



Granite Wind, LLC

11101 W. 120th Avenue
Suite 400
Broomfield, CO 80021

Tel: (303) 439-4200
Fax: (303) 439-4299
E-mail: info@res-americas.com
Web: www.res-americas.com

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Dave Harlow, Director
California Energy Commission
Dockets Office, MS-4
1516 Ninth Street
Sacramento, CA 95814-5512



**Subject: Comments on DRECP Draft Alternatives
Docket No. 09-RENEW EO-01**

Granite Wind, LLC (Granite Wind), a wholly owned subsidiary of RES America Developments Inc. (RES Americas), has been developing the Granite Mountain Wind Energy Project (Project) since October 2003. Granite Wind appreciates the opportunity to present our comments to the Five Alternatives as documented in the “Overview of DRECP Alternatives Briefing Materials” (Briefing Materials) from the DRECP Stakeholder Committee Meeting held on July 25, 2012, and additional interaction with the DRECP stakeholders since the meeting.

The Granite Wind Project is located approximately 14 miles east of Victorville in the Granite Mountains on 2,086 acres of public lands administered by the Bureau of Land Management (BLM) Barstow Field Office and 670 acres of privately owned land under San Bernardino County land use jurisdiction. Within the DRECP context, the Project is located in either polygon number 36 or 42, which is unclear from the maps provided in the Briefing Materials. The DRECP alternatives have proposed to make the public and private lands encompassing Granite Mountains into both *Plan-wide Conservation Area – High Biological Sensitivity – Public* and *Plan-wide Conservation Area – High Biological Sensitivity – Private* designations. However, the scientific process along with the agency and public input into this designation is completely undefined and unsubstantiated.

Granite Wind is submitting our comments with the understanding that the DRECP is earnestly seeking input on the location of Development Focus Areas (DFA) as stated in the Briefing Materials:

...input regarding the size and location of the potential development focus areas, biological and other conflicts associated with such areas that should be analyzed, and biological and other values and considerations associated with the plan-wide biological reserve context that should be analyzed.



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Granite Wind believes that the DRECP, if done correctly, will further implement a robust renewable energy future in the desert while addressing important conservation strategies and priorities. Unfortunately, the five Alternatives as currently drafted significantly inhibit wind energy projects from the entirety of the program area.

BACKGROUND

Granite Wind is providing the following background information to help demonstrate the length of time we have been actively developing this critical project. Granite Wind's Type II Right of Way (ROW) (CACA-44975) application was approved by the BLM in October 2003. The initial ROW allowed Granite Wind to initiate both wind resources and environmental studies for the Project. In April 2007, Granite Wind submitted a Type III ROW (CACA-48254) and Conditional Use Permit Application with San Bernardino County, which kicked off the NEPA/CEQA review for the Project. And finally, in late 2011 the Type II ROW was converted to a Type I ROW (CACA-53218).

Granite Wind executed both a Power Purchase Agreement (PPA) with Southern California Edison (SCE) in June 2007 along with an Large Generator Interconnection Agreement (LGIA) in November 2010. With these two contracts in place, the Project only required final permits from the BLM and San Bernardino County to initiate construction and operation.

The BLM and San Bernardino County began work on a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) in April 2007. The Project was assigned Fast-Track Project status from the Department of Interior in 2010. Subsequently, Granite Wind expedited the permitting schedule and a Draft EIS/EIR was released in April 2010. Consequently, Granite Wind has spent the past five years conducting, or paid the BLM/San Bernardino County consultant to perform, numerous studies assessing the impacts of the Project on environment. It is highly important to note that the Project was placed on hold by the agencies in late 2010 due to concerns over golden eagles. To further study this potential concern, Granite Wind has spent the last 24 months diligently researching, surveying, and analyzing the potential Project's impacts to this species along with development of a comprehensive mitigation program.

COMMENTS

Granite Wind presents the following specific comments or questions in regard to the DRECP 5 Alternatives.

1) The location of the Granite Mountain Wind Energy Project is incorrectly shown on the map titled "DRECP Plan Wide Energy Assumptions - Renewable Energy Projects"

Granite Wind assumes that one of the green dots (for "Active Application, Under Review, PPA") is for the Granite Wind Energy Project, since the Project has a PPA, LGIA, and



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issuance and circulation of a Draft EIS/EIR. If this assumption is correct, the green dot should be moved to Granite Mountain.

2) How do the 5 Alternatives meet the DRECP goals?

Below are three of the 11 planning goals for the DRECP. Granite Wind requests the DRECP provide the basis for how the removal of the Granite Mountains as a DFA meets these goals.

- *Build on the Competitive Renewable Energy Zones identified by Renewable Energy Transmission Initiative (RETI)*

The Granite Mountain Wind Energy Project was specifically addressed in the RETI.

