KERN COUNTY PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

Planning Commission

STAFF REPORT

Date: August 11, 2011

FILE: ZCC #2, Map #110; ZCC #2, Map #111; ZCC #8, Map #131; ZCC #9, Map #131; ZCC #5, Map #132; CUP #3, Map #131
S.D.: #2 - Scrivner

TITLE: (a) Amendment of Zoning Map No. 110, Zone Change Case No. 2; (b) Amendment of Zoning Map No. 111, Zone Change Case No. 2; (c) Amendment of Zoning Map No. 131, Zone Change Case No. 8; (d) Amendment of Zoning Map No. 131, Zone Change Case No. 9; (e) Amendment of Zoning Map No. 132, Zone Change Case No. 5; (f) Conditional Use Permit Case No. 3, Map No. 131

PROPOSAL: (a) A change in zone classification from A (Exclusive Agriculture) to A WE (Exclusive Agriculture - Wind Energy) or a more restrictive district on 372 acres in Zone Map 110; (b) A change in zone classification from A-1 MH (Limited Agriculture - Mobilehome Combining) to A WE (Exclusive Agriculture - Wind Energy) or a more restrictive district on 97 acres and to A (Exclusive Agriculture) or a more restrictive district on 543 acres in Zone Map 111; (c) A change in zone classification from A (Exclusive Agriculture) to A WE (Exclusive Agriculture - Wind Energy) or a more restrictive district on 1,903 acres and a FP (Exclusive Agriculture - Floodplain Combining) or a more restrictive district on 260 acres in Zone Map 131; (d) A change in zone classification from A (Exclusive Agriculture) to A WE (Exclusive Agriculture - Wind Energy) or a more restrictive district on 87 acres in Zone Map 131; (e) A change in zone classification from A (Exclusive Agriculture) to A WE (Exclusive Agriculture - Wind Energy) or a more restrictive district on 104 acres and A FP (Exclusive Agriculture - Floodplain Combining) or a more restrictive district on 35 acres in Zone Map 132; (f) A Conditional Use Permit to allow a temporary concrete batch plant (Section 19.12.030.G) on 4 acres in an A (Exclusive Agriculture) District

APPLICANT: North Sky River and Jawbone Wind Energy Project (PP10282 and PP11229)

PROJECT SIZE: 13,535 acres

LOCATION: Thirteen miles north of the intersection of Highway 58 and Highway 14, directly south and east of the intersection of Kelso Valley Road and Jawbone Canyon Road, 6 1/2 miles east of the community of Twin Oaks and 8 miles west of Cantil, in eastern Kern County

GENERAL PLAN DESIGNATION: 8.3 (Extensive Agriculture); 8.3/2.4 (Extensive Agriculture - Steep Slope); 8.3/2.5 (Extensive Agriculture - Flood Hazard)

SURROUNDING LAND USE/ZONING: North - Undeveloped land and Kelso Valley private airstrip/RF (Recreation-Forestry) and A-1 MH; East - Undeveloped land and BLM off highway vehicle park/A; South - Undeveloped land/A, A WE, and E (20) RS (Estate - 20 acres - Residential Suburban Combining); West - Undeveloped land and scattered cabins/A

PROJECT ANALYSIS: The project consists of two separate project sites, with applications proposed by two separate project proponents. Site 1 consists of 12,781 acres, and is the North Sky River Wind
Energy Project by North Sky River Energy, LLC. Site 2 consists of 754 acres, and is the Jawbone Wind Energy Project by Jawbone Wind Energy, LLC. These applications have been presented and analyzed collectively in this staff report and in the Final Environmental Impact Report prepared for this project. The two sites are referred to as "the project." However, as with other projects which involve multiple discretionary actions, your Commission may consider and take action on each zone change request separately.

Overview of Project and Surrounding Area

The combined project consists of 29 privately-owned parcels totaling 13,535 acres located in the unincorporated area of eastern Kern County. The project proponents are proposing to construct and operate up to 116 wind turbine generators, which would generate up to 339 megawatts (MW) of energy. The acreages of each project are noted in Table 1, Project Statistics, below. The project is located within the area known as Kelso Valley and within the unofficial boundaries of the Tehachapi Wind Resource Area (TWRA). The unincorporated community of Twin Oaks is located six miles west of the project site, and the unincorporated community of Cantil is located eight miles to the east. The western-most edge of California City is located nine miles southeast and the unincorporated community of Mojave is located 14 miles south.

The project is located at the base of the Tehachapi and Piute mountain ranges within the Sierra Nevada, directly west of the Fremont Valley in the Western Mojave Desert. The Tehachapi Mountains are one of California’s largest areas for wind energy development, responsible for about 40 percent of the State’s total wind-generated power. Elevations range between 2,600 feet above mean sea level. The area is rugged and woodland and desert scrub habitat types are common.

Land ownership in the vicinity of the project site is comprised of interspersed parcels of private and public lands under the jurisdiction of Kern County and federal land managed by the U.S. Bureau of Land Management (BLM) respectively. The project area has been heavily impacted by authorized and unauthorized off-highway vehicle (OHV) use and livestock grazing. The BLM’s Jawbone Off-highway Vehicle Open Area is located off Jawbone Canyon Road, to the east of the project boundary. Existing development in the area includes rural access roads, producing and nonproducing water wells, cattle ranching and maintenance facilities, few residential units, and existing meteorological towers (met towers). The Pacific Crest National Scenic Trail (PCT) is located roughly one mile to the west of the project site and is not within the project boundary.

As stated above, residences exist near the proposed project site; however, none of these residences are located within the project boundary. Two residences are located in Kelso Valley, within 1/2 mile west of the proposed project site. The closest residence is 3,215 feet west from the nearest proposed WE zone change request area.

The closest airport to the proposed project site is the Kelso Valley private airstrip located 1.2 miles northwest of the project site boundary. On July 28, 2011, your Commission approved a conditional use permit (Conditional Use Permit 4, Map 111) authorizing the expansion of the legal nonconforming use to reconfigure the old runways and allow for the future redesignation of the gliderport from private use to special use. This two-runway gliderport is privately owned and is not open to the public.

Access to the project site could be obtained via either: (1) a route from the East/North which would cross publically and privately owned lands or, (2) a route from the West which would cross only privately owned lands. A map showing each access option is attached to this Staff Report.

ZCC #2, Map #110; ZCC #2, Map #111;
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The East/North access would be from Jawbone Canyon Road and Kelso Valley Road, a majority of which are paved. This public/private scenario would require 962 linear feet of new access roads on land that is owned by the BLM. This option is the preferred route because it would create the least impacts to the environment. The project proponents are currently processing a Right-of-Way (ROW) agreement with the BLM to cross the public lands.

The Western access route would utilize only private land; thereby avoiding the use of any BLM land for access. Use of this access route would entail improvements on up to 28 miles of existing access roads and construction of 2.5 miles (13,200 linear feet) of new roads through privately-owned land. This route would begin at the intersection of State Route 58 and Caliente Creek Road (via a short frontage road connection) and would follow Caliente Creek Road for 15 miles. Caliente Creek Road is an existing paved road that is narrow and winding and may require improvements to accommodate the delivery of WTG components. The route would then connect to Back Canyon Road where it would proceed west for 13 miles. The route would then follow paved Back Canyon Road for four miles and turn into an unimproved dirt road. The route would then proceed for another seven miles along the unimproved dirt road. Final connection to the project site would then require construction of up to two miles of new road to the project site. Roadways will primarily be located within the previously approved Pine Tree Wind Energy Project and the Sky River Wind Energy Project, which have already been analyzed in accordance with CEQA.

**Proposal**

The project proponents are requesting a change in zone classification to incorporate the Wind Energy (WE) Combining District to the base district on a 2,442-acre portion of the 13,535-acre project site. In addition, the project proponents are requesting incorporation of a small portion of FP (Floodplain Combining) District where necessary to address the existing Zone A flood hazard areas as delineated on the Federal Emergency Management Agency’s Digital Flood Insurance Rate Maps (DFIRM). The North Sky River project proponents are also requesting approval of a conditional use permit to allow the use of one temporary mobile concrete batch plant to provide concrete and materials for WTG, substation, and operation and maintenance building foundations. The batch plant would be located on site during construction only. The Jawbone Wind Energy project proponent proposes to coordinate with the North Sky River project proponent to utilize the temporary batch plant.

The purpose of the requested zone changes and conditional use permit is to allow for construction of up to 116 WTGs, ancillary facilities, and supporting infrastructure for a wind energy facility that would produce up to 339 MW of energy, as described in Table 1 below.

<table>
<thead>
<tr>
<th>Site</th>
<th>Name</th>
<th>Total Project (Acres)</th>
<th>Proposed WE Zoning (Acres)</th>
<th>Maximum Megawatts</th>
<th>Maximum Turbines</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site 1</td>
<td>North Sky River Wind Energy Project</td>
<td>12,781</td>
<td>2,355</td>
<td>300</td>
<td>102</td>
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<tr>
<td>Site 2</td>
<td>Jawbone Wind Energy Project</td>
<td>754</td>
<td>87</td>
<td>39</td>
<td>14</td>
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<tr>
<td>Total</td>
<td></td>
<td>13,535</td>
<td>2,442</td>
<td>339</td>
<td>116</td>
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</table>
The purpose of the WE Combining District is to promote the use of an alternative to fossil fuel generated electrical power in areas of the County that are identified to have suitable wind resources for production of commercial quantities of wind-generated electrical power. The WE Combining District contains specific development standards that apply to the associated construction and siting of wind turbines and accessory facilities in the WE Combining District. Should this project be approved, all WTG locations will be reviewed by Staff during plot plan review to ensure compliance with all required development standards. The goal of the A District is to designate areas suitable for agricultural uses, and other activities compatible with agricultural uses, and to prevent the encroachment of incompatible uses onto agricultural lands and the premature conversion of such lands to nonagricultural uses. The intent of the FP District is to protect the public health and safety and minimize property damage by designating areas that are potentially subject to flooding and by establishing reasonable restrictions on land use in such areas.

Final Environmental Impact Report

An Environmental Impact Report (EIR) was prepared for this project in accordance with California Environmental Quality Act (CEQA) Guidelines. As required by CEQA, the EIR includes appropriate review, analysis, and mitigation measures for the environmental impacts of the approval of the zone changes and conditional use permit. This Final EIR could be utilized by other permitting agencies in their capacity as Responsible and Trustee agencies under CEQA.

Staff notes that certain sections of the DEIR inadvertently stated that the project proponents are requesting a change in zone classification to incorporate the Wind Energy (WE) Combining District on 1,292 acres (1,205 acres for North Sky River and 87 acres for Jawbone) of the 13,375-acre project site. However, it should be noted that the total amount of WE acreage being proposed is 2,442 acres (2,355 acres for North Sky River and 87 acres for Jawbone). All studies that were prepared for this project analyzed a WE corridor and disturbance area greater than the proposed 2,442 acres.

To initiate the EIR process, a Notice of Preparation/Initial Study (NOP/IS) (State Clearinghouse No. 20101010799) was circulated for a 30-day public review period beginning on December 16, 2010 and ending on January 14, 2011. A scoping meeting was noticed and held on December 17, 2010. No verbal or written comments were received. Seven written comments were received in response to the circulated NOP/IS and used in the preparation of the EIR.

As required by Department procedures for processing of an EIR, an indemnification agreement has been executed by the project proponents.

Based on the analysis contained in the Initial Study and comments received in response to the NOP/IS, a Draft EIR was prepared and circulated for a 45-day public review period beginning on May 6, 2011, and ending on June 20, 2011. Over 90 copies of the Draft EIR were distributed, in addition to over 158 Notices of Availability. Sixty-one written comments were received on the Draft EIR during this public review period. As required by Section 15088 of the State CEQA Guidelines, responses to these comments were prepared and provided to the agencies and interested parties that submitted return addresses, two weeks before this Planning Commission hearing.

In accordance with State CEQA Guidelines, a Final EIR has been completed comprised of six documents:

ZCC #2, Map #110; ZCC #2, Map #111;
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• Volume 1 Draft Environmental Impact Report – Chapters 1 through 11 (May 2011)
• Volume 2 Draft Environmental Impact Report – Appendices A - D (May 2011)
• Volume 3 Draft Environmental Impact Report – Appendices E.1 (May 2011)
• Volume 4 Draft Environmental Impact Report – Appendices E.1 through E.3 (May 2011)
• Volume 5 Draft Environmental Impact Report – Appendices F.1 through L. (May 2011)
• Volume 6 Chapter 7 – Response to Comments (July 2011)

These documents have been provided to your Commission for your review and consideration.

**Effects Found to Have No Impact**

Based on the findings of the Initial Study/Notice of Preparation and the results of the scoping process, the proposed project was determined to have no impact with regard to 18 of the 80 separate impact thresholds that are included within the 15 impact categories which are analyzed in an EIR as required by CEQA. Therefore, those specific thresholds, as listed in Chapter 1 of the DEIR, were not further analyzed in the EIR prepared for the project.

**Less-than-Significant Impacts (Including Significant Impacts That Can Be Mitigated, Avoided, or Substantially Lessened)**

The EIR prepared addresses all potentially significant environmental impacts that Kern County identified during the NOP and scoping process. After further study and environmental review in the EIR, it was determined that certain impact thresholds within the 15 impact categories that are analyzed in an EIR could be reduced to a less than significant level with the incorporation of mitigation. Those specific impacts that could be mitigated to a less than significant level are listed in detail in Chapter 1 of the DEIR and are within the following impact categories:

• Cultural Resources
• Geology and Soils
• Greenhouse Gas Emissions
• Hazards and Hazardous Materials
• Hydrology and Water Quality
• Land Use and Planning
• Noise
• Public Services
• Transportation and Traffic
• Utilities and Service Systems

The Final EIR contains 83 mitigation measures to reduce significant impacts from the project and a Mitigation Measure Monitoring Program (Exhibit C) has been included for your review, and is attached to this staff report.

**Significant and Unavoidable Impacts**

**Significant and Unavoidable Project Impacts**

Section 15126.2(b) of the State CEQA Guidelines requires that an EIR describe any significant impacts, including those that can be mitigated but not reduced to less than significant. After study and environmental review in the EIR, it was determined that certain impact thresholds within the 15 impact categories that are analyzed in an EIR would have significant and unavoidable impacts after the
project complies with all regulatory, statutory, and feasible and reasonable mitigation measures. Those specific impacts that would have significant and unavoidable impacts after mitigation are listed in detail in Chapter 1 of the DEIR and are within the following impact categories:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Recreation

**Significant and Unavoidable Cumulative Impacts**

According to Section 15355 of the State CEQA Guidelines, the term cumulative impacts "...refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." Individual effects that may contribute to a cumulative impact may be from a single project or a number of separate projects. Individually, the impacts of a project may be relatively minor, but when considered along with impacts of other closely related or nearby projects, including newly proposed projects, the effects could be cumulatively significant. A list of projects used in the cumulative analysis is included in Chapter 3, Project Description, and a full discussion of all cumulative impacts for each impact is contained in Chapter 4. The following impacts were determined to have a significant and unavoidable cumulative impact that cannot be avoided after all regulatory, statutory, and feasible and reasonable mitigation measures are complied with:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Recreation

<table>
<thead>
<tr>
<th>Table 2. Summary of Significant and Unavoidable Impacts of the Project</th>
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<tr>
<td><strong>Resources</strong></td>
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<tr>
<td>Aesthetics</td>
</tr>
<tr>
<td>Resources</td>
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<td>--------------------</td>
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<tr>
<td>Air Quality</td>
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<td>Cultural</td>
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<td>Recreation</td>
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Aesthetics

Construction of the project would significantly degrade the existing visual character of the project site. The project study area is currently undergoing rapid wind power development and some population growth. As such, development in the TWRA may increase to accommodate the increasing population. Furthermore, it is expected that portions of existing vacant lands in the project vicinity, which are currently natural-appearing, will be utilized for the construction of energy developments. Implementation of this project would create additional sources of lighting and new views to hardscape features in a relatively natural landscape. With regards to visual resources, despite mitigation measures 4.4.1 through 4.4.7 which are designed to soften the aesthetic impacts and minimize lighting associated with the proposed projects, implementation of the project will fundamentally alter the current open space landscapes within the viewsheds of the proposed project and result in significant and unavoidable project and cumulative impacts.

Air Quality

Construction of the proposed project would result in emissions of the air pollutants VOCs, NOX, CO, PM10, PM2.5, and sulfur oxides. Construction emissions primarily from fuel combustion and exhaust from equipment and vehicle traffic, grading, and the use of building materials that contain VOCs (e.g., paints and lubricants), as well as fugitive dust from earth-moving activities and unpaved and paved road travel. Emissions estimates are based on project assumptions as shown in Appendix D of the EIR. As identified on page 4.3-17 of the FEIR, maximum annual construction emissions after mitigation is 7.23 tons per year for VOC/ROG, 44.08 tons per year for NOx and 203.41 tons per year for PM10. Given the fact that the construction emissions for both NOx and PM10 exceed the 25 and 15 ton per year threshold, implementation of the project would result in temporary significant impacts for construction emissions.

Operation emissions would be limited to maintenance activities and operation of the auxiliary equipment (emergency engine testing). Page 4.3-19 of the FEIR summarize the worst case daily and annual unmitigated and mitigated operation air emissions in comparison to the applicable Eastern Kern Air Pollution Control District (EKAPCD) thresholds of significance. As shown on page 4.3-19 of the FEIR, implementation of the proposed project would result in mitigated operational emissions to NOx and VOC of less than 1 ton per year. Operation of the proposed project will result in 9.72 tons per year of PM10 emissions. As mitigated, none of the operational emissions exceed identified thresholds.

Significant cumulative impacts from the project, when considered with nearby, reasonably foreseeable planned projects, would potentially occur only during project construction. The majority of project emissions would be temporary in nature during construction. If all are approved, the construction schedules for these projects could overlap. With overlapping construction schedules, there is the potential for cumulative air quality impacts. Construction emissions such as equipment and dust emissions for the cumulative projects would likely be substantially more than those related to the project, due to the relatively large size of the other proposed project within the area. Therefore, in combination with other projects, construction emissions could result in short-term emissions that would exceed Kern County significance thresholds of 25 tons per year of NOx and 15 tons per year of PM10 and would result in temporary significant and unavoidable cumulative impacts.
Biological Resources

As previously stated, implementation of the proposed project would include the construction of 116 wind turbine generators (WTG) located within the proposed 2,442 acre WE zoned district. Biological impacts associated with wind energy facilities can result from both construction and operational activities. The construction of WTGs and associated infrastructure including roads, substations, transmission lines, etc...would result in the loss of habitat for plant and wildlife species. Operation of the project would result in mortality through collision or displacement of avian and bat species utilizing the project area. Use of access roads for maintenance operations could also result in the injury or mortality of wildlife species.

A complete biological analysis regarding the proposed project was prepared by Staff and can be found in Section 4.4 (pages 4.4-1 through 4.4-122) of the FEIR. All biological studies prepared for the proposed project can be found in Appendices E.1, E.2, E.3 and E.4 of the FEIR. Based on the biological studies prepared for the project, it was determined that a total of 15 special-status plants and 41 special status wildlife species were observed or detected on site. Of particular concern were impacts related to the Mojave tarplant, the Desert tortoise, Golden eagle, Swainson’s hawk and the Willow and Southwestern willow flycatcher as these species were detected to be on-site. An additional 25 special status plant species and 28 wildlife species were not found on site during project surveys however have been identified as having a moderate to high potential to occur. In addition to impacts to specific species, implementation of the proposed project has the potential to disrupt wildlife movement and could potentially affect a known avian migration corridor in the vicinity of the project area.

Although not identified on the project site, the FEIR determined that there was a high potential for the California condor to occur on site. Most of the proposed project area supports foraging habitat, especially in areas of intensive grazing. Potential roosting habitat is located in rock outcrops and large trees such as gray pines on site. As of the time of the writing for the FEIR, five records of radio-tracked condors have been located within 10 miles of the proposed project in the last several years with the nearest one five miles to the east. The project site is located just outside the historic range for the species and U.S. Fish and Wildlife Service is concerned that as the reintroduced population grows, it is possible that the California condor could expand their foraging activities into adjacent areas with suitable foraging habitat.

Mitigation measures requiring, but not limited to, the following have been proposed to reduce impacts resulting in mortality or harm to sensitive species:

- Minimized disturbance area/disturbance avoidance practices;
- Employee training for recognition, avoidance, and reporting of sensitive species;
- Shielded/Reduced project lighting;
- Preparation of a Habitat Restoration and Re-vegetation Plan;
- Preparation of a Weed Control Plan;
- Biological monitoring during construction;
- Rare plant surveys prior to construction;
- Reduced plant surveys prior to construction;
- Reduced vehicle speed and travel;
- Limited site access;
- Preconstruction surveys for sensitive species, burrows, and/or nests;
- Bat detection monitoring;
- Un-guyed meteorological towers, if feasible;
- Avian and bat operational mortality studies;
- Research and monitoring program funding;
- Preparation of species-specific management plans;

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• Fencing standards to allow for continued species migration and foraging;
• Off-site habitat funding;
• Compliance with the Bald and Golden Eagle Protection Act;
• Condor-specific mitigation and monitoring;
• Species relocation, as appropriate.

More specifically, regarding impacts to the California condor, the project proponent shall be required to fund radio telemetry programs, condor feeding programs, or other such measures as deemed appropriate. Furthermore, to reduce potential impacts to the condor, the project proponent shall install bird flight diverters on all meteorological tower guy wires constructed as part of the project; reduce trash and microtrash on site; and avoid and immediately remediate all spills of ethylene glycol. Impacts to desert tortoise, burrowing owl, and Swainson’s hawk can be reduced through preconstruction surveys and avoidance practices, including but not limited to, the ceasing of construction activities until the impact has been avoided. Mitigation measures requiring the development of a raven management plan and desert tortoise fencing construction have also been proposed to reduce impacts to desert tortoise. Additionally, continued post-construction avian and bat mortality monitoring throughout the life of the project will further ensure that appropriate measures can be taken, as needed, to reduce impact to sensitive avian and bat species. The project proponent shall be required to provide documentation that the project is in compliance with the federal Bald and Golden Eagle Protection Act. The above-discussed mitigation measures have been included within the attached Mitigation Measure Monitoring Program (Exhibit C of this staff report).

Birds migrating through the Kelso Valley, Butterbroad Springs, and Jawbone Canyon may have the potential to collide with proposed WTGs, as discussed above. Currently available data for the project region confirm that migratory birds pass through the area; however, passage rates and directions in and out of Kelso Valley and Butterbroad Springs are poorly understood. Existing wind developments to the south and southwest of the project also pose a risk to avian migrants, although the project is situated closer to the migratory pathway. Terrestrial wildlife movement would be disrupted during construction due to avoidance of construction activities and temporary barriers to movement such as fencing. Permanent fencing would obstruct movement of many large animals during operation of the project, but small animals and even some larger ones would be able to pass under the fence. Other development projects, including wind developments and energy infrastructure within the geographic scope of this analysis, would also disrupt wildlife movement to varying degrees. For example, transmission lines would not present appreciable barriers to movement as wildlife can move around and in between towers, but existing and proposed wind developments would present an obstacle to movement because of the required fencing (individual WTGs, WTG rows, or entire projects), and would displace some larger terrestrial species.

Staff has reviewed the Draft Eagle Conservation Plan Guidance document that was issued by the United States Fish and Wildlife Service in January 2011. The purpose of this voluntary guidance document is to provide recommendations which would implement statutes pertaining to the Bald and Golden Eagle Protection Act, the Migratory Bird Treaty Act, and the Endangered Species Act. The Guidelines note that wind energy development can affect bald and golden eagles in a variety of ways; including through direct mortality through collision and through activities associated with construction and ground disturbance activities which can result in the loss of productivity at nearby nests or concentrations of eagles. Appendix E of the Guideline document includes Appendix E, which recommends several “Advanced Conservation Practices (ACP)” to reduce impacts to eagles. Staff notes that the EIR includes mitigation measures which address and include many of these recommended ACPs, as listed below:
Recommendation that the project proponent “minimize the area and intensity of disturbances during pre-construction activities, such as monitoring and site reconnaissance, as well as during construction.” MM 4.4.1 states that “Prior to the issuance of grading permits, the project proponent(s) shall minimize to the greatest extent feasible the area required for project construction and operation by grading a minimal amount of new roads, facilitating joint-use of access roads where possible, etc."

Recommendation that the project proponent “consider undertaking real-time monitoring of proximate occupied nest sites…” MM 4.4.16 requires Post-Construction Breeding Monitoring in the first, second, and third years following the initial operation of the project to demonstrate to Kern County Planning and Development Department that sensitive resident birds are compatible with operation of wind turbine generators, and that the level of incidental injury and mortality does not result in a long-term decline in sensitive resident bird species in the region. Additionally, the MM requires that the results of the monitoring be made available to regional entities involved in research related to the conservation of nesting birds. MM 4.4.17 also requires Post-Construction Avian and Bat Mortality Monitoring in the first, second, third, and fourth years following the initial operation of the project to demonstrate the level of incidental injury and mortality to populations of avian or bat species in the vicinity of the project site. The results of the Mortality Analysis shall be provided to the Kern County Planning and Community Development Department and regional entities involved in the conservation of resident and migratory avian and bat species, including United States Fish and Wildlife Service, California Department of Fish and Game, and the Audubon Society.

Recommendation that the project proponent “prioritize locating development on disturbed lands that provide minimal eagle use potential.” MM 4.1.2 states that “construction staging and lay-down areas shall be located in areas that, where feasible, are already disturbed.”

Recommendation that the project proponent “utilize existing transmission corridors and roads.” Chapter 3 of the EIR, the Project Description, states that the project proponent will utilize existing roads to the extent possible and shall utilize the existing Wilderness Transmission line to the extent possible to reduce the amount of new transmission line that would be required for the project, as discussed previously in this Staff Report.

Recommendation that the project be designed to reduce collision and electrocution. MM 4.4.18 requires that the project proponent(s) submit written documentation to the Planning and Community Development Department showing that the specified measures to reduce avian and bat impacts from turbine activities have been implemented. Those measures include siting of turbines away from the upwind sides of ridge crests, minimizing hill cuts, removing rocks (potential habitat) from the site that are unearthed during construction, graveling around tower foundations to discourage small mammals from burrowing under turbines, rodent control, and the used of MET towers that do not have guy wires and incorporate bird deterrents.

Recommendation that the project proponent select project features that minimize effects to eagles. Staff notes that the project proponent does not propose to utilize any lattice poles for wind turbines or MET towers, and that MM 4.4.18 requires that all MET towers do not have guy wires and incorporate bird deterrents.

Recommendation for avoidance of areas with high concentrations of ponds, streams or wetlands. As shown in Figure 4.4-3 of the EIR, all none of the proposed WTGs would be constructed within or immediately adjacent to a known stream, pond, or wetland.
In addition to the mitigation measures and project design components noted above, the applicant has voluntarily coordinated with the United States Fish and Wildlife Service to prepare and submit an Avian Bat Protection Plan (ABPP) to that Agency. The plan was voluntarily prepared as a good faith effort by North Sky River Energy, LLC to proactively address potential avian and bat impacts resulting from the operation of the North Sky River Wind Energy Project (NSR). The plan includes project proponent-committed measures to avoid and minimize impacts as well as conservation measures to address unavoidable impacts that may occur. The plan also includes multiple voluntary measures to assist in addressing the project impacts to avian species.

