



November 26, 2013

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Delivered via email to: [thua@planning.lacounty.gov](mailto:thua@planning.lacounty.gov)

RE: Los Angeles County Draft Renewable Energy Ordinance

Dear Ms. Hua:

Thank you for the opportunity to provide stakeholder comments for Los Angeles County's (County) Draft Renewable Energy Ordinance (Draft Ordinance) which is being prepared under a grant from the California Energy Commission (CEC). These comments are submitted on behalf of Defenders of Wildlife (Defenders) and our more than one million members and supporters in the United States - 200,000 of which reside in California.

Defenders is dedicated to protecting all wild animals and plants in their natural communities. To that end, Defenders employs science, public education and participation, media, legislative advocacy, litigation, and proactive on-the-ground solutions in order to prevent the extinction of species, associated loss of biological diversity, habitat alteration, and destruction.

Defenders strongly supports the emission reduction goals found in the Global Warming Solutions Act of 2006 (AB 32), including the development of renewable energy in California. However, we urge that in seeking to meet our renewable energy portfolio standard in California, project proponents design their projects in the most sustainable manner possible. This is essential to ensure that project approval moves forward expeditiously and in a manner that does not sacrifice our fragile landscapes and wildlife in the rush to meet our renewable energy goals.

As we transition toward a clean energy future, it is imperative for our future and the future of our wild places and wildlife that we strike a balance between addressing the near term impact of industrial-scale solar development with the long-term impacts of climate change on our biological diversity, fish and wildlife habitat, and natural landscapes. To ensure that the proper balance is achieved, we need smart planning for renewable power that avoids and minimizes adverse impacts on wildlife and lands with known high-resource values.

Defenders strongly supports planning for renewable energy development and development of policies which incentivize "Smart from the Start" renewable energy projects. We are pleased the County is working with the CEC to plan for renewable energy development within its jurisdiction.

#### **Smart from the Start**

As part of Defenders' work on renewable energy planning and siting policy we prepared the attached *Smart from the Start* report which is focused on incentivizing the siting of renewable energy projects in low-conflict areas and

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on impaired agricultural lands with low habitat value as an important strategy for accelerating renewable energy development and protecting vital natural resources. While the recommendations presented in the Report are based on Defenders' analysis of the opportunities and constraints for renewable energy development in the southern San Joaquin Valley, the recommendations are broadly applicable to other areas of California that are planning for renewable energy development. -- with input from government agencies, local jurisdictions, renewable energy developers, agricultural interests, the conservation community and landowners. The recommendations, which include input from government agencies, local jurisdictions, renewable energy developers, agricultural & conservation community and landowners, address five objectives:

- Address the lack of planning capacity and tools.
- Provide regional coordination.
- Improve transmission planning and capacity.
- Focus on impaired or degraded lands.
- Improve environmental review/analysis and permitting.

Although the Report is focused on the southern San Joaquin Valley, the observations and recommendations can be broadly applied to renewable energy development in Los Angeles County.

### **Technology Inclusive Planning**

The Draft Ordinance should address and provide incentives for localized distributed generation. As renewable energy technology becomes more sophisticated, the opportunities for true community based energy will expand. The Draft Ordinance should anticipate that future and encourage well-planned distributed generation and small-scale power projects. These types of projects are expected to reduce impacts to species and agricultural lands that result from large-scale remote power plants and their associated transmission facilities.

### **Desert Renewable Energy Conservation Plan**

We also recognize that the County will likely participate in the Desert Renewable Energy Conservation Plan (DRECP), and that the DRECP is an opportunity to both develop more granular information on the conservation of the unique biological resources of Los Angeles County and identify areas appropriate for renewable energy development. We understand the County is working closely with the CEC and REAT agencies of the DRECP to ensure consistency between the DRECP and final ordinance.

### **Specific Comments on Draft Ordinance**

Definitions: We recommend removing from the definition of "small-scale renewable energy system" that it provide no more than 125% of the on-site energy demand. Instead, we recommend the definition include a size limit in terms of MW (ac) (e.g. 5 MW) and specify that the system is connected to the distribution grid, not the transmission grid.

"Utility-scale renewable energy system" definition is over-inclusive and would capture many smaller projects located in the built environment or otherwise with a low probability of natural resource conflicts. Instead, we recommend the definition specify these projects are connected to the transmission grid. The definition should specify that all equipment and accessory structures related to the facility are considered a part of the "system".

