



The Honorable Jeff Bingaman
United States Senate
Washington, DC 20510

May 20, 2010

Chairman Bingaman,

On behalf of the more than 1.3 million members and supporters of the Sierra Club, I am writing to thank you for holding a legislative hearing on S. 2921. This bill is at the center of the ongoing conversation about balancing conservation of the California desert and appropriate renewable energy development.

Sierra Club commends Senator Feinstein for her dedication to protecting the California desert and for her work to bring together many divergent interests and views to craft S. 2921, the California Desert Protection Act of 2010. This bill represents an important first step towards achieving balance between the protection of public lands and wildlife in the desert and the pressing need for renewable energy development to address the challenge of climate change. While the Sierra Club supports Senator Feinstein's goals and many of the bill elements, we continue to have concerns with S.2921, as it is currently written.

Balancing Renewable Energy Development and Land Conservation in a Warming World:

For more than 100 years, Sierra Club members and activists have worked to protect the California desert from the traditional threats of development, pollution, and extractive industries. More recently, we have worked to protect the fragile desert ecosystems from a dramatic increase in off-road vehicle abuse. Today, the California desert is also threatened by the impacts of climate change. In the face of the unprecedented threats posed by global warming to our natural resources, public health, and local communities we need to develop clean renewable energy as quickly as possible. America's treasured landscapes, natural resources, wildlands and wildlife are already suffering the effects of global warming.

However, we must not sacrifice special landscapes or important wildlife habitat in the rush to combat climate change. Instead, we need a renewable energy program that ensures that necessary renewable energy development takes place in areas inventoried and identified as appropriate for development while avoiding, minimizing and mitigating impacts; and that allows land managers to learn from and adapt to experience gained in the permitting and operation of renewable energy projects.

S. 2921 – The California Desert Protection Act of 2010:

Sierra Club strongly supports the wilderness designations, wild and scenic rivers designations and the National Park expansions found in Title I of S.2921. The bill represents a good opportunity to preserve some of the California desert's most spectacular scenery, from rugged mountains and hidden springs to tranquil desert washes and Joshua tree woodlands. The bill will designate approximately 371,000 acres of

wilderness from the Avawatz Mountains near Death Valley to Milpitas Wash, the largest Sonoran Desert woodland in North America. It will also create two new national monuments, the Mojave Trails National Monument and the Sand to Snow National Monument, expand Joshua Tree and Death Valley National Parks and the Mojave National Preserve, and protect important free-flowing rivers like the Amargosa River and Deep Creek as Wild and Scenic Rivers.

Sierra Club also strongly supports several provisions included in Title II. The bill aims to clarify the BLM's solar and wind energy permitting processes and includes efforts to improve permitting of wind and solar energy projects on public and private lands. The bill recognizes the need for additional policy, guidance, and procedures for focusing federal resources on the most economically and environmentally viable renewable energy development proposals. In addition, the bill includes a strong provision that reinvests new revenues in important land acquisition programs.

While we are supportive of much of the bill, we continue to have some concerns, and look forward to working closely with Senator Feinstein and the Committee staff to make improvements to the bill. Specifically, Sierra Club's remaining concerns with S. 2921 include:

Title I

OHV Recreation Areas.

Sierra Club strongly opposes the designation of the proposed OHV Recreation Areas in Title I.

- Title I would designate five 'Off-Highway Vehicle Recreation Areas' encompassing more than 400,000 acres. While these areas are currently used for such purposes, we see no reason to tie the hands of future land managers in requiring that these lands be permanently focused on this destructive use.
- We believe strongly that designating large areas of public land, for a single type of destructive recreation, is bad public policy. First, it assumes that the demand for such recreation will continue for the foreseeable future. Second, it assures that restoration of the lands in question will not be possible regardless of future needs for other multiple uses, or for habitat protection as a result of climate change.
- We also worry that this provision will set a dangerous precedent, which will significantly increase the pressure from OHV groups for such designations in any new public lands bills, not just in California but nationwide.
 - Sec 1801 (f), also requires that there be a study of possible *expansion* of all four of these OHV recreation areas. There are limitations including not exceeding the current acres administratively designated for OHV use in the CDCA, and excluding areas needed for conservation or renewable energy development or transmission. However, the provision still opens the door for including even more acreage in this *permanent*, harmful, single-use OHV system of designated management areas.

Cady Mountains WSA release.

Sierra Club opposes the release of the Cady Mountains WSA (Sec 1503 (b)(1)), the release of the Soda Mountains WSA, and the exclusion of the Conglomerate Mesa area from wilderness designation.

- The Cady Mountains are included in the Mojave Trails National Monument boundaries. However, the monument management language would leave this area at risk from new utility corridors and motorized vehicle routes. Preferably, we would like to see this area designated as wilderness or otherwise protected from potential negative impacts.

Title II

Renewable energy permitting process.

Sierra Club would like to see the bill's tight deadlines in Section 202 relaxed.

- We would prefer a provision requiring the Secretary to establish achievable deadlines and report to Congress on the effectiveness of those deadlines once established.
- Additionally, Section 202 should provide greater discretion to the Secretary to determine and update the legal framework most appropriate to govern commercial wind and solar energy production on federal lands. While this legislation seeks to enhance the current system that relies on rights-of-way grants, we are very concerned this approach would, in effect, codify an unproven system with known shortcomings.

Categorical exclusion of wind and solar testing facilities.

Sierra Club has long opposed attempts to legislate categorical exclusions.

- The Interior Department has broad discretion under NEPA to establish administrative CEs where appropriate, including in connection with proposed renewable energy activities. Section 207 should be removed as it is unwarranted and unnecessary.

Fair market value.

The baseline metric for calculating fair market value for solar in Section 201(k)(2) should be removed, and instead the bill should clearly spell out that the agency's responsibility and discretion for determining an appropriate valuation system that ensures a fair return.

In conclusion, I would like to reiterate Sierra Club's gratitude to Chairman Bingaman and the other committee members for holding this important hearing on S. 2921. I also would like to express our appreciation to Senator Feinstein for her leadership in working to protect the California Desert. Sierra Club supports much of S. 2921, but we continue to have some remaining concerns. We look forward to working with Senator Feinstein and the other members of the Committee to make improvements to the bill, in order to offer our full support.

Thank you for your consideration,

Debbie Sease
National Campaign Director
Sierra Club