In addition to those mitigation measures which apply to the golden eagle as described above, Staff is proposing additional mitigation measures to further address golden eagle impacts, as listed below. Staff notes that provisions within CEQA allow for a Lead Agency to revise an adequate EIR by adding new information for the purposes of merely clarifying or amplifying or making insignificant modifications without being required to re-circulate EIR prior to approval (Section 15088.5). It is Staff’s belief that the revisions and additions discussed below constitute insignificant modifications that would ultimately amplify the effectiveness of the proposed mitigation by clarifying the intent of and procedures associated with the mitigation. The following mitigation is proposed:

MM 4.4-24: The project proponent(s) shall continuously comply with the following during operation of the project:

a. If unauthorized take of a federal or state threatened or endangered avian or bat species occurs; including, but not limited to the Golden Eagle, during project construction or operation, the project proponent(s) shall notify the Kern County Planning and Community Development Department, the United States Fish and Wildlife Service, and the California Department of Fish and Game within 48 hours and shall confer with each agency on the appropriate action. The project proponent(s) shall then notify the County within three days of the receipt of any written response from the States Fish and Wildlife Service and/or the California Department of Fish and Game which identifies required or recommended actions resulting from the consultation, including whether either agency requires an incidental take permit and/or deems additional requirements necessary.

b. The project proponent(s) shall continuously maintain a 500-foot no-disturbance setback zone around any active or historical golden eagle nest(s) that is identified within or within 500 feet of the project boundary.

c. If a golden eagle carcass with a band is found within the project boundary, the project proponent(s) shall promptly report the banding information to the United States Fish and Wildlife Service’s Bird Banding Laboratory and shall coordinate with the Laboratory to include any pertinent project-specific avian mortality information provided by the United States Fish, if any, in future annual monitoring reports prepared by the project proponent.

d. The project proponent(s) shall not construct, operate or utilize any batch plants, construction lay-down areas, Operation & Maintenance buildings, or parking areas within 2 miles of an active or inactive golden eagle nest.

Through the use of the WE Zone District, identified mitigation measures and the micro-siting of the wind turbines many potential impacts to biological impacts can be avoided. However, despite avoidance and other mitigation measures designed to reduce potential impact to biological resources,
implementation of the project will ultimately place wind turbine generators in areas utilized by sensitive species. Staff concludes the existing mitigation measures in the EIR, along with the addition of the mitigation measures as described above, address the project's potential impact to the golden eagle to the extent possible. However, Staff notes that as identified in the EIR, the project's impacts to this species would continue to be significant and unavoidable with mitigation. As such, implementation of the project will result in project specific and cumulative impacts to biological resources.

Cultural Resources

Cultural resource inventories conducted within the project area in resulted in the identification of 93 potential cultural sensitive sites. As previously specified, implementation of the proposed project would result in the rezoning to incorporate the WE Combining Zone District on 2,442 acres. Of the 93 identified sites, 35 are located within areas that have the potential to be affected by the proposed project. Through specific impacts cannot be precisely identified until the final locations of wind turbines, access roads, and other facilities are determined and detailed engineering plans are completed, it is anticipated that direct impacts can be avoided through minor design modifications typical of final micro-sitting of the proposed facilities.

Given the scope of the project's proposed construction of wind turbine generators, as well as of temporary and permanent supporting facilities within the project area, even with full implementation of the preventative measures outlined above, it is unlikely that the project's impacts to cultural resources can be avoided or fully mitigated. Implementation of Mitigation Measure (MM) 4.5-1 through MM 4.5.10 of the FEIR would reduce impacts to archaeological resources; however, if unknown cultural resources are inadvertently destroyed during construction, or if testing and/or data recovery is required, impacts would remain significant because mitigated data recovery can itself be destructive. As such, implementation of the proposed project would result in site specific and cumulative significant and unavoidable impacts to cultural resources.

Recreation Resources

Although the proposed project would not result in construction or expansion of any recreational facilities, construction of the proposed project would alter the existing character of the project site, and therefore may affect recreational uses of the site as a result of the altered viewsheild, increased noise, and project construction activities along Jawbone Canyon Road. Additionally, scattered red lights required by the Federal Aviation Administration (FAA) on WTGs would alter the relatively unobstructed night sky, resulting in a significant aesthetic impact for campers or night hikers. Site preparation and construction activities would temporarily increase noise levels, disrupting the level of sound that trail users are accustomed to hearing. Noise-generating construction activities associated with transmission lines and transmission reinforcement, primarily from heavy-duty construction equipment, would be limited to daylight hours Monday through Saturday.

While project components would be located outside of the Jawbone OHV Area, access to the project site for construction and operational traffic on Jawbone Canyon Road would affect recreational use of the Jawbone OHV Area. Jawbone Canyon Road through the Open Area is a rural road with little signage or other traffic control features. Off-road vehicle users of all ages frequent the open area. During the 10 to 12 month construction period, a peak construction workforce of up to 180 workers as well as heavy construction equipment and material traveling to the project site would result in a substantially increased hazard for OHV users, particularly during high recreation use periods. As operational traffic would be largely limited to the 32 full-time project personnel, 20 for the North Sky River Wind Energy Project and
12 for the Jawbone Wind Energy Project, this would not represent a substantial increase in traffic on Jawbone Canyon Road and would not pose a substantially increased hazard to OHV users. Therefore, operation would have little effect on the Jawbone Canyon Road area. The impacts associated with construction traffic on Jawbone Canyon OHV use, however, would be a significant, though temporary and intermittent impact. Mitigation Measure (MM) 4.16-1 would require limitations to construction traffic on holidays, such as New Years, Memorial Day, Labor Day, Thanksgiving, and Christmas, Saturday/Sunday travel, and during times of darkness. MM 4.16-1 would also require warning signage, consultation with the Friends of Jawbone and other recreation groups, the BLM, the Kern County Roads Department, and public information and notification of the traffic plan.

The Pacific Crest Trail (PCT) is designated as a National Scenic Trail and parallels the western side of the project boundary at a distance ranging from 5.5 miles at the northwest corner of the site to 0.8 miles at the southwest corner of the site. Although the nearest proposed WTG is located 1.7 miles away, implementation of the proposed project would result in impacts to the PCT as the proposed wind turbines would alter the existing viewscape from the trail.

Based on the information above, when considered on a project specific basis and cumulative with other proposed projects located within the Tehachapi Wind Resources Area, impacts are considered significant and unavoidable.

**Applicant’s Project Objectives**

North Sky River Energy, LLC has defined seven objectives for the proposed project:

- Make a significant contribution toward achieving the California RPS goal that 33 percent of electricity be generated by renewable energy by 2020;
- Maximize energy production and economic viability by locating the project in an area with optimal wind and solar resources and terrain characteristics;
- Optimize the use of underused and undeveloped land within the Tehachapi Wind Resources Area;
- Increase local short-term and long-term employment opportunities;
- Reduce greenhouse gas emissions by providing a long-term alternative means of energy to conventional fossil fuels;
- Use state-of-the-art WTG technology to achieve increased performance, lower cost, higher reliability, and longer service life; and
- Produce electricity without the need for large amounts of water in relation to conventional means (1/600 as much water per unit of electricity produced compared with nuclear and 1/500 as much as coal).

Jawbone Wind Energy, LLC has defined nine objectives for the proposed project:

- Provide a 39-MW project generating 100,000 MWh per year of electricity, in California, through optimization of renewable energy sources;
- Supply renewable energy that will help the State of California meet its goals by reducing reliance on energy generated from fossil fuels;
- Provide property tax revenues to Kern County;
- Assist Kern County in promoting its role as the State’s leading renewable energy producer;
- Provide green jobs to Kern County and the State of California;
- Realize the full potential of the wind resource;
• Result in an economically feasible renewable energy project that would be developed through commercially available financing;
• Supply clean, safe, renewable energy for 9,000 homes; and
• Support California’s goal of 33 percent renewable energy generation by 2020.

Alternatives

CEQA requires an EIR to assess a reasonable range of project alternatives that would achieve the project objectives with less environmental impact than the proposed project. The alternatives to be considered should include those that offer substantial environmental advantages over the proposed project and that may feasibly be accomplished considering the various economic, environmental, social, technological, and legal factors.

The Final EIR, Volume 1 – Chapter 6 discusses four analyzed alternatives to the project.

• Alternative A: No Project Alternative;
• Alternative B: Relocate to San Gorgonio Wind Resources Area;
• Alternative C: Reduce Project Size;

The discussion in the Final EIR presents a description of each alternative and focuses on the degree to which the identified alternative might accomplish the project objectives and would reduce one or more of the identified significant impacts to: aesthetics, air quality, biological resources, cultural resources and recreational resources.

Environmentally Superior Alternative

An EIR must identify the environmentally superior alternative to the proposed project. Alternative A, the No Project Alternative, would be environmentally superior to the proposed project on the basis of the minimization or avoidance of physical environmental impacts. The CEQA Guidelines state that if the no project alternative is found to be environmentally superior, "the EIR shall also identify an environmentally superior alternative among the other alternatives" (CEQA Guidelines, Section 15126.6(c)(2)).

Due to the reduction of impacts to aesthetics, biological resources, and cultural resources achieved by Alternative C (Reduced Project Size), it is considered the environmentally superior alternative. Alternative C reduces the significant and unavoidable impacts of the proposed project, although, not to acceptable levels, and has less severe significant impacts as compared to Alternative B. As described above, Alternative C would achieve most of the proposed project’s objectives.

Findings (Exhibit A and B)

Written findings and a brief explanation of the rationales for each finding in accordance with Section 15091 of the CEQA Guidelines have been included for each significant and insignificant impact as identified in the Final EIR. The occurrence of significant environmental effects that cannot be avoided after all reasonable and feasible mitigation have been adopted for aesthetics, air quality, and biological impacts are included in the Statement of Overriding Considerations. The Statement of Overriding Considerations in compliance with State CEQA Guidelines Section 15093 includes a discussion of the benefits of the project that provides a basis for the recommended approval of the project despite the adverse environmental effects that could and/or will occur. A Mitigation Measure Monitoring Program has been prepared and is attached for your review and consideration as Exhibit C.
Public Comments on the Draft EIR – Response to Comments (RTC)

Staff received 61 written comments on the Draft EIR from State/Local agencies and from the general public. These comments and responses have been provided to your Commission as Volume 6, Chapter 7 Response to Comments (RTC), of the Final EIR. A complete list of the names of each commenter is provided on page 7-1 of Chapter 7 of the EIR. Upon preparation of the Chapter 7, Response to Comments, Staff has identified additional text clarifications to the environmental document. These proposed changes are considered minor and do not change any conclusions identified in the analysis. Below is a brief overview of several comments/concerns raised regarding the project:

A number of comments noted that the Kelso Valley is a documented avian migration corridor and that the project site is located directly along the concentrated migratory path between the Kelso Creek and Kern River areas. With regard to the project site lying within a focused migration route, one full-year of avian studies was conducted on the site which identified an area in the northeast portion of the site that experiences a high passage rate indicative of a spring migratory corridor. The observations identified high passage rates that were occurring within a narrow geographic area as opposed to the entire site, and avian activity was variable between days during the migratory period. High passage rates in the northeast portion of the project were not observed during fall migration. Mitigation has been included to lessen the impacts to avian species including a minimum 500 ft setback from all riparian habitat; however as stated in the FEIR, impacts would remain significant and unavoidable. Statements were also made that meteorological (met) towers should be free-standing, without guy wires, in order to minimize avian fatalities. Staff would like to note that the project’s permanent met towers will be free-standing un-guyed towers.

Concerns were raised that the project would adversely affect California condor recovery due to fatal collisions with turbines and degradation of habitat. Statements were made that habitat on and surrounding the project site is highly suitable to condors and condors will utilize the project area in the near future. Recommendations were made that the EIR include species-specific avoidance measures, noting that existing mitigation measures would not substantially reduce the potential for take. Staff notes that the FEIR stated that condors were known from the region historically and could potentially use areas in and near the project in the future, although the extent to which condors would use the project area is unknown. As of March 31, 2009, there are 322 California condors in the world population, including 150 in captivity and 172 in the wild. The wild population includes 86 in central and southern California of which 40 currently inhabit southern California. The remaining wild population includes 15 birds in Baja California and 71 in Arizona.

The Final EIR analysis of the condor includes a background discussion and a discussion of methods used to assess condor occurrence within the project site. Potential impacts are considered in the Final EIR and include an analysis of condor foraging and habitat use and ongoing threats, including lead poisoning, microtrash and habituation.

Data collection over the last seven years (2002 through 2008) indicates that the movements of most birds during this period were strongly regulated by the availability of food at known predictable locations, primarily Hopper Mountain and Bitter Creek National Wildlife Refuges (NWRs) located over 60 miles miles from the project site.

Since their re-introduction into the wild, California condor populations have been affected by collisions or electrocution with power lines, high voltage transmission lines, and transmission towers. At least
seven individuals were killed by collisions between 1988 and 1999, and collisions remain a viable threat to released condors. Historically, condors typically did not perch on utility towers or poles of any kind. However, many captive-bred and released condors perch regularly on utility towers at some locations. It is noted that the requested WE (Wind Energy Combining) zone district requires that all on-site transmission lines between WTGs be buried underground. This requirement assists in reducing the impact to the condor.

Staff concludes that the potential for condors to collide with wind turbines was fully disclosed in the FEIR, and mitigation to reduce the risk of project implementation to this species has been included. However, as stated, mitigation cannot completely eliminate the risk of impacts to this species through collisions with WTGs, and project impacts to condors would remain significant and unavoidable.

Concerns were raised regarding potential golden eagle death as a result of the project. Staff notes the DEIR concluded that impacts to golden eagles could be significant. Mitigation proposed includes MM 4.4-3, 4.4-4, 4.4-5, 4.4-12, 4.4-15, 4.4-17, 4.4-18, 4.4-19, 4.4-20, and 4.4-22 would reduce impacts to golden eagles but not below a level of significance. With regard the Bald and Golden Eagle Act, the project proponent shall comply with all state and federal regulation. Therefore, it is the responsibility of the project proponent(s) to consult with the USFWS regarding take permits for golden eagles; however, it is noted that the EIR contains mitigation which requires that the project proponent comply with this act. Additionally, Staff has included additional mitigation measures as described above to address the Golden Eagle.

Concerns were raised that the project site is located within a "concentrated bat migratory route" and recommends were made to reduce bat fatalities resulting by curtailing turbine operations from dawn to dusk when wind speeds are less than 5.5 meters per second. The Chapter 7 Response to Comments concluded that there is currently not enough data to determine whether or not a focused bat migration route occurs in the area. However, impacts to bats from collisions with turbines is considered significant. MM 4.4-20 was clarified to reduce significant impacts to migrating bats, should they occur. Staff noted that should it be demonstrated that a disproportionately high number of bat fatalities are occurring near identifiable WTGs, certain operational adjustments could reduce impacts to bats for a project on this site. Mitigation has been provided for an option of adjusting the operation of the targeted WTGs to require them to activate at wind speeds greater than 4.5 meters per second. Concerners were also expressed that the surveys required under MM 4.4-13 would not substantially reduce impacts to bats and suggested that all potential roosts on and adjacent to the project site be surveyed and site-specific mitigation should be formulated prior to project approval. Staff noted that this process would not be feasible given the sheer size of the project area (over 13,500 acres), the abundance of rock outcrops and large trees that could support both solitary and communal species, and the steep inaccessible terrain in many areas of the project that would not be developed.

Concerns were raised regarding the project's compatibility with the Kelso Valley, which currently existed as a legal non-conforming private glider port, at the time of the circulation of the DEIR. On July 28, 2011, your Commission approved CUP 4, Map 110 to expand the Kelso Valley Airport and authorize new runways that had previously been constructed. During the processing of the CUP request, Staff reviewed the compatibility of the Kelso Valley Airport with existing and planned uses within the TWRA and concluded that the two uses can co-exist based upon the existence of other aviation facilities in proximity to wind turbines in the greater Tehachapi area. Staff noted that in establishing an airport, the airport does not acquire ownership to the surrounding airspace. The Federal Aviation Administration (FAA) makes airspace determinations for airports. In doing so the FAA considers matters such as the effect the proposal would have on existing or planned traffic patterns of neighboring airports, the effect it would have on the existing airspace structure and projected programs.
of the FAA, the effects it would have on the safety of persons/property on the ground, and the effects that existing or proposed manmade objects (on file with the FAA) and known natural objects within the affected area would have on the airport proposal. Operation of extended uses at the Kelso Valley Airport would require the applicant to obtain the requisite approvals from the FAA prior to commencement of operation. Additionally, as discussed in FEIR Section 4.16 (Transportation and Traffic), this existing private aviation facility was considered in the analysis and the implementation of DEIR Mitigation Measure (MM) 4.8-8, as described in Section 4.8 (Hazards and Hazardous Materials). MM 4.8-8 would require that the project proponent file a form 7460-1, Notification of Proposed Construction or Alteration, with the FAA for each WTG, met tower, transmission line tower and construction crane meeting the FAA 7460 requirements for a determination of no hazard to air navigation. If the FAA determines that the project would result in a potential obstruction unless reduced to a specified height, the project proponents would be required to work with the FAA to resolve any adverse effects on aeronautical operations. This mitigation measure would ensure less than significant impacts to existing aviation facilities and airspace use. The Federal Aviation Administration makes the final determination on safety issues related to flight hazard.

Concerns were raised that the DEIR violates CEQA by taking a "piecemeal" approach to the project and that the EIR should describe all components of the project, including those located on federal lands. With regard to the assertion about a piecemeal approach, Staff notes page 3-1 of the Draft EIR describes the actions that could take place on federal land include portions of access roads, underground transmission collector lines, and portions of an overhead generation-tie (gen-tie) line. The BLM is preparing an Environmental Assessment in compliance with NEPA for project infrastructure proposed to be constructed on BLM land. The project as proposed could be built solely on private land.

Public Comments Received After Preparation of RTC

Staff has notified all affected agencies, County departments, and property owners within 1,000 feet of the project site of this project. In response to the public notice for this hearing, Staff received eight comment letters.

A comment was received from Keith Axelson, a resident of the Kelso Valley area. The letter states concerns with the project’s impacts on avian species and the Kelso Valley Airport. Staff notes that the concerns were addressed in the Response to Comments of the EIR and as noted above.

A comment was received from Penny Melko, a resident of the Sand Canyon area. Ms. Melko states that she disagrees with the applicant’s proposal to utilize and upgrade the existing Wilderness Transmission line and requests that all transmission equipment be buried underground through Sand Canyon. Ms. Melko also states that she is opposed to any widening of the existing road which runs parallel to the transmission line and requests information on the environmental analysis of the Wilderness Transmission Line upgrade. Staff notes that the proposed upgrade to the Wilderness Transmission line only includes a small portion of the line and will not affect Ms. Melko’s property or the road which runs parallel to the line. As noted in the FEIR, the upgrade/reinforcement would simply include the construction of a new 1,000-foot-long line to connect the existing Wilderness transmission line to the existing Highwind Substation located on the south side of Highway 58. All remaining portions of the existing Wilderness Transmission line, including those portions which run through Sand Canyon, would remain untouched and no other system upgrades are proposed. Additionally, the project proponent does not propose to make physical improvements to the County road that runs parallel to portions of the Wilderness Transmission line. The impacts associated with the construction of a new 1,000-foot-long interconnection line between the existing Highwind
substation and the existing Wilderness Transmission line would be minimal and were analyzed by the DEIR as noted above. Staff notes that no additional analysis is required. With regard to Ms. Melko’s request that all transmission equipment be buried underground, Staff notes that the WE (Wind Energy) District requires that all internal lines between WTGs be placed underground. However, off-site transmission lines outside of metro-Bakersfield are permitted to be constructed above-ground, as with any other utility such as phone lines, electrical lines, etc. Additionally, because the proposed upgrade to the Wilderness Transmission line will not affect any of the existing transmission line, the project will not result in any increased impacts to Ms. Melko or Sand Canyon residents from the existing overhead transmission line.

A comment was received from Arnold and Emmy Cattani, residents and owners of a cattle ranch in the Twin Oaks area. The Cattanis expressed opposition to the project because they feel that it could undermine the viability of ranching and fragment migration routes for birds and wildlife. The Cattanis stated that wind development should be contained to those areas where there is already existing wind development in order to maintain the rural ranching nature of the Twin Oaks area. Staff notes that the Response to Comments addressed grazing issues as it relates to the project. As noted in the Response to Comments, upon further review of the facts made available during the public review of the DEIR, changes have been made to the text of the FEIR to acknowledge that grazing practices are compatible with the project. Staff also notes that the project proponent proposed to utilize existing on-site roads to the extent possible with necessary upgrades to accommodate the delivery of wind turbine equipment. However, after the completion of construction, the roads will be narrowed again to the extent feasible such that they are returned to rural roads that are utilized for low-traffic maintenance activities during project operation. It is Staff’s opinion that the operation of the project will not affect the ability of the land to continue to be grazed. With regard to the project’s potential impacts to wildlife, biological issues have been analyzed and discussed extensively in both the DEIR that was circulated to the public and in the Response to Comments, which was recently prepared. As noted in the Response to Comments, “based on the results of the mortality monitoring at the adjacent wind energy development, the fact that the project site contains generally similar habitats in addition to an extensive riparian corridor, and the project site’s proximity to a known avian migration corridor and stopover, it is the determination of the Lead Agency that the project would pose a high risk to migrating and resident bird and bat species, as already noted in the FEIR.” Staff has acknowledged that the project may have significant and unavoidable impacts to certain wildlife species, as discussed previously in this report. Mitigation measures have been proposed to reduce the impacts to wildlife species; however, these impacts have been identified in the Statement of Overriding Considerations as impacts that would be significant and unavoidable if the project were to be approved.

A comment was received from the Kern Audubon Society which stated that a DEIR has not been prepared for the project and that it is premature to have a zone change hearing. Staff notes that a FEIR has in fact been prepared which includes the requested field work and CEQA analysis.

A comment was received from Mark McGuire in opposition to the project due to potential environmental damage and blight. Staff notes that the environmental and aesthetics impacts of the project are analyzed in the FEIR.

A comment was received from Joshua Boswell, a property owner in the Kelso Valley area. Mr. Boswell notes that he had submitted previous comments in response to the circulation of the DEIR. Mr. Boswell stated that there is a discrepancy in the DEIR regarding the acreage of WE (Wind Energy Combining) zoning being requested by the applicant. Staff notes this discrepancy was addressed in the Response to Comments of the EIR. Staff noted that the acreage of proposed WE zoning was incorrectly stated as 1,205 acres in the text of the DEIR, but that the actual proposed amount of WE
zoning was 2,355 acres. The correct acreage was shown on all maps included in the EIR and was adequately analyzed in all studies prepared for the EIR. Page 7-28 contains a table which shows that the correct amount of WE zoning was surveyed and analyzed in each study. The WE corridors that were surveyed and analyzed and the correct amount of WE acreage was advertised in the hearing notice distributed for the project have not changed from the amount that was analyzed within the studies for the EIR. Mr. Boswell stated that the zone change within Map 110 may include the addition of WE zoning to the water parcel and inadequate analysis of impacts on water parcel. Staff notes that neither the DEIR nor the hearing notices indicates that any WE zoning is proposed on the water parcel. The maps on the hearing notice do not show proposed WE zoning on that parcel. No turbines are proposed on the water parcel. Those portions of the water parcel that would be impacted by construction of the water well and water reservoir were included in the biological surveys prepared for the project. Mr. Boswell stated that the DEIR contains inadequate information and analysis of the underground pipeline from the water parcel to the north end of the North Sky River project boundary. Staff notes that the water supply parcel was included in the analysis of the EIR. Chapter 4.4, Biological Resources includes the water supply parcel in the analysis and Appendix E.2, Biological Resources Technical Report Jawbone Wind Energy Project, contains information on the methodology and results of surveys for the water supply parcel. The underground water pipeline connecting the water supply parcel to the North Sky River project boundary runs along Jawbone Canyon Road which is an existing road. The area within this road right-of-way is disturbed; therefore, additional surveys were not required in this area. Mr. Boswell inquired regarding the number of WTCs proposed. Staff notes that the DEIR analyzed a maximum of up to 116 turbines for the project; however, fewer turbines may actually be installed once the applicant has engineered the siting of the turbines due to limiting factors such as terrain and ability to access turbine sites. No more than 116 turbines could be constructed in association with the project. Mr. Boswell expressed concerns regarding zone changes across access roads and states that WE zone change corridors have changed between DEIR and hearing notice. Mr. Boswell previously raised this issue in a letter he submitted in response to the DEIR. This comment was addressed in response to Comment 9-D in the Response to Comments. In that response, Staff noted that it is typical for zone districts to carry forward to the centerline of existing roads or easements, as is required by Section 19.08.020.A of the Kern County Zoning Ordinance. However, Staff also noted that the WE District requires that all turbines meet minimum setback requirements from all public highways and streets, public access easements, public trails, and railroads. Therefore, no turbines would be placed in a way that could interfere with access roads. Mr. Boswell states that the hearing notice does not reference batch plants. Mr. Boswell states that there are no longer any concrete batch plants being shown on the hearing notice. Staff notes that the hearing notices states that a portion of the request includes a request for a conditional use permit to allow a temporary concrete batch plant (Section 19.12.030.G) on four acres in an A (Exclusive Agriculture) zone district. Additionally, the site plan included with the hearing notice shows the location of the proposed batch plant.

Additional Information Submitted by Applicant

The applicant provided a memorandum regarding the economic impacts of curtailment on wind energy facilities. The memorandum stated that wind energy facilities produce variable energy which means that unlike base load power (coal, nuclear, etc.) there is a limited amount of power that can be generated and subsequently sold. Long-term measurements and rigorous studies are conducted during the development phase of a wind energy facility to determine the annual production of Megawatt Hours (MWh) that a potential wind site will produce. The MWh is the only product that is sold to generate the revenue which makes up the financial income of the wind energy facility. The memorandum included analysis which concluded that any reduction in the production of MWh (be it
through curtailment, maintenance, low wind, or any other source) would have a direct negative effect on the economics of the installed capital which makes up the wind energy facility.

Additionally, subsequent to the hearing notice for tonight's hearing, the applicant has revised the project boundary to remove APNs 444-030-15 and 444-030-16 from the request. This revision removes 160 acres from the parcel boundary and does not change the project's impact on any impact threshold.

Memorandum of Understanding

Section 53091 of the California State Government Code provides an exemption from local building and zoning ordinances for a city or county project that includes the location or construction of facilities for the production or generation of electrical energy, among other uses. In addition, utility companies regulated by the California Public Utilities Commission have specific exemptions for transmission lines and other generating facilities. Mandates for renewable energy projects have made commercial solar and wind projects an attractive investment for utilities, cities, and counties. To ensure conformance to the land use regulations adopted and implemented by this County, past projects have included a Memorandum of Understanding/Agreement that binds any buyer or operator to agree to be bound by the Kern County Zoning Ordinance, including Kern County building permit requirements and the Mitigation Measure Monitoring Program regardless of any exemption they may have under Section 53091. These mechanisms provide sufficient assurances that all provisions of the recommended approval will be implemented for the life of the project. Copies of the two signed Agreements are attached for your review.

Conclusions and Recommendation

The proposed project area is located within the study area of the "Master Environmental Assessment for Wind Energy Development: Eastern Kern County," approved in 1986. The areas studied in this document are considered as having good to excellent wind resources by the California Energy Commission.