- *Further identify the most appropriate locations within the DRECP Plan Area for the development of utility-scale renewable energy projects, taking into account potential impacts to threatened and endangered species and sensitive natural communities*

SCE has deemed this area suitable for renewable energy by proposing to build a new regional Jasper Substation. More importantly, Granite Wind competed for and “won” a PPA with SCE. Therefore, how did the DRECP deem this location as both a *Plan-wide Conservation Area – High Biological Sensitivity – Public* and *Plan-wide Conservation Area – High Biological Sensitivity – Private* designation that excludes the development of utility-scale renewable energy projects?

- *Provide a framework for a more efficient process by which proposed renewable energy projects within the Plan Area may obtain regulatory authorizations and which results in greater conservation values than a project-by-project, species-by-species review would have*

A review of the *DRECP Plan Wide Energy Assumptions - Renewable Energy Projects* map depicts numerous renewable wind energy projects that have previously initiated local, state, and federal permitting processes prior to the DRECP. However, the decision process and justifications to exclude several of these projects from the five developed alternatives has yet to be explained publicly or disclosed through any released document publications. More importantly, how does the DRECP plan to ‘grandfather’ these projects that have either executed PPAs or have demonstrated significant permitting progress?

3) The Proposed Biological Conservation Area at Granite Mountain is Arbitrary and Capricious

It is unclear from the Briefing Materials what scientific method the DRECP used to develop proposed Biological Conservation Areas. What is mentioned in the Briefing Materials,



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specifically in the table on Page 75, is a listing of species – Mohave ground squirrel, burrowing owl, desert tortoise, golden eagle, Mohave Fringe-toed lizard and big horn sheep. Since it is unlikely that the DRECP or involved agencies conducted any surveys for these species, have surveys conducted by renewable energy applicants been incorporated? Based on surveys conducted by Granite Wind since 2006, the proposed Biological Conservation Area at Granite Mountain is arbitrary and capricious.

Granite Wind conducted surveys for desert tortoise, Mohave ground squirrel and other terrestrial species. No Mohave ground squirrels were observed during the surveys and the Project site did not support habitat for the species. Desert tortoise was observed in the valleys surrounding Granite Mountain, which is where the DRECP has proposed DFAs for solar. There is no suitable habitat for burrowing owl on the mountain either, given that much of it is granite. Multiple surveys for Mohave Fringe-toed lizard were conducted and the closest location was more than 20 miles from the project site (located within another proposed DFA for solar) along a proposed SCE telecommunications line from Gale Substation to Pisgah Substation. And finally, big horn sheep are predominantly found south of the Project site and well north of the Project.

DRECP documents say that the Biological Conservation Areas are based on “desert tortoise (conservation areas and least cost corridors), Mohave ground squirrel conservation areas and range, flat-tailed horned lizard management areas, major rivers, desert linkage network and expert input.” Has further evaluation of the plan-wide biological reserve design context been completed? If so, where is this documented so that we can compare what was done with the Project-specific survey results?

4) What Scientific Research has the DRECP or Member Agencies Conducted?

Granite Wind has reviewed comments submitted by the environmental community and Independent Scientific Advisors. A congruent theme in their submissions is the clear and distinct lack of science used to select the current 5 Alternatives. To achieve the DRECP’s goals along with comply with applicable regulations, the plan must contain the necessary science, analysis, and stakeholder input. As currently demonstrated in the Briefing Materials, the fundamental lack of scientific studies along with broad-scale inputs critically challenges any credible ability to justify the selection of Biological Conservation Areas. The DRECP must incorporate additional or at a minimum existing project-level scientific methods, surveys, and results into the plan.

5) How did the DRECP account for golden eagle population, distribution, extant and abandoned territories, and nest data in the drafting of the five alternatives?

It would appear that the Marxan algorithm has used some form of golden eagle data as a critical input into the design of the *Plan-wide Biological Reserves*. Therefore, please provide



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all relevant data sources and justification for all areas that the model used this data input. Since the entirety of the DRECP program area lacks critical information on the population and distribution of golden eagles, we propose, at a minimum, implementation of the following scientific research to further validate the five alternatives:

- 1) Conduct research to estimate the golden eagle population and distribution across the entire California desert region to support the issuance of USFWS incidental take permits.
- 2) Identify where eagles breed within California's desert region by combing existing data from literature, government agencies, and industry along with new surveys to create a comprehensive map of golden eagle breeding sites and territories.
- 3) Evaluate and estimate the golden eagle population size using scientific and statistically valid transect surveys and demographic models.
- 4) Conduct prey studies to assess to better understand the habitat required to support the golden eagle population.

The findings of this research should be effectively communicated through peer-reviewed publications that enhance the existing state of the science, public presentations, and ongoing involvement in agency and stakeholder working groups.

6) Why was Scenario 6 dropped from consideration?

