Senate Energy & Natural Resources Committee

Bill # S-2921

California Desert Protection Act of 2010

May 20, 2010

SD-366, Dirksen Senate Office Building

Center for Energy Efficiency & Renewable Technologies

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It is with great appreciation and respect that the Center for Energy Efficiency and Renewable Technologies (CEERT) offers this testimony regarding the California Desert Protection Act of 2010. CEERT is a partnership of major environmental groups and private-sector clean energy companies who strive to advance global warming solutions and renewable energy policies in California and the West. Collaboration between environmentalists and renewable energy developers, among other stakeholders, is crucial for the holistic planning and protection of California's desert resources, so our organization appreciates the opportunity to present our views on how to improve this important legislation.

California and the Federal Government have a long history of desert conservation that spans the legacy of the late Senator Alan Cranston and culminated with the passage of Senator Feinstein's California Desert Protection Act in 1994. In addition to Senator Feinstein's legislation, the Bureau of Land Management adopted the West Mojave Management Plan, which further restricts development in the critically important West Mojave; home to some of the best solar radiation land in the United States. These desert protection efforts, while critically important for wildlife conservation, wilderness and recreation interests, largely failed to consider or evaluate future development needs and opportunities for the abundant and strategic renewable resources which lie within California's desert.

Even though California launched the global wind and solar industries in the 1980's, our state and the federal government fell asleep shortly thereafter, lulled by low energy prices and electricity deregulation. When desert conservation and recreation planning efforts were launched in the 1990's in California, everyone was at the table except the renewable energy industry and renewable energy advocates. Consequently, vast tracts of land were set aside for habitat conservation for protected species, along with expansion of military lands, recreation, and wilderness. But virtually no land was reserved for renewable energy in areas with some of the highest solar radiation in the world. This failure to identify and reserve areas for solar and wind development has come back to haunt California and jeopardize the strategic national interest in renewable energy.

In recent years, the return of high oil prices and global attention to climate change sparked a revival in renewable energy. A solar land rush resulted in a flood of speculative lease applications on the Bureau of Land Management's desert lands at the end of the Bush Administration. More than a million acres of lease applications were filed, with no effort by BLM to weed out speculators and paper projects. The desert conservation community became alarmed, which prompted calls for a moratorium on lease applications and late but comprehensive solar planning initiatives by BLM.

Our failure to plan for large-scale solar development, combined with the continuing expansion of protected lands for desert conservation, recreation, and military training, has exposed us to the possibility that much of the most productive high solar radiation land in the state has already been taken off the table. As a result, we are struggling to find a way to integrate and balance environmental conservation and recreational needs with the imperative to develop and reserve our extraordinary renewable resources in the desert.

We support the protection of lands for conservation purposes, but believe that protection should be accorded for those lands that have true conservation value, not just all lands that are available for that purpose. In so doing, we can prioritize our conservation objectives without unnecessarily eliminating the best sites for solar and wind energy. As Congress takes on energy legislation over the coming months, and examines the need to increase our long-term domestic energy supply, we must think about the most sustainable path toward energy independence. The California Desert is a national resource which we feel should be considered for long-term energy needs, especially as we discuss reopening other areas of national significance for oil and gas exploration.

Part of the challenge involves identifying areas where renewable development would not be restricted due to other designations and protections. Of public lands in the California desert, 4.8 Million acres are protected for the Desert Tortoise and 1.7 Million acres for the Mohave Ground Squirrel, a state-protected species. Although the Mohave Ground Squirrel management area allows 1 % of the covered land for development, BLM has, so far, been unwilling to designate even a fraction of 1% of this land for solar development in this most

valuable solar resource area. Seven hundred thousand acres are open to off-highway vehicle use. Furthermore, two large military training facilities lie within in the most productive and valuable solar lands in the Mojave Desert; China Lake and Edwards Air Force Base, which together comprise 1.4 Million acres.

For these reasons, we strongly urge the Committee and Senator Feinstein to direct the BLM to revisit the West Mojave Plan's provisions limiting solar development. This review of the West Mojave Management Plan should consider the best available scientific information on habitat and species protection, and take into account the availability of disturbed land with very high solar radiation levels, which is also close to electric transmission lines.

We would also urge the Committee and Senator Feinstein to encourage BLM to clear out speculative lease applications and those which represent projects which are not moving forward, and only approve those projects which are commercially feasible and have a reasonable expectation of being developed.