Staff has reviewed the project with regard to environmental concerns and land use compatibility. It is Staff's opinion that the Final EIR prepared for this project is a comprehensive document with the best available information at this time which details the environmental effects of the project on surrounding land use. Staff believes this project is consistent with the California Renewable Portfolio Standard that requires investor-owned utilities, such as Southern California Edison (SCE) to increase their sale of electricity produced by renewable energy sources to 33 percent. The Final EIR includes 83 mitigation measures that provide for the protection of the environment and provide funding for impacts to public services. CEQA requires that all feasible and reasonable mitigation be imposed on projects to reduce the impacts of projects on the environment. Staff also concludes the Final EIR fully complies with CEQA, and clarifications and modifications within the RTC do not meet any of the conditions of CEQA Section 15088.5. No new information has been provided or feasible project mitigation rejected or environmental impact increased in severity that would require recirculation of the document. Changes to reflect these clarifications for the Final EIR, as appropriate, have been made in Section 15091 Findings of Facts, Section 15093 Statement of Overriding Considerations, and Mitigation Measure Monitoring Program for this project.

Mitigation has been proposed and included within the attached Mitigation Measure Monitoring Program that would require all lighting to be coordinated with and be in compliance with Federal Aviation Administration (FAA) regulations and approval. Both China Lake Naval Air Weapons
(NAWS) and Edwards Air Force Base (AFB) were notified as part of the CEQA review and public hearing notification process, per the requirements of the ALUCP. Therefore, it is Staff's determination that the proposed project is consistent with all requirements of the ALUCP.

Staff believes it is important to keep in mind that Senate Bill (SB) X1-2 (2011) requires investor-owned utilities, such as Southern California Edison (SCE), to increase the percentage of renewable energy in the State's electricity mix to 20 percent by the end of 2013, and to 25 percent by the end of 2016, with the 33 percent requirement of the Renewables Portfolio Standard Program being met by the end of 2020. SCE has identified the TWRA, located entirely in Kern County, as having the potential to generate 4,500 Megawatts of wind power for California customers. The TWRA is the State's largest wind energy resource area and currently responsible for over 40 percent of California's wind energy generation. The TWRA currently consists of approximately 3,400 wind turbines that produce approximately 710 MW of power. Wind farms in this area produce more power than any other wind development in the United States. Most of the TWRA's existing turbines were installed between 1981 and 1986. Between 1986 and 1989, about another 100 MW worth of turbines were developed. Between 1990 and 2000, very few additional wind turbines were installed. During the late 1990s, wind power plant owners started repowering their existing turbines by removing the older turbines and replacing them with newer models.

With the increased demand for alternative energy in the State of California, SCE has begun construction of transmission line projects throughout the Tehachapi and Antelope Valley regions. Segment 3 (Antelope-Tehachapi Transmission Line), which connects the Antelope Substation to the Windhub Substation began in 2009 and was completed in 2010. The Tehachapi Renewable Transmission Project (TRTP) involves the construction, operation, and maintenance of new and upgraded transmission infrastructure along approximately 173 miles of new and existing ROW in southern Kern County, portions of Los Angeles County, and southwestern San Bernardino County. These two projects are necessary for the development of wind energy within the project area and the Tehachapi region. SCE's stated objectives for these projects are to provide the electrical facilities necessary to integrate levels of new wind generation in excess of 700 MW and up to 4,500 MW in the Tehachapi Wind Resource Area.

The project's proposed location within the TWRA is especially suitable due to the lack of urban development in the area; similar wind energy land uses on adjacent properties; available site access; and proximity to existing transmission facilities. The existing Pine Tree Wind Project is located immediately south of the project along with the existing Wilderness transmission line and Sky River Substation, which would be utilized by the proposed projects. The proposed project is adjacent to existing and proposed large-scale commercial wind energy generation facilities. Therefore, the 339-MW project can be considered a logical extension of existing wind energy development in the area.

There are residences that exist near the project site; however, none of these residences are located within the project boundary. Two residences are located in Kelso Valley, within 1/2 mile west of the proposed project site. The closest residence is 3,215 feet west from the nearest wind turbine. The minimum distance between the project's transmission line reinforcement and a residence would be 107 feet; however, this line is existing and would be upgraded by the project. A few additional residences are located in the southern portion of Kelso Valley, 1 1/2 miles northeast of Weldon Peak along Jawbone Canyon Road. Due to the steep terrain and remote location, the project vicinity has historically seen limited residential development that has been limited to the construction of rural vacation cabins scattered in the area. It is unlikely that any intensive residential development should occur within the project vicinity for the 30-year life of the project.
The purpose of the WE (Wind Energy) District is to promote the use of proven wind-driven generators for energy recovery and to promote safeguards ensuring the maintenance of the health, safety, and welfare of the residents. In adopting the WE District chapter, it was the intent of the Board of Supervisors to promote the use of an alternate to fossil fuel generated electrical power in areas of the County, which are identified as having suitable wind resources for productions of commercial quantities of wind generated electrical power. Staff believes the project area is a suitable wind resource area, as evidenced by other wind development projects in the vicinity. Clarifying the limits of the FP (Floodplain Combining) District is necessary to protect the public health and safety and to minimize potential property damage as a result of flooding.

Additionally, at this time Staff is recommending the following mitigation measure regarding local hiring practices. This mitigation has been incorporated into all commercial solar projects approved in Kern County and is consistent with the goals and policies of the Kern County General Plan regarding economic development:

**MM 4.10-2:** The project operator shall encourage all contractors of the project to hire at least 25 percent of their workers from the local Kern County communities. The applicant shall provide the contractors a list of training programs that provide skilled wind workers and shall require the contractor to advertise locally for available jobs, notify the training programs of job availability, all in conjunction with normal hiring practices of the contractor. The applicant shall submit a letter detailing the hiring efforts prior to commencement of construction.

Therefore, Staff is recommending that your Commission recommend that the Board of Supervisors to certify the Environmental Impact Report; adopt Section 15091 Findings and Section 15093 Statement of Overriding Considerations; adopt the Mitigation Measure Monitoring Program; approve the zone changes as requested; approve the conditional use permit as requested, subject to the listed conditions of approval; approve the Memorandum of Understanding/Agreement and authorize the Chairman to sign; and adopt the suggested findings as set forth in the attached Draft Resolutions.

**PUBLIC INQUIRY OR CORRESPONDENCE:** Kern County Engineering, Surveying, and Permit Services Department/Floodplain Management; Kern County Department of Airports; Keith Axelson; Penny Melko; Arnold and Emmy Cattani; Kern Audubon; Mark McGuire; Joshua Boswell

**CEQA ACTION:** Environmental Impact Report

**DEPARTMENT RECOMMENDATION:** Advise Planning Commission to recommend that the Board of Supervisors certify the Environmental Impact Report; adopt Section 15091 Findings and Section 15093 Statement of Overriding Considerations; adopt the Mitigation Measure Monitoring Program; approve the zone changes as requested; approve the conditional use permit as requested, subject to the listed conditions of approval; approve the Memorandum of Understanding/Agreement and authorize the Chairman to sign; and, adopt the suggested findings as set forth in the attached Draft Resolutions.

CMM:JRK:je

Attachment
MAPS
Office Memorandum
KERN COUNTY

To: Planning Department
    Jacquelyn Kitchen

From: Engineering, Surveying and Permit Services
      Floodplain Management Section
      Aaron Leicht, by Jason Scheer

Date: July 14, 2011
Phone: (661) 862-5083
Email: ScheerJ@co.kern.ca.us

Subject: Notice of Public Hearing – Planning Commission
          Zone Classification Change #2, Map #110
          Zone Classification Change #2, Map #111
          Zone Classification Change #8, Map #131
          Zone Classification Change #9, Map #131
          Zone Classification Change #5, Map #132
          Conditional Use Permit #3, Map #131

From the information supplied with the Notice of Public Hearing, we have no comments or recommendations regarding the above project.
July 26, 2011

Jacquelyn R. Kitchen, Planner 3
Kern County Planning Department
Land Division Unit
2700 “M” Street, Suite 100
Bakersfield, CA 93301

Re: ZCC #2, Map #110; ZCC #2, Map #111; ZCC #8, Map #131; ZCC #9, Map #131;
ZCC #5, Map #132; CUP #3, Map #131;

Dear Jacquelyn R. Kitchen:

It is the opinion of this Department that this proposal, as presented, does not appear to conflict with any aviation safety standards as they relate to airport operations.

Please contact me if you have any questions.

Respectfully,

Ron Brewster
Airports Operations Manager

cc: East Kern Airport District - Kern
Mike Pappalardo  
Environmental Manager  
NextEra Energy Resources, LLC  
3368 Videra Drive  
Eugene, Oregon 97405  

Jess Melin  
Project Director, Business Development  
NextEra Energy Resources, LLC  
505 14th Street, Suite 310  
Oakland, California 96412  

Subject: Updated Information on Golden Eagles and California Condors in Relation to NextEra’s Proposed North Sky River Wind Facility, Kern County, California.  

Dear Mr. Pappalardo and Mr. Melin:  

We recently received additional data regarding nest locations of golden eagles (Aquila chrysaetos) within the 10-mile survey radius of the proposed North Sky River Project. Based on the data we received, at least one active golden eagle nest that was not detected during your protocol surveys is located in this area. We are concerned to the completeness of your data set.  

In addition, two individuals of the federally endangered California condor (Gymnogyps californianus) were detected east of the proposed North Sky River project site, on July 18, 2011. The recorded locations of the two male birds, which are wearing global position system (GPS) transmitters, are approximately 3 miles from your eastern project boundary. As you are aware, the GPS units collect location data every hour; based on the locations transmitted, an individual likely flew over the proposed project site. We have enclosed an updated map so that you can view the recent locations of the birds. Your analysis to date has contended that the likelihood of California condors to occur on the proposed site is low.  

We request that you incorporate this new information into your risk assessment documents for golden eagles and California condors before submitting new updated drafts.
Mike Pappalardo and Jess Melin

If you have any questions regarding this letter, please contact Ashleigh Blackford of the Ventura Fish and Wildlife Office at (805) 644-1766, extension 234.

Sincerely,

[Signature]

Raymond Brunsfield
Senior Biologist

cc:
Shelly Ellis, Biologist, Bureau of Land Management, Ridgecrest, California
Amy Fesnock, Endangered Species Lead, Bureau of Land Management State Office, Sacramento, California
Amedee Brickey, USFWS, Region 8 Alternative Energy Coordinator, Sacramento, California
Dave Hacker, Environmental Scientist, Renewable Energy Branch, California Department of Fish and Game
Lorelei Oviatt, County of Kern Planning Department, Bakersfield, California.
July 7, 2011

Forelli Oviatt
AICP Director
Kern County Planning
and Community
Development Department
2700 M Street, Suite 100
Bakersfield, CA 93301

Dear Director Oviatt,

My comment is late because notification of the Draft Environmental Impact Report reached me after the deadline of June 20, 2011.

In my view, the North Sky River Wind Energy Project and Jawbone Wind Energy Project will bring negative consequences to the natural world in last Kern County. The lives of thousands of innocent resident and migratory birds and bats will be impacted if these two developments move forward. The LADWP Pine Tree Wind Energy development to the south has killed at least four golden eagles. Migratory bird and bat deaths are more difficult to confirm because scavengers are quick and move 24 hours a day. Golden eagles and other raptors are found most likely after being struck due to their size.

Kettle Valley, which is just north and west of the
Two proposed developments, in one of the last virtually untouched places in California, an operational glider airport dominates the flat land along with several small landowners. There is no question that the continued operation of this private airport will be dangerously impeded by the projected 500’ wind towers. The prime reason that this wind energy project may go forward is the attraction of revenue and growth. This type of growth would destroy the character of this beautiful and delicate desert valley.

I have lived for 17 years only three miles north of Kelso Valley. My family was indoctrinated to the slopes of this valley in 1960. It has remained relatively undeveloped since that time. Visitors have passed through this place for over 100 years.

My naturalist history in east Kern County has been studying resident and migratory birds. I was mainly instrumental in noting the importance of Butterbrett Spring in mid-1970 as a bird migration trap and Butterbrett Canyon as a major day fly for songbirds traveling northwest across the Mojave Desert. Wind energy towers have no justifiable place here or nearby. The development’s damage to public access, water drainages and migratory bird and bat pathways will be permanent - but the development’s main repercussion would surely effect the serenity of Kelso Valley.

Sincerely,

Keith Stephenson
July 25, 2011

Penelope J. Melko  
21848 Ferncuko Street  
Tehachapi, CA 93561

Jacquelyn R. Kitchen  
Planner III, Advanced Planning Division  
2700 "M" STREET, SUITE 100  
BAKERSFIELD, CA 93301-2323

Re: Draft Environmental Impact Report for the North Sky River Wind Energy Project by North Sky River Energy, LLC.; ZCC No. 2, Map No. 110, ZCC No. 2, Map No. 111, ZCC No. 8, Map No. 131, ZCC No. 5, Map No. 132, CUP No. 3, Map No. 131 (PP10282) and for the Jawbone Wind Energy Project by Jawbone Energy, LLC; ZCC No. 9, Map No. 131 (PP11229)

Dear Ms. Kitchen,

This correspondence addresses the planned above ground transmission lines through Sand Canyon that is referred to in the above draft environmental impact report. I disagree that this line be upgraded above the ground and request that all transmission equipment be buried under the ground through Sand Canyon and all of eastern Kern County upgrades.

Above ground transmission lines are well known to be dangerous to human safety (refer to Exhibit 1.) The current poles are roughly 125 feet tall. Migrating birds in flight are killed as they fly into them in the fog. Fog is commonplace through Sand Canyon and the greater Tehachapi area. Migrating birds are unable to see in the fog any better than people can see through the fog. The other problem is when birds perch on the lines and their beak or other part touches the line (Exhibit 3.)

I request the following from Kern County Planning:

1. Does the approval of the referenced draft EIR includes the approval of the Wilderness Transmission line upgrade as described in the document? If not, when and by what agency?

These are the only references found in the draft EIR and there is inadequate reference detail in the document to convey transmission line plans and agencies involved.

Table 3-5. Transmission Line Design Components

Roads. Within the proposed project site, the new roadway system would use the existing road network to the greatest extent possible, and would be designed to limit disturbance and avoid sensitive resources to the extent possible. The preliminary roadway layout is shown on Figure 3-2. Based on existing topography and required design criteria, the proposed project’s new access roads would be constructed (and existing roadway alignments would be redesigned) to gain access to the WTG locations. Specifically, the proposed project’s interior road system would follow existing roadway alignments where possible, but grade adjustments would be required in most locations to accommodate maximum grades, as required by the turbine manufacturers. The maximum road grade on access roads used during construction would be 10 percent. Existing County roads would be
widened to 40 feet from 24 feet and existing dirt roads would be widened to 40 feet from 20 feet.

Transmission Upgrades and KOPs
http://www.co.kern.ca.us/planning/pdfs/eirs/northsky_jawbone/DEIR/Subsections/Figure4.1-6.pdf

Transmission Reinforcement Options Associated with the Proposed Project
http://www.co.kern.ca.us/planning/pdfs/eirs/northsky_jawbone/DEIR/Subsections/Figure3-7.pdf

2. I am against widening of our country road to accommodate the company’s business goals. I request that the Kern County Planning Department reject their request. This is a rural community, not a utility service road for the energy companies. (Please refer to the highlighted area below in Table 3-5.) We have counted 270 mailboxes on the road along Sand Canyon.

3. I request a copy of the Wilderness Transmission Line upgrade environmental impact report or reference where a copy can be obtained.

4. I request all documentation associated with the planned Wilderness Transmission line upgrade or reference to where a copy can be obtained.

5. There is great opposition to above ground transmission lines in Chino Hills and I fully agree with their reasoning and request the County carefully review and reject above the ground line upgrades.

Please carefully review the document, evidence, testimony and accounts from Chino/Chino Hills. This is an important issue and health hazard.

Sincerely,

Penelope J. Melko
EXHIBIT 1.

**Human Safety Issues**
By Ron Ryan, Sand Canyon Resident:

The lines going through our canyon are 230kV. If an accident happens with them, it will be a very dangerous situation. The arc from these lines crossing or going to ground will be enormous and 25 times hotter than the surface of the sun. If they fall on a vehicle on the road it will mean certain death to the vehicle's occupants.

Everyone in the industry knows that transmission level voltages are extremely dangerous which is why they are normally located far away from the public. The only way they can get to the Sky River wind farm is through our canyon. These lines go all the way to a subswitch station near Cameron, then all the way to Vincent substation off the 14 Fwy near Acton.

A couple of guys I work with used to work these lines and said that all the insulators had to be replaced. They had been failing. This is very dangerous as arcing caused by faulting insulators (you can hear them with the ear just off Tanganda Rd) will result in a line exploding and potentially falling. It will certainly cause a fire and endanger all of our homes.

In many locations, the transmission lines cross over our 12kV distribution lines which feeds power to our homes. If these transmission lines fall on the distribution lines it will cause a catastrophic event with exploding transformers and fires. For this reason we normally don’t cross these lines like this. Just look the next time you come down the canyon my way.

The foundations are looking a little shabby. Rust is on all the foundation bolts and nuts. Take a look at the corner poles and you'll notice they bend from the tension and weight of the lines. This is normal, but it gives one an idea of the enormous pressure on the foundation of the poles. This causes me great concern regarding the traffic on Sand Canyon. It's one thing if a car or pickup hits one of these poles, it's another if an 80,000lb plus tractor trailer hits one. And what happens if an earthquake hits them and causes very large loads to shift at pole top?

Take all this in, then think of the job they have to "trip" the 230kV off in case of a problem. If they trip, the California Independent System Operator (CAISO) will levy heavy fines on them for dropping generation on the grid. It will cause havoc on the grid because their dropped generation will hit the other generators hard if not trip them off line causing a grid event. Think that puts pressure on them to set their trip settings high?

And just because a line goes down don’t think it will be de-energized. When big power hits the ground it will arc and make glass out of the sand. This can cause an insulation effect that can keep the line energized and just burn.

I realize this is long, but believe me the dangers are real and I could go on a lot longer. Cap this off with the transmission lines traveling along the only way in and out for 240+ homes.

I would love to see the engineering and maintenance records for these lines. I know they went up real fast. So fast, they already had to replace insulators. Corrosion control is a big issue and the rust is alarming.
Southern California Edison, a monopoly, hired teams of lawyers in an embroiled lawsuit with the City of Chino Hills to gain domain rights for 200 foot easements to install utility lines for the Tehachapi Renewable Transmission Project.

*Of, By, and For the People of Chino Hills (and Chino)!

**MAYOR ED GRAHAM, CHINO HILLS**

**Open letter to CPUC, SCE and Gov Brown re Tehachapi Renewable Transmission Project**

By Larry Gilbert – June 22, 2011 Posted in: Fresh Juice

Having testified before the CPUC in San Francisco, relating to our request that Southern CA Edison, SCE, bury new power lines in Mission Viejo, I can empathize with the citizens of Chino and Chino Hills and their mayor, Ed Graham. Mayor Graham’s open letter, expressing their health and safety concerns relating to the Tehachapi Renewal Transmission project, was sent to the CPUC, SCE and governor Brown. The story link is provided below.

**SUBJECT: TEHACHAPI RENEWABLE TRANSMISSION PROJECT IN CHINO HILLS**

I write this letter on behalf of the City of Chino Hills, as our community is witnessing the invasion of 198-foot tubular steel poles erected through the heart of our City. These iron giants are massive beyond our worst expectations and tower over our neighborhoods; permanently and irrevocably impacting 1,000 families’ homes, churches, parks, and public facilities. We dread the additional looming impacts when the poles will be strung with six extremely high voltage lines.

We are outraged, disgusted, and disheartened over the California Public Utilities Commission’s (CPUC) cavalier dismissal of our community during the Tehachapi Renewable Transmission Project’s review process. Our message to Californians... “Beware!” Southern California Edison, hiding under the cloak of delivering politically correct “green energy,” can get the CPUC’s approval to build anything on their existing rights-of-way with complete disregard for people impacted along the way and even disregard for their own standards. Our entire community is permanently disfigured by the CPUC’s decision.

This damage can never be mitigated. The reality for many families is that their children will grow up, playing in their own yards, under these massive double-circuit 500 kV power lines buzzing and crackling as their parents wonder if the proximity of their own backyards to these power lines will someday prove harmful to them. Most will be unable to sell their homes as they watch the value drop in an already depressed market. Unable to walk away from their homes, which represent their biggest investment, these families will suffer from the stress of this fear forever.
Families did choose to live next to a normal neighborhood 220 kV SCE transmission line, de-energized for nearly 40 years. Never did anyone expect that a CPUC review process would allow the construction of poles that climb to nearly 200 feet in a 150-foot easement, much less that they would be approved to carry double-circuit 500 kV power lines – a level of energy unheard of in residential neighborhoods throughout the entire United States. And SCE says “the residents knew the easement was there”. Talk about misleading.

The CPUC’s mission is to “regulate privately-owned electric companies and serve the public interest by protecting consumers and ensuring the provision of safe, reliable utility service and infrastructure at reasonable rates, with a commitment to environmental enhancement and a healthy California economy.” Clearly, the CPUC has abused its vast and unchecked regulatory powers by allowing SCE to construct the massive infrastructure which permanently alters our community’s way of life and damages our families.

In recent TV coverage, KABC Channel 7 reported, “The California Public Utilities Commission sided with SoCal Edison, saying in a statement that “there are overriding statewide values which outweigh the community values of Chino Hills.”

How clear is that statement from the CPUC? Very clear. For the record, the City of Chino Hills never opposed this renewable energy project. Instead we developed a RESPONSIBLE alternate proposal that would reduce the impact on our residents while allowing SCE to move forward to meet renewable energy mandates.

If the CPUC remained true to its mission, this route through the City of Chino Hills would have been deemed unsuitable due to its significant health and safety impacts. A legitimate review process would have eliminated the route through Chino Hills and required SCE to develop a viable alternative that would not harm existing residents. Instead, our City spent $2.4 million to identify and design a viable alternative that had the support of environmentalists. The CPUC should have required SCE to do so. During the hearings and testimony, we witnessed the relationship between the SCE executives and CPUC Commissioners and staff. What is now clear is that our small City, with limited resources, likely could never prevail against SCE, a giant corporate entity with vast rate-payer funded resources and close friends at the CPUC. The path of least resistance is not always the right path.

This SCE project represents the height of corporate irresponsibility and it has been blessed by the CPUC. I believe that it is time to evaluate the CPUC’s relationships with the public utilities and their effectiveness in regulating these utilities, which they are supposed to do on behalf of the people of California.

Californians beware.....your community may be next.

Sincerely,

CITY OF CHINO HILLS
Mayor Ed Graham  http://www.chinohills.com/
Court to decide appeal in July

RIVERSIDE - Chino Hills resident Anabel Hurtado sat in the courtroom of the 4th District Court of Appeal on Wednesday, glancing over her shoulder at an eight-member legal team representing Southern California Edison.

"I hope we can take them down," she said...

We were sent the following link from a group of residents who are actively opposing SCE and the CPUC. We encourage you to fight on. TRTP is a direct assault on the safety of our children and our families.

The video was produced by a local student.

City, SCE draw lines

Court to decide appeal in July
Mediha Fejzagic DiMartino, Staff Writer
Created: 06/29/2011 06:14:12 PM PDT

RIVERSIDE - Chino Hills resident Anabel Hurtado sat in the courtroom of the 4th District Court of Appeal on Wednesday, glancing over her shoulder at an eight-member legal team representing Southern California Edison.
"I hope we can take them down," she said.

Concerned about the larger, high-voltage power lines and towers sprouting daily through the five-mile stretch of her city's neighborhoods, Hurtado and three dozen other Chino Hills residents came out to support their city's possibly last battle against the utility company's Tehachapi Renewable Transmission Project.
Elizabeth Calciano, Chino Hills' deputy city attorney presented her case in front of three justices in the appellate court's Division 2 arguing that the Public Utilities Commission does not have an exclusive jurisdiction with regard to the right-of-way property rights issue between the city and SCE.

The $2.1 billion Tehachapi project will bring wind-generated electricity from Kern County to the Los Angeles Basin - part of a state mandate to use more sustainable energy. The project is expected to be completed by 2015.

The transmission poles and towers are being erected within Edison's existing right-of-way corridor from Chino Hills' western border near Tonner Canyon, proceeding northeast to Peyton Drive and then continuing east to the 71 Freeway and eventually reaching Mira Loma.

The city filed a complaint in San Bernardino County Superior Court against SCE in 2009, claiming that the project would "overburden the easement over City property."

In April 2010, Judge Keith Davis rejected the city's lawsuit and said the PUC has exclusive jurisdiction regarding the route used by SCE.

"We didn't get to argue about property rights, they threw us out of the court (in 2010)," Calciano said. "For us, this is a real property case. You have an easement to build 100-foot towers not the 200-foot ones, so get off our property."

The Wednesday's hearing comes after the city appealed judge's ruling in June 2010.

Citing "Covalt Test" - a set of checks established by the Supreme Court to determine PUC's authority - Calciano argued that commission has no regulatory policy on how wide an easement needs to be in a densely populated area, "just a broad goal for the state to have 30 percent of its energy coming from renewable sources by 2020."

James Arnone, representing SCE, called Chino Hills claim a "clear collateral attack on commission's decision," but was interrupted by Justice Jeffrey King who asked Arnone if running a utility with PUC's blessing means "you can do anything you want to? PUC has carte blanche and courts can just move aside?"

Arnone also argued that since no one wants power lines in their backyard, PUC plays an integral role in such a large project.
"If you left this as a city-by-city issue, there would be no lights on tonight," he said.

In response to Chino Hills' claim, Arnone said that the PUC has "a written policy" signed by the governor.

From the start, Calciano was facing an uphill battle - the court made a tentative decision against the city on May 26 saying that potential state court action could slow down the project, and that "Garamendi Principles" - which encourage the use of existing rights-of-way by upgrading existing transmission facilities where technically and economically justifiable - have been in place.

"But that's a preference, (Garamendi) does not mandate it," Calciano said.

The justices are expected to issue a legal opinion in about a month.

"If it's favorable we go back to state court," Calciano said. "But if they say 'no' there are other options, such as petitioning for review but City Council will have to decide whether to pursue them."

Debi Hernandez of Chino Hills walked out of the courtroom "hopeful," she said. "We will keep our fingers crossed. We are also looking into other options and some residents have retained a legal council."

Dead birds litter the Tehachapi area that are electrocuted on the transmission wires or decapitated when their beaks touch a line and cause their heads to explode. They lie rotting under transmission lines like the duck pictured near Lehigh Cement Plant.

*Headless duck, exploded off by contact with the transmission line. Photos taken by P. Melko on July 9, 2011.*
Electrocuted Raven on neighbor property under transmission line. Photos taken by P. Melko on July, 2011.
Dear Ms. Oviatt,

We are writing to express our opposition to the proposed zoning change that would allow wind energy development six miles east of Twin Oaks at the intersection of Kelso Valley Road and Jawbone Canyon Road. Our family has owned and operated a cattle ranch in the Twin Oaks area for over seventy years. We feel that wind energy development in this area would undermine the continued viability of ranching here and fragment the east to west migration routes for birds, bats and other wildlife that currently thrive on our ranch and surrounding lands. Preserving a clear migration pathway through the Tehachapis in this area is all the more critical because other wind energy developments to the north and south have already blocked wildlife migration routes in those areas.

