CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

PAUL D. THAYER, *Executive Officer*
(916) 574-1800 FAX (916) 574-1810
Relay Service From TDD Phone **1-800-735-2929**
from Voice Phone **1-800-735-2922**

Contact Phone: **(916) 574-1900**
Contact FAX: **(916) 574-1885**

July 2, 2008

File Ref: SCH# 2008064004

Linda Resseguie
Bureau of Land Management & Department of Energy
1849 C Street, N.W. MS 1000LS
Washington DC, 200240

Subject: Notice of Intent for the Programmatic EIS to Evaluate Solar Energy Development (SCH #2008064004)

Dear Ms. Resseguie:

The California State Lands Commission (Commission) staff appreciates this opportunity to provide comments on the Notice of Intent for the Programmatic Environmental Impact Statement (PEIS) to Evaluate Solar Energy Development (SCH #2008064004). The State of California and the Commission are supportive of development of alternative energy projects in California, as renewable energy resources are essential for reducing greenhouse gas emissions and reaching AB 32 (Nunez, 2006) goals; and for reaching SB 1078 (Sher, 2002) goals, which requires the State to increase the portion of electricity derived from renewable resources to 20 percent by 2017. Therefore, we are hopeful that the content and analyses presented in the PEIS will help to guide the siting, planning, alternative analyses, and permitting processes for individual projects, and thereby, decrease the amount of time needed for additional environmental review at the project-specific level.

As general background, the State of California acquired sovereign ownership of all tidelands, submerged lands, and the beds of navigable waters upon its admission to the United States in 1850. The State holds these lands for the benefit of all the people of California for statewide Public Trust purposes (waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space). The State's sovereign land interests are under the jurisdiction of the Commission. In addition, school lands were granted to the State of California under the School Land Grant of 1853. The Commission, through its State School Lands Management Program, manages approximately 469,000 acres of school lands held in fee ownership by the State and the reserved mineral interests on an additional 790,000± acres where the surfaces estates previously have been sold. In 1984, the State Legislature approved the School Land Bank Act (Act) that created the School Land Bank Fund (SLBF) and appointed the Commission as trustee of the SLBF.

Through the establishment of the Act, the Legislature directed the Commission to manage the remaining school lands to provide an economic base for support of the public school system. The Commission is responsible for developing school lands into a permanent and productive resource base for revenue generating purposes.

The use of any sovereign or school lands for development of solar energy requires that the applicant first obtain a lease from the Commission. Based on the information and maps provided during your scoping meeting on June 25, 2008, it is likely that school lands parcels lie within proposed solar project areas. Before the Commission can issue any lease, permit, or other entitlement for use of State lands, review for compliance with the California Environmental Quality Act (CEQA) must be completed. The terms of CEQA may be found in the California Public Resources Code (PRC), Section 21000 et seq., and in the State CEQA Guidelines, California Code of Regulation (CCR), Title 14, Section 15000 et seq. For the majority of projects that involve lands under the jurisdiction of the Commission, the Commission is the CEQA Lead Agency; and other occasions, the Commission may act as a Responsible and/or Trustee Agency under CEQA. Because of our CEQA responsibility, we are currently in the process of developing a Memorandum of Understanding and Confidentiality Agreement between the U.S. Department of The Interior, Bureau of Land Management (BLM) California Desert District, and the Commission concerning jointly prepared environmental documents for currently proposed projects.

While we recognize that the PEIS will programmatically address solar development across six western states (California, Arizona, Utah, Colorado, Nevada, and New Mexico), we also believe that with a few adjustments to the PEIS document you could also expedite projects that involve adjoining California's school lands, i.e., those that will be subject to CEQA. NEPA requires that an EIS be integrated with related environmental review and consultations to the fullest extent. State agencies are encouraged to use NEPA documents to replace CEQA documents if the NEPA document complies with CEQA (CCR section 15221), but we cannot rely solely on the NEPA document where it fails to meet the requirements of CEQA. The general areas of enhancement of the PEIS to allow the Commission to tier directly off the document for future project-specific analyses include:

- a clear statement within the PEIS that indicates the State's intent to use the document as a CEQA equivalent and/or to use it as the basis for preparing future environmental documents as required by CEQA;
- a discussion of state-listed threatened, endangered, sensitive, and fully-protected species, including those that qualify for analysis pursuant to CCR section 15380;
- a discussion of the threshold of significance and the criteria used to judge whether an impact is above or below that threshold (CCR section 15064(f);
- a discussion of the significant environmental effects that cannot be avoided if the proposed project is implemented (CEQA Guidelines section 15126.2(b)) and significant irreversible environmental

changes which would be caused by the proposed project should it be implemented (CEQA Guidelines section 15126.2(c));

- a discussion of the effects not found to be significant (CEQA Guidelines section 15128);
- a discussion of feasible mitigation measures for each significant impact pursuant to CCR section 15126.4(a);
- a discussion of cumulative impacts (CEQA Guidelines section 15130);
- an analysis of growth-inducing impacts as a separate section in the PEIS pursuant to CCR section 15126.2(d);
- a greenhouse gas analysis per State of California Assembly Bill 32 (Nunez, 2006);
- a discussion that identifies, in general, those state parcels subject to the solar development as identified in the PEIS; and
- an increased public notice and circulation program as required by CEQA (CCR section 15225).

It will also be important for the purposes of tiering off the PEIR, that the cumulative analysis address reasonably foreseeable projects outside of BLM's jurisdiction. The Commission's staff will continue to work with you during the scoping and review of the PEIS, as staff time allows. We are unable, with our current project workload and with current staffing levels to participate as a cooperating agency, as described by NEPA, at this time. If you have any questions regarding leasing or jurisdictional issues, please contact Mr. Jim Porter at (916) 574-1865 or via email at porterj@slc.ca.gov. If you have questions regarding environmental review or analysis, please contact me at (916) 574-1880 or via email at newtong@slc.ca.gov.

Sincerely,

Gail Newton, Chief
Division of Environmental Planning
and Management

cc: Jim Porter, CSLC
Kevin Hunting, DFG
Duane Marti, BLM
Jim Bartridge, CEC
Scott Morgan, OPR