In order to reach the 2020 goal of 33% renewable energy, California needs to develop fifty to one hundred thousand acres of prime solar land in the desert (ideally previously disturbed land with high solar radiation). To achieve the 2050 climate goal, approximately 350,000 acres of desert land are needed for development. The amount of land that should be considered for renewable energy development is quite small in comparison to land that has already been conserved for other purposes. And although BLM has set aside around 200,000 for a PEIS study area in Riverside East, one BLM field manager has suggested that a maximum of one-eighth of that area could be developed while avoiding environmentally sensitive lands, leaving the need for developable solar lands unmet.

Of course, the sun is not the only extraordinary renewable resource found in California's Desert, and so we urge the Committee and Senator Feinstein to consider the area's other renewable resources alongside other desert attributes. For example, we understand that the California Wind Energy Association (CalWEA) has proposed very minor adjustments to the Monument's border areas, mostly on already disturbed lands, which would preserve

the viability of four projects totaling 1,300 MW. We suggest consideration of all renewable resources in future planning efforts in the desert.

To limit reliance on public lands for renewable energy development, the conservation community often suggests construction of renewable energy facilities on private land. A number of barriers require attention in order to make development on private lands a viable option. First, if no federal nexus exists (i.e. the project is not on federal lands), Section 10 consultation by the US Fish and Wildlife Service is necessary. Renewable project developers tell us that this takes significantly longer than a Section 7 consultation; and can take as long as 7-10 years. This creates a practical disincentive not to develop on private lands. Furthermore, the extreme parcelization of the region to multiple landowners—often over 100 per square mile—severely limits the acquisition of plots of private land large enough to sustain a large-scale renewable electricity generation facility.

We are encouraged by the leadership and cooperation provided by Secretary Salazar and Governor Schwarzenegger in achieving an unprecedented level of interagency cooperation on renewable project permitting, and for integrating conservation and renewable resource planning. We look forward to sustaining and expanding this cooperation, and extending it to the recently initiated California Desert Renewable Energy Conservation Plan (DRECP). In addition, California recently enacted Senate Bill 34, which requires the California Department of Fish and Game to develop a funded interim mitigation strategy for "fast-track" renewable energy projects in the desert.

Section 205 of the California Desert Protection Act of 2010 establishes an innovative mitigation banking system to encourage development of renewable energy projects on private lands, which may help remedy the Section 7 issue we identified earlier. This language was drafted prior to the initiation of the DRECP and enactment of SB 34, and therefore should be modified so as not to undermine the current rigorous scientific and consensus-building planning efforts in California. More specifically:

- Design and implementation of the proposed federal mitigation program should be coordinated with the DRECP. Upon completion and approval of the DRECP by the

BLM, the mitigation program should be subsumed into the DRECP conservation structure.

- Design and implementation of the proposed federal mitigation program should coordinate with the California Department of Fish and Game's (DFG) interim mitigation strategy, per California Senate Bill 34, so that any land acquisition or other mitigation actions identified by BLM for conservation are done in collaboration with DFG's strategy. This modification will prevent any overlap and potential conflict between separate mitigation efforts.
- The cap to limit the mitigation payments for land acquisition to 75% of the fair market cost of purchasing the acreage needs to be changed to 100% of fair market value in order to ensure conformance with the developing DRECP and the state's interim mitigation strategy. This will ensure that it does not unintentionally limit the use of this fund for projects.
- The Mitigation Council should include one representative from the DRECP.
- This section should apply to all projects, not just those located on private land.
- All funds provided by BLM land rents or leases should support conservation and should be directed toward mitigation, monitoring, and management.

We are grateful to Senator Feinstein that a number of elements of the proposed legislation will assist the state, region, and country in identification and development of solar development lands. We applaud the designation of Renewable Energy Coordination Offices throughout the west to accelerate the issuance of federal permits for renewable energy projects and transmission lines to integrate renewable energy development. This will accelerate the often sluggish permitting process. Additionally, we support the proposed establishment the California Desert Mitigation Bank Pilot Program, under which eligible lands in the California Desert Conservation Area will be made available as habitat mitigation zones for the development of renewable energy projects on non-federal land. Because of the noted constraints on development on private land, we would respectfully urge the mitigation bank be made available to projects on federal land as well. Finally, we support the proposed statute's requirement for a study analyzing the impacts of a program