Cattle ranching is an important part of the culture and the economic base of Kern County. While we recognize that the energy industry also brings jobs and tax revenue to the county, we need to strike a balance. As we convert more and more of our ranchlands to energy production serving Los Angeles, Kern County will lose the rural culture and ranching way of life that define us. Ranching families will be replaced by Wall Street “suits” and foreign executives who care little for our community. As development encroaches into new areas, undeveloped ranchlands acquire roads and transmission lines, opening them up to further development on surrounding ranches. Today, the ranchlands around Twin Oaks remain much as they were a hundred years ago, with a few rugged jeep trails and some barbed wire fencing the only visible signs of “modernity.” Utility scale wind development in this area would totally change its mostly road-less, undeveloped character. Many areas of Kern County have already seen extensive wind development. We ask that you contain development in those areas and allow ranching to continue to thrive in less developed areas such as Twin Oaks.

The proposed development would block migration routes for birds, bats and other species as they move east/west and northeast/southwest through the Tehachapi Mountains. Preserving a clear path for migration in this area is all the more critical because of the other pathways that have blocked their movement in the Tehachapi Pass to the south and the Kern River Canyon to the north. Nearby Butterbredt Spring is a known stop for migrating birds and a popular birding site. Our ranch and other ranchlands around Twin Oaks provide the next source of water and habitat as these migrating birds move westward. The Tehachapis are a meeting point of desert, sierra, valley and coastal eco-regions and therefore host to abundant biodiversity, including the rare Tehachapi Slender Salamander and protected Golden Eagles. The fifty mile span in which the proposed development is located forms the last link in a wildlife corridor that is otherwise connected by public or protected lands from Mexico to Canada and between the Sierra and Coastal Ranges. Recent land acquisitions in the area by The Nature Conservancy and the conservation of most of Tejon Ranch demonstrate the importance of this corridor.

We respectfully request that you decline the application by the North Sky River and Jawbone Wind Energy Projects to rezone the area in question for wind energy development. Thank you for your consideration.

Sincerely,

Arnold T. Cattani

Emmy Cattani

July 26, 2011
July 26, 2011

Jacquelyn R. Kitchen  
Kern County Planning and Community Development Department  
2700 “M” Street, Suite 100  
Bakersfield, CA 93301


Draft Environmental Impact Report for the:  
North Sky River Wind Energy Project by North Sky River Energy, LLC.; ZCC No. 2, Map No. 110, ZCC No. 2, Map No. 111, ZCC No. 8, Map No. 131, ZCC No. 5, Map No. 132, CUP No. 3, Map No. 131 (PP10282)  
And for the:  
Jawbone Wind Energy Project by Jawbone Energy, LLC; ZCC No. 9, Map No. 131 (PP11229)

Dear Ms. Jacquelyn R. Kitchen,

I am writing in response to the Draft Environmental Impact Report (DEIR) for the two proposed projects, North Sky River Wind Energy Project (NSRP) and Jawbone Wind Energy Project (JWEP). I am also writing in response to the Notice of Public Hearing (envelope stamped Jul 08 2011) received from the Kern County Planning and Community Development Department. My first letter of these issues was sent on June 20, 2011.

Per my previous e-mail dated May 27, 2011 requesting an extension for additional review time for a document of such great detail and unavoidable significant impacts, I was disappointed that Kern County was unable to grant such an extension. I do appreciate the direct phone call received on May 31, 2011 by your planner Chris Mynk, who was very helpful, explained no extensions would be granted and outlined the preliminary schedule leading through anticipated approval of the proposed project and into construction. Mr. Mynk’s comments regarding Kern County’s position with wind projects was open and honest stating that no wind projects have previously been rejected in the County made me somewhat uneasy, although Mr. Mynk did mention that comments would be accepted for the DEIR until August 11, 2011. Seeing how the zone change request is now being pushed without the completion of the proper environmental surveys on all portions of effected land, per protocol, or actual field surveys performed for each species noted to be on-site and of special or of a threatened status, etc., I now understand just how important it is to the County and the deciding Board to approve this project regardless of the impacts.

The Notice of Public Hearing now contradicts what Chris Mynk stated to me during our discussion on May 31, 2011 by noting the County encourages the submittal of written comments by July 26, 2011 so that those comments may be considered. Since I was previously given until August 11, 2011 by a member of your staff, I will continue to review the DEIR for the seemingly endless number of contradictions and insufficiencies and will submit the remainder of my comments before the deadline given by Chris Mynk. I hope consideration will be granted for the future comments.

The following is a preliminary list of contradictions, issues and concerns noted when reading through a portion of the documents.
1. **Proposed WE Zoning Request:** Significant quantities vary between DEIR plans and plans attached to the Notice of Public Hearing. The surveys are still not available for all sections of land (this was clearly noted in DEIR), are insufficient, or are not performed per protocol (spacing between field surveys as stated in DEIR), not provided for numerous portions of affected land, etc. Due to all of these reasons, how can the County of Kern proceed with zone change requests, which would allow future construction of turbines on lands that lack sufficient research? Since the initial incomplete DEIR submittal, the proposed project zoning request has been revised from 1,292 acres to 3,405 acres as broken out below.

   - Per the Draft Environmental Impact Report (DEIR) Chapter 3, Section 3.1 Project Description, Table 3-1 Proposed Project Statistics, Proposed WE Zoning Acres is as follows:
     (a) Site 1 North Sky River Wind Energy Project (NSR): 1,205 acres
     (b) Site 2 Jawbone Wind Energy Project (JWEP): 87 acres
     **Total WE Zoning Request per DEIR: 1,292 Acres**

   - Per the Notice of Public Hearing issued by the Kern County Planning Commission (envelope stamped Jul 08 2011), it states a proposed zoning change of the following:
     (a) From existing to a WE zoning: 2,536 acres
     (b) From existing to UNCLEAR zoning: 842 acres
     **Total WE and Unclear Zoning Request per Notice of Hearing: 3,405 Acres**

   This is an increase of 2,113 acres or an increase of 164 percent (%) above the initial proposed project request outlined in the DEIR. The DEIR was pieced together and inadequate for review, now this notice increases the potential for environmental harm 164% more. Is this the highest expectation we should anticipate from the two project proponents? Where are the supporting environmental documents for review prior to the zone change request being granted? How can the County of Kern continue the process for these two proposed projects with such variation and information lacking? Recommend the decision Board hold off on granting the zone change request until the project proponents can decide on a single project scope and provide the required documentation for public review and comments.

2. **Zoning Change Inclusion – Remote Water Parcel:**
   - Per the Notice of Public Hearing issued by the Kern County Planning Commission (envelope stamped Jul 08 2011), it states a proposed zoning change request from A (Exclusive Agriculture) to A WE (Exclusive Agriculture – Wind Energy) on 372 acres in Zone Map 110. According to the zone map provided and attached, may now include what was noted as the remote water parcel in the original DEIR as part of the request to be rezoned. There are still no environmental studies of any kind that have been performed or supplied for review for this parcel of land. The scope of work on this parcel consists of multiple wells, underground pipelines requiring major earthwork operations and the construction of a water reservoir which requires major earthwork operations including concrete construction. During the construction of this site and of the proposed wind sites, there will be on-going traffic on the only access road for numerous residential properties. Previous calculations provided in the DEIR showed that the project proponents estimated approximately 80% under what would be required to transport the forecasted water volume from the remote water parcel to the proposed project site.

3. **Underground Water Pipeline:**
   - Per the Notice of Public Hearing issued by the Kern County Planning Commission (envelope stamped Jul 08 2011), it now shows an underground water pipeline extending from the remote water parcel located on Jawbone Canyon Road, south-west of the Kelso Valley Road intersection (part of the proposed JWEP – not the WTG portion of the site) to the north side of the proposed NSR/WEP site on Jawbone Canyon Road, east of the Kelso Valley Road intersection. This contradicts the DEIR and to date, no environmental studies have been performed or provided for any of this land, including the remote water parcel or the entire route between (approximately 4 miles of rural dirt roads which are the only access for numerous residential properties).
How will this underground water pipeline be constructed?
How will the water be pumped over four (4) miles and with an increase in elevation? Where will power come from to power the possible water pumps? Will there be noise generated by the possible water pumps or electrical generators? Will there be fuel storage for the generators, if so, what capacity?
How will this be constructed without disruption to the water table or quality of water, since above ground water can be seen throughout the majority of the year through about half of this proposed route?
What materials will be used?
What construction equipment will be used?
How will the materials be delivered?
How will the construction and delivery equipment affect the dust generation calculations noted in the DEIR?
How will the construction and delivery equipment affect the emissions calculations noted in the DEIR?
Where will the materials be stock piled?
How many more employees will be required to install this new section of pipeline?
Where will the employees park their private vehicles since this area is not considered part of the project site?
How will the employee vehicles affect the dust generation calculations noted in the DEIR?
How will the employee vehicles affect the emissions calculations noted in the DEIR?
Where will the temporary employee restrooms for this area be located?
Will there be any temporary concrete batch plants in this vicinity?
Will access remain for existing residential properties?
If a pipeline failure occurs along this only residential access road, how will emergency access for residents be managed? (no phone service is available)
Will existing access roads remain in existing condition (dirt) as desired by residents?
What noise will be generated by this new construction activity?
How will water trucks capture the water at the end of this new proposed underground pipeline? Will there be another reservoir? How will the water trucks turn around at this location? Provide updated Key Observation Points showing the proposed roads (including clear cuts up to 350 feet plus wide), truck turn around areas, turbines, turbine pad sites, transmission lines, support buildings, etc. for a complete review of the project impacts.
If damage occurs along this off-site area during construction, who monitors, who repairs, what guarantees do the existing residents have from the County that the surrounding areas won’t be degraded? The DEIR already stated that the surrounding properties and environment will be degraded by the proposed project. This is a significant impact that can’t be mitigated and is thrown onto the shoulders of the surrounding land owners only.

4. Quantity of Proposed Wind Generating Turbines:
- Per the Notice of Public Hearing issued by the Kern County Planning Commission (envelope stamped Jul 08 2011), it now shows a total quantity of proposed wind turbine generators (WTG) to be 113 between the two projects. Is this accurate since this document came out after the DEIR?
- If the number of proposed WTG’s has decreased, why has the requested number of acres to rezone increased from 1,292 acres to 3,405 acres? (An increase of 164% or 2,113 acres above the initial stated in the DEIR). Is this to allow for the construction of future WTG’s within the requested WE zones without as much review? This is a significant impact that can’t be mitigated.

5. Zone Change Corridors:
- The plans still show zone change requests across existing residential and recreation access roads (Jawbone Canyon Road). This is a safety concern and these areas cannot be secured or constructed without disruption to users. Power cannot be transmitted without crossing these
roads. Recommend removing these areas from consideration. Reference California Highway Patrol closures of HWY 58 in Kern County when WTG’s spin uncontrollably. This is a rural area without phone service and an extended response time for emergency vehicles. Safety corridors should be increased to offset.

- Per the Notice of Public Hearing issued by the Kern County Planning Commission (envelope stamped Jul 08 2011), it now shows huge combined WE zone change request areas between previously requested areas noted on the DEIR. These areas are 1/3 to 1/2 a mile across in width. Recommend revising the plan back to the original version since additional wind turbine generators (WTG) can be constructed on this land once the County approves the zone change request. This causes too much of an unforeseen future concern that can’t be evaluated, and therefore should be revised prior to any approvals. If not, language needs to be provided stating no additional WTG’s can be constructed on these areas to protect the interests of the environment and the surrounding land owners. There are too many significant changes being presented in the Notice of Public Hearing without supporting documentation.

6. **Batch Plants:**

- With such major modifications being shown on the Notice of Public Hearing plans, there are no longer any concrete batch plants being shown. Is this accurate or to be considered another over site?

Respectfully,

Joshua Boswell
July 23, 2011

Kern County Planning Department  
Development Department  
2700 M Street, Suite 100  
Bakersfield, CA 93301

RE: DEIR for North Sky River Wind Project and Jawbone Wind Energy Project

Kern County Planning Commission members:

On June 7, 2011, the Kern Audubon Society provided recommendations for the scoping section for the formulation of a DEIR for the above project. We have since received a notification that the Planning Commission will hold a hearing on August 11 regarding the zone change for the land mentioned in the North Sky River and Jawbone Wind Energy Project: ZCC#2, Map #110; ZCC#2, Map #111, ZCC #8, Map #131; ZCC #9, Map #131; ZCC #5, Map #132; CUP #3, Map #131.

The DEIR for this project has not been formulated. Therefore it is premature to have a zone change hearing without an evaluation of the project’s merits and effects on the land. To approve these zone changes is tantamount to giving tacit approval to the project.

The constraints of the geography of the proposed project, as mention in our June 7 letter, have not been verified by any field work. It is only after data has been collected, analyzed, and known conflicts been mitigated using the CEQA process, can an administrative body, such as the Kern County Planning Commission, make an informed decision regarding zoning.

Therefore, the Kern Audubon Society respectfully recommends that the Commission delay any action on this request for a zone change until the FEIR has been filed and approved by the Kern County Board of Supervisors.

Sincerely,

Harry Love  
Conservation Chairman
Mark McGuire  
POB 53  
Onyx CA 93255  
760-378-4800  
mamcu@hughes.net

07/25/11

Kern County Planning  
2700 M street  
Suite 100  
Bakersfield, CA 93301

Dear Sirs:

This is in reference to “North Sky River and Jawbone Wind Energy Project (PP10282 and PP11229)”.  

I am opposed to these projects, having seen the environmental damage they have done in other areas of the local mountains. While wind and solar energy is desirable, these large-scale projects are a blight. It would be better to find ways to use already-developed land for wind and solar energy generation, rather than destroying the rapidly diminishing open countryside.

Please do not permit these projects to go forward. The overwhelming majority of California’s energy is generated by burning fossil fuels. It would be better to spend the money and time going into these alternative projects on improving the pollution profiles of existing generating facilities.

Thanks for your attention.

Mark McGuire
MEMORANDUM OF UNDERSTANDING AND AGREEMENT
MOU
NORTH SKY RIVER WIND ENERGY PROJECT
MEMORANDUM OF UNDERSTANDING AND AGREEMENT
FOR
PERFORMANCE OF ZONING ORDINANCE AND MITIGATION MEASURES
AS ENVIRONMENTAL RESTRICTIONS
(Kern County – Property Owner-Lessee-Operator)

THIS AGREEMENT, made and entered into this ___ day of ___________ 2011 by and between the COUNTY OF KERN, a political subdivision of the State of California (hereinafter “County”) and North Sky River Energy, LLC (hereinafter collectively referred to as “Property Owner-Lessee-Operator”).

WITNESSETH:

WHEREAS, in consideration of the COUNTY’s approval of the North Sky River Wind Energy commercial wind project, (a) Amendment of Zoning Map No. 110, Zone Change Case No. 2; (b) Amendment of Zoning Map No. 111, Zone Change Case No. 2; (c) Amendment of Zoning Map No. 131, Zone Change Case No. 8; (d) Amendment of Zoning Map No. 132, Zone Change Case No. 5; (e) Conditional Use Permit No. 3, Map No. 131, and in satisfaction of the condition of Project approval requiring a contractual mechanism to assure that all provisions of the zoning ordinance and project approval CEQA mitigation measures, will be implemented, County and Property Owner-Operator now desires to enter into this Agreement.

NOW, THEREFORE, IT IS MUTUALLY AGREED between County and Property Owner-Operator as follows:

1. The Property Owner-Operator agrees to perform all mitigation measures that are contained in the adopted Mitigation Measure Monitoring Program, attached hereto as Exhibit “A”, as they relate in any way to the development of a commercial wind project described above. The Property Owner-Operator obligations under this Agreement shall apply regardless of whether any other permits or entitlements are issued, except to the extent performance of such obligations is expressly prohibited under state or federal law. These obligations, which shall not be amended absent prior written agreement of County and the Property Owner-Operator, shall be binding on all successors and assigns of the property described in Exhibit B hereto; and Property Owner-Operator agrees that they shall so obligate all successors, assigns, transferees, and lessees. The provisions of all exhibits attached hereto are hereby incorporated in this Agreement by this reference as through fully set forth herein.
2. The Property Owner-Operator, successors, assigns, transferees, and lessees agree to be bound by all the requirements of the A WE (Exclusive Agriculture – Wind Energy Combining) Zoning ordinances and all other provisions of the Kern County Zoning Ordinance (Title 19), the adopted Final Environmental Impact Report, and the adopted Mitigation Measure Monitoring Program (Exhibit A) regardless of any exemption under California Law.

3. All notices to Property Owner-Operator under this Agreement shall be deemed valid and effective five (5) calendar days following deposit in the United States mail, postage prepaid, by certified and/or registered mail, addressed to:

   North Sky River Energy, LLC  
   Attn: Mike Pappalardo  
   3368 Videra Drive  
   Eugene, OR 97405  
   And  
   North Sky River Energy, LLC  
   Attn: Jess Melin  
   505 14th Street, Suite 310  
   Oakland, CA 96412

   All notices to County under this Agreement shall be deemed valid and effective when personally served upon the Department of Planning and Community Development Director or upon deposit in the United States mail, postage prepaid, by certified and/or registered mail, addressed to the Director, Kern County Planning, 2700 “M” Street, Suite 100, Bakersfield, California 93301.

4. This Agreement represents the complete understanding between the parties with respect to matters set forth herein.

5. The persons executing this Agreement on behalf of the Property Owner-Operator warrant and represent that they have the authority to execute this Agreement on behalf of the Property Owner-Operator North Sky River Energy, LLC and warrants and represents that they have the authority to bind Property Owner-Operator to their performance hereunder.

6. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party’s right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

7. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element. Further, the rule of construction to the effect that ambiguities are to be resolved
against the drafting party shall not by employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

8. The obligations of Property Owner-Operator's successors, assigns, transferees, and lessees shall arise upon acquisition of any interest in real property in the North Sky River Wind Energy project site that will allow them to engage in any of the land uses allowed under (a) Amendment of Zoning Map No. 110, Zone Change Case No. 2; (b) Amendment of Zoning Map No. 111, Zone Change Case No. 2; (c) Amendment of Zoning Map No. 131, Zone Change Case No. 8; (d) Amendment of Zoning Map No. 132, Zone Change Case No. 5; (e) Conditional Use Permit No. 3, Map No. 131.

IN WITNESS WHEREOF, the parties hereto have duly caused this Agreement to be executed on the date hereinabove first written.
RECOMMENDED FOR APPROVAL:
Kern County Planning and Community
Development Department

By: ________________________________
    Lorelei H. Oviatt, AICP, Director

Project Owner-Operator – North Sky River Energy, LLC

By: ________________________________
    Dean R. Gosselin, Vice President

APPROVED AS TO FORM:
Office of County Counsel

By: ________________________________
    County Counsel

COUNTY OF KERN

By: ________________________________
    Chairman, Board of Supervisors
MOU
JAWBONE WIND ENERGY PROJECT
MEMORANDUM OF UNDERSTANDING AND AGREEMENT
FOR
PERFORMANCE OF ZONING ORDINANCE AND MITIGATION MEASURES
AS ENVIRONMENTAL RESTRICTIONS
(Kern County – Property Owner-Lessee-Operator)

THIS AGREEMENT, made and entered into this 26th day of July 2011 by and between the COUNTY OF KERN, a political subdivision of the State of California (hereinafter “County”) and Jawbone Wind Energy, LLC (hereinafter collectively referred to as “Property Owner-Lessee-Operator”).

WITNESSETH:
WHEREAS, in consideration of the COUNTY’s approval of the Jawbone Wind Energy commercial wind project, Amendment of Zoning Map No. 131, Zone Change Case No. 9, and in satisfaction of the condition of Project approval requiring a contractual mechanism to assure that all provisions of the zoning ordinance and project approval CEQA mitigation measures, will be implemented, County and Property Owner-Operator now desires to enter into this Agreement.

NOW, THEREFORE, IT IS MUTUALLY AGREED between County and Property Owner-Operator as follows:

1. The Property Owner-Operator agrees to perform all mitigation measures that are contained in the adopted Mitigation Measure Monitoring Program, attached hereto as Exhibit “A”, as they relate in any way to the development of a commercial wind project described above. The Property Owner-Operator obligations under this Agreement shall apply regardless of whether any other permits or entitlements are issued, except to the extent performance of such obligations is expressly prohibited under state or federal law. These obligations, which shall not be amended absent prior written agreement of County and the Property Owner-Operator, shall be binding on all successors and assigns of the property described in Exhibit B hereto; and Property Owner-Operator agrees that they shall so obligate all successors, assigns, transferees, and lessees. The provisions of all exhibits attached hereto are hereby incorporated in this Agreement by this reference as through fully set forth herein.

2. The Property Owner-Operator, successors, assigns, transferees, and lessees agree to be bound by all the requirements of the A WE (Exclusive Agriculture – Wind Energy Combining) Zoning ordinances and all other provisions of the Kern County Zoning Ordinance (Title 19), the adopted Final
Environmental Impact Report, and the adopted Mitigation Measure Monitoring Program (Exhibit A) regardless of any exemption under California Law.

3. All notices to Property Owner-Operator under this Agreement shall be deemed valid and effective five (5) calendar days following deposit in the United States mail, postage prepaid, by certified and/or registered mail, addressed to:

   Jawbone Wind Energy, LLC
   Attn: Philip Rudnick
   201 New Stine Rd, Suite 120
   Bakersfield, CA 93309

   All notices to County under this Agreement shall be deemed valid and effective when personally served upon the Department of Planning and Community Development Director or upon deposit in the United States mail, postage prepaid, by certified and/or registered mail, addressed to the Director, Kern County Planning, 2700 “M” Street, Suite 100, Bakersfield, California 93301.

4. This Agreement represents the complete understanding between the parties with respect to matters set forth herein.

5. The persons executing this Agreement on behalf of the Property Owner-Operator warrant and represent that they have the authority to execute this Agreement on behalf of the Property Owner-Operator, Jawbone Wind Energy, LLC, and warrants and represents that they have the authority to bind Property Owner-Operator to their performance hereunder.

6. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party’s right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

7. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element. Further, the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not by employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

8. The obligations of Property Owner-Operator’s successors, assigns, transferees, and lessees shall arise upon acquisition of any interest in real property in the Jawbone Wind Energy, LLC Wind Energy project site that will allow them to engage in any of the land uses allowed under Amendment of Zoning Map No. 131, Zone Change Case No. 9.
IN WITNESS WHEREOF, the parties hereto have duly caused this Agreement to be executed on the date hereinabove first written.
RECOMMENDED FOR APPROVAL:
Kern County Planning and Community Development Department

By: ________________________________
Lorelei H. Oviatt, AICP, Director

Operator – Jawbone Wind Energy, LLC
By: ________________________________
Philip Rudnick, Managing Member

Owner – Jawbone Wind Energy, LLC
By: ________________________________
Philip Rudnick, Managing Member

APPROVED AS TO FORM:
Office of County Counsel

By: ________________________________
County Counsel

COUNTY OF KERN

By: ________________________________
Chairman, Board of Supervisors
Resolutions
BEFORE THE PLANNING COMMISSION
COUNTY OF KERN, STATE OF CALIFORNIA

In the matter of:

RESOLUTION NO. ***

APPLICATION FOR ZONE CHANGE CASE NO. 2, MAP NO. 110

Thirteen miles north of the intersection of Highway 58 and Highway 14, directly south and east of the intersection of Kelso Valley Road and Jawbone Canyon Road, 6 1/2 miles east of the community of Twin Oaks and 8 miles west of Cantil, in eastern Kern County
North Sky River Wind Energy Project (PP10282)

FINDINGS AND DETERMINATION

I, Lorelei H. Oviatt, Secretary of the Planning Commission of the County of Kern, State of California, do hereby certify that the following resolution, proposed by ***, seconded by ***, was duly passed and adopted by said Planning Commission at an official meeting hereof this 11th day of August, 2011, by the following vote, to wit:

AYES: ***
NOES: ***
ABSTAINED: ***
ABSENT: ***

SECRETARY OF THE PLANNING COMMISSION
COUNTY OF KERN, STATE OF CALIFORNIA

RESOLUTION

SECTION 1. WHEREAS:

(a) Pursuant to the California Government Code, Title 7, Section 65000, et seq. (known as the Planning and Zoning Law), the Kern County Board of Supervisors has adopted the Official Land Use and Zoning Ordinance for the County of Kern (Ordinance Code of Kern County, Chapter 19.02, et seq.), herein called the Zoning Ordinance; and

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(b) The Zoning Ordinance establishes various classes of zones, prescribes land uses and regulations for the various zones, and adopts zoning maps for the purposes of dividing the County into zones and showing the zone boundaries; and

(c) The Zoning Ordinance regulates the use of buildings, structures, and land, as between agriculture, industry, business, residence, and other purposes, and other uses more specifically set forth in Section 65850 of said Government Code; and

(d) The Kern County Planning and Community Development Department has received an application pertaining to a parcel of real property which is located within that portion of the unincorporated area of the County for which an official Zoning Map has been adopted under Section 7297.501 of said Ordinance Code and for which precise land use and zoning regulations are in effect; and

(e) Said parcel of real property is described as follows:

    APN: 153-110-04 and 05

    Sections 35 and 36, T29S, R35E; MDB&M, County of Kern, State of California (A complete legal description is on file with the Kern County Planning and Community Development Department); and

(f) Said application has been made pursuant to provisions of Chapter 19.112 of said Ordinance Code, and requests a zone change insofar as said requirements are applicable to the aforesaid parcel of real property, and more particularly a change in zone classification from A (Exclusive Agriculture) to A WE (Exclusive Agriculture - Wind Energy) or a more restrictive district on 373 acres in Zone Map 110; and

(g) Said application has been made in the form and in the manner prescribed by said Zoning Ordinance and is on file with the Secretary of this Commission, designated as above, and reference is hereby made thereto for further particulars; and

(h) The Secretary of this Commission has caused notice to be duly given of a public hearing in this matter in accordance with law, as evidenced by the affidavit of publication and the affidavit of mailing on file with the Secretary of this Commission; and

(i) Said notice of hearing stated that an Environmental Impact Report has been prepared for this project; and

(j) Said public hearing has been duly and timely conducted, during which the proposal was explained by a representative of the Planning and Community Development Department and all persons so desiring were duly heard; and
(k) Before making any findings on said Environmental Impact Report or any consideration of the proposal on its merits, this Commission called for any objections or comments on said Environmental Impact Report; and

The Director of the Planning and Community Development Department has furnished to this Commission, and the Commission has incorporated into the record of this matter, a document setting forth the significant environmental effects identified in said Environmental Impact Report, with proposed findings and consideration by this Commission in relation to said significant effects for the purposes of Section 21081 of the Public Resources Code and Section 15091 of the State CEQA Guidelines, and setting forth evidence in support of the proposed findings; and a member of the Planning and Community Development Department Staff appeared before the Commission and gave additional testimony in support of the proposed findings; and

During said hearing, this Commission duly considered the adequacy and scope of said Environmental Impact Report and thereafter reviewed and considered the information therein contained with respect to the merits of the matters under consideration; and

(l) This Commission has considered the recommendation of the Planning and Community Development Department and all the testimony presented during said public hearing, after which said public hearing was concluded.

SECTION 2. NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the County of Kern, as follows:

(a) This Commission finds that the facts recited above are true and that this Commission has jurisdiction to consider the subject of this resolution; and

(b) This Commission has fully reviewed and considered the information in said Environmental Impact Report and Mitigation Measure Monitoring Program and hereby recommends it to be certified in relation to the subject of this resolution and, after careful consideration of all facts and evidence as presented at said hearing, it is the decision of the Planning Commission that the application herein described be, and hereby, recommends the Board of Supervisors CERTIFY said Environmental Impact Report and ADOPT Mitigation Measure Monitoring Program and APPROVE, as recommended by Staff, the application for the reasons specified in this Resolution; and

(c) The findings of this Commission upon which its decision is based are as follows:
(1) The applicable provisions of the California Environmental Quality Act, the State CEQA Guidelines, and the Kern County Guidelines have been duly observed in conjunction with said hearing in the consideration of this matter and all of the previous proceedings relating thereto.

