Thank you for your comment, Hal Romanowitz.

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Solar Energy Development PEIS
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Comment Submitted:

September 14, 2009

Solar Energy Development PEIS
Argonne National Laboratory
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Subject: **Public Comment Period for Programmatic Environmental Impact Statement to Develop and Implement Agency-Specific programs for Solar Energy Development**

Oak Creek Energy Systems, Inc. (Oak Creek Energy) hereby submits its written comments on the Programmatic Environmental Impact Statement to Develop and Implement Agency-Specific programs for Solar Energy Development (Solar Energy Development PEIS).

1. **The Solar Energy Development PEIS should make clear that applications for renewable projects on Bureau of Land Management (BLM) land are first in time, first in right, and will be evaluated on a case by case basis.**

Several wind energy project developers, including Oak Creek Energy, have already submitted applications for Type II Right-of-Way (ROW) Grants for wind energy site testing and monitoring and/or for Type II ROW Grants for commercial wind energy development to be located within the Solar Energy Study Areas. On the Permitting Solar and Wind Projects on Federal Lands Webinar held on August 18th, the BLM indicated that BLM land set aside for priority solar development under the Solar Energy Development PEIS would take priority over wind development on that same land. This new BLM policy will have untold effects on wind energy projects already under development within the Solar Energy Study Areas. In addition to the significant resources spent to date on these wind energy projects which could be lost, prioritizing solar over wind in these Areas could have the net effect of reducing the overall amount of viable renewable energy facilities that could be installed in these Areas. Further, due to the impact of transmission interconnection rules, modest land loss could cause very major loss of transmission interconnection, and a snow balling effect of serious proportions on all the wind energy phases related to that transmission interconnection, and a major decrease in renewable energy generated from such areas. Thus great care in where and how solar is placed with respect to existing wind ROW Applications or Grants is quite critical in impact.

2. **The Solar Energy Development PEIS should make clear that while solar projects within the Solar Energy Study Areas are appropriate and will be fast-tracked, this should not be to the exclusion of wind energy projects, and further, where appropriate, the most judicious use of the land might include both solar and wind.**

The Solar Energy Study Areas to be evaluated in the Solar Energy Development PEIS overlap prime wind energy development areas. The effective use of appropriate land in these overlap areas can increase the effective utilization of such land by a factor of approximately 2:1 where the wind energy has a relatively small footprint and large energy production, and the solar energy has a much larger footprint, but a comparably large energy production. The two technologies can be mutually compatible, but would require careful coordination of development and project design for the combined project which is best accomplished by a wind design first, and then the solar coordinated in with the wind, mutually by the wind developer. We note that dual use projects are not now accepted by BLM and thus we have planned the future addition of solar into our projects where appropriate.

In a recent study titled "Improved Electrical Load Match in California by Combing Solar Thermal Power Plants with Wind Farms" the USDA – Agricultural Research Service and the National Renewable Energy Lab concluded that:

> *"The combination of wind farm and solar with storage was the best case for matching the utility load due to high winds in evening when utility load was still high, and further increasing reliability due to clouds blocking sun at some periods." [Citation:* Vick, B.D., Clark, R.N., Mehos, M. 2008. Improved Electrical Load Match in California by Combining Solar Thermal Power Plants with Wind Farms; Proceedings of the SOLAR 2008 Conference, May 3-8, 2008, San Diego, California.]

In a California Energy Commission Study, CEC-500-2007-081-APB, Intermittency Analysis Project, Appendix B, Pages 44, 46, and 48, for example show similar significant benefits to the mixed use of wind and solar.

In order to reach the renewable energy goals established by Congress, as set forth in Title II, Section 211 of the Energy Policy Act of 2005, and in accordance with Executive Order 13212, Actions to Expedite Energy-Related Projects, and the Secretary of the Interior's Secretarial Order No. 3285 issued March 11, 2009, the federal government needs to consider fast-tracking both solar and wind projects on BLM lands that have both the requisite solar insolation levels of 6.5 kWh/m^2/day and requisite wind speeds of 6.5 m/s or better at turbine hub heights, for example, may give the appropriate material increase in effective land use.

Furthermore, the combination of solar and wind, where appropriate, is supported by Section 103 of the Federal Land Policy and Management Act (FLPMA):

> *"(c) The term "multiple use" means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that*

takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output" (emphasis added)

3. **The Solar Energy Development PEIS should acknowledge that the National Environmental Policy Act (NEPA) process should feed into the Resource Management Plan (RMP) process, not vice versa.**

It is important to note the requirements of Section 102 of FLPMA:

". . . (2) the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts;

and . . .

(7) goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law;. . ."

In other words, public lands and their resources must be allocated using the RMP process. NEPA does not allocate public land resources. NEPA is the second tier of an essentially two-step federal land management process. After the RMP process is completed, and the resources allocated based on best and highest use of the land, NEPA can evaluate future activities that are or are not in conformance with the RMP objectives and provisions. NEPA assures that short-term decisions are in conformance with the long-term objectives of the RMP. Therefore, the Solar Energy Development PEIS should acknowledge that BLM land use plans and RMPs need to be updated prior to, or in conjunction with, the NEPA process.

4. **The Solar Energy Development PEIS should include water quality standards and state water management program and policies in the Solar Energy Development PEIS analysis and propose methodology to improve management of this important resource.**

In order for the BLM to develop a successful programmatic solar energy program covering six different states, the Solar Energy Development PEIS must address how the

BLM will coordinate water quality issues with the appropriate state agencies who have jurisdiction, planning and control over water quality for projects within the Solar Energy Study Areas. This is an important issue because solar (photovoltaic) uses approximately 0.030 gallons per kilowatt hour (kWh) (source: http://www.awea.org/faq/water.html). Management and enforcement of water quality under the federal Clean Water Act (CWA) is delegated to the states. For example, in California, water quality is managed by the California Environmental Protection Agency's State Water Resources Control Board, and in Nevada, water quality is managed by the Nevada Division of Environmental Protection's Bureau of Water Quality Planning.

5. **The Solar Energy Development PEIS should allow proponents to develop project –specific and best management practice mitigation measures to address visual impacts**

The objective of the BLM's Visual Resource Management (VRM) system is to manage public lands in a manner that will protect the quality of the scenic (visual) values of these lands. BLM is required to identify, inventory, classify and adopt, thru their FLPMA resource management planning process, VRM objectives for planning units within their administrative jurisdiction. The VRM system involves inventorying scenic values and establishing management objectives for those values through the resource management planning process, and then evaluating proposed activities to determine whether they conform to the management objectives. If VRM guidelines and standards for solar energy projects are not specifically included in existing resource management planning documents, BLM should not enforce arbitrary and capricious visual criteria on solar energy projects through the Solar Energy Development PEIS. Solar project proponents should be allowed to develop project-specific and best management practice mitigations to visual impacts, rather than mandated thru the right of way and NEPA permitting processes.

For these reasons, Oak Creek Energy respectfully requests that the BLM consider the above comments and further revise the scope of the Solar Energy Development PEIS.

Respectfully submitted,

Hal Romanowitz, President