Granite Wind was supportive of Scenario 6 from the April 25 and 26 Stakeholder meeting, as it presented developers with the opportunity to develop wind projects in areas where there are good wind resources. Under the proposed 5 Alternatives there are not these same opportunities. Wind, unlike solar, is dependent on siting project where wind resources are. In order to compete with other renewable energy, wind projects have to be located in high wind areas. To not do so, would be like suggesting that geothermal projects be sited where there aren't any known geothermal resources.

This is an issue that affects the California ratepayer more than anyone else. If through the DRECP planning process competition is removed between different renewable resources so too will the competition to keep the price low. Granite Wind suggests that there is a balance between the different resources and that a single resource not be given special treatment over another resource.

7) How can the 5 alternatives be advanced before incorporating recommendations and input from the Independent Science Advisors?

It is Granite Wind understanding that the Independent Science Advisors has numerous questions and concerns related to the science that was used to identify Biological Conservation Areas. When will the 5 Alternatives be modified to incorporate the Independent Science Advisor's comments and recommendations?



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8) What methodology was used to determine Biological Conservation Areas?

Granite Wind understands that Marxan planning conservation software was used in the selection of Biological Conservation Areas. Have the inputs to this model been provided to the public and the Independent Science Advisors? Granite Wind would like to review the specific inputs that were used within a 10-mile radius of the Granite Mountain Wind Energy Project.

Furthermore, one of the shortcomings of the Marxan conservation planning software is its inability to deal with issues of demographic inter-connectedness. The model's ineptitude should be supplemented with actual results from scientific and statistically valid biological surveys.

To quote directly from the Marxan website:

Remember that Marxan is a decision support tool to help guide the selection of conservation networks; its output should never be interpreted as 'the answer'. In most cases there will be many good solutions to the problem at hand – a positive attribute as it provides flexibility in planning and stakeholder negotiations.

Given that “the answer” on whether or not Granite Mountain and the surrounding area are suitable for a new Biological Conservation Area cannot be determined by running a conservation planning model, it is Granite Wind's hope that the DRECP will take into account actual biological surveys that have been performed on and in the surrounding area of our project over the past five years. Incorporating these survey results will achieve “the answer” for both industry and conservation of biological species in the area.

9) Ensure the Biological Conservation Area planning process is transparent

Granite Wind suggests that the original rationales for proposed reserve designs should have been clearly explained as part of the written record to date, so both renewable energy developers, engaged stakeholders, and the public could have understood both the sources and justifications for the processes used. There has not been sufficient review of the process used. A review of a few areas, like Granite Mountain, shows that the process does not accurately reflected the species within proposed Plan-wide Biological Reserves.

Granite Wind agrees with the recommendations in Defenders of Wildlife's July 11, 2012 comment letter, where they suggest providing a clear explanation of the following:

- 1) *Why specific modeling software was used, how it was used and what the inputs and outputs are.*
- 2) *How the Biological Reserve Design Context meets the pre-defined Biological Goals and Objectives.*



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- 3) *How climate change and its effect on species will be addressed.*
- 4) *How the DRECP will deal with data gaps and uncertainties.*

10) Was a designated golden eagle nest buffer distance (i.e, USFWS' proposal or other agency) proposed nest setback incorporated into the Marxan reserve selection algorithm to develop Plan-wide Biological Reserves?

Granite Wind suggests that the inputs to models be made public, so that the sources can be verified and ensure that the most up to date science is used to select and designate conservation areas. Granite Wind is concerned that decisions regarding selection of the 5 Alternatives and Plan-wide Biological Reserves has been conducted without informed public input.

11) Was historic golden eagle nest data or golden eagle use areas incorporated into the Plan-wide Biological Reserves on and surrounding Granite Mountain?

Granite Wind assumes that Granite Mountain and the surrounding area are being proposed as a Plan-wide Biological Reserves based on the presence of golden eagles. Granite Wind is intimately familiar with the golden eagle population within a 10-mile radius of the project based on three and a half years of survey efforts, including one and a half years of intensive golden eagle surveys and analysis of the on-going telemetry study currently underway by BLM. Based on Granite Wind's analysis of the golden eagle research conducted within a 10-mile radius of our Project, these conclusions are inconsistent.

SUMMARY

As stated above, RES Americas has been developing the Granite Wind Project for nearly 10 years and has a substantial financial investment into the Project. Furthermore, the Project and specific site location have been supported in previous regional planning efforts and alternatives. Therefore, the justification and decision process to remove the Project from the DRECP alternatives along with the decision to add as a Plan-Wide Biological Conservation Area must be fully disclosed pursuant to the adopted DRECP planning process. More importantly, since the Project has a PPA and LGIA and initiated the permitting process prior to the adoption of the DRECP, the agencies must allow for the "grandfathering" of the Granite Wind Project. Lastly, Granite Wind is explicitly requesting that the DRECP include the Granite Mountain Wind Energy Project in the DRECP planning program or allow Granite Wind to proceed through the current permitting process that is already significantly completed.

Sincerely,

James Diven
Development Manager