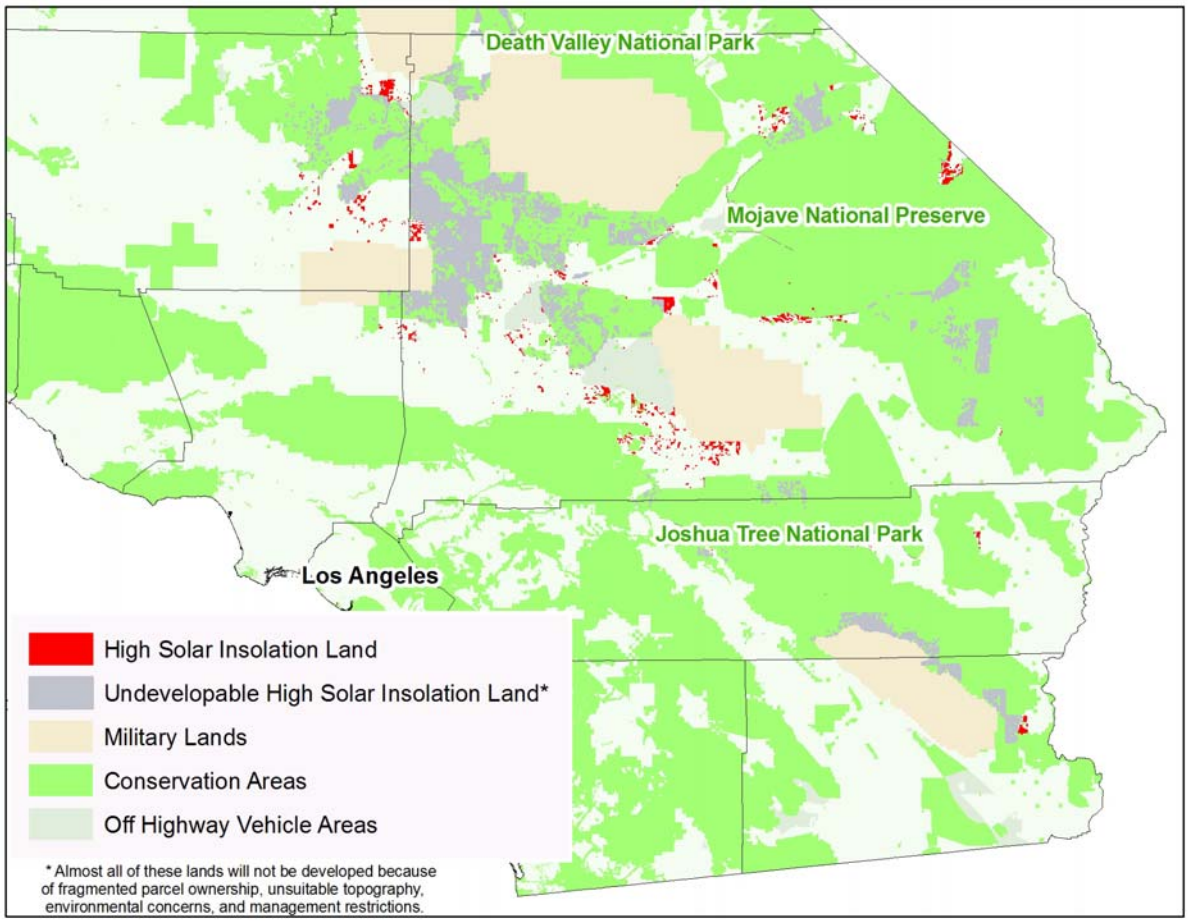
to develop renewable electricity generation projects on military installations in California and Nevada. Identifying the potential for development in these areas will be a key first step in building a productive partnership between the renewable energy industry and the Department of Defense.

In conclusion, CEERT strongly believes that we can achieve the proper balance between desert protection and renewable energy development, recognizing the multiple uses demanding land in the desert. We support the protection of valuable habitat and historical viewsheds. We appreciate Senator Feinstein's significant efforts to ensure timely and orderly renewable energy development in the desert, and hope that land use restrictions will be based on conservation value and best available science, while taking into account the most valuable solar and other renewable energy resources. In order to more effectively manage the needs of various stakeholders and desert resources, and to identify the appropriate lands for solar development in such a rich and important region, we urge every effort be made to improve consistency with ongoing state and federal planning and permitting. Such cooperation has already advanced the dialogue between parties within the region, and will continue to shape the sustainable management of desert character and resources in the future.

We commend Senator Feinstein for her leadership in protecting California's fragile and extraordinary desert resources, and for her and the Committee's willingness to listen and respond to the constructive suggestions from the wide variety of citizens and interests seeking to coexist in a manner that preserves the desert's environment.

Thank you.

Figure 1: Highest Solar Insolation Land Available for Development



*Most of Southern California's vast desert has been reserved for parks, wildlife conservation, military uses, and off-road vehicle recreation, leaving very few parcels of viable high-insolation land for new solar projects.