(2) This project is recommended for approval despite the existence of certain significant environmental effects identified in said Environmental Impact Report, and this Commission recommends the Board of Supervisors make and adopt the findings with respect to each thereof set forth in Exhibit A, appended hereto and made a part hereof by reference, pursuant to Section 15091 of the State CEQA Guidelines (Title 14, Administrative Code) and Section 21081 of the Public Resources Code and declares that it considered the evidence described in connection with each such finding in Exhibit A and that such evidence is substantial and supports such finding.

This Commission acknowledges that approval of this project will produce certain environmental impacts which cannot be mitigated and, in accordance with Section 15093 of the State CEQA Guidelines (Title 14, Administrative Code) hereby recommends the Board of Supervisors adopt a Statement of Overriding Considerations set forth in Exhibit B, appended hereto, and made a part hereof, which summarizes the reasons why this project, despite certain environmental impacts, has been approved.

Said Environmental Impact Report is complete and adequate in scope and has been completed in compliance with the California Environmental Quality Act and with the State CEQA Guidelines and the Kern County Guidelines for implementation thereof.

(3) The effect upon the environment of such project and the activities and improvements which may be carried out thereunder will not interfere with maintenance of a high-quality environment now or in the future. Mitigation measures have been incorporated from the Environmental Impact Report as conditions of approval, and the adopted Mitigation Measure Monitoring Program specifies the required steps to satisfy each mitigation measure.

(4) Approval of this project shall not be considered operative, vested, or final until such time as the required verification from the Office of the County Clerk is submitted, attesting that payment of fees for the filing of a "Notice of Determination" for the benefit of the California Department of Fish and Game, as required by AB 3158 (Section 10005 Public Resources Code) has been made.

(5) The requested zone change is consistent with the applicable provisions of the Kern County General Plan and with previous zone change approvals in the area.

(6) Approval of the requested zone change will authorize the implementation of development that is consistent with surrounding land uses.

(7) Approval of the requested zone change is consistent with the Board of Supervisors' adopted alternative energy goal to develop 10,000 MWs of alternative energy by 2015.

(8) In accordance with CEQA, the Lead Agency may conclude that certain mitigation measures identified are infeasible or otherwise ineffective during public review. In those circumstances, the Lead Agency, may delete those mitigation measures and substitute for them other mitigation measures the Lead Agency finds are equivalent or more effective in mitigating significant effects so long as they do not cause potentially significant effects. It is the Lead Agency's determination that clarification to proposed mitigation are considered more effective in mitigating significant effects and are not
considered new significant information requiring the recirculation of the Final EIR under CEQA and do not create new significant effects on the environment; and

(d) The Secretary of this Commission shall cause copies of this resolution to be transmitted to the following:

North Sky River and Jawbone Wind Energy Project (PP10282 and PP11229)
NextEra Energy Resources/Attn: Mike Pappalardo (applicant/owner) (1)
NextEra Energy Resources/Attn: Jess Melin (applicant/owner) (1)
Jawbone Energy, LLC/ Attn: Phil Rudnick (applicant/owner) (1)
File (3)

jc
BEFORE THE PLANNING COMMISSION
COUNTY OF KERN, STATE OF CALIFORNIA

In the matter of: RESOLUTION NO. ***

APPLICATION FOR ZONE CHANGE CASE NO. 2, MAP NO. 111

Thirteen miles north of the intersection of Highway 58 and Highway 14, directly south and east of the intersection of Kelso Valley Road and Jawbone Canyon Road, 6 1/2 miles east of the community of Twin Oaks and 8 miles west of Cantil, in eastern Kern County
North Sky River Wind Energy Project (PP10282)

FINDINGS AND DETERMINATION

I, Lorelei H. Oviatt, Secretary of the Planning Commission of the County of Kern, State of California, do hereby certify that the following resolution, proposed by ***, seconded by ***, was duly passed and adopted by said Planning Commission at an official meeting hereof this 11th day of August, 2011, by the following vote, to wit:

AYES: ***

NOES: ***

ABSTAINED: ***

ABSENT: ***

SECRETARY OF THE PLANNING COMMISSION
COUNTY OF KERN, STATE OF CALIFORNIA

RESOLUTION

SECTION 1. WHEREAS:

(a) Pursuant to the California Government Code, Title 7, Section 65000, et seq. (known as the Planning and Zoning Law), the Kern County Board of Supervisors has adopted the Official Land Use and Zoning Ordinance for the County of Kern (Ordinance Code of Kern County, Chapter 19.02, et seq.), herein called the Zoning Ordinance; and

DRAFT
(b) The Zoning Ordinance establishes various classes of zones, prescribes land uses and regulations for the various zones, and adopts zoning maps for the purposes of dividing the County into zones and showing the zone boundaries; and

(c) The Zoning Ordinance regulates the use of buildings, structures, and land, as between agriculture, industry, business, residence, and other purposes, and other uses more specifically set forth in Section 65850 of said Government Code; and

(d) The Kern County Planning and Community Development Department has received an application pertaining to a parcel of real property which is located within that portion of the unincorporated area of the County for which an official Zoning Map has been adopted under Section 7297.603 of said Ordinance Code and for which precise land use and zoning regulations are in effect; and

(e) Said parcel of real property is described as follows:

    APN: 153-190-09 and 10;

    Section 31, T29S, R36E; MDB&M, County of Kern, State of California (A complete legal description is on file with the Kern County Planning and Community Development Department); and

(f) Said application has been made pursuant to provisions of Chapter 19.112 of said Ordinance Code, and requests a zone change insofar as said requirements are applicable to the aforescribed parcel of real property, and more particularly a change in zone classification from A-1 MH (Limited Agriculture - Mobilehome Combining) to A WE (Exclusive Agriculture - Wind Energy) or a more restrictive district on 97 acres and to A (Exclusive Agriculture) or a more restrictive district on 550 acres in Zone Map 111; and

(g) Said application has been made in the form and in the manner prescribed by said Zoning Ordinance and is on file with the Secretary of this Commission, designated as above, and reference is hereby made thereto for further particulars; and

(h) The Secretary of this Commission has caused notice to be duly given of a public hearing in this matter in accordance with law, as evidenced by the affidavit of publication and the affidavit of mailing on file with the Secretary of this Commission; and

(i) Said notice of hearing stated that an Environmental Impact Report has been prepared for this project; and
(j) Said public hearing has been duly and timely conducted, during which the proposal was explained by a representative of the Planning and Community Development Department and all persons so desiring were duly heard; and

(k) Before making any findings on said Environmental Impact Report or any consideration of the proposal on its merits, this Commission called for any objections or comments on said Environmental Impact Report; and

The Director of the Planning and Community Development Department has furnished to this Commission, and the Commission has incorporated into the record of this matter, a document setting forth the significant environmental effects identified in said Environmental Impact Report, with proposed findings and consideration by this Commission in relation to said significant effects for the purposes of Section 21081 of the Public Resources Code and Section 15091 of the State CEQA Guidelines, and setting forth evidence in support of the proposed findings; and a member of the Planning and Community Development Department Staff appeared before the Commission and gave additional testimony in support of the proposed findings; and

During said hearing, this Commission duly considered the adequacy and scope of said Environmental Impact Report and thereafter reviewed and considered the information therein contained with respect to the merits of the matters under consideration; and

(l) This Commission has considered the recommendation of the Planning and Community Development Department and all the testimony presented during said public hearing, after which said public hearing was concluded.

SECTION 2. NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the County of Kern, as follows:

(a) This Commission finds that the facts recited above are true and that this Commission has jurisdiction to consider the subject of this resolution; and

(b) This Commission has fully reviewed and considered the information in said Environmental Impact Report and Mitigation Measure Monitoring Program and hereby recommends it to be certified in relation to the subject of this resolution and, after careful consideration of all facts and evidence as presented at said hearing, it is the decision of the Planning Commission that the application herein described be, and hereby, recommends the Board of Supervisors CERTIFY said
Environmental Impact Report and **APPROVE** Mitigation Measure Monitoring Program and **APPROVE**, as recommended by Staff; the application for the reasons specified in this Resolution; and

(c) The findings of this Commission upon which its decision is based are as follows:

1. The applicable provisions of the California Environmental Quality Act, the State CEQA Guidelines, and the Kern County Guidelines have been duly observed in conjunction with said hearing in the consideration of this matter and all of the previous proceedings relating thereto.

2. This project is recommended for approval despite the existence of certain significant environmental effects identified in said Environmental Impact Report, and this Commission recommends the Board of Supervisors make and adopt the findings with respect to each thereof set forth in Exhibit A, appended hereto and made a part hereof by reference, pursuant to Section 15091 of the State CEQA Guidelines (Title 14, Administrative Code) and Section 21081 of the Public Resources Code and declares that it considered the evidence described in connection with each such finding in Exhibit A and that such evidence is substantial and supports such finding.

This Commission acknowledges that approval of this project will produce certain environmental impacts which cannot be mitigated and, in accordance with Section 15093 of the State CEQA Guidelines (Title 14, Administrative Code) hereby recommends the Board of Supervisors adopt a Statement of Overriding Considerations set forth in Exhibit B, appended hereto, and made a part hereof, which summarizes the reasons why this project, despite certain environmental impacts, has been approved.

Said Environmental Impact Report is complete and adequate in scope and has been completed in compliance with the California Environmental Quality Act and with the State CEQA Guidelines and the Kern County Guidelines for implementation thereof.

3. The effect upon the environment of such project and the activities and improvements which may be carried out thereunder will not interfere with maintenance of a high-quality environment now or in the future. Mitigation measures have been incorporated from the Environmental Impact Report as conditions of approval, and the adopted Mitigation Measure Monitoring Program specifies the required steps to satisfy each mitigation measure.

4. Approval of this project shall not be considered operative, vested, or final until such time as the required verification from the Office of the County Clerk is submitted, attesting that payment of fees for the filing of a "Notice of Determination" for the benefit of the California Department of Fish and Game, as required by AB 3158 (Section 10005 Public Resources Code) has been made.

5. The requested zone change is consistent with the applicable provisions of the Kern County General Plan and with previous zone change approvals in the area.

6. Approval of the requested zone change will authorize the implementation of development that is consistent with surrounding land uses.

7. Approval of the requested zone change is consistent with the Board of Supervisors' adopted alternative energy goal to develop 10,000 MWs of alternative energy by 2015.
(8) In accordance with CEQA, the Lead Agency may conclude that certain mitigation measures identified are infeasible or otherwise ineffective during public review. In those circumstances, the Lead Agency, may delete those mitigation measures and substitute for them other mitigation measures the Lead Agency finds are equivalent or more effective in mitigating significant effects so long as they do not cause potentially significant effects. It is the Lead Agency’s determination that clarification to proposed mitigation are considered more effective in mitigating significant effects and are not considered new significant information requiring the recirculation of the Final EIR under CEQA and do not create new significant effects on the environment; and

(d) The Secretary of this Commission shall cause copies of this resolution to be transmitted to the following:

North Sky River and Jawbone Wind Energy Project (PP10282 and PP11229)
NextEra Energy Resources/Attn: Mike Pappalardo (applicant/owner) (1)
NextEra Energy Resources/Attn: Jess Melin (applicant/owner) (1)
Jawbone Energy, LLC/ Attn: Phil Rudnick (applicant/owner) (1)
File (3)

jc
BEFORE THE PLANNING COMMISSION
COUNTY OF KERN, STATE OF CALIFORNIA

In the matter of:

RESOLUTION NO. ***

APPLICATION FOR ZONE CHANGE CASE NO. 8, MAP NO. 131

Thirteen miles north of the intersection of Highway 58 and Highway 14, directly south and east of the intersection of Kelso Valley Road and Jawbone Canyon Road, 6 1/2 miles east of the community of Twin Oaks and 8 miles west of Cantil, in eastern Kern County
North Sky River Wind Energy Project (PP10282)

FINDINGS AND DETERMINATION

I, Lorelei H. Oviatt, Secretary of the Planning Commission of the County of Kern, State of California, do hereby certify that the following resolution, proposed by ***, seconded by ***, was duly passed and adopted by said Planning Commission at an official meeting hereof this 11th day of August, 2011, by the following vote, to wit:

AYES: ***
NOES: ***
ABSTAINED: ***
ABSENT: ***

SECRETARY OF THE PLANNING COMMISSION
COUNTY OF KERN, STATE OF CALIFORNIA

RESOLUTION

SECTION 1. WHEREAS:

(a) Pursuant to the California Government Code, Title 7, Section 65000, et seq. (known as the Planning and Zoning Law), the Kern County Board of Supervisors has adopted the Official Land Use and Zoning Ordinance for the County of Kern (Ordinance Code of Kern County, Chapter 19.02, et seq.), herein called the Zoning Ordinance; and

DRAFT
(b) The Zoning Ordinance establishes various classes of zones, prescribes land uses and regulations for the various zones, and adopts zoning maps for the purposes of dividing the County into zones and showing the zone boundaries; and

(c) The Zoning Ordinance regulates the use of buildings, structures, and land, as between agriculture, industry, business, residence, and other purposes, and other uses more specifically set forth in Section 65850 of said Government Code; and

(d) The Kern County Planning and Community Development Department has received an application pertaining to a parcel of real property which is located within that portion of the unincorporated area of the County for which an official Zoning Map has been adopted under Section 7297.539 of said Ordinance Code and for which precise land use and zoning regulations are in effect; and

(e) Said parcel of real property is described as follows:

   APN: 444-010-01, 04, 06, 08, 10, 13; 444-040-09 and 13;
   444-030-01, 05, 06, 08, and 11;
   444-040-15; 444-060-05; 444-050-01 and 04; 444-060-08;

   Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 25, 27, 28, and 33, T30S, R35E;
   MDB&M, County of Kern, State of California (A complete legal description is on file with
   the Kern County Planning and Community Development Department); and

(f) Said application has been made pursuant to provisions of Chapter 19.112 of said Ordinance Code, and requests a zone change insofar as said requirements are applicable to the aforesaid described parcel of real property, and more particularly a change in zone classification from A (Exclusive Agriculture) to A WE (Exclusive Agriculture - Wind Energy) or a more restrictive district on 1,782 acres and A FP (Exclusive Agriculture - Floodplain Combining) or a more restrictive district on 231 acres in Zone Map 131; and

(g) Said application has been made in the form and in the manner prescribed by said Zoning Ordinance and is on file with the Secretary of this Commission, designated as above, and reference is hereby made thereto for further particulars; and

(h) The Secretary of this Commission has caused notice to be duly given of a public hearing in this matter in accordance with law, as evidenced by the affidavit of publication and the affidavit of mailing on file with the Secretary of this Commission; and

(i) Said notice of hearing stated that an Environmental Impact Report has been prepared for this project; and

ZCC #8, Map #131
August 11, 2011
(j) Said public hearing has been duly and timely conducted, during which the proposal was explained by a representative of the Planning and Community Development Department and all persons so desiring were duly heard; and

(k) Before making any findings on said Environmental Impact Report or any consideration of the proposal on its merits, this Commission called for any objections or comments on said Environmental Impact Report; and

The Director of the Planning and Community Development Department has furnished to this Commission, and the Commission has incorporated into the record of this matter, a document setting forth the significant environmental effects identified in said Environmental Impact Report, with proposed findings and consideration by this Commission in relation to said significant effects for the purposes of Section 21081 of the Public Resources Code and Section 15091 of the State CEQA Guidelines, and setting forth evidence in support of the proposed findings; and a member of the Planning and Community Development Department Staff appeared before the Commission and gave additional testimony in support of the proposed findings; and

During said hearing, this Commission duly considered the adequacy and scope of said Environmental Impact Report and thereafter reviewed and considered the information therein contained with respect to the merits of the matters under consideration; and

(l) This Commission has considered the recommendation of the Planning and Community Development Department and all the testimony presented during said public hearing, after which said public hearing was concluded.

SECTION 2. NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the County of Kern, as follows:

(a) This Commission finds that the facts recited above are true and that this Commission has jurisdiction to consider the subject of this resolution; and

(b) This Commission has fully reviewed and considered the information in said Environmental Impact Report and Mitigation Measure Monitoring Program and hereby recommends it to be certified in relation to the subject of this resolution and, after careful consideration of all facts and evidence as presented at said hearing, it is the decision of the Planning Commission that the application herein described be, and hereby, recommends the Board of Supervisors CERTIFY said

ZCC #8, Map #131
August 11, 2011
Environmental Impact Report and **ADOPT** Mitigation Measure Monitoring Program and **APPROVE**, as recommended by Staff; the application for the reasons specified in this Resolution; and

(c) The findings of this Commission upon which its decision is based are as follows:

1. The applicable provisions of the California Environmental Quality Act, the State CEQA Guidelines, and the Kern County Guidelines have been duly observed in conjunction with said hearing in the consideration of this matter and all of the previous proceedings relating thereto.

2. This project is recommended for approval despite the existence of certain significant environmental effects identified in said Environmental Impact Report, and this Commission recommends the Board of Supervisors make and adopt the findings with respect to each thereof set forth in Exhibit A, appended hereto and made a part hereof by reference, pursuant to Section 15091 of the State CEQA Guidelines (Title 14, Administrative Code) and Section 21081 of the Public Resources Code and declares that it considered the evidence described in connection with each such finding in Exhibit A and that such evidence is substantial and supports such finding.

This Commission acknowledges that approval of this project will produce certain environmental impacts which cannot be mitigated and, in accordance with Section 15093 of the State CEQA Guidelines (Title 14, Administrative Code) hereby recommends the Board of Supervisors adopt a Statement of Overriding Considerations set forth in Exhibit B, appended hereto, and made a part hereof, which summarizes the reasons why this project, despite certain environmental impacts, has been approved.

Said Environmental Impact Report is complete and adequate in scope and has been completed in compliance with the California Environmental Quality Act and with the State CEQA Guidelines and the Kern County Guidelines for implementation thereof.

3. The effect upon the environment of such project and the activities and improvements which may be carried out thereunder will not interfere with maintenance of a high-quality environment now or in the future. Mitigation measures have been incorporated from the Environmental Impact Report as conditions of approval, and the adopted Mitigation Measure Monitoring Program specifies the required steps to satisfy each mitigation measure.

4. Approval of this project shall not be considered operative, vested, or final until such time as the required verification from the Office of the County Clerk is submitted, attesting that payment of fees for the filing of a "Notice of Determination" for the benefit of the California Department of Fish and Game, as required by AB 3158 (Section 10005 Public Resources Code) has been made.

5. The requested zone change is consistent with the applicable provisions of the Kern County General Plan and with previous zone change approvals in the area.

6. Approval of the requested zone change will authorize the implementation of development that is consistent with surrounding land uses.

7. Approval of the requested zone change is consistent with the Board of Supervisors' adopted alternative energy goal to develop 10,000 MWs of alternative energy by 2015.
(8) The FP (Floodplain Combining) District is necessary to protect the public health and safety and to minimize potential property damage as a result of flooding.

(9) In accordance with CEQA, the Lead Agency may conclude that certain mitigation measures identified are infeasible or otherwise ineffective during public review. In those circumstances, the Lead Agency, may delete those mitigation measures and substitute for them other mitigation measures the Lead Agency finds are equivalent or more effective in mitigating significant effects so long as they do not cause potentially significant effects. It is the Lead Agency’s determination that clarification to proposed mitigation are considered more effective in mitigating significant effects and are not considered new significant information requiring the recirculation of the Final EIR under CEQA and do not create new significant effects on the environment; and

(d) The Secretary of this Commission shall cause copies of this resolution to be transmitted to the following:

North Sky River and Jawbone Wind Energy Project (PP10282 and PP11229)
NextEra Energy Resources/Attn: Mike Pappalardo (applicant/owner) (1)
NextEra Energy Resources/Attn: Jess Melin (applicant/owner) (1)
Jawbone Energy, LLC/ Attn: Phil Rudnick (applicant/owner) (1)
File (3)

jc
BEFORE THE PLANNING COMMISSION
COUNTY OF KERN, STATE OF CALIFORNIA

In the matter of:

RESOLUTION NO. ***

APPLICATION FOR ZONE CHANGE CASE NO. 9, MAP NO. 131

Thirteen miles north of the intersection of Highway 58 and Highway 14, directly south and east of the intersection of Kelso Valley Road and Jawbone Canyon Road, 6 1/2 miles east of the community of Twin Oaks and 8 miles west of Cantil, in eastern Kern County
Jawbone Wind Energy Project (PP11229)

FINDINGS AND DETERMINATION

I, Lorelei H. Oviatt, Secretary of the Planning Commission of the County of Kern, State of California, do hereby certify that the following resolution, proposed by ***, seconded by ***, was duly passed and adopted by said Planning Commission at an official meeting hereof this 11th day of August, 2011, by the following vote, to wit:

AYES: ***
NOES: ***
ABSTAINED: ***
ABSENT: ***

SECRETARY OF THE PLANNING COMMISSION
COUNTY OF KERN, STATE OF CALIFORNIA

RESOLUTION

SECTION 1. WHEREAS:

(a) Pursuant to the California Government Code, Title 7, Section 65000, et seq. (known as the Planning and Zoning Law), the Kern County Board of Supervisors has adopted the Official Land Use and Zoning Ordinance for the County of Kern (Ordinance Code of Kern County, Chapter 19.02, et seq.), herein called the Zoning Ordinance; and

DRAFT
(b) The Zoning Ordinance establishes various classes of zones, prescribes land uses and regulations for the various zones, and adopts zoning maps for the purposes of dividing the County into zones and showing the zone boundaries; and

(c) The Zoning Ordinance regulates the use of buildings, structures, and land, as between agriculture, industry, business, residence, and other purposes, and other uses more specifically set forth in Section 65850 of said Government Code; and

(d) The Kern County Planning and Community Development Department has received an application pertaining to a parcel of real property which is located within that portion of the unincorporated area of the County for which an official Zoning Map has been adopted under Section 7297.539 of said Ordinance Code and for which precise land use and zoning regulations are in effect; and

(e) Said parcel of real property is described as follows:

   APN: 444-030-13

   Section 22, T30S, R35E; MDB&M, County of Kern, State of California (A complete legal description is on file with the Kern County Planning and Community Development Department); and

(f) Said application has been made pursuant to provisions of Chapter 19.112 of said Ordinance Code, and requests a zone change insofar as said requirements are applicable to the aforesaid parcel of real property, and more particularly a change in zone classification from A (Exclusive Agriculture) to A WE (Exclusive Agriculture - Wind Energy) or a more restrictive district on 87 acres in Zone Map 131; and

(g) Said application has been made in the form and in the manner prescribed by said Zoning Ordinance and is on file with the Secretary of this Commission, designated as above, and reference is hereby made thereto for further particulars; and

(h) The Secretary of this Commission has caused notice to be duly given of a public hearing in this matter in accordance with law, as evidenced by the affidavit of publication and the affidavit of mailing on file with the Secretary of this Commission; and

(i) Said notice of hearing stated that an Environmental Impact Report has been prepared for this project; and

(j) Said public hearing has been duly and timely conducted, during which the proposal was explained by a representative of the Planning and Community Development Department and all persons so desiring were duly heard; and
(k) Before making any findings on said Environmental Impact Report or any consideration of the proposal on its merits, this Commission called for any objections or comments on said Environmental Impact Report; and

The Director of the Planning and Community Development Department has furnished to this Commission, and the Commission has incorporated into the record of this matter, a document setting forth the significant environmental effects identified in said Environmental Impact Report, with proposed findings and consideration by this Commission in relation to said significant effects for the purposes of Section 21081 of the Public Resources Code and Section 15091 of the State CEQA Guidelines, and setting forth evidence in support of the proposed findings; and a member of the Planning and Community Development Department Staff appeared before the Commission and gave additional testimony in support of the proposed findings; and

During said hearing, this Commission duly considered the adequacy and scope of said Environmental Impact Report and thereafter reviewed and considered the information therein contained with respect to the merits of the matters under consideration; and

(l) This Commission has considered the recommendation of the Planning and Community Development Department and all the testimony presented during said public hearing, after which said public hearing was concluded.

SECTION 2. NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the County of Kern, as follows:

(a) This Commission finds that the facts recited above are true and that this Commission has jurisdiction to consider the subject of this resolution; and

(b) This Commission has fully reviewed and considered the information in said Environmental Impact Report and Mitigation Measure Monitoring Program and hereby recommends it to be certified in relation to the subject of this resolution and, after careful consideration of all facts and evidence as presented at said hearing, it is the decision of the Planning Commission that the application herein described be, and hereby, recommends the Board of Supervisors CERTIFY said Environmental Impact Report and ADOPT Mitigation Measure Monitoring Program and APPROVE, as recommended by Staff, the application for the reasons specified in this Resolution; and

(c) The findings of this Commission upon which its decision is based are as follows:

ZCC #9, Map #131
August 11, 2011
(1) The applicable provisions of the California Environmental Quality Act, the State CEQA Guidelines, and the Kern County Guidelines have been duly observed in conjunction with said hearing in the consideration of this matter and all of the previous proceedings relating thereto.

(2) This project is recommended for approval despite the existence of certain significant environmental effects identified in said Environmental Impact Report, and this Commission recommends the Board of Supervisors make and adopt the findings with respect to each thereof set forth in Exhibit A, appended hereto and made a part hereof by reference, pursuant to Section 15091 of the State CEQA Guidelines (Title 14, Administrative Code) and Section 21081 of the Public Resources Code and declares that it considered the evidence described in connection with each such finding in Exhibit A and that such evidence is substantial and supports such finding.

This Commission acknowledges that approval of this project will produce certain environmental impacts which cannot be mitigated and, in accordance with Section 15093 of the State CEQA Guidelines (Title 14, Administrative Code) hereby recommends the Board of Supervisors adopt a Statement of Overriding Considerations set forth in Exhibit B, appended hereto, and made a part thereof, which summarizes the reasons why this project, despite certain environmental impacts, has been approved.

Said Environmental Impact Report is complete and adequate in scope and has been completed in compliance with the California Environmental Quality Act and with the State CEQA Guidelines and the Kern County Guidelines for implementation thereof.

(3) The effect upon the environment of such project and the activities and improvements which may be carried out thereunder will not interfere with maintenance of a high-quality environment now or in the future. Mitigation measures have been incorporated from the Environmental Impact Report as conditions of approval, and the adopted Mitigation Measure Monitoring Program specifies the required steps to satisfy each mitigation measure.

(4) Approval of this project shall not be considered operative, vested, or final until such time as the required verification from the Office of the County Clerk is submitted, attesting that payment of fees for the filing of a "Notice of Determination" for the benefit of the California Department of Fish and Game, as required by AB 3158 (Section 10005 Public Resources Code) has been made.

(5) The requested zone change is consistent with the applicable provisions of the Kern County General Plan and with previous zone change approvals in the area.

(6) Approval of the requested zone change will authorize the implementation of development that is consistent with surrounding land uses.

(7) Approval of the requested zone change is consistent with the Board of Supervisors' adopted alternative energy goal to develop 10,000 MWs of alternative energy by 2015.

