

SPORTSMEN FOR **Responsible Energy Development**

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Solar Energy PEIS
Argonne National Laboratory
9700 S. Cass Avenue—EVS/900
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RE: Notice of Availability of Maps and Additional Public Scoping for Programmatic Environmental Impact Statement to Develop and Implement Agency-Specific Programs for Solar Energy Development; Bureau of Land Management Approach for Processing Existing and Future Solar Applications.

Dear Solar PEIS Project Team,

Please accept the following comments from Sportsmen for Responsible Energy Development (SFRED). Led by Trout Unlimited, National Wildlife Federation and Theodore Roosevelt Conservation Partnership, SFRED is a coalition of more than 500 businesses, organizations and individuals working together to promote and support responsible energy development in the Rocky Mountain West.

We appreciate this opportunity to submit these comments on the Department of Interior's and the Department of Energy's extended public scoping on the Notice of Availability of Maps and Additional Public Scoping for Programmatic Environmental Impact Statement to Develop and Implement Agency-Specific Programs for Solar Energy Development; Bureau of Land Management Approach for Processing Existing and Future Solar Applications.

The use of solar energy for the production, transmission and/or conservation of energy in the United States has many positive attributes and all three organizations support the initiative by the BLM and the DOE to define and facilitate environmentally suitable and appropriate lands for development, to examine and mediate potential environmental challenges and impacts of solar development, and to identify stipulations and restrictions for solar development. All three nonprofit conservation organizations have concerns with potential environmental issues, existing resource data analysis, and how the BLM will address existing and future solar energy development applications on BLM-administered lands.

Background

Trout Unlimited (TU) is one of the largest private non-profit conservation organizations dedicated to conserving, protecting and restoring North America's trout and salmon fisheries and their watersheds. Established in 1959, TU has more than 155,000

members nationwide supporting the mission for the protection of coldwater fisheries. TU recognizes that the value of public lands is unparalleled in providing habitat to coldwater fisheries, drinking water and wildlife habitat. TU's conservation program recognizes the importance of protecting public lands for the survival and restoration of wildlife and fisheries. And finally, TU believes that actions taken on public lands are ultimately reflected in the quality of fish and wildlife habitat and populations.

As an organization, the National Wildlife Federation (NWF) represents the power and commitment of four million members and supporters joined by affiliated organizations in 47 states and territories and the District of Columbia. NWF and its affiliates have a long history of working to conserve the wildlife and wild places in the West. Many members of NWF and its affiliates use the lands and resources that will be impacted by utility-scale solar energy generation facilities constructed on federal public lands.

Theodore Roosevelt Conservation Partnership (TRCP) is a national non-profit conservation organization dedicated to guaranteeing every American a place to hunt and fish, particularly on public lands. TRCP accomplishes its goal three ways: 1) Ensuring access to public lands, 2) ensuring adequate funding for natural resource agencies, and 3) helping to conserve fish and wildlife habitats. TRCP has formed, with various partners, a Fish, Wildlife, and Energy Working Group, comprised of some of the country's oldest and most respected hunting, fishing, and conservation organizations. TRCP is working hard to ensure that the development of oil and gas resources on public lands in the West is balanced with the needs of fish and wildlife resources, but is concerned that the rapid pace of energy development may be precluding BLM from managing these resources as required by the Federal Land Policy and Management Act ("FLPMA"), 43 U.S.C. § 1701 et seq.

Collectively, these three organizations have formed a partnership referred to as SFRED. The goal of SFRED is to promote responsible energy development, be it renewable or nonrenewable, in a manner that reflects the use of balance and conservation on our public lands that sustain some of the cleanest water, healthiest habitats and finest fishing and hunting in North America. We remain committed to develop renewable energy resources in a pragmatic and thoughtful comprehensive planning approach utilized to reduce the impacts that may occur on these valuable and irreplaceable public lands. We seek not to repeat the same mistakes that were made in developing traditional energy resources. Sportsmen support responsible energy resource development on public lands. Future energy development on public lands—including renewable energy development—must consider the many uses and values of public lands to Western landscapes, local economies and local communities.

