



# California Wind Energy Association

November 22, 2013

Jim Kenna  
California State Director  
Bureau of Land Management  
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Sacramento, California 95825-1866  
Via email: [jim\\_kenna@blm.gov](mailto:jim_kenna@blm.gov)

California Energy Commission  
**DOCKETED**  
**09-RENEW EO-1**  
TN 72376  
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## **RE: Treatment of Pending Projects in the Desert Renewable Energy Conservation Plan (DRECP)**

Dear State Director Kenna:

As the Renewable Energy Action Team (“REAT”) agencies work toward publication of a Draft DRECP EIS and California Desert Conservation Area Plan Amendment, we would appreciate the opportunity to discuss application processing for projects currently pending before BLM in the DRECP Plan Area. Application processing for projects on BLM land is discussed in Appendix I to the December 2012 Description and Comparative Evaluation of Draft DRECP Alternatives. Appendix I creates a two-tiered approach. First, the DRECP Record of Decision (“ROD”) will not affect any project that receives a project-specific ROD prior to issuance of the DRECP ROD. Second, a limited subset of projects that receive a project-specific ROD *after* issuance of the DRECP ROD will also be exempt from DRECP requirements. Remaining projects will require analysis based on Draft DRECP policies and data, until the DRECP is actually approved. We appreciate Appendix I’s clear statement regarding the inapplicability of the DRECP to certain projects approved prior to issuance of the DRECP ROD, however, we write to express our concerns regarding treatment of projects that are proposed prior to the issuance of the Draft DRECP, or while those documents are pending, and whose Draft EISs are published before the Final ROD is issued.

Under the criteria set forth in Appendix I, wind projects on BLM land that are currently involved in the environmental review process but that are approved after DRECP ROD issuance will still be subject to the Draft DRECP unless they can meet criteria that will be very difficult to achieve. First, such projects must publish a Draft EIS or EA within 60 days of release of the Draft DRECP EIS. Second, such projects must include within their Draft EIS an analysis based on data developed in support of the Draft DRECP, and an analysis describing the project’s relationship to Draft DRECP conservation and recreation strategies.

As a practical matter, these criteria will likely create a very high hurdle because the data and information required for compliance will not be available until the Draft DRECP EIS is published. We are concerned that pending projects would be required to incorporate DRECP data and analysis in a mere 60 days, or else be subject to the Draft DRECP, and we do not believe doing so will be feasible. Our concern is underscored by BLM’s own guidance, which requires a 90-day public review period for land use plan

amendments such as the DRECP. See Land Use Planning Handbook (H-1601-1) at 23; NEPA Handbook (H-1790-1) at 99. However, given the amount of analysis called for in Appendix I, even a 90-day window would not provide sufficient time to comply with the Appendix I criteria. Given the extreme delays in application processing and environmental review that our members have experienced while working with BLM in recent years, in part from the demand on BLM resources created by the DRECP planning process, we believe it will be virtually impossible for pending projects to satisfy these criteria. We expect that those demands will only be intensified once the Draft DRECP EIS is published.

In addition, in light of the likelihood for the DRECP to change substantially between the draft and final stage, a circumstance that you have often indicated that you anticipate, we do not believe an analysis of consistency between a project and the Draft DRECP will be particularly useful or appropriate. Moreover, given the delays and lengthy planning process to date, resulting in the passage of five years' time since the conception of the project and any Draft Plan being issued, it is reasonable to assume that final DRECP approval may require a significant and possibly indefinite amount of time.

We appreciate BLM's attempts to provide a clear framework for applicability of the DRECP to pending projects, but rather than imposing an unrealistic deadline for pending projects to consider Draft DRECP policies and data, we ask BLM to require DRECP analysis only for pending BLM projects for which a Draft EIS is published after BLM issues a ROD for the DRECP. Pending BLM projects for which a Draft EIS is published between Draft DRECP publication and DRECP ROD issuance should be subject to a DRECP Interim Process similar to that set forth in California Fish and Wildlife Chief Deputy Director Kevin Hunting's February 28, 2011 memorandum regarding the "Interim Process for the Desert Renewable Energy Conservation Plan."

We would appreciate the opportunity to discuss these concerns.

Sincerely,



Nancy Rader  
Executive Director



Ashley R. Richmond  
Director of Siting Policy

cc: Commissioner Karen Douglas, California Energy Commission  
David Harlow, Desert Renewable Energy Conservation Plan  
Kevin Hunting, California Department of Fish and Wildlife  
DRECP Docket (No. 09-RENEW EO-01)

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