

California, DOI Scramble To Permit Large Solar Projects By Stimulus Deadline

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Top officials with the Department of Interior (DOI) and California government are taking aggressive management actions to advance a number of large-scale solar power projects in the desert, as well as smaller solar and wind projects in the state, based on a mutual agreement to do as much as possible to ensure project developers meet a year-end deadline to potentially receive billions of dollars in federal stimulus funding.

The unique collaboration reflects dissatisfaction with what many consider slow and outdated permitting processes, which in some cases are now being overhauled to speed the multiple layers of approval needed to begin construction.

The effort is also considered critical to helping California meet its stringent renewable portfolio standard (RPS), a cornerstone of its climate change program to reduce greenhouse gas (GHG) emissions to 1990 levels by 2020, and by 80 percent by 2050. Currently, the state policy requires electricity providers to meet a 20 percent RPS by the end of 2010, and a 33 percent RPS by the end of 2020.

But some environmentalists are criticizing the government's effort as rushed, and potentially damaging to threatened or endangered animals and plants, because of the massive scale of many of the projects -- a stance that

could foreshadow litigation against the regulators, according to sources.

Working behind the scenes to improve the permitting process for the renewable energy projects is the Renewable Energy Policy Group (REPG), which was formed recently as the result of an October 2009 memorandum of understanding (MOU) between California Gov. Arnold Schwarzenegger (R) and DOI Secretary Ken Salazar. The collaboration was sought because both DOI and California had made it a priority to permit and build renewable energy projects. For example, in November 2008 Schwarzenegger signed an executive order directing key state agencies to expedite development of renewable energy resources that qualify for RPS credit. The order charges state agencies to "facilitate the timely permitting of renewable energy projects by giving them priority attention," according to the California Energy Commission (CEC).

In March 2009, Salazar issued a secretarial order establishing as a priority renewable energy development in appropriate areas of public land. It also established an Energy & Climate Change Task Force to "identify and remove obstacles to renewable energy permitting and siting."

The REPG "merges the work efforts of both orders and assigns responsibility for accomplishing these orders' mutual objectives to senior policy representatives of the governor's office, the California Natural Resources Agency and DOI," according to CEC. The

Bureau of Land Management (BLM) is the primary DOI agency working on the permitting collaboration because it has authority over vast tracts of desert land in California, Nevada and other Southwest states.

Permitting Reforms

Schwarzenegger has hired several new special advisers to help carry out the effort, who are leading permitting reform efforts at CEC and other agencies. One of the goals of the effort is to achieve permitting approvals for more than 20 key projects -- most of them solar -- by the end of this year to ensure they are eligible to receive billions of dollars available under the American Recovery & Reinvestment Act of 2009 (ARRA), according to two state officials. One official says California projects could receive \$5 billion-\$10 billion, which could be leveraged for another \$20 billion-\$30 billion in private investment, creating thousands of new construction and operations jobs in the state.

The Schwarzenegger administration has increased staff at CEC to help tackle the solar and other renewable energy project permitting load, and has implemented new paperwork and other management changes to improve efficiencies, according to the officials. For example, CEC and BLM staffers are now working on combined staff assessment and draft environmental documents for many projects. The California legislature and Schwarzenegger also earlier this year enacted new legislation authorizing a

special extra fee project developers can pay CEC to prioritize their power plant siting applications.

Helping large-scale solar thermal project applicants understand the state and federal permitting processes is another priority of the officials, especially given many new questions are emerging regarding the pioneering siting of projects in vast tracts of desert. "Nobody has done large solar in California for 20 to 25 years . . . the [CEC] staff and the Department of Fish & Game and the U.S. Fish & Wildlife Service and BLM have focused a lot on smaller natural gas plants, and this is really a different kind of thing -- not just the size but the nature of projects at that scale really is different," says one official. "Everyone has to relearn very quickly how to coordinate."

Each of the proposed large-scale solar thermal projects will cover roughly 3,000-10,000 acres, and will produce 250-1,000 megawatts (MW) of power, according to CEC documents. One official says that to receive stimulus funding, projects must be fully permitted and break ground this year.

Environmentalists Criticize Effort

Some environmental groups -- while generally supportive of new renewable energy projects and efforts to improve the state and federal permitting systems -- are very troubled by the REPG's activities, as well as recent CEC and BLM permitting decisions for some of the projects.

The state and federal officials are "rushing towards a deadline because of the ARRA funding," says a source with the Center for Biological Diversity (CBD), which is closely tracking many of the proposed projects in California, Nevada and the Southwest. "And what we've made very clear is they can't cut environmental corners; they need to do robust environmental reviews. Unfortunately, what I am seeing is that they're rushing so much they're tripping over their own feet."

Some of the BLM environmental impact statement (EIS) documents, and equivalent CEC California Environmental Quality Act (CEQA) environmental review documents "have large holes in them" that regulators are promising to "fix later," the CBD source charges. For example, an EIS document by BLM and CEC released late last year for one of the proposals -- a 400-MW solar project called Ivanpah SEGS by Brightsource -- failed to include any potential alternatives to the project as required by both CEQA and the National Environmental Policy Act (NEPA), the source says.

"So now BLM is preparing . . . a supplemental EIS that deals with alternatives," the source says. "So this is an example where they made a certain call because they were rushing and now they have to sort of backfill" the process, which results in further delay.

Chief among the difficulties project applicants and regulators face is avoiding major impacts on plants and animals, including the threatened desert tortoise and a rare lizard species. One of the major problems, the CBD source says, is that no one has ever properly zoned or mapped the vast desert tracts, so applicants are working with little information about habitats and other sensitive environmental characteristics of the land before they actually try to pick plots and perform environmental reviews.

"What didn't happen that absolutely should have is planning," the source says. "This is a major land-use change. . . . None of the plans ever contemplated this level of industrial use at this scale."

As a result, project developers appear to be picking some locations based on few criteria besides flatness and size, the source says.

One of the state sources says regulators are trying to address these problems in part by targeting certain appropriate tracts with clusters of solar and other renewable energy projects, to help minimize impacts and avoid sprawling

the projects across even greater acreage.

In addition, the state and federal agencies are helping to advance the "California Desert Renewable Energy Conservation Plan," which aims to evaluate the cumulative impacts of renewable energy development in the desert and plan for the conservation of plants and animals.

While these efforts are laudable and necessary, the CBD source says they should be completed before the state and federal governments rush to approve permits for large solar and other renewable energy projects in the desert.

"Our main concern is that the planning was not in place and now it is lagging years behind these individual projects, and the projects themselves will probably undermine any planning efforts," the CBD source says. "The environmental reviews are not adequate . . . and a lot of [the projects] are poorly sited."

If California and DOI officials fully permit some of the projects by the end of the year, it is unclear whether they will be legally challenged by CBD or other environmental and conservation groups under CEQA or NEPA. The CBD source declines to speculate on possible litigation, but adds: "The environmental community and particularly [CBD] have some strong concerns about the siting of these projects and the adequacy of the environmental reviews to date."

One of the state officials acknowledges the potential pushback from environmental groups, but says both CEQA and NEPA are going to be fulfilled before any permits are approved. And if there are no feasible mitigation measures to offset a project's impacts, it will not be approved, the official says.

"There is a lot of diversity in the environmental community -- far be it for me to say what every group will do," the official says, regarding the potential for legal challenges. "Even each Sierra Club chapter seems to have a different view on things."