(8) In accordance with CEQA, the Lead Agency may conclude that certain mitigation measures identified are infeasible or otherwise ineffective during public review. In those circumstances, the Lead Agency, may delete those mitigation measures and substitute for them other mitigation measures the Lead Agency finds are equivalent or more effective in mitigating significant effects so long as they do not cause potentially significant effects. It is the Lead Agency's determination that clarification to proposed mitigation are considered more effective in mitigating significant effects and are not
considered new significant information requiring the recirculation of the Final EIR under CEQA and
do not create new significant effects on the environment; and

(d) The Secretary of this Commission shall cause copies of this resolution to be transmitted to the following:

North Sky River and Jawbone Wind Energy Project (PP10282 and PP11229)
NextEra Energy Resources/Attn: Mike Pappalardo (applicant/owner) (1)
NextEra Energy Resources/Attn: Jess Melin (applicant/owner) (1)
Jawbone Energy, LLC/ Attn: Phil Rudnick (applicant/owner) (1)
File (3)

jc
BEFORE THE PLANNING COMMISSION  
COUNTY OF KERN, STATE OF CALIFORNIA  

In the matter of:  

RESOLUTION NO. ***  

APPLICATION FOR ZONE CHANGE CASE NO. 5, MAP NO. 132  

Thirteen miles north of the intersection of Highway 58 and Highway 14, directly south and east of the intersection of Kelso Valley Road and Jawbone Canyon Road, 6 1/2 miles east of the community of Twin Oaks and 8 miles west of Cantil, in eastern Kern County  
North Sky River Wind Energy Project (PP10282)  

FINDINGS AND DETERMINATION  

I, Lorelei H. Oviatt, Secretary of the Planning Commission of the County of Kern, State of California, do hereby certify that the following resolution, proposed by ***, seconded by ***, was duly passed and adopted by said Planning Commission at an official meeting hereof this 11th day of August, 2011, by the following vote, to wit:  

AYES: ***  
NOES: ***  
ABSTAINED: ***  
ABSENT: ***  

SECRETARY OF THE PLANNING COMMISSION  
COUNTY OF KERN, STATE OF CALIFORNIA  

RESOLUTION  

SECTION 1. WHEREAS:  

(a) Pursuant to the California Government Code, Title 7, Section 65000, et seq. (known as the Planning and Zoning Law), the Kern County Board of Supervisors has adopted the Official Land Use and Zoning Ordinance for the County of Kern (Ordinance Code of Kern County, Chapter 19.02, et seq.), herein called the Zoning Ordinance; and  

DRAFT
(b) The Zoning Ordinance establishes various classes of zones, prescribes land uses and regulations for the various zones, and adopts zoning maps for the purposes of dividing the County into zones and showing the zone boundaries; and

(c) The Zoning Ordinance regulates the use of buildings, structures, and land, as between agriculture, industry, business, residence, and other purposes, and other uses more specifically set forth in Section 65850 of said Government Code; and

(d) The Kern County Planning and Community Development Department has received an application pertaining to a parcel of real property which is located within that portion of the unincorporated area of the County for which an official Zoning Map has been adopted under Section 7297.540 of said Ordinance Code and for which precise land use and zoning regulations are in effect; and

(e) Said parcel of real property is described as follows:

   APN: 444-100-10 and 11, 444-080-01, 02, 13, and 15

   Sections 6, 7, and 19, T30S, R36E; MDB&M, County of Kern, State of California (A complete legal description is on file with the Kern County Planning and Community Development Department); and

(f) Said application has been made pursuant to provisions of Chapter 19.112 of said Ordinance Code, and requests a zone change insofar as said requirements are applicable to the aforesaid parcel of real property, and more particularly a change in zone classification from A (Exclusive Agriculture) to A WE (Exclusive Agriculture - Wind Energy) or a more restrictive district on 104 acres and A FP (Exclusive Agriculture - Floodplain Combining) or a more restrictive district on 36 acres in Zone Map 132; and

(g) Said application has been made in the form and in the manner prescribed by said Zoning Ordinance and is on file with the Secretary of this Commission, designated as above, and reference is hereby made thereto for further particulars; and

(h) The Secretary of this Commission has caused notice to be duly given of a public hearing in this matter in accordance with law, as evidenced by the affidavit of publication and the affidavit of mailing on file with the Secretary of this Commission; and

(i) Said notice of hearing stated that an Environmental Impact Report has been prepared for this project; and
(j) Said public hearing has been duly and timely conducted, during which the proposal was explained by a representative of the Planning and Community Development Department and all persons so desiring were duly heard; and

(k) Before making any findings on said Environmental Impact Report or any consideration of the proposal on its merits, this Commission called for any objections or comments on said Environmental Impact Report; and

The Director of the Planning and Community Development Department has furnished to this Commission, and the Commission has incorporated into the record of this matter, a document setting forth the significant environmental effects identified in said Environmental Impact Report, with proposed findings and consideration by this Commission in relation to said significant effects for the purposes of Section 21081 of the Public Resources Code and Section 15091 of the State CEQA Guidelines, and setting forth evidence in support of the proposed findings; and a member of the Planning and Community Development Department Staff appeared before the Commission and gave additional testimony in support of the proposed findings; and

During said hearing, this Commission duly considered the adequacy and scope of said Environmental Impact Report and thereafter reviewed and considered the information therein contained with respect to the merits of the matters under consideration; and

(l) This Commission has considered the recommendation of the Planning and Community Development Department and all the testimony presented during said public hearing, after which said public hearing was concluded.

SECTION 2. NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the County of Kern, as follows:

(a) This Commission finds that the facts recited above are true and that this Commission has jurisdiction to consider the subject of this resolution; and

(b) This Commission has fully reviewed and considered the information in said Environmental Impact Report and Mitigation Measure Monitoring Program and hereby recommends it to be certified in relation to the subject of this resolution and, after careful consideration of all facts and evidence as presented at said hearing, it is the decision of the Planning Commission that the application herein described be, and hereby, recommends the Board of Supervisors CERTIFY said

ZCC #5, Map #132
August 11, 2011
Environmental Impact Report and A D O P T Mitigation Measure Monitoring Program and A P P R O V E, as recommended by Staff, the application for the reasons specified in this Resolution; and

(c) The findings of this Commission upon which its decision is based are as follows:

(1) The applicable provisions of the California Environmental Quality Act, the State CEQA Guidelines, and the Kern County Guidelines have been duly observed in conjunction with said hearing in the consideration of this matter and all of the previous proceedings relating thereto.

(2) This project is recommended for approval despite the existence of certain significant environmental effects identified in said Environmental Impact Report, and this Commission recommends the Board of Supervisors make and adopt the findings with respect to each thereof set forth in Exhibit A, appended hereto and made a part hereof by reference, pursuant to Section 15091 of the State CEQA Guidelines (Title 14, Administrative Code) and Section 21081 of the Public Resources Code and declares that it considered the evidence described in connection with each such finding in Exhibit A and that such evidence is substantial and supports such finding.

This Commission acknowledges that approval of this project will produce certain environmental impacts which cannot be mitigated and, in accordance with Section 15093 of the State CEQA Guidelines (Title 14, Administrative Code) hereby recommends the Board of Supervisors adopt a Statement of Overriding Considerations set forth in Exhibit B, appended hereto, and made a part hereof, which summarizes the reasons why this project, despite certain environmental impacts, has been approved.

Said Environmental Impact Report is complete and adequate in scope and has been completed in compliance with the California Environmental Quality Act and with the State CEQA Guidelines and the Kern County Guidelines for implementation thereof.

(3) The effect upon the environment of such project and the activities and improvements which may be carried out thereunder will not interfere with maintenance of a high-quality environment now or in the future. Mitigation measures have been incorporated from the Environmental Impact Report as conditions of approval, and the adopted Mitigation Measure Monitoring Program specifies the required steps to satisfy each mitigation measure.

(4) Approval of this project shall not be considered operative, vested, or final until such time as the required verification from the Office of the County Clerk is submitted, attesting that payment of fees for the filing of a "Notice of Determination" for the benefit of the California Department of Fish and Game, as required by AB 3158 (Section 10005 Public Resources Code) has been made.

(5) The requested zone change is consistent with the applicable provisions of the Kern County General Plan and with previous zone change approvals in the area.

(6) Approval of the requested zone change will authorize the implementation of development that is consistent with surrounding land uses.

(7) Approval of the requested zone change is consistent with the Board of Supervisors' adopted alternative energy goal to develop 10,000 MWs of alternative energy by 2015.
(8) In accordance with CEQA, the Lead Agency may conclude that certain mitigation measures identified are infeasible or otherwise ineffective during public review. In those circumstances, the Lead Agency, may delete those mitigation measures and substitute for them other mitigation measures the Lead Agency finds are equivalent or more effective in mitigating significant effects so long as they do not cause potentially significant effects. It is the Lead Agency’s determination that clarification to proposed mitigation are considered more effective in mitigating significant effects and are not considered new significant information requiring the recirculation of the Final EIR under CEQA and do not create new significant effects on the environment; and

(d) The Secretary of this Commission shall cause copies of this resolution to be transmitted to the following:

North Sky River and Jawbone Wind Energy Project (PP10282 and PP11229)
NextEra Energy Resources/Attn: Mike Pappalardo (applicant/owner) (1)
NextEra Energy Resources/Attn: Jess Melin (applicant/owner) (1)
Jawbone Energy, LLC/ Attn: Phil Rudnick (applicant/owner) (1)
File (3)

jc
BEFORE THE PLANNING COMMISSION
COUNTY OF KERN, STATE OF CALIFORNIA

In the matter of:

RESOLUTION NO. ***

APPLICATION FOR CONDITIONAL USE PERMIT CASE NO. 3, MAP NO. 131

Thirteen miles north of the intersection of Highway 58 and Highway 14, directly south and east of the intersection of Kelso Valley Road and Jawbone Canyon Road, 6 1/2 miles east of the community of Twin Oaks and 8 miles west of Cantil, in eastern Kern County North Sky River Wind Energy Project (PP10282)

FINDINGS AND DETERMINATION

I, Lorelei H. Oviatt, Secretary of the Planning Commission of the County of Kern, State of California, do hereby certify that the following resolution, proposed by ***, seconded by ***, was duly passed and adopted by said Planning Commission at an official meeting hereof this 11th day of August, 2011, by the following vote, to wit:

AYES: ***
NOES: ***
ABSTAINED: ***
ABSENT: ***

SECRETARY OF THE PLANNING COMMISSION
COUNTY OF KERN, STATE OF CALIFORNIA

RESOLUTION

SECTION 1. WHEREAS:

(a) Pursuant to the California Government Code, Title 7, Section 65000, et seq. (known as the Planning and Zoning Law), the Kern County Board of Supervisors has adopted the Official Land Use and Zoning Ordinance for the County of Kern (Ordinance Code of Kern County, Chapter 19.02, et seq.), herein called the Zoning Ordinance; and

DRAFT
(b) The Zoning Ordinance establishes various classes of zones, prescribes land uses and regulations for the various zones, and adopts zoning maps for the purposes of dividing the County into zones and showing the zone boundaries; and

(c) The Zoning Ordinance regulates the use of buildings, structures, and land, as between agriculture, industry, business, residence, and other purposes, and other uses more specifically set forth in Section 65850 of said Government Code; and

(d) The Kern County Planning and Community Development Department has received an application pertaining to a parcel of real property which is located within that portion of the unincorporated area of the County for which an official Zoning Map has been adopted under Section 7297.540 of said Ordinance Code and for which precise land use and zoning regulations are in effect; and

(e) Said parcel of real property is described as follows:

APN: 444-030-01

Section 15, T30S, R35E; MDB&M, County of Kern, State of California (A complete legal description is on file with the Kern County Planning and Community Development Department); and

(f) Said application has been made pursuant to provisions of Chapter 19.104 of said Ordinance Code, and requests a conditional use permit as provided in Section 19.12.030.G, insofar as said requirements are applicable to the aforesaid described parcel of real property, and more particularly to allow a temporary concrete batch plant on 4 acres in an A (Exclusive Agriculture) District; and

(g) Said application has been made in the form and in the manner prescribed by said Zoning Ordinance and is on file with the Secretary of this Commission, designated as above, and reference is hereby made thereto for further particulars; and

(h) The Secretary of this Commission has caused notice to be duly given of a public hearing in this matter in accordance with law, as evidenced by the affidavit of publication and the affidavit of mailing on file with the Secretary of this Commission; and

(i) Said notice of hearing stated that an Environmental Impact Report has been prepared for this project; and

(j) Said public hearing has been duly and timely conducted, during which the proposal was explained by a representative of the Planning and Community Development Department and all persons so desiring were duly heard; and

CUP #3, Map #131
August 11, 2011
(k) Before making any findings on said Environmental Impact Report or any consideration of the proposal on its merits, this Commission called for any objections or comments on said Environmental Impact Report; and

The Director of the Planning and Community Development Department has furnished to this Commission, and the Commission has incorporated into the record of this matter, a document setting forth the significant environmental effects identified in said Environmental Impact Report, with proposed findings and consideration by this Commission in relation to said significant effects for the purposes of Section 21081 of the Public Resources Code and Section 15091 of the State CEQA Guidelines, and setting forth evidence in support of the proposed findings; and a member of the Planning and Community Development Department Staff appeared before the Commission and gave additional testimony in support of the proposed findings; and

During said hearing, this Commission duly considered the adequacy and scope of said Environmental Impact Report and thereafter reviewed and considered the information therein contained with respect to the merits of the matters under consideration; and

(l) This Commission has considered the recommendation of the Planning and Community Development Department and all the testimony presented during said public hearing, after which said public hearing was concluded.

SECTION 2. NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the County of Kern, as follows:

(a) This Commission finds that the facts recited above are true and that this Commission has jurisdiction to consider the subject of this resolution; and

(b) This Commission has fully reviewed and considered the information in said Environmental Impact Report and Mitigation Measure Monitoring Program and hereby recommends it to be certified in relation to the subject of this resolution and, after careful consideration of all facts and evidence as presented at said hearing, it is the decision of the Planning Commission that the application herein described be, and hereby, recommends the Board of Supervisors CERTIFY said Environmental Impact Report and ADOPT Mitigation Measure Monitoring Program and APPROVE, as recommended by Staff, the application for the reasons specified in this Resolution with development to be in substantial conformity with the approved plan, and the approved plan shall be revised to include the following conditions of approval:

CUP #3, Map #131
August 11, 2011
(1) Development shall be in substantial conformity with the approved plan, and the approved plan shall be revised to include the following conditions of approval.

(2) This conditional use permit shall authorize the operation of a temporary mobile concrete batch plant. All activities approved by this conditional use permit shall cease upon the issuance of the final occupancy approval for the final turbine constructed for the North Sky River and Jawbone Wind Energy projects. All related equipment, materials, and trash shall be removed from the project boundaries and the site shall be remediated pursuant to the mitigation measures listed in the Mitigation Measure Monitoring Program approved in conjunction with this conditional use permit.

(3) All Mitigation Measures listed in the Mitigation Measure Monitoring Program approved in conjunction with this conditional use permit are hereby incorporated as conditions of approval for this conditional use permit.

(4) Development shall be in substantial conformity with the approved plan, and the approved plan shall be revised to include the following conditions of approval.

(5) All necessary building permits must be obtained.

(6) Prior to the issuance of building or grading permits, the applicant shall submit documentation of the following:

(a) The project proponent shall demonstrate compliance with all applicable Mitigation Measures as listed in the approved Mitigation Measure Monitoring Program (MMMP).

(b) The method of water supply and sewage disposal shall be as required and approved by the Kern County Public Health Services Department/Environmental Health Division.

(c) Fire flows, fire protection facilities, and access ways shall be as required and approved by the Kern County Fire Department.

(d) The project site is located in an area subject to State Responsibility Area fire safe regulations. The development plan shall be reviewed for compliance with fire safe regulations.

(e) A plan for the disposal of drainage waters originating on-site and from adjacent road rights-of-way shall be approved by the Kern County Engineering, Surveying, and Permit Services Department/ Floodplain Management, if required. Easements or grant deeds shall be given to the County of Kern for drainage purposes or access thereto, as necessary.

(7) Prior to final occupancy approval, the following conditions shall be verified by the building inspector and shall be continuously maintained while this permit is active:

(a) All easements shall be kept open, clear, and free from buildings and structures of any kind pursuant to Chapters 18.50 and 18.55 of the Kern County Land Division Ordinance. All obstructions, including utility poles and lines, trees, pole signs, or similar obstructions, shall be removed from the ultimate road rights-of-way in accordance with Section 18.55.030 of the Land Division Ordinance. Compliance with this requirement is the responsibility of the applicant and may result in significant financial expenditures.
(b) All storage and pressure tanks shall be painted an earthen hue color.

(c) All vehicle parking and maneuvering areas shall be treated in a manner to continuously prevent blowing dust.

(d) The areas devoted to outside storage shall be treated with a dust binder or other dust control measure, as approved by the Director of the Kern County Planning and Community Development Department.

(8) The property owner shall continuously comply with the following conditions of approval during implementation of this permit:

(a) The development shall comply with any requirements of the Eastern Kern Air Pollution Control District.

(b) Due to the temporary nature of this permit and the circumstances of the applicant, the requirement for two 9-foot by 20-foot parking spaces shall be waived.

(c) All signs shall comply with the signage regulations of the applicable base zone district and with Chapter 19.84 of the Zoning Ordinance.

(d) During all on-site grading and construction activities, adequate measures shall be implemented to control fugitive dust.

(e) All used oil (as defined in Section 25250.1 of the California Health and Safety Code) shall be disposed of in accordance with all local, State, and federal regulations following consultation with the Kern County Public Health Services Department/Environmental Health Division/Hazardous Materials Section, State of California Department of Health Services, and the Environmental Protection Agency. All used oil and other wastes shall be transported by a registered waste hauler.

(f) When accessory to a permitted use, the storage of flammable and combustible liquids not otherwise regulated by this title shall be subject to the following:

1. The maximum quantity of flammable or combustible liquids stored in above-ground tanks associated with any particular business shall be 12,000 gallons per tank and an aggregate maximum of 48,000 gallons, unless the Kern County Fire Marshal approves a deviation to allow additional storage capacity.

2. The maximum quantity of flammable or combustible liquids stored in above-ground vaults or underground tanks or vaults shall be 15,000 gallons per vault or underground tank associated with any particular business an aggregate maximum of 48,000 gallons, unless the Kern County Fire Marshal approves a deviation to allow additional storage capacity.

3. Above-ground storage structures designed for the storage of 6,000 gallons or less of any flammable or combustible liquid shall be setback a minimum distance of 15 feet from any property line and from any dwelling unit, except where the California Fire
Code or the Kern County Fire Marshal specifically authorizes a deviation from this setback requirement. Above-ground storage structures designed for the storage of more than 6,000 gallons of any flammable or combustible liquid shall be setback a minimum distance of 25 feet from any property line and from any dwelling unit, except where the California Fire Code or the Kern County Fire Marshal specifically authorizes a deviation from this setback requirement.

4. All above-ground storage shall be within types of containers approved for that use by the Kern County Fire Marshal.

5. In instances where the Kern County Fire Marshal approves deviations from the requirements of this section, conditions may be imposed that are deemed necessary by the Kern County Fire Marshal to safeguard public health and safety. Any such deviation shall be authorized in writing.

(9) This permit shall become null and void if the use authorized has not been activated within a three-year period of time of the approval of said permit, unless an extension of time has been granted by the decision-making authority, upon written request before expiration of the three- (3-) year period.

(10) Noncompliance with the adopted conditions of approval may cause permit revocation proceedings in accordance with Section 19.102.020 of the Ordinance Code; and

(c) Noncompliance with the adopted conditions of approval may cause permit revocation proceedings in accordance with Section 19.102.020 of said Ordinance Code; and

(d) The findings of this Commission upon which its decision is based are as follows:

(1) The applicable provisions of the California Environmental Quality Act, the State CEQA Guidelines, and the Kern County Guidelines have been duly observed in conjunction with said hearing in the consideration of this matter and all of the previous proceedings relating thereto.

(2) This project is recommended for approval despite the existence of certain significant environmental effects identified in said Environmental Impact Report, and this Commission recommends the Board of Supervisors make and adopt the findings with respect to each thereof set forth in Exhibit A, appended hereto and made a part hereof by reference, pursuant to Section 15091 of the State CEQA Guidelines (Title 14, Administrative Code) and Section 21081 of the Public Resources Code and declares that it considered the evidence described in connection with each such finding in Exhibit A and that such evidence is substantial and supports such finding.

This Commission acknowledges that approval of this project will produce certain environmental impacts which cannot be mitigated and, in accordance with Section 15093 of the State CEQA Guidelines (Title 14, Administrative Code) hereby recommends the Board of Supervisors adopt a Statement of Overriding Considerations set forth in Exhibit B, appended hereto, and made a part hereof, which summarizes the reasons why this project, despite certain environmental impacts, has been approved.
Said Environmental Impact Report is complete and adequate in scope and has been completed in compliance with the California Environmental Quality Act and with the State CEQA Guidelines and the Kern County Guidelines for implementation thereof.

(3) The effect upon the environment of such project and the activities and improvements which may be carried out thereunder will not interfere with maintenance of a high-quality environment now or in the future. Mitigation measures have been incorporated from the Environmental Impact Report as conditions of approval, and the adopted Mitigation Measure Monitoring Program specifies the required steps to satisfy each mitigation measure.

(4) The proposed use is consistent with the goals and policies of the General Plan.

(5) The proposed use is consistent with the purpose of the applicable district or districts.

(6) The proposed use is listed as a use subject to a conditional use permit in the applicable zoning district or districts or a use determined to be similar to a listed conditional use in accordance with the procedures set out in Section 19.08.030.

(7) The proposed use meets the minimum requirements of this title applicable to the use and complies with all other applicable laws, ordinances, and regulations of the County of Kern and the State of California.

(8) The proposed use will not be materially detrimental to the health, safety, and welfare of the public or property and residents in the vicinity.

(9) Approval of this project shall not be considered operative, vested, or final until such time as the required verification from the Office of the County Clerk is submitted, attesting that payment of fees for the filing of a "Notice of Determination" for the benefit of the California Department of Fish and Game, as required by AB 3158 (Section 10005 Public Resources Code) has been made; and

(e) The Secretary of this Commission shall cause a Notice of Determination to be filed with the County Clerk; and

(f) The Secretary of this Commission shall cause copies of this resolution to be transmitted to the following:

North Sky River and Jawbone Wind Energy Project (PP10282 and PP11229)
NextEra Energy Resources/Attn: Mike Pappalardo (applicant/owner) (1)
NextEra Energy Resources/Attn: Jess Melin (applicant/owner) (1)
Jawbone Energy, LLC/ Attn: Phil Rudnick (applicant/owner) (1)
File (3)

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EXHIBIT A
15091 FINDINGS OF FACT
FINDINGS OF FACT IN SUPPORT OF FINDINGS
RELATED TO SIGNIFICANT ENVIRONMENTAL IMPACTS

State CEQA Guidelines Section 15091

For

NORTH SKY RIVER WIND ENERGY PROJECT
North Sky River Energy, LLC

and

JAWBONE WIND ENERGY PROJECT
Jawbone Wind Energy, LLC

Zone Change Case No. 2, Map 110
Zone Change Case No. 2, Map 111
Zone Change Case No. 8, Map 131
Zone Change Case No. 9, Map 131
Zone Change Case No. 5, Map 132
Conditional Use Permit No. 3, Map 131

Final Environmental Impact Report
(SCH 2010121042)

Lead Agency: Kern County Planning and
Community Development Department

SECTION I. INTRODUCTION

The following findings of fact are based in part on the information contained in the Draft and Final Environmental Impact Report (Final EIR) for the North Sky River Wind Energy Project and Jawbone Wind Energy Project ("Project"), Zone Change Case No. 2, Map 110, Zone Change Case No. 2, Map 111, Zone Change Case No. 8, Map 131, Zone Change Case No. 9, Map 131, Zone Change Case No. 5, Map 132, and Conditional Use Permit No. 3, Map 131, as well as additional facts found in the complete record of proceedings. The Final EIR is hereby incorporated by reference and is available for review at the Kern County Planning and Community Development Department, 2700 “M” Street, Suite 100, Bakersfield, California 93301, during normal business hours.

SECTION II. FINDINGS REGARDING THE POTENTIAL ENVIRONMENTAL EFFECTS OF THE PROJECT

Kern County Planning and Community Development Department issued a Notice of Preparation of a Draft Environmental Impact Report on November 24, 2010. Based on the Initial Study and Notice of Preparation, a determination was made that the Final EIR would contain a comprehensive analysis of all environmental issues identified in Appendix G of the California Environmental Quality Act (CEQA) Guidelines. With respect to all impacts identified as “less than significant” or as having “no impact” in the Final EIR, the Board of Supervisors finds that those impacts have been described accurately and are less than significant or have no impact as so described in the Final EIR, as follows:
Despite concluding that certain impacts will be less than significant or will have no impact, the Final EIR nonetheless incorporated mitigation measures to comply with the goals, policies, and implementation measures of the Kern County General Plan, the WE (Wind Energy) Combining District, or other adopted regulations. The Board of Supervisors finds that these effects are less than significant or have no impact before and after implementation of these mitigation measures.

1. AESTHETICS


The Project will not have a substantial adverse effect on a scenic vista (Impact 4.1-1).

The Project will not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway (Impact 4.1-2).

B. Environmental Effects of the Project That Are Potentially Significant, but That Can Be Mitigated to Less Than Significant Levels.

None.

C. Environmental Effects of the Project That Cannot Be Mitigated to a Level Less Than Significant.

Significant Effect:

The Project will substantially degrade the existing visual character or quality of the site and its surroundings (Impact 4.1-3).

Description of Specific Impact:

The existing visual character and scenic quality of the project site primarily is based on its undeveloped nature, vegetation, and topography. The existing visual environment of the project site will be altered to accommodate the construction and operation of the project because of the introduction of tall WTGs, transmission lines, substations, operation and maintenance facilities, and an augmented network of dirt roads. The project site will be transformed from its current condition (natural appearing open space and/or grazing land) to a commercial-scale wind farm consisting of up to 116 WTGs. Project elements with the potential to substantially alter the existing visual character or quality of the project site include service roads, a power collection system, communication cables, overhead and underground transmission and collection lines, project substations, meteorological towers, and two operations and maintenance facilities. WTGs that are not maintained, spare WTG parts strewn across the land, or decommissioned WTGs that are not removed from the landscape can cause visual blight.

Finding:

The impacts to the existing visual character and quality of the Project area are considered significant and unavoidable. All feasible and reasonable changes or alterations have been required in, or incorporated into, the Project to substantially lessen the potentially significant effects identified in the EIR.

Brief Explanation of the Rationale for the Finding:
CEQA requires that all feasible and reasonable mitigation be applied to reduce the Project’s impacts to the existing visual character or quality of the environment. Because the impacts anticipated are to the open space nature of the Project site and the proximity viewers will be to the Project site, there are no feasible and reasonable mitigation measures that can be implemented to preserve the natural open space character of the terrain. The following mitigation measures will be incorporated into the Project to lessen the impacts to visual quality to the greatest extent possible:

**MM 4.1-1:** Each wind turbine generator shall be painted a uniform light-gray color (such as “RAL 7035” or a similar color). To minimize the reflectivity of the structures, the paint used shall have a gloss level that does not exceed 30 percent or 60-70 gloss units, as calculated by the manufacturer. The surfaces of all other structures (such as substations, operation and maintenance buildings, and transmission structures and appurtenances) shall have low reflectivity finishes in neutral desert tans or other muted colors appropriate to the location so as to minimize the contrast between structures in their background.

**MM 4.1-2:** Construction staging and laydown areas shall be located in areas that, where feasible, are already disturbed, or in locations with low visual sensitivity and not visible from offsite. All construction-related areas shall be kept clean and tidy by storing construction materials and equipment within the construction staging and laydown areas away from public view. The project proponents shall remove construction debris promptly at intervals of two weeks or less, at any one location.