SFRED has become a participating voice in the effort to push for responsible development of our nation's renewable energy resources. The lack of consideration for the long-term and cumulative effects on groundwater, surface waters, wildlife habitats (including sensitive desert ecosystems), and prized hunting and fishing grounds prompts our efforts for change. Our comments will reflect these concerns and suggestions for the BLM to incorporate into their policies and mitigation strategies for facilitating environmentally sensitive and responsible solar energy facilities on BLM lands.

Discussion of Scoping Extension

With the extension of public scoping in March 2009 and again in July 2009, additional information was made available that assists with evaluating the intent and content of the Solar PEIS. We sincerely appreciate and applaud the administration for extending the public comment period and providing additional information for which to offer scoping comments. However, please note that the availability of the maps depicting the boundaries of the solar energy study areas to be analyzed only provides a large scale view of the collective six states and specific areas in each state were not made available. It would be helpful to include in the Draft PEIS each individual states' solar energy locations, complementing this information with land status descriptions, acreages, land use planning status, agency management status, and any environmental issues.

This same concern exists about lack of access to more detailed information on each of the 24 study areas in these six states. The June 2009 US Dept. of Interior News Release (*Secretary Salazar, Senator Reid Announce 'Fast-Track' Initiatives for Solar Energy Development on Western Lands*; June 29, 2009) discusses the evaluation of the environmental and resource suitability for large-scale solar energy projects on BLM lands. Simultaneously, the permitting of a number of solar power projects are being expedited through the Dept. of Interior and it is assumed these projects are outside of the 24 study areas. We suggest that the data retrieved through the 24 study area initiative and the newly permitted solar energy projects be incorporated into the Solar PEIS discussion and analysis. Moreover, selection of the Solar Energy Study Areas (SESAs) needs clarification. In its "Qs and As" document, BLM purported to identify the criteria that were used to identify and select SESAs.¹ In fact, different states used different criteria as was made clear during a teleconference held on August 24, 2009 by BLM officials.² We recognize that there may be important regional differences, such that one single set of criteria might not be sufficient for all states identifying SESAs. Nonetheless, we do believe that all states should use a consistent set of core criteria and that BLM is obligated to explain why each of those criteria was included. Further, we believe that BLM needs to make public all the criteria used by each state along with explanations for inclusion of non-core criteria. All of these criteria must be publicly applied to the SESAs that have been proposed, using maps and links to GIS data. The same criteria should also be applied to the additional SESAs considered as alternatives in each state. All of this information must be included in the Draft PEIS.

Specifically, we have concerns regarding the inclusion of sensitive fish and wildlife habitats within the SESAs in some states. For example, the recent letter submitted by the BLM New Mexico State Office recommending the elimination of the Mason Draw and Red Sand SESAs because of recently-discovered conflicts with wildlife habitat underscores the need for a closer examination of the habitat criteria employed to designate SESAs. Our own review of habitat data from the Colorado Division of Wildlife

¹Qs & As: *BLM Solar Programmatic Environmental Impact Statement (PEIS)*, available on-line at: http://www.doi.gov/news/09_News_Releases/SolarEnergyQA.pdf.

² For example, some state BLM offices eliminated lands from SESAs if there is a pending application for a solar right-of-way. Other offices did not. Some state BLM offices excluded sensitive wildlife habitat only if the lands are protected by a binding memorandum of understanding or other legal obligation that precludes development.

(CDOW) indicates that all four of the SESAs in Colorado occur on Winter Range³ for big game, including pronghorn, elk, and mule deer. Two of the four SESAs overlap with Pronghorn Severe Winter Range.⁴ Three of the four SESAs in Colorado overlap with Elk Severe Winter Range. Lands in the Los Mogotes East SESA provide vital habitat for both pronghorn and elk during Colorado's worst winters. The inclusion of these habitats for important wildlife species in the SESAs raises serious questions regarding whether the SESAs truly represent the lands "most suitable" for renewable energy development.

The Notice of Availability states that the SESAs are being evaluated "for the purpose of determining whether such areas should be designated as Solar Energy Zones" that are intended to be "specific locations determined best suited for large-scale production of solar energy." Once the zones are designated as "best suited" in the PEIS, the BLM should give full force to those designations by limiting applications to these areas.

