

Thank you for your comment, Patrick Jackson.

The comment tracking number that has been assigned to your comment is SolarM60103.

Comment Date: July 22, 2009 20:49:09PM  
Solar Energy Development PEIS  
Comment ID: SolarM60103

First Name: Patrick  
Middle Initial: C  
Last Name: Jackson  
Organization:  
Address: 600 N. Darwood Avenue  
Address 2:  
Address 3:  
City: San Dimas  
State: CA  
Zip: 91773  
Country: USA  
Email: ochsjack@earthlink.net  
Privacy Preference: Don't withhold name or address from public record  
Attachment:

Comment Submitted:

1. The notice entitled "Notice of Proposed Withdrawal and Opportunity for Public Meeting; Arizona, California, Colorado, Nevada, New Mexico, and Utah" appearing in the June 30, 2009, Federal Register states, in pertinent part, "The Secretary of the Interior proposes to withdraw approximately 676,048 acres of public land from settlement, sale, location, or entry under the general land laws, including the mining laws, on behalf of the Bureau of Land Management (BLM) to protect and preserve solar energy study areas for future solar energy development. This notice segregates the lands for up to 2 years from surface entry and mining while various studies and analyses are made to support a final decision on the withdrawal application."
2. The Notice states the applicant is the Bureau of Land Management.
3. The Notice indicates the 676,048 acres of public lands are located in the States of Arizona, California, Colorado, Nevada, New Mexico, and Utah within 24 specific tracts of public lands designated as Solar Energy Zones (SEZs).
4. If approved by the Secretary of the Interior, the withdrawal will restrict surface entry of the SEZs for up to two years.
5. Some of the Solar Energy Zones completely encircle and/or landlock private lands.
6. Some of the Solar Energy Zones include Revised Statute 2477 (R.S. 2477) rights-of-way that provide access to private lands.
7. R.S. 2477 was self-executing. Ratification or approval by the federal government is not required to perfect an R.S. 2477 right-of-way. (Sierra Club v. Hodel (10th Cir. 1988) 848 F.2d 1068, 1083-84.)
8. The Bureau of Land Management has the authority to determine the validity of R.S. 2477 rights-of-way for its own purposes but does not have the authority to make binding determinations on the validity of R.S. 2477 rights-of-way for other purposes (SUWA v. BLM.) Other purposes include access to private lands.
9. The Bureau of Land Management does not have the authority to deprive private property owners access their lands.
10. "The DOI recognizes that there is '[n]o formal process for either asserting or recognizing R.S. 2477 rights-of-way currently is provided in law, regulations, or DOI policy,' which creates a 'continuing cloud' on right-of-way claims. Accordingly, DOI asserts that '[c]ourts must ultimately determine [sic] the validity of such claims.' (Department of Interior, Report to Congress on R.S. 2477 (June 1993), pp. 6 & 25.)" (County of San Bernardino v. United States, C-06-1179 VAP (C.D. Cal).)
11. The Bureau of Land Management's application for the removal of approximately 676,048 acres of public lands from surface entry should be denied until the BLM identifies and validates R.S. 2477 rights-of-way that provide access to private lands.