**MM 4.1-3:** All operation and maintenance areas shall be kept clean and tidy by storing in an orderly manner all wind generation equipment, parts, and supplies in areas that are screened from view and/or are generally not visible to the public.

The project proponents shall remove derelict wind turbine generators and derelict parts and pieces within 60 days of decommissioning, and shall relocate such equipment, derelict parts and pieces to an area that is screened from view and/or is not visible to the general public.

**MM 4.1-4:** Grading and landscape treatment of surface areas around Wind Turbine Generator tower bases that is not otherwise required for the maintenance and safety of the structure shall match conditions of the surrounding landscape and habitat.

**MM 4.1-5:** For overhead transmission lines, tubular steel poles shall be used instead of lattice steel towers. Tubular steel poles shall be painted light-gray colors or shall be dulled galvanized steel. All aboveground structures (tubular steel poles, cross-arms, insulators, etc.) specified for this project shall be made of materials that do not reflect or refract light. All conductors specified for the project shall be non-specular, that is, they shall be treated at the manufactory to dull their surfaces to reduce their potential to reflect light.

**MM 4.1-6** All substation equipment shall be coated with a low-reflectivity, neutral finish. All insulators at the substations shall be non-reflective and non-refractive. Fencing surrounding the substations or other facilities shall have a dulled finish to reduce contrast with the surroundings.

**Significant Effect:**

Findings of Fact - Section 15091
North Sky River Wind Energy Project and Jawbone Wind Energy Project EIR

August 11, 2011
Draft Planning Commission
The Project will create a new source of substantial light or glare which will adversely affect day or nighttime views in the area (Impact 4.1-4).

Description of Specific Impact:

In accordance with FAA standards, aviation warnings in the form of medium-intensity red strobe warning lights will be placed on the nacelles of the WTGs on each end of a WTG string, as well as on every third or fourth WTG in a row. These warning lights are visible from 10 miles at night and will, therefore, be visible from residences in the vicinity and from users of the Pacific Crest Trail (PCT) when camping within or nearby the project site. As the existing character of the night sky of the Project is largely free from sources of manmade light, the warning lights will alter the existing character of the night sky for the nighttime viewers of the project site and could potentially cause an annoyance for residents in the area and campers along the PCT. The warning lights will constitute a new source of substantial light at night, which will adversely affect nighttime views in the area. This impact will remain significant and unavoidable even after mitigation.

Security lighting will be installed along the on-site security fencing. This lighting has the potential to be a source of low levels of sky glow and light trespass. Because the existing character of the night sky in the Project area is largely free from sources of manmade light, the Project’s sources of sky glow and light trespass will constitute a new source of substantial light at night, adversely affecting nighttime views in the area. Implementation of Mitigation Measure 4.1-7 is expected to reduce these impacts to a level that is less than significant.

Finding:

Project impacts caused by the introduction of a new source of substantial light or glare, which will adversely affect day or nighttime view in the area, are considered significant and unavoidable. All feasible and reasonable changes or alterations have been required in, or incorporated into, the project that substantially lessen the potentially significant effects identified in the EIR.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the impacts to the environment caused by the introduction of a new source of substantial light or glare. The impacts to nighttime views are anticipated to be significant, and there are no feasible and reasonable mitigation measures that can be implemented to reduce these impacts to a level that is less than significant. The following mitigation measures will be incorporated into the Project to lessen the impacts to views of the night sky to the greatest extent possible:

**MM 4.1-7:** Outdoor and exterior lighting shall be the minimum required to meet safety and security standards. All non-Federal Aviation Administration required light fixtures shall be fully shielded to eliminate any potential for uplighting, glare effects, to prevent light from spilling off the site or up into the nighttime sky, and to minimize the potential for light trespass off of the project site. In addition, the fixtures shall have sensors and switches to permit the lighting to be turned off when it is not required/needed.

D. **Cumulative Environmental Effects of the Project That Will Have a Less Than Significant Impact on the Environment.**
None.

E. Cumulative Environmental Effects of the Project That Will Have a Significant Impact on the Environment.

Significant Effect:

The Project will contribute to cumulative visual impacts with respect to degrading the existing visual character or quality of the site and its surroundings, and with respect to additional light or glare which will adversely affect day or night time views.

Description of Specific Impact:

There are approximately 3,822 WTGs from existing projects in the Tehachapi Wind Resource Area (TWRA), and several new wind energy projects are currently proposed. The California Public Utilities Commission (CPUC) has permitted new transmission lines and substations in the vicinity of the Project. These nearby existing and proposed wind energy and transmission line projects will combine with the Project to create additional visual and aesthetic impacts as seen from local roads. Introduction of new WTGs in the area will combine with all WTGs in existing and proposed wind farms to degrade the open space landscapes, transforming the area from natural open space to large sized commercial-scale wind farms. These nearby existing and proposed wind energy and transmission line projects will also combine with the Project to create additional light and glare. There are existing red and white strobe lights on WTGs and meteorological towers in the TWRA, and new strobe lights will be installed at the PdV and Alta-Oak Creek Mojave Wind Energy Projects. Outdoor lights at the security fencing will combine with existing and planned outdoor lighting at existing and planned wind farms to create new sources of nighttime light and glare. Implementation of Mitigation Measure 4.1-7 will minimize impacts by shielding light fixtures and redirecting light onto the site, and impacts will be less than significant. However, introduction of new red strobe lights on WTG nacelles will create a significant and unavoidable visual impact.

Finding:

Impacts of the Project will combine with impacts of past, present and reasonably foreseeable projects to result in significant and unavoidable cumulative aesthetic impacts to the environment. All feasible and reasonable changes or alterations have been required in, or incorporated into, the Project that substantially lessen the potentially significant effects identified in the EIR.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the Project’s impacts to the aesthetic character of the environment. Implementation of Mitigation Measures 4.1-1 through 4.1-7 described above, will reduce the effects of the project on the aesthetic quality of the project area to the greatest extent possible. Despite these mitigation measures, however, the Project will result in significant impacts to views. There are no feasible and reasonable mitigation measures that will prevent this Project from impacting views. The cumulative visual impact is considered significant and unavoidable.

2. AGRICULTURAL RESOURCES
A. Environmental Effects of the Project Found To Have No Impact on the Environment, or Have a Less Than Significant Impact on the Environment.

The Project will not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use.

The Project will not involve other changes in the existing environment which, because of their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use.

The Project will not result in the cancellation to an open space contract made pursuant to the California Land Conservation Act of 1965 or Farmland Security Zone Contract for any parcel of 100 or more acres (Section 15206(b)(3) Public Resources Code).

The Project will not conflict with existing zoning for, or cause rezoning of, forest land or timberland (Impact 4.2-2).

B. Environmental Effects of the Project That Are Potentially Significant, but That Can Be Mitigated to Less Than Significant Levels.

**Significant Effect:**

The Project will not conflict with existing zoning for agricultural use or a Williamson Act contract (Impact 4.2-1).

**Description of Specific Impact:**

While, no parcels within the project site or immediately adjacent to the project site are subject to Williamson Act contracts, approximately 13,000 acres of the project site are zoned A (Exclusive Agriculture) District. The entire project area is currently designated as “Open Range” land and is subject to the provisions of Chapter 7.16 of the Kern County Ordinance Code. While grazing will be allowed to continue within project boundaries However, use of access roads throughout Jawbone Canyon and within the project site, particularly during construction, could result in potential conflicts between grazing animals and trucks on roadways, or movement of grazing animals into the Jawbone Canyon Open Area through gates left open by project personnel.

**Finding:**

The Project will cause significant adverse impacts to grazing animals, and therefore, agricultural uses, due to potential conflicts with vehicles on access roadways. These impacts will be mitigated to a less than significant level.

**Brief Explanation of Rationale for the Finding:**

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. The following mitigation measures will be incorporated into the Project to lessen the impacts to agricultural uses to the greatest extent possible:

**MM 4.2-1:** Prior to issuance of grading or building permits, the project proponent shall submit to the Planning and Community Development Department a written statement indicating how the
existing cattle guards shall be maintained at entry gates on Jawbone Canyon Road to prevent livestock from entering the project site.

**Significant Effect:**

The Project will result in the loss of forest land or conversion of forest land to non-forest use (Impact 4.2-3).

**Description of Specific Impact:**

The project site is predominately desert scrub and mixed oak woodland, though Joshua tree woodlands are located on the site. Joshua tree woodlands are considered sensitive communities and are protected under State and local laws and oak woodlands are protected under the Kern County General Plan. The removal of Juniper-Joshua tree woodland or oak woodland for construction of the project will be considered a significant impact.

**Finding:**

Project impacts to Juniper-Joshua tree woodland or oak woodland during construction will be reduced to a level that is less than significant with implementation of Mitigation Measures, as described below.

**Brief Explanation of the Rationale for the Finding:**

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impact of the Project. Implementation of Mitigation Measure 4.4-4 will reduce impacts on forest land during construction to a level that is less then significant.

C. **Environmental Effects of the Project That Cannot Be Mitigated to a Level Less Than Significant.**

None.

D. **Cumulative Environmental Effects of the Project That Will Have a Less Than Significant Impact on the Environment.**

None.

E. **Cumulative Environmental Effects of the Project That Will Have a Significant Impact on the Environment.**

**Significant Effect:**

The Project will contribute to cumulative agricultural and forest resource impacts (Impact 4.2-4).

**Description of Specific Impact:**

With regard to projects converting prime farmland, unique farmland, or farmland of statewide importance to non-agricultural uses, the project will not result in the conversion of these classes of farmland to other uses and will therefore not have the potential to combine with impacts from past, present, or reasonably foreseeable projects to result in a cumulative impact.
With regard to conflicts with existing agricultural zoning, Williamson Act contracts, and the conversion of agricultural land to non-agricultural uses, while grazing activities would be allowed to continue within the project boundaries, adverse, with implementation of mitigation measure 4.2-1 impacts would not be significant. Additionally, because implementation of the project would not change the existing zoning of the property and the land would remain available for agriculture use at the end of the project lifespan, impacts of the project would not have the potential to combine with impacts from past, present, or reasonably foreseeable projects to result in any significant cumulative impact.

With regard to conflicts with or losses of forest land or timberland, the project will have the potential to result in the removal of Juniper-Joshua Tree woodland and oak woodland.

Finding:

While the project will not result in any significant impacts to agricultural resources, the proposed project will have the potential to combine with impacts from past, present, or reasonably foreseeable projects to result in a significant cumulative impact to Juniper-Joshua Tree and oak woodlands. Cumulative impacts to Juniper-Joshua tree woodland or oak woodland will be reduced to a level that is less than significant with implementation of Mitigation Measures, as described below.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the cumulative environmental impacts of the Project. Implementation of Mitigation Measure 4.4-4 will reduce impacts on forest land during construction to a level that is less then significant.

3. **AIR QUALITY**

   A. **Environmental Effects of the Project Found To Have No Impact on the Environment, or Have a Less Than Significant Impact on the Environment.**

   None.

   B. **Environmental Effects of the Project That Are Potentially Significant, but That Can Be Mitigated to Less Than Significant Levels.**

**Significant Effect:**

The Project will not conflict with or obstruct implementation of any applicable air quality plan (Impact 4.3-1).

**Description of Specific Impact:**

Both the federal and State ozone management plans require no new control measures that will affect the project and compliance with existing Eastern Kern Air Pollution Control District (EKAPCD) rules and regulations during construction and operation will ensure conformance with the approved EKAPCD air quality management plans. The EKAPCD adopted a final staff report on September 13, 2007 for the rule development schedule to comply with Senate Bill 656 (Sher) to reduce public exposure to PM10 and PM2.5. Eight appropriate PM control strategies are identified for future rule development, which will only require modifying existing District Rule 402 and creating new rules for the control of windblown...
dust. The project will conform to these control strategies with the incorporation of the recommended mitigation measures (MMs).

The Kern County General Plan (KCGP) includes policies, goals, and implementation measures applicable to reduce air quality impacts of a project. Considering the type of project, the temporary nature of the project’s construction, and the minimal operating emissions of the project, most of these policies and measures are not applicable to the project. However, MMs 4.3-1 and 4.3-2 are recommended in conformance with the applicable EKAPCD plans and regulations and KCGP Policy 20 and 21. By implementing MMs 4.3-3 and 4.3-4, operation of the project will not conflict with or obstruct the EKAPCD air quality plans or the KCGP.

Finding:

Project impacts caused by emissions during construction will be reduced to a level that is less than significant with implementation of Mitigation Measures, as described below.

Brief Explanation of Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the Project’s environmental impacts on air quality violations. The following mitigation measures will be incorporated into the Project to lessen the impacts to air quality to the greatest extent possible:

**MM 4.3-1:** Prior to the issuance of grading or building permits, the project proponents shall develop a Fugitive Dust Control Plan in compliance with East Kern County Air Pollution Control District Rule 402 to reduce PM10 and PM2.5 emissions during construction. The Fugitive Dust Control Plan shall include

a. Name(s), address(es), and phone number(s) of person(s) responsible for the preparation, submission, and implementation of the plan;

b. Description and location of operation(s); and

c. Listing of all fugitive dust emissions sources included in the operation.

d. The following dust control measures shall be implemented:

1. All onsite unpaved roads shall be effectively stabilized using soil stabilizers that can be determined to be as efficient as or more efficient for fugitive dust control than California Air Resources Board approved soil stabilizers, and that shall not increase any other environmental impacts including loss of vegetation.

2. All material excavated or graded will be sufficiently watered to prevent excessive dust. Watering will occur as needed with complete coverage of disturbed areas. The excavated soil piles are watered hourly for the duration of construction or covered with temporary coverings.

3. Construction activities that occur on unpaved surfaces will be discontinued during windy conditions when winds exceed 25 miles per hour and when those activities cause visible dust plumes. Construction activities may continue if dust suppression measures are used to minimize visible dust plumes. The measures shall follow the Eastern Kern Air Pollution Control District’s Reasonably Available Control Measures (Rule 402 Table 1) or more stringent measures to ensure that: 1) the visible dust plumes are not transported off the project site or within 400 feet of any regularly occupied structure not owned by the project proponents; and, 2) the visible dust plumes generated from linear construction are not transported 200 feet beyond the centerline of the linear facilities and do not cause a traffic obstruction hazard on public roads.
4. Track-out shall not extend 25 feet or more from an active operation and
   track-out shall be removed at the conclusion of each workday.
5. A wheel-washing system shall be installed and used to remove bulk material
   from tires and vehicle undercarriages before vehicles exit the proposed
   project property.
6. All hauling materials should be moist while being loaded into dump trucks.
   All haul trucks hauling soil, sand, and other loose materials shall be covered
   (e.g., with tarps or other enclosures that would reduce fugitive dust
   emissions).
7. Soil loads should be kept below 18 inches or the freeboard of the truck.
8. Drop heights should be minimized when loaders dump soil into trucks.
9. Gate seals should be tight on dump trucks.
10. Traffic speeds on unpaved roads shall be limited to 15 miles per hour.
11. Other fugitive dust control measures as necessary to comply with Eastern
    Kern Air Pollution Control District Rules and Regulations.
12. Disturbed areas should be minimized.
13. Disturbed areas should be revegetated as soon as possible after disturbance.

**MM 4.3-2:** The project proponent shall continuously comply with the following during
construction and operation to control emissions from the on-site off-road construction
equipment:
   a. All off-road construction diesel engines not registered under California Air
      Resources Board’s Statewide Portable Equipment Registration Program, which
      have a rating of 50 horsepower or more, shall meet, at a minimum, the Tier 3
      California Emission Standards for Off-road Compression-Ignition Engines as
      specified in California Code of Regulations, Title 13, section 2423(b)(1) unless
      that such engine is not available for a particular item of equipment. In the event a
      Tier 3 engine is not available for any off-road engine larger than 100 horsepower,
      that engine shall be equipped with retrofit controls that would provide nitrogen
      oxides and particulate matter emissions that are equivalent to Tier 3 engine.
   b. All equipment shall be turned off when not in use. Engine idling of all equipment
      shall be minimized.
   c. All equipment engines shall be maintained in good operating condition and in
      proposed tune per manufacturers’ specification.

**MM 4.3-3:** The project proponent shall continuously comply with the following during
construction and operation to control NOx emissions from on-road heavy-duty diesel
haul vehicles that are contracted on a continuing basis for use to haul equipment and
materials for the project:
   a. 2006 engines or pre-2006 engines with CARB certified Level 3 diesel emission
      controls will be used to the extent possible.
   b. All on-road construction vehicles, except those meeting the 2006/CARB certified
      Level 3 diesel emissions controls, shall meet all applicable California on-road
      emission standards and shall be licensed in the State of California. This does not
      apply to worker personal vehicles.
   c. The construction contractor shall ensure that all on-road construction vehicles are
      properly tuned and maintained in accordance with the manufacturer’s
      specifications.

**MM 4.3-4:** The project proponents shall continuously comply with the following during operation
to control fugitive dust emissions from the use of unpaved roads on the site:
   a. The unpaved main access road for employees and deliveries to the maintenance
      complex shall be paved or effectively stabilized using soil stabilizers that can be
      determined to be as efficient as or more efficient for fugitive dust control than
California Air Resources Board approved soil stabilizers, and that shall not increase any other environmental impacts including loss of vegetation.

b. The other unpaved roads at the site shall be stabilized using water or soil stabilizers so that vehicle travel on these roads does not cause visible dust plumes.

c. Traffic speeds on unpaved roads shall be limited to no more than 15 miles per hour. Traffic speed signs shall be displayed prominently at all site entrances and at egress point(s) from the central maintenance complex.

**MM 4.3-5:** The project proponents shall continuously comply with the following during project operation to control emissions from the on-site dedicated equipment (i.e. equipment that would remain onsite each day):

a. All onsite off-road equipment and on-road vehicles for operation/maintenance shall be new equipment that meets the recent California Air Resources Board engine emission standards or alternatively fueled construction equipment, such as compressed natural gas, liquefied natural gas, or electric, as appropriate.

b. All equipment shall be turned off when not in use. Engine idling of all equipment shall be minimized.

c. All equipment engines shall be maintained in good operating condition and in proposed tune per manufacturers’ specification.

**Significant Effect:**

The Project will not expose sensitive receptors to substantial pollutant concentration (Impact 4.3-4).

**Description of Specific Impact:**

Receptors that may be impacted by the project include nearby residences and individuals using the Pacific Crest Trail during construction. There are no schools, hospitals or other sensitive receptors located within 6 miles of the project site. Construction emissions of VOC, CO and SOx will be within the applicable EKAPCD thresholds and should not significantly impact nearby sensitive receptors. However, construction emissions of NOx will exceed EKAPCD thresholds. Fugitive dust impacts (PM10 and PM2.5) on residential and recreational receptors will vary depending on the level and type of activity, the silt content of the soil, and prevailing weather. MM’s 4.3-1 and 4.3-2 are recommended to be implemented during construction to minimize NOx and particulate emissions. The project’s construction emissions, specifically the construction dust emissions, could also impact sensitive plant species and create visual impacts for short periods.

Emissions of hazardous air pollutants (aka air toxics) are very limited for this type of project, and from a health risk perspective are primarily concerned with the emissions of Diesel Particulate Matter (DPM). Due to the short-time frame of construction emissions, the low quantity of operation emissions, and the implementation of recommended MMs 4.3-2 and 4.3-4 that will reduce DPM emissions, the impacts from hazardous air pollutants from the project’s construction and operation are considered to be less than significant. Additionally, the implementation of MM’s 4.3-1 and 4.3-3 will reduce fugitive dust emissions and the risk of contracting Valley Fever by construction workers and area residents and reduce this potential impact to less-than-significant.

With the implementation of MM 4.3-3, operational emissions for all criteria pollutants will have less than significant regional impacts. Therefore, sensitive receptors near the project site will not be significantly impacted by the project’s operation.

**Finding:**
Project impacts caused by emission of NOx and DPM both during construction and operation will be reduced to a level that is less than significant with implementation of Mitigation Measures, as described below.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the Project’s environmental impacts on air quality violations. Implementation of Mitigation Measures 4.3-1, 4.3-2, 4.3-3, and 4.3-4 will reduce emissions during both construction and operation to a level that is less than significant.

C. Environmental Effects of the Project That Cannot Be Mitigated to a Level Less Than Significant.

Significant Effect:

The Project will violate air quality standards or contribute substantially to an existing or projected air quality violation (Impact 4.3-2).

Description of Specific Impact:

Construction of the project will result in emissions of the air pollutants VOCs, NOx, CO, PM10, PM2.5, and sulfur oxides. Emissions from construction will result from fuel combustion and exhaust from construction equipment and vehicle traffic, grading, and the use of building materials that contain VOCs (e.g., paints and lubricants), as well as fugitive dust from earth-moving activities and unpaved and paved road travel. Estimated maximum annual construction emissions will remain under the thresholds for VOC and SOx after mitigation. However, mitigated annual construction-related NOx, PM10, and PM2.5 emissions are estimated to exceed the applicable thresholds, which will result in a significant impact.

Since the construction of the project will result in significant PM10 and PM2.5 impacts, MM 4.3-1 is recommended to minimize air quality impacts to the extent feasible as required by EKAPCD regulations and KCGP policies. Implementation of MM 4.3-1 will reduce particulate emissions to the extent feasible in accordance with Kern County policies. Considering the frequency of possible future use of unpaved road within the site, paving is not recommended but the use of soil binders is recommended for effective fugitive dust emission control. However, even with this MM, the PM10 emissions during construction will exceed the EKAPCD regional significance threshold of 15 tons per year.

Maximum annual NOx emissions during construction are estimated to be over the EKAPCD significant threshold. Implementation of MM 4.3-2 and MM 4.3-3 will reduce the NOx air quality impacts to the extent feasible to meet EKAPCD regulations and KCGP policies. MM 4.3-2 includes the requirement to use Tier 3 compliant or better diesel-fueled off-road equipment as proposed by the two project proponents. MM 4.3-3 includes the requirement to use newer lower emitting on-road heavy haul trucks. However, even with these two MMs, the NOx emissions during construction will exceed the EKAPCD regional significance threshold of 25 tons per year.

The project proponent’s criteria pollutant emission estimates, with the additional County recommended unpaved road mitigation, for project operation are expected to be below than the EKAPCD regional significance thresholds. MM 4.3-4 is proposed to ensure that the project’s operating PM10 emissions are below the EKAPCD significance thresholds. Implementation of MM 4.3-3 and MM 4.3-5 will ensure that the project’s NOx emissions during operation will remain below the EKAPCD regional significance criteria and that all criteria pollutant emissions are reduced per KCGP policies.
Finding:

Project impacts caused by emissions of PM10, PM2.5 and NOx during construction will result in temporary significant and unavoidable impacts. All feasible and reasonable changes or alterations have been required in, or incorporated into, the project that substantially lessen the potentially significant effects identified in the EIR.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the Project’s environmental impacts on air quality violations. Implementation of Mitigation Measures 4.3-1 through 4.3-3 will reduce emissions of PM10, PM2.5 and NOx during construction but impacts will temporarily remain significant and unavoidable during construction even after mitigation. There are no feasible and reasonable mitigation measures that can reduce this impact to a level that is less than significant. However, mitigation measures will be incorporated into the Project to lessen the impacts to the greatest extent possible.


None.

E. Cumulative Environmental Effects of the Proposed Project That Will Have a Significant Impact on the Environment.

Significant Effect:

The Project will result in a cumulatively considerable net increase of any criteria pollutant for which the region is nonattainment for federal or State standards (Impact 4.3-3).

Description of Specific Impact:

The EKAPCD is moderate nonattainment for the State 1-hour ozone standard and nonattainment for federal 8-hour ozone and State PM10. Implementation of MM’s 4.3-1 and 4.3-2 will reduce fugitive dust emissions and engine NOx emissions. However, the annual construction NOx, PM10, and PM2.5 emissions will exceed the EKAPCD thresholds.

Operation of the project will result in substantially lower emissions than project construction. Fugitive dust and dedicated equipment emissions related to project operation are recommended to be mitigated by implementation of MM’s 4.3-3 and 4.3-4, which will ensure that the project’s operation emissions will not result in cumulatively considerable net increases of nonattainment pollutants.

Finding:

Cumulative project impacts caused by emissions of PM10, PM2.5 and NOx during construction will result in temporary significant and unavoidable impacts. All feasible and reasonable changes or alterations have been required in, or incorporated into, the project that substantially lessen the potentially significant effects identified in the EIR.

Brief Explanation of the Rationale for the Finding:
CEQA requires that all feasible and reasonable mitigation be applied to reduce the Project’s environmental impacts on air quality violations. Implementation of Mitigation Measures 4.3-1 and 4.3-2 will reduce emissions of PM10, PM2.5 and NOx during construction but impacts will temporarily remain significant and unavoidable during construction even after mitigation. There are no feasible and reasonable mitigation measures that can reduce this impact to a level that is less than significant. However, mitigation measures will be incorporated into the Project to lessen the impacts to the greatest extent possible.

**Significant Effect:**

The Project will contribute to cumulative air quality impacts (Impact 4.3-5).

**Description of Specific Impact:**

There are no new major currently proposed projects located within a six mile radius of the project site. However, it is likely that additional wind development and transmission development will occur over time near the project site. The Pine Tree Wind Development Project was recently completed to the south of the project site and the Sky River Wind Energy Facility located adjacent to the southwest corner of the project site has been in operation since 1991. Additionally, the Pine Canyon Wind Project that is to be built adjacent to the Pine Tree Wind Development Project is expected to be formally proposed for development in the near future. Cumulative construction and operation impacts of these projects will result in potentially significant NOx, PM10, and PM2.5 impacts if several of these three projects were to undergo construction concurrently and could result in potentially significant PM10 impacts during operation.

**Finding:**

Cumulative project impacts caused by emissions of PM10, PM2.5 and NOx during construction will result in temporary significant and unavoidable impacts. All feasible and reasonable changes or alterations have been required in, or incorporated into, the project that substantially lessen the potentially significant effects identified in the EIR.

**Brief Explanation of the Rationale for the Finding:**

CEQA requires that all feasible and reasonable mitigation be applied to reduce the Project’s environmental impacts on air quality violations. Implementation of Mitigation Measures 4.3-1 through 4.3-3 will reduce emissions of PM10, PM2.5 and NOx during construction but impacts will temporarily remain significant and unavoidable during construction even after mitigation. There are no feasible and reasonable mitigation measures that can reduce this impact to a level that is less than significant. However, mitigation measures will be incorporated into the Project to lessen the impacts to the greatest extent possible.

4. **BIological RESOURCES**

A. **Environmental Effects of the Project Found to Have No Impact on the Environment, or Have a Less Than Significant Impact on the Environment.**

All impacts to biological resources were identified as potentially significant absent mitigation.
B. Environmental Effects of the Project That Are Potentially Significant, but That Can Be Mitigated to Less Than Significant Levels.

Significant Effect:

The Project will cause substantial adverse effects to riparian habitat or other sensitive natural community (Impact 4.4-2).

Description of Specific Impact:

Construction of the Project will impact drainages that will likely be determined jurisdictional by CDFG under the California State Fish and Game Code section 1600 et seq. Any project-related activities that will impact drainages and wetlands on site or along the gen-tie line and its access road, such as the construction of a road crossing, will require a Streambed Alteration Agreement from the CDFG. This impact will be less than significant with the implementation of mitigation measures.

