres just in California.

Instructional Memorandum No. 2011-059i issued by the Director of the BLM acknowledges that in limited circumstances the agency may choose to evaluate a non-federal land alternative or different technology alternative raised through scoping, “to the extent necessary to support a decision regarding the pending application.” The BLM’s dismissive stance regarding alternatives to its own narrow proposals, however, suggests that this would be used exclusively to argue for the superiority of the public-land, remote, concentrated solar projects it favors. To comply with NEPA, the BLM must analyze these sites and technologies as the legitimate, far superior, alternatives they are.

BLM must look outside its jurisdiction

The DC Circuit Court of Appeals has found an EIS inadequate for failing to consider eliminating oil import quotas as an alternative to the sale of oil leases on the Outer Continental Shelf, even though the alternative was outside the jurisdiction of Interior. No PEIS was prepared in that instance, but here there is an even stronger case to consider broader alternatives, as a PEIS is meant to address broader policy decisions rather than a specific proposed action.

As the Council on Environmental Quality has stated,

"Section 1502.14 [of the NEPA regulations] requires the EIS to examine all reasonable alternatives to the proposal. In determining the scope of alternatives to be considered, the emphasis is on what is "reasonable" rather than on whether the proponent or applicant likes or is itself capable of carrying out a particular alternative. Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant.

And,

An alternative that is outside the legal jurisdiction of the lead agency must still be analyzed in the EIS if it is reasonable. A potential conflict with local or federal law does not necessarily render an alternative unreasonable, although such conflicts must be considered. Section 1506.2(d). Alternatives that are outside the scope of what Congress has approved or funded must still be evaluated in the EIS if they are reasonable, because the EIS may serve as the basis for modifying the Congressional approval or funding in light of NEPA's goals and policies. Section 1500.1(a).

Conclusion

In addition to turning to degraded, contaminated sites, there is vast potential to get outmoded, environmentally damaging solar off public lands in the alternative of distributed generation through solar PV installations in the built environment.

The PEIS dismisses alternatives such as distributed generation on the basis of defining the purpose and need as “[responding] in a more efficient and effective manner to the high interest in siting utility-scale solar energy development on public lands.” This purpose and need statement, and the alternatives formulated for it, are inappropriately focused on serving corporate interests rather than on the urgent need to reduce our reliance on fossil fuels in the least damaging, most affordable and sustainable way.

The PEIS process has cost millions of public dollars, absorbed the time and energy of thousands of people, and yet has utterly failed to move us one inch closer to an effective, efficient, environmentally responsible renewable-energy policy.

We call on the BLM to either expand its analysis away from industrial-scale development on public lands or relinquish its role as the ill-chosen standard bearer for renewable energy.

Sincerely,



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