Environmental Considerations: We recommend the Draft Ordinance be amended to include provisions for projects to avoid areas of high biological value. These areas include but are not limited to:

- Critical Habitat and Core Recovery Areas as designated by the U.S. Fish and Wildlife Service

- Modeled ecological linkages according the peer-reviewed, BLM-funded desert linkage study by SC Wildlands
- Los Angeles County Significant Ecological Areas (SEAs),
- Lands under conservation easement or transferred to wildlife agencies , non-governmental agencies or private parties for conservation purposes or project mitigation,
- Lands identified for conservation and areas precluded from development in current or proposed Habitat Conservation Plans or Natural Community Conservation Plans, including the Desert Renewable Energy Conservation Plan, when finalized

Additionally, we specifically recommend that wind energy facilities be sited to avoid the following areas:

- Key Raptor Areas designated by BLM
- Audubon Important Bird Areas
- Avian and bat congregation areas, including: Areas known to support significant movement of Golden eagles, such as ridges and updraft areas, high prey abundance and other foraging areas, and habitats that are used for nesting
- Areas within the historic range of the California condor that are known or projected to be used by this species as its population increases and expands
- Migratory bird and bat stopovers, corridors and wintering areas
- Bat maternity roosts and hibernacula
- Wetlands and riparian areas

Land-based Wind Energy Guidelines: We are pleased to see the Draft Ordinance reference the “California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development” (CEC and CDFG, 2007). We recommend that the Draft Ordinance also require wind energy projects to comply with the US Fish and Wildlife’s Service “Voluntary Land-based Wind Energy Guidelines” (USFWS, 2012). The federal Guidelines employ a tiered approach for assessing potential adverse effects to species of concern and their habitats and relative risk. The tiered approach provides the opportunity for evaluation and decision-making at each stage, enabling a developer to abandon or proceed with project development, or to collect additional information if required. Locations identified as high conflict between wind energy and wildlife through the tiered process of the Federal guidelines should be excluded from wind energy development.

Species-specific Recommendations: In addition to providing guidance for avoiding designated critical habitat and linkages for wildlife species, we recommend the Draft Ordinance be amended to include reference to the following protocols and guidelines for individual species.

- For **desert tortoise**, the Draft Ordinance should include reference to the protocols and guidelines for desert tortoise provided in the FWS’s Desert Tortoise Field Manual.<sup>1</sup>
- For **Mohave ground squirrel** the Draft Ordinance should encourage project developers to consult the Mohave Ground Squirrel Survey Guidelines (CA DFW, 2010) and other resources available from the Mohave Ground Squirrel Technical Advisory Group.<sup>2</sup>
- We recommend that for all wind projects that might pose a threat for **golden eagles**, the applicant meet with the US Fish and Wildlife Service at the survey stage to determine whether a golden eagle take permit is recommended, and if recommended, obtain a golden eagle take permit.

<sup>1</sup> Available online at: [http://www.fws.gov/ventura/species\\_information/protocols\\_guidelines/](http://www.fws.gov/ventura/species_information/protocols_guidelines/)

<sup>2</sup> For more information, see <http://www.dfg.ca.gov/wildlife/nongame/MGS/>

- All applicants should be encouraged to meet with the US Fish and Wildlife Service to discuss conflicts with the historic range and current occurrences of **California condor**.
- The last breeding members of **Swainson's hawk** in southern California are known to migrate, nest and forage in the Antelope Valley of Los Angeles County. The ordinance should incorporate by reference *Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California* (CEC & DFW, 2010).
- The Draft Ordinance should include a reference to protocols for determining impacts on **burrowing owl** in the Antelope Valley and mitigation guidelines that are provided in the document, *Staff Report on Burrowing Owl Mitigation* (Natural Resources Agency, 2012).
- **Desert kit fox** and **American badger** are iconic desert species protected under the State's fur-bearing mammal Title 14 of the California Code of Regulations § 460. Safeguards for relocating these animals from project sites need to be incorporated into the Draft Ordinance.

### Conclusion

Thank you for consideration of these recommendations for additions to the Draft Ordinance. If you have any questions, please call me at (760) 366-3481 or via email at [sdashiell@defenders.org](mailto:sdashiell@defenders.org).

Respectfully submitted,



Stephanie Dashiell  
California Representative  
Defenders of Wildlife

Enclosure