

Thank you for your comment, Donna Lamm.

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First Name: Donna
Middle Initial:
Last Name: Lamm
Organization: Amargosa Conservancy
Address: PO Box 63
Address 2:
Address 3:
City: Shoshone
State: CA
Zip: 92384
Country: USA
Email:
Privacy Preference: Don't withhold name or address from public record
Attachment: PEIS Scoping Comments.doc

Comment Submitted:



To protect the land, water, and beauty of the Amargosa

September 14, 2009

Mr. Bob Abbey, Director
Bureau of Land Management
Solar Energy PEIS
Argonne National Laboratory
9700 S. Cass Avenue
Argonne, IL 60439

Submitted by hard copy and email

The Amargosa Conservancy Comments on the BLM/DOE Solar Energy Programmatic Environmental Impact Statement (PEIS)

The Amargosa Conservancy (AC) previously submitted PEIS scoping comments (July 15, 2008—ID Solar S50549) expressing views generally supporting increasing solar electricity generation, but urging the agencies to carefully analyze the effects of vast desert acreages newly devoted to solar generation, and to impose siting limitations to preserve desert biodiversity, water resources, scenic values, and existing human communities.

Among other things, AC specifically urged that this PEIS establish uniform criteria for solar plant water use, siting, and mitigation. AC also argued that BLM should halt permitting on existing applications until completion of this PEIS, since otherwise the PEIS would be essentially a meaningless exercise. AC renews those arguments here, adding several more specific points directed at the rationale for and content of the scoping period extension.

The Purpose of this PEIS.

BLM extended the scoping comment period based on a new proposal for the analysis of 24 solar energy study areas (SESA) in 6 states. These areas do not include the vast tracts of public land (and these areas are, in most cases, the best sites) for which BLM has already accepted applications—applications that the agency is now processing simultaneously with the development of the PEIS. This bifurcated structure seems to violate the purpose and whole reason for development of the PEIS, since the extensive analysis that BLM and DOE are devoting to all aspects of solar energy development will not apply to these plants (with the possible exception of applicants whose projects have not been

“approved” prior to issuance of the PEIS record of decision (ROD), although even that is unclear). Each (NEPA-CEQA) environmental review of an early site application will have to contain an independent analysis of alternatives, mitigation requirements, cumulative effects—the whole broad range of inquiry that this PEIS might in large part efficiently conduct and resolve for all project applicants. This method of proceeding is a waste of public resources, and violates the spirit of how programmatic impact statements are to be constructed and used. It truly puts the cart before the horse. The appropriate course for BLM to follow is to halt processing of all project applications pending the issuance of the PEIS ROD, subjecting all projects to the conclusions and recommendations of the PEIS.

Water

AC’s previous comments recommended that the agencies analyze all aspects of water use by solar facilities, cautioning that desert water supplies are of critical importance to both human and natural communities, and inappropriate solar facility use of groundwater could have devastating effects. Based on the receipt of further information, AC now strongly advocates that the BLM preclude the use of wet cooling in any concentrating solar plant on public land in the southwestern deserts—especially the Mojave Desert. We understand that the California Energy Commission has adopted this requirement for solar facilities in that state, and many natural gas fired plants in arid locations use dry cooling as well. Although there appears to be a modest cost and energy penalty associated with the current dry cooling technology, that economic differential does not compare to the harm that excessive groundwater withdrawals will cause to sensitive desert ecosystems and human communities dependent on groundwater.

This is a particularly important issue in the Amargosa Valley in Nevada, where an initial solar project applicant intends to rely on wet cooling, and where the agencies have proposed creation of a large solar energy study area. The groundwater basin from which that plant and undoubtedly others would draw water is overallocated (that is, there are many more established rights to groundwater than the basin can sustainably support), and existing usage in the region has already produced a large and spreading cone of depression that will eventually be likely to significantly diminish flows in regional creeks, springs, seeps, and wells. The well-known problem of associating specific water withdrawals with effects in other locations, some distant, especially in areas with complex subsurface geology, warrants adoption of a uniform requirement that no desert solar plant use wet cooling. Indeed, any proposed use of water by a solar facility in an overappropriated basin should occasion a mitigation requirement that that plant acquire and retire a multiple number of water rights above and beyond that which it proposes to use in operating its facility.

The PEIS should be the vehicle in which restrictions on water use should be discussed and resolved for all desert concentrating solar projects. It is clear that deciding this issue on a case-by-case basis risks wildly different results, which will lead to certain challenges and litigation risking long delays in the implementation of projects.

Mitigation

One important element of the PEIS should be to establish the nature and range of mitigation requirements applicable to desert solar projects. The function of mitigation is to preserve ecosystem integrity across the area affected by the proposed projects. The scope of solar renewables projects and associated transmission facilities is enormous, without precedent, potentially dedicating more than a million acres of desert public lands entirely to a single use incompatible with the preservation of habitat or any other use.

Given this, the PEIS must be the vehicle in which the agencies assess the cumulative impacts of this new commitment of public resources and the mitigation required to maintain the integrity and functional capacity of natural and human communities in the face of the renewables commitment. The unprecedented size and scope of land use changes occasioned by the expansion of solar generation requires that the PEIS assess habitat needs in each desert region, setting limits on the size of land areas that can be accommodated compatibly with the health of species and their habitat needs. Further, mitigation requirements must establish ongoing funding with dedicated staffing to ensure that initial assessments about ecosystem integrity are accurate and of lasting value, subject to adaptive changes if circumstances require new commitments. Clearly, the requirement of a one time mitigation fee or even a one time purchase of alternative land to replace that occupied by solar mirrors will not be sufficient to ensure that mitigation requirements are met.

There are early indications from the agency's processing of the first solar plant applications that mitigation requirements will not be adequate, nor congruent across state lines. Much greater attention must be devoted to creating and funding a reasonable and broadly applicable, adaptive management scheme for offsetting the inevitable harm that the creation and operation of these facilities will cause to desert species and their habitats. The PEIS is the only appropriate place to analyze and set mitigation policy and requirements with the participation of, and concurrence from, the federal and state wildlife and environmental agencies. Without broad agreement on how mitigation will be carried out, the agencies will be particularly susceptible to single project pleading, leading to litigation and other challenges that will delay project implementation. This points out in stark relief the need to bring all projects—those within or outside the solar

energy studies area, and irrespective of when the application was filed or the status of project processing—within the purview of PEIS-modeled mitigation requirements.

In closing, the Amargosa Conservancy commends the BLM and DOE for doing the difficult work of collecting and analyzing the impacts of solar electrical generation in the desert southwest. However, we are concerned that the PEIS will be of very limited utility and force if the agencies proceed to approve projects during the time the PEIS is being written and before a ROD is issued. If those approvals are to proceed in the interim, it is most important to require that thorough individual NEPA/CEQA reviews be done, and that sufficiently stringent and uniform project requirements be set to avoid degrading those that the PEIS will require. Certainly, one of those requirements should be the elimination of any wet cooling for desert concentrating solar plants. BLM will have one chance to make this new, huge commitment of public lands compatible with desert natural communities—if it fails, the consequences will be permanent and devastating.

Respectfully Submitted,

Donna Lamm
Executive Director
Amargosa Conservancy