In the interim, it certainly does not seem prudent to continue the permitting process for the 158 active solar applications covering 1.8 million acres without knowing the full environmental effects such massive surface disturbance has in these landscapes. We suggest a temporary moratorium on any project that impacts sensitive wildlife, plants, or water resources until the full analysis can be assessed.

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Discussion of Alternatives

Three alternatives have originally been identified for evaluation in the Notice of Intent for the Solar Energy PEIS: the no action alternative, the proposed action, and the limited development alternative proposed by BLM only (excluding DOE). However, only two are now being considered due to the inclusion of the analysis of study areas to the PEIS.

- **No Action Alternative.** There is very little discussion on the No Action Alternative except to state that the BLM would continue to evaluate solar energy projects on a case-by-case basis. Based on the increased level of interest and applications for solar development on public lands coupled with the challenge of transmission access, it appears that this alternative should include an evaluation of the results of delaying land use plan amendments affecting the solar development on BLM lands.

It would be very useful to complement the West-wide maps provided in this scoping statement with a state-by-state discussion of solar development projects

³Winter range is defined by CDOW as that part of the overall range where 90% of the individuals are located between the first heavy snowfall and spring green up during the average five winters out of ten.

⁴Severe Winter Range is that part of the winter range where 90% of the individuals are located when the snow pack is at its maximum and/or temperatures are at a minimum in the two worst winters out of ten.

and implications occurring on public lands in each of the six states. Including such information in the Draft PEIS would provide a more thorough understanding and a descriptive comparison of actions needed and the impending analysis agencies would need to initiate. In addition, a Reasonable Foreseeable Development (RFD) scenario should be conducted under the No Action Alternative as part of the current level of activity that would be conducted despite No Action.

- Proposed Action. The proposed action has been described as developing and implementing agency-specific programs that would facilitate environmentally responsible utility-scale solar energy development. It would also include programs that describe policies and mitigation strategies related to solar energy development in the six state study area. Finally, the proposed action indicates that the BLM would amend individual land use plans to adopt the new solar program.

We feel that the proposed action does not offer enough depth in the analysis based on the increased undertaking of the 24 study areas and a significant increase in the permitting of projects on public lands. Nor is there any discussion for analysis of the transmission and access challenges for getting solar energy to the market.

Further, any RFD scenario discussion should include the potential for land use conflicts among other renewable resource entities (such as wind or geothermal) for more than the proposed 20-year study period. While updates to land use plans would occur within the 20-year time frame, we feel projection analyses should be conducted for longer time periods, based on the impacts that such development might permanently have on the resource. In addition, the life of a solar project (despite technological updates) has an indefinite life, and this should be considered in the RFD.

Request for Additional Alternatives

The results of the above discussion indicate that realistically only one alternative exists at this time. We feel additional alternatives should be brought forth that include a conservation protection alternative, an alternative that evaluates different levels of development, perhaps different types of leasing opportunities, the inclusion of various restrictive stipulation scenarios, or the implementation of smaller scale (acreages on public lands) projects, to name just a few .

Equally important should be the inclusion within the PEIS of analysis of all electricity generation options with particular emphasis on wind, geothermal, and nuclear in any of the developed alternatives and the transmission access web that would be needed for such a diverse infrastructure of projects. Finally, all alternative analyses must include the extractive end of energy development such as natural gas, oil shale, uranium, and coal.

BLM's Programmatic Goals & Cumulative Impact Analysis

The BLM has identified four programmatic goals for the Solar PEIS. Those goals include:

- Establish a Solar Energy Development Program
- Identify BLM-administered lands suitable for utility-scale solar development
- Consider the need for additional transmission corridors crossing BLM-administered lands
- Amend BLM land use plans in the six-state area to address solar energy development

In addition to those four goals, evaluation must be included that considers cumulative effects and impacts to the environment. These cumulative impacts should include assessing the increase in solar energy development based on long range forecasts and the cumulative impacts from other renewable and nonrenewable resource development.

