



## A Case for Developing Interim Guidance for Renewable Energy on the Public Lands

### Introduction

The BLM knows from experience with other resource programs, including its fossil energy programs, the importance of having adequate guidance in place to ensure a baseline level of consistency in the implementation of those programs within and across BLM's administrative borders. Bureau staff, project proponents, environmentalists, and other stakeholders all benefit from the existence of standards. Unfortunately, the existing guidance for solar and wind is not sufficient even for the short-term.

### Recommendations

We recommend that the Department of the Interior be required to issue guidance setting out how the backlog of wind and solar applications inherited by this Administration will be worked down in an expedient, fair, and environmentally responsible manner.

- **Currently there is no comprehensive program or guidance for permitting wind or solar development on public lands.** The guidance that is presently available fails to systematically provide BLM field staff with the tools to:
  - prioritize projects in appropriate locations;
  - preserve the utility of the forthcoming solar PEIS and amended wind PEIS;
  - adapt the right of way process to these new technologies and applicable legal requirements, including in particular those of the National Environmental Policy Act (NEPA);
  - permit field staff the flexibility to work with applicants and stakeholders to modify the terms of a right-of-way application, including if necessary, proposed boundary limitations
  - ensure that environmental documents provide thorough analyses of proposed projects and properly selected alternatives; and
  - guarantee that critically important terms and conditions are included in rights of way authorization.
- **The absence of a predictable approach could lead to unnecessary delays in the build-out of projects, as well as erosion of public support for renewable energy development on public lands.** Historic experience with, for example, the oil and gas program and the grazing program clearly reveals the significant costs to the agency resulting from inadequate standards, including litigation, controversy and loss of public support. These costs are both

unnecessary and avoidable at this time. Recent experience with the “fast track” projects, as well as the oil and gas program, clearly points the way toward not just the need for additional guidance, but also the kinds of guidance that should be issued to consistently and uniformly guide the application of agency policy.

- **Developers and conservationists alike have called on the Department to issue clarifying guidance for where and how development is to proceed.**<sup>1</sup> In separate letters, individual companies, a key trade association, and conservation organizations including The Nature Conservancy, Defenders of Wildlife, and Natural Resources Defense Council have called on BLM to prepare written guidance for solar and wind development. Although the Department has acknowledged the need, such guidance must be timely to be effective. With more than 60 possible ‘next generation’ projects identified for review in 2011, this guidance is needed now.

We have the opportunity to do this smart from the start—issuing written guidance that spells out the places, practices, and pace of development in the very near term is necessary to ensure a legacy of more than just permits processed.

The Department should issue essential interim guidance that, at a minimum, addresses three general topics:

- (1) **siting criteria** so that projects avoid areas with the highest potential for resource damage and conflict, as well as allow the agency to focus its resources and attention on projects that are more likely to move forward quickly and successfully;
- (2) **environmental review** so that the BLM will take a consistent approach to the development of alternatives, their analysis, and the preparation of environmental documents; and
- (3) **standard baseline terms and conditions** applicable to all projects so that the agency, as it does in other resource programs, takes a consistent approach to ensuring general protection of the natural and cultural resources of the public lands and to preserving its ability to incorporate new information about habitat needs, species, and water resources in lease terms.

Despite the priority placed on developing renewable energy from public lands by Secretary Salazar and the administration, none of the 34 “fast track” projects have final decisions and none is close to moving to construction. The lack of guidance for siting these projects, for conducting adequate environmental reviews, and for ensuring that they meet commitments to be “environmentally-sound” has caused project delays. Now project proponents face the potential of losing access to ARRA funds for project development. Clear, consistent, and specific guidance is needed to get projects moving if the transition to renewable energy is going to be met.

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<sup>1</sup> See 15 March 2010 letter from The Wilderness Society to Director Abbey, 19 May 2010 letter from Defenders of Wildlife, Natural Resources Defense Council, The Wilderness Society et al. to Director Abbey, and 11 June 2010 letter from Large-scale Solar Association, BrightSource Energy, Natural Resources Defense Council, and Center for Biological Diversity to BLM.

### Conclusion

Interim guidance is urgently needed to provide BLM staff, developers, financiers, states, and public interest organizations more clarity and direction regarding how the agency intends to proceed. Issuance of guidance for these interim projects will ensure that the permitting process meets basic legal requirements, like full compliance with NEPA; can help guide development to complement, rather than undermine, forthcoming programmatic plans; and, ultimately, will increase the chance that responsibly sited projects that get permitted are built.