The point of the cumulative impact analysis is to provide “sufficient [information] to alert interested members of the public to any arguable cumulative impacts involving [] other projects.” *Coalition on Sensible Transportation v. Dole*, 826 F.2d 60, 71 (D.C. Cir. 1987). The Solar PEIS must, therefore, analyze in detail the nature and extent of the combined impacts of multiple federal and non-federal energy development activities. See *Natural Resources Defense Council v. Hodel*, 865 F.2d 288, 299 (D.C. Cir. 1988) (“...perfunctory references do not constitute analysis useful to a decision-maker in deciding whether, or how, to alter the program to lessen cumulative environmental impacts”); *Earth Island Institute v. U.S. Forest Service*, 351 F.3d 1291, 1306-07 (9th Cir. 2003) (cumulative impact analysis violated NEPA when FEIS did not assess the role of foreseeable future projects on remaining suitable spotted owl habitat in a nearly home range core area within close proximity to the project’s area); *NRDC v. Hodel*, 865 F.2d 288 (D.C.Cir. 1988) (agency failed to consider cumulative impact, as defined in the CEQ regulations, of simultaneous development in the region of species, particularly whales and salmon, that migrate through the difference planning areas, when it considered only the effect on the species within the planning area rather than the interregional effects.).

“Evidence is increasing that the most devastating environmental effects may result not from the direct effects of a particular action, but from the combination of individually minor effects of multiple actions over time.” Council on Environmental Quality, *Considering Cumulative Effects Under the National Environmental Policy Act* (1997) at 1. This is particularly true with regard to special status wildlife and big game species. For example, research shows that sage-grouse populations decline when cumulative impacts of development negatively affect reproduction or survival. See e.g., Aldridge, C. L., and M. S. Boyce, *Linking occurrence and fitness to persistence: habitat-based approach for endangered greater sage-grouse*. *Ecological Applications* 17:508-526 (2007).

TRCP is most concern with the pace and scale of development on public lands managed by BLM. In light of the foregoing, at a minimum, the agencies should consider in the Solar PEIS the impact of large scale solar development in the context of the following ongoing energy initiatives:

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- Wind Energy Development. Information available at <http://windeis.anl.gov/>
- Energy Transmission Corridors. Information available at [http://corridoreis.anl.gov/documents/docs/Energy_Corridors_final_signed ROD 1 14 2009.pdf](http://corridoreis.anl.gov/documents/docs/Energy_Corridors_final_signed_ROD_1_14_2009.pdf)
- Oil Shale and Tar Sands Development. Information available at http://www.blm.gov/wo/st/en/prog/energy/oilshale_2.html
- Traditional Onshore Oil and Gas Development. (Notably there has not been a sound programmatic EIS development for traditional oil and gas development in at least 3 decades).

Based on above information, whether these PEIS's will be updated or amended within a similar time frame as the Solar PEIS, it might be appropriate to coordinate with these PEIS project teams based on the projected increased land use for various rights of ways, surface impacts, and other extractive surface and subsurface uses of BLM lands.

In addition, each PEIS program that is under construction or being proposed will require the amendment of BLM land use plans or USFS land management plans. Coordination and consultation among the various PEIS programs underway provides for a more efficient and cost-saving approach to updating multiple land use plans simultaneously.

SFRED Recommendations for Renewable Energy Development

SFRED has developed a set of principle recommendations for renewable energy development that have gained considerable national support. These recommendations were developed because fishing and hunting on public lands is a way of life for people in the West. For generations, people have used public lands to learn about fish and wildlife, to camp, to stalk trout and hunt elk. Our efforts have focused on defining a better way to ensure fish, wildlife, air and water resources on public lands are sustained while our nation's varied resources are developed to meet our country's needs. Sportsmen are relying on America's leaders to develop a new future for energy development and to do it without repeating mistakes of the past. We ask that you include these recommendations in the ongoing PEIS development.

1. Hunters and anglers should have a voice in the decision-making processes for renewable energy development on public lands. Open processes that encourage public input on important decisions, such as siting of renewable energy projects and transmission lines, are essential.
2. Roadless backcountry lands should be protected from the impacts of renewable energy development. Already-disturbed lands—where existing energy infrastructure might already be in place—should be prioritized for development of renewable energy.
3. Important and fish and wildlife habitat must be adequately protected. Grouse habitat, trout streams, deer and elk winter range, migration corridors, and fragile riparian habitats should not be unjustly sacrificed for renewable energy development projects.