Several vegetation communities considered rare and worthy of consideration by the CDFG and/or Kern County occur in the project area. Clearing and grading of the Project site will impact an estimated 3.1 acres of Fremont cottonwood forest, 0.9 acre of southern willow scrub, 1.8 acres of desert olive scrub, 177.1 acres of blue oak woodland, and 213.98 acres of Wright's buckwheat scrub. Joshua tree woodlands are also considered a sensitive vegetation community by CDFG and Kern County. Although Joshua trees do not occur at a density that will be considered a "woodland", several of the habitat types mapped within the project, including California juniper woodland and Mojave mixed woody scrub, include occasional Joshua trees. Additional impacts to sensitive vegetation communities may occur from construction of the gen-tie line and its access road. Impacts to Joshua trees and sensitive natural communities will occur; however, these impacts will be reduced to a lesser-than-significant level with the implementation of mitigation measures.

Nonnative and invasive weeds pose a threat to the natural processes of plant community succession, fire frequency, biological diversity and species composition. Nonnative and invasive weeds can affect the persistence of some populations of special-status species by replacing the foraging base, altering habitat structure, or excluding a species by vegetative growth. Direct impacts occur when nonnative weeds become established and cause a permanent or long-lasting change to the environment by increasing vegetative cover, creating a dense layer that prevents native vegetation from germinating, altering edaphic and hydrological conditions through nitrogen fixation, or draining the water table. They can create such an unfavorable environment for wildlife that associate, mutualistic species necessary for native plant life cycles are lost from the area. Indirect impacts include a gradual decrease in natural biodiversity as infestations extirpate native plant populations. Increased vehicular and human traffic could contribute to nonnative weed establishment and spread.

Finding:

The Project will cause substantial adverse effects to riparian habitat and sensitive natural communities. However, these significant adverse impacts will be reduced to a level that is less than significant by implementation of mitigation measures described below.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the Project's environmental impacts on sensitive natural communities, including riparian habitats. Mitigation Measures 4.4-1 through 4.4-24 will be incorporated into the Project to lessen the impacts to a level that is
less than significant. The following mitigation measures will be incorporated into the Project to lessen the impacts to riparian habitat and other sensitive natural communities to the greatest extent possible:

**MM 4.4-1:** Prior to the issuance of grading permits, the project proponent(s) shall minimize to the greatest extent feasible the area required for project construction and operation by grading a minimal amount of new roads, facilitating joint-use of access roads where possible, etc. Additionally, all fences installed on the project site will be a maximum of four (4) feet in height, wire strand, with a smooth bottom wire at least eighteen (18) inches from the ground to facilitate wildlife movement during operation of the project.

**MM 4.4-2:** Prior to the issuance of building permits, the project proponent(s) shall implement the following siting constraint measures and provide documentation to Kern County Planning and Community Development Department that these design measures have been met on the final siting plan:

a. All work and any work involving hazardous materials shall be conducted at least 100 feet from wetlands and riparian areas.

b. Specifications for wind tower foundations shall provide at least a 2,500-square-foot (50 feet by 50 feet) clear vegetation zone.

c. Turbine specifications shall ensure that the lower reach of rotor blades is no lower than 85 feet above the ground surface.

**MM 4.4-3:** Prior to the issuance of final occupancy approval, the building inspector shall verify that all exterior lighting at operation and maintenance facilities, substations, and appurtenant structures located within half a mile of the turbines shall be of the lowest illumination required for security and human safety. The project proponent(s) shall install and continuously use and maintain lights with motion or heat sensors and switches to keep lights off when not required. Light fixtures shall be fully shielded and directed downward to minimize illumination above the horizontal plane. The project proponent(s) shall continuously minimize use of high-intensity lighting, steady-burning, or bright lights such as sodium vapor, quartz, halogen, or other bright spotlights. Nighttime vehicle traffic associated with project activities shall be kept to a minimum volume and speed to prevent mortality of nocturnal wildlife species.

**MM 4.4-4:** Prior to the issuance of building or grading permits, the project proponent(s) shall develop and submit a Habitat Restoration and Revegetation Plan to the Kern County Planning and Community Development Department for review and approval.

The Habitat Restoration and Revegetation Plan shall include, but not be limited to, the following:

a. All areas disturbed by project construction, including temporary disturbance areas around structure construction sites, laydown/staging areas, and temporary access roads shall be fully restored to their pre-project conditions. Non-native areas will be restored with an appropriate native seed mix.

b. All grading activities shall include topsoil salvage. The upper 3 to 6 inches of soil (topsoil and seedbank) shall be salvaged in all areas where the terrain will allow it. Topsoil shall be windrowed and marked to keep it separated from other soil. Topsoil piles shall be stabilized by crusts or sprayed water to protect the soil from wind erosion. All salvaged topsoil shall be spread over all restored areas as a top dressing within the project boundaries.

c. Hydroseeding, drill seeding, broadcast seeding or an otherwise proven restoration technique shall be utilized on all disturbed surfaces using a locally endemic native seed mix approved by Kern County.
d. Erosion control mats, blankets, and straw or fiber wattles shall be composed of natural fiber, biodegradable meshes to minimize the potential for wildlife impacts.

e. The plan shall include the Best Management Practices identified in the California Department of Fish and Game Streambed Alteration Agreement.

f. Weed control methods used during implementation of the Habitat Restoration and Revegetation Plan shall include all legally permitted herbicide, manual, and mechanical methods applied with the authorization of the Kern County Planning and Community Development Department and California Department of Fish and Game, where appropriate. The application of herbicides shall be in compliance with all State and federal laws and regulations and implemented by a Licensed Qualified Applicator. Herbicides shall not be applied during or within 72 hours of a scheduled rain event. In riparian areas only water-safe herbicides shall be used. Herbicides shall not be applied when wind velocities exceed 6 mph.

g. For the permanent loss of desert wash and riparian habitat, the project proponent(s) shall mitigate at a minimum of 3:1 or as identified in the California Department of Fish and Game Streambed Alteration Agreement. All other native habitats shall be mitigated at a 1:1 ratio for permanent impacts. Permanent impacts to ruderal or disturbed habitats shall be mitigated at a 1:1 ratio if those habitats support special-status species, such as the burrowing owl or American badger. Permanent impacts shall be mitigated through one or more of the following:

i. Acquisition and conservation of off-site lands supporting comparable habitats and species. Restoration and/or enhancement/re-vegetation shall be conducted on mitigation lands as necessary to achieve a functional value comparable to habitats impacted by the project.

ii. Onsite restoration, enhancement, and management (i.e., weed control, etc.) of disturbed areas not impacted by project construction. Onsite restoration is not appropriate as mitigation for impacts to burrowing owls.

iii. Mitigation banking, in consultation with Kern County.

h. The Habitat Restoration and Revegetation Plan shall establish performance criteria, time frames for restoration of the site, and provisions for a monitoring program to assess the success of restoration efforts. The Habitat Restoration and Revegetation Plan shall be developed and implemented to preserve native habitats to the maximum extent feasible.

i. As part of the Habitat Restoration and Revegetation Plan, the project proponent(s) shall prepare and implement a Joshua Tree Preservation Plan to compensate for permanent impacts to Joshua trees. The Joshua Tree Preservation Plan shall be submitted for review and approval by the Kern County Planning and Community Development Department. Upon approval of the Plan, and prior to initiating project construction, the project proponent(s) shall have a qualified biologist document the location, size, and branching complexity of all individual Joshua trees that will be subject to permanent disturbance.

The Joshua Tree Preservation Plan shall describe field methods used to delineate acreage of Joshua tree woodland; and shall provide a detailed compensatory mitigation strategy, based on one or both of the following options:

i. On-site preservation of parcels containing at minimum the number of individual Joshua trees impacted by the project. The project proponent(s) may mitigate all or part of the project’s impacts to Joshua trees on-site, as follows: Delineate and designate one or more parcels on-site for dedication for permanent conservation management; establish a conservation easement on those parcels, the easement to be held and managed by a suitable management entity as determined by the Director of the Kern County Planning and Community Development Department; prepare and implement a Habitat Management Plan to maintain habitat conditions on the site in perpetuity; and provide a non-wasting endowment
sufficient to implement the habitat management plan in perpetuity. The mitigation lands shall provide habitat at a 1:1 ratio for impacted lands, comparable to habitat to be impacted by the project (i.e., similar abundance and size of Joshua trees, similar dominant vegetation community, similar levels of disturbance or habitat degradation). The Habitat Management Plan shall specify maintenance and monitoring requirements for each parcel, which shall include but shall not be limited to fencing and access control; signage; security and enforcement; weed control; control measures for feral animals or pets; native habitat enhancement; fire prevention and management; and other long-term habitat considerations as appropriate.

ii. In lieu monetary funding. The project proponent(s) may mitigate all or part of the project’s impacts to Joshua trees by funding the acquisition and management in perpetuity of Joshua tree woodland habitat or habitats similar to those that contain impacted Joshua trees on site. Funding and management may be provided either through an existing mitigation bank (e.g., as managed by the City of Lancaster Parks, Recreation and Arts Department) or through a third-party entity such as the Wildlife Conservation Board or a regional Land Trust. The in-lieu fee shall provide sufficient funds to acquire appropriate lands to provide habitats containing Joshua trees at a 1:1 ratio for impacted lands, comparable to habitat to be impacted by the project (i.e., similar abundance and size of Joshua trees, similar dominant vegetation community, similar levels of disturbance or habitat degradation).

j. As part of the Habitat Restoration and Revegetation Plan, the project proponent(s) shall prepare and implement an Oak Tree and Woodlands Preservation Plan to minimize and compensate for permanent impacts to oak woodlands and individual oaks. The Oak Tree and Woodlands Preservation Plan shall be submitted for review and approval by the Kern County Planning and Community Development Department. Upon approval of the Plan, and prior to initiating project construction, the project proponent(s) shall have a qualified biologist document the location and size (diameter at breast height; DBH) of all individual oak trees that would be subject to permanent disturbance. The acreage of impacts to oak woodlands, which are defined as having canopy cover of at least 10 percent (10%), as determined from base line aerial photography or by site survey performed by a Registered Professional Forester (RPF), shall be quantified for the entire project site.

The Oak Tree and Woodlands Preservation Plan shall include, but not be limited to, the following:

i. Oak woodlands are subject to a minimum canopy coverage retention standard of thirty percent (30%). The Registered Professional Forester shall include recommendations regarding thinning and diseased tree removal in conjunction with the discretionary project.

ii. Use of aerial photography and a dot grid system shall be considered adequate in determining the required canopy coverage standard.

iii. Adjustments below thirty percent (30%) minimum canopy standard may be made based on a report to assess the management of oak woodlands.

iv. All oak trees within 25 feet of ground disturbance will be fenced three feet outside the dripline with plastic mesh fencing. Fencing shall be in place prior to any ground disturbance, and shall remain until ground disturbance is completed within 25 feet of the tree.

v. No equipment staging or materials storage shall be allowed beneath the canopy of any oak tree.

vi. No parking shall be permitted beneath the canopy of any oak tree.
vii. The area around oak tree trunks shall be kept clear of soils, debris, construction tools, etc.

viii. Those areas of the project site having an oak tree canopy cover of less than ten percent (10%), but containing individual oak trees equal to or greater than a 12-inch diameter trunk at 4.5 feet breast height shall be subject to the following: Such trees shall be identified on plot plans, project development shall avoid the area beneath and within the trees unaltered drip line unless approved by a licensed or certified arborist or botanist, and specified tree removal related to the construction of the project may be only be granted by the Board of Supervisors upon showing that a hardship exists based on substantial evidence in the record.

The creation or restoration of all habitats, as mitigation for both temporary and permanent impacts, shall be monitored until established success criteria are met, to assess progress and identify potential problems with the restoration site. Remedial activities (e.g., additional planting, weeding, or erosion control) shall be taken during the monitoring period if necessary to ensure the success of the restoration effort. If the mitigation fails to meet the established performance criteria within the established maintenance and monitoring period, monitoring shall extend beyond the initial period until the criteria are met or unless otherwise approved by Kern County and the California Department of Fish and Game.

**MM 4.4-5:** Prior to issuance of grading or building permits, the project proponent(s) shall prepare a comprehensive, adaptive Weed Control Plan, for review and approval by the Kern County Planning and Community Development Department, to minimize the establishment and spread of nonnative and invasive weed species within the project area during construction activities. The Weed Control Plan shall be implemented upon commencement of construction activities. The Weed Control Plan shall include at minimum:

*Prevention Measures*

a) All landscaping and restoration seeds and plant materials shall be certified weed-free.
b) All straw materials such as those used for erosion control shall be certified weed-free.
c) Revegetate areas of temporary disturbance with local native plant species as soon as construction is complete to reduce erosion and inhibit the establishment of invasive weeds.
d) Vehicles and equipment shall be cleaned (with water or high pressure air) prior to commencing work on the project site. Vehicles and equipment shall be cleaned at existing construction yards or legally operating car washes, or at onsite washing station(s) at project access points. Once equipment and vehicles have been staged on the job site no further washing would be required unless the vehicles or equipment are exposed to populations of non-native and invasive weeds present on the site.
e) The project proponent(s) shall document that all vehicles have been washed prior to commencing project work, if those vehicles have left the project boundaries since they were last used on-site. A written daily log shall be kept for all vehicle/equipment washing that states the date, time, location, type of equipment washed, methods used, and staff present. The log shall include the signature of a responsible staff member. Logs shall be available to Kern County for inspection at any time and shall be submitted to Kern County upon request.

*Weed Control Methods*

a) Develop species-specific control procedures for high priority invasive weeds (as determined through consultation with the BLM weed specialist, the Kern County Agricultural Commissioner, and the Kern County Weed Management Area)
b) Potential methods include physical or mechanical removal, chemical control, and environmental control
c) The application of herbicides shall be in compliance with all State and federal laws and regulations and implemented by a Licensed Qualified Applicator. Herbicides shall not be applied during or within 72 hours of a scheduled rain event. In riparian areas only water-safe herbicides shall be used. Herbicides shall not be applied when wind velocities exceed 6 mph.

d) Establish a long-term schedule for regular weed control throughout the project site.

e) Implement a regular weed control program using approved procedures, properly maintained equipment, and safety gear.

Monitoring and Follow-Up
a) Conduct annual monitoring to assess weed presence and the success of control measures.

b) Implement remedial (follow-up) control measures if previous procedures have not achieved eradication or control objectives.

Reporting
a) Prepare a final report for submittal to the Kern County Planning and Community Development Department, at the end of the project construction phase. The report shall document the implementation of the Weed Control Plan, including outcome of the weed control measures and recommendations for changes to improve rates of success.

MM 4.4-6. Prior to the issuance of grading permits, the project proponent(s) shall submit written documentation to the Kern County Planning and Community Development Department showing that a biological firm has been retained to monitor construction activities and to recover and relocate ground-dwelling special-status species as encountered during construction.

MM 4.4-7: Prior to the issuance of grading permits, the project proponent(s) shall submit written documentation to the Kern County Planning and Community Development Department showing that environmental training will be provided to all personnel working on the site during construction and operation. Training materials and briefings shall include but not be limited to: discussion of the Federal and State Endangered Species Acts, Bald and Golden Eagle Protection Act, and the Migratory Bird Treaty Act; the consequences of non-compliance with these acts; identification and values of plant and wildlife species and significant natural plant community habitats; fire protection measures; measures to minimize the spread of weeds during construction; hazardous substance spill prevention and containment measures; a contact person at the on-call biological services provider in the event of the discovery of dead or injured wildlife; and review of mitigation requirements.

MM 4.4-8: Prior to the issuance of grading permits and initial ground-disturbing activities (e.g., mechanized clearing or rough grading) for all project-related construction activities, a qualified biologist shall conduct a pre-construction sweep of the project site for special-status wildlife species. If these species are detected, then California Department of Fish and Game shall be contacted and the appropriate surveys, approvals and/or permits shall be conducted/obtained before construction can proceed.

The project proponent(s) shall submit written documentation to the Kern County Planning and Community Development Department demonstrating compliance with this mitigation. During these surveys the biologist will:

a. Inspect the project area for any sensitive wildlife species;

b. Ensure that potential habitats within the construction zone are not occupied by sensitive species (e.g., potential burrows/nests are inspected); and

c. In the event of the discovery of a non-listed, special-status ground-dwelling animal, recover and relocate the animal to adjacent suitable habitat within the project site at least 200 feet from the limits of construction activities.
MM 4.4-9: Prior to the issuance of grading permits, the project proponent(s) shall conduct rare plant surveys prior to any ground disturbance, and implement avoidance/minimization/compensation strategies. Rare plants are defined as all State and federally listed Endangered, Threatened, and Rare plant species; plant species that are candidates for state or federal listing as Endangered, Threatened, or Rare; California Rare Plant Rank [previously known as CNPS List] 1B and 2 species); and the undescribed species of Triteleia identified on site. The project proponent(s) shall conduct surveys during the floristic period appropriate for each of the rare plant species identified with the potential to occur within the project area and within 100 feet of all surface-disturbing activities. Surveys shall be conducted by qualified botanists according to protocols established by the United States Fish and Wildlife Service, California Department of Fish and Game, Bureau of Land Management, and the California Native Plant Society. Populations of rare plants shall be flagged and mapped prior to construction. Populations of the State-listed endangered Mojave tarplant shall be flagged and avoided. No impacts to this species shall occur. If rare plants are located during the focused surveys, then modification of the placement of structures, access roads, laydown areas, and other ground-disturbing activities would be implemented in order to avoid the plants, if feasible. A report of the rare plants observed during the referenced surveys shall be prepared and submitted to Kern County Planning and Community Development Department and the appropriate resource agencies before the start of construction. Impacts to rare plant species shall first be avoided where feasible, and, where not feasible, impacts shall be compensated through reseeding (with locally collected seed stock), or other Kern County approved methods (for California Rare Plant Rank List 1B and 2 species only). Compensation for impacts to State and/or federally listed or candidate plant species would be determined in consultation with the appropriate resource agency for each affected species, and could include reseeding, transplant, or acquisition of off-site mitigation lands or restoration, conservation, and preservation of occupied on-site lands. The preserved on-site habitat shall be occupied by the plant species impacted, and be of superior or similar habitat quality to the impacted areas in terms of soil features, extent of disturbance, habitat structure, and dominant species composition, as determined by a qualified plant ecologist.

If project activities will result in the loss of more than 10 percent of the known individuals within an existing population of a California Rare Plant Rank 1B or 2 plant species, the project proponent(s) shall preserve existing on-site or off-site occupied habitat that is not already part of the public lands in perpetuity at a 2:1 mitigation ratio (habitat preserved: habitat impacted) or preservation in accordance with any Incidental Take Permit (including, but not limited to relocation, if deemed appropriate). The preserved habitat shall be occupied by the plant species impacted, and be of superior or similar habitat quality to the impacted areas in terms of soil features, extent of disturbance, habitat structure, and dominant species composition, as determined by a qualified plant ecologist. If impacts to State or federally listed or candidate plant species cannot be avoided, the appropriate resource agency (California Department of Fish and Game and/or the United States Fish and Wildlife Service) shall be contacted and the appropriate approvals and/or permits shall be obtained.

MM 4.4-10: Prior to the issuance of grading permits, the project proponent(s) shall conduct pre-construction surveys for nesting birds if construction, ground disturbance, and/or vegetation trimming/removal activities are scheduled to occur during the breeding season (February 1 to August 31). A qualified biologist shall conduct the breeding bird surveys within thirty (30) days prior to the start of construction, ground disturbance, or vegetation trimming/removal activities to identify the presence of breeding birds protected by the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act, and the California and federal Endangered Species Acts. In riparian habitats, pre-construction nesting surveys for southwestern willow flycatcher, least Bell’s vireo, and western yellow-billed cuckoo following the most current United States Fish and Wildlife Service
protocols for each species will be conducted. If a nesting listed riparian bird is detected, a 500-foot disturbance-free buffer will be established and Kern County, California Department of Fish and Game, and/or the United States Fish and Wildlife Service (as appropriate) shall be notified. Buffer sizes may be modified in consultation with the California Department of Fish and Game and/or the United States Fish and Wildlife Service.

The project proponent(s) shall submit written documentation to the Kern County Planning and Community Development Department that the pre-construction avian nest survey was conducted on the project site per the requirements of this mitigation. The pre-construction sweep for breeding birds shall be conducted no more than three (3) days prior to the start of construction at each work area. If nesting birds are encountered during preconstruction nesting surveys and/or sweeps, a 300-foot disturbance-free buffer shall be established around each nest, and no activities will be allowed within the buffer(s) until the young have fledged from the nest or the nest fails. If nesting golden eagles are identified, a 0.25-mile no-activity buffer will be implemented when nests have a direct line of sight to the work area. If the work area is not within direct view of the nest, the no-disturbance buffer shall be 660 feet. Nest buffers for eagles and other nesting birds may be adjusted to reflect existing conditions including ambient noise, topography, and species’ disturbance tolerance with the approval of the appropriate resource agencies (California Department of Fish and Game and/or United States Fish and Wildlife Service).

**MM 4.4-11:** Prior to the issuance of grading or building permits, a Raven Management Plan shall be developed for those portions of the project site that are adjacent to or within recorded desert tortoise habitat in consultation with the United States Fish and Wildlife Service and California Department of Fish and Game, as required, to minimize the potential for the project to indirectly impact desert tortoises by subsidizing raven populations. The Raven Management Plan will require measures such as annual nest removal by a qualified biologist in consultation with the California Department of Fish and Game and the United States Fish and Wildlife Service, removal of carrion at the base of turbines, storage of garbage in raven-proof containers, and installation of anti-nesting devices on structures where raven nests could be built. In addition, should the United States Fish and Wildlife Service determine it is necessary to offset the cumulative contributions of the project to desert tortoise from increased raven numbers, the project proponent(s) shall also contribute to the United States Fish and Wildlife Service Regional Common Raven Management Program through the payment of fees not to exceed $150 per disturbed acre.

**MM 4.4-12:** The project proponent(s) shall obtain documentation from the United States Fish and Wildlife Service that the project is in compliance with the Bald and Golden Eagle Protection Act (Title 16, United States Code, sections 668 668c). This documentation shall be provided to the California Department of Fish and Game and the Kern County Planning and Community Development Department prior to issuance of grading or building permits.

**MM 4.4-13:** Prior to the issuance of grading or building permits, the project proponent shall conduct the following pre-construction surveys:

a. Swainson’s hawks: To assure that nesting Swainson’s hawks are not disturbed by construction activities, the project proponent shall submit written documentation to the Kern County Planning and Community Development Department and the California Department of Fish and Game showing that a qualified ornithologist has conducted a pre-construction nesting survey within one-half mile of the project in areas with potentially suitable nesting habitat for Swainson’s hawks no more than thirty (30) days prior to commencement of construction. If a nest site is found, consultation with California Department of Fish and Game shall be required to ensure project construction will not
result in nest disturbance. No new disturbances or other project-related activities that may cause nest abandonment or forced fledging shall be initiated within one-half mile of an active nest between March 1 and September 15, or until August 15 if a Management Authorization is obtained for the project from the California Department of Fish and Game. These buffer zones may be adjusted as appropriate in consultation with a qualified ornithologist and California Department of Fish and Game. If impacts to nesting Swainson’s hawks cannot be avoided, the California Department of Fish and Game shall be consulted for authorization, through the context of an incidental take permit.

b. Mohave Ground Squirrel: The project proponent(s) shall submit written documentation to the Kern County Planning and Community Development Department showing implementation of pre-construction surveys for the Mohave ground squirrel within all suitable habitat prior to initial ground disturbing activities. The name and phone number of the biological monitor shall be provided to a California Department of Fish and Game regional representative at least 14 days before the initiation of ground-disturbing activities. If the biological monitor observes a Mohave ground squirrel on the construction site, work shall be halted and redirected to areas not supporting this species. A written report shall be sent to California Department of Fish and Game within five calendar days of the sighting. The report will include the date, time of the finding or incident (if known), and location of the animal. If a dead Mohave ground squirrel is encountered the remains shall be collected, frozen as soon as possible, and California Department of Fish and Game shall be contacted to determine where the remains will be sent.

Permanent impacts to potential Mohave ground squirrel habitat at the project site shall be mitigated on site and/or off site at a ratio of one acre impacted to one acre preserved. Potential habitat shall include areas in the northern portion of the site, as determined by the project proponent’s Mohave ground squirrel habitat model (Appendix H of CH2M Hill, 2010) as well as impacts along Jawbone Canyon Road (outside of the current roadbed). Impacts to potential habitat shall be mitigated through acquisition and preservation of habitat for this species, or preservation of potential habitat on site. If acquisition is necessary for some or all of the mitigation lands, mitigation acquisition shall occur at a California Department of Fish and Game approved location and shall be coordinated through a California Department of Fish and Game approved entity. The project proponent(s) shall enter into a binding legal agreement with California Department of Fish and Game regarding the preservation of on-site and/or off-site lands describing the terms of the acquisition, enhancement, and management of those lands. Fee title acquisition of habitat lands or a conservation easement over these lands will be transferred to an entity approved by California Department of Fish and Game, along with funding for enhancement of the land and an endowment for permanent management of the lands. Management of off-highway vehicles is necessary on Mohave ground squirrel mitigation areas to prevent burrow collapse, especially during the aestivation season. Mitigation areas should be relatively flat with a perennial plant cover ranging from 10 to 20 percent and should support several plant species necessary for Mohave ground squirrel survival, including herbaceous annuals, winterfat (Krascheninnikovia lanata), spiny hopsage (Grayia spinosa), creosote bush (Larrea tridentata), and burrobrush (Ambrosia dumosa).

c. Desert kit fox and American badger: The project proponent(s) shall submit written documentation to the Kern County Planning and Community Development Department showing implementation of pre-construction surveys for desert kit fox and American
badger within suitable habitat. If present, occupied kit fox and/or badger dens shall be flagged and ground-disturbing activities avoided within 50 feet of the occupied den avoided. Maternity dens shall be avoided during pup-rearing season (February 15 through July 1) and a minimum 200-foot buffer established. Maternity dens shall be flagged for avoidance, identified on construction maps, and a biological monitor shall be present during construction.

If avoidance of a non-maternity den is not feasible, kit foxes and badgers shall be passively relocated by slowly excavating the burrow (either by hand or mechanized equipment under the direct supervision of the biologist, removing no more that 4 inches at a time) before or after the rearing season (February 15 through July 1). Any relocation of kit foxes and/or badgers shall occur only after consultation with the California Department of Fish and Game and the Kern County monitor. A written report documenting the kit fox and/or badger removal shall be provided to the California Department of Fish and Game and Kern County within 30 days of relocation.

d. Ringtails: The project proponent(s) shall conduct pre-construction ringtail surveys at sites with suitable denning habitat within the project area. This includes oak woodland and riparian habitat within 200 feet of any ground-disturbing activity. Occupied dens will be flagged and ground-disturbing activities within 200 feet will be avoided.

e. Bats: The project proponent(s) shall conduct a survey for roosting bats prior to any ground disturbance activities in all areas within 500 feet of rocky outcrops, large trees, or any other habitat capable of supporting roosting bats. The project proponent(s) shall also conduct surveys for roosting bats during the maternity season (1 March to 31 July) within 500 feet of project activities near rocky outcrops or other habitat capable of supporting bat nursery colonies. These areas shall be surveyed by a qualified bat biologist. Surveys shall include a minimum of one day and one evening visit. If active maternity roosts or hibernacula are found, the rock outcrop or tree occupied by the roost shall be avoided (i.e., not removed) by the project, if feasible. If avoidance of the roost is not feasible, the bat biologist shall survey (through the use of radio telemetry or other California Department of Fish and Game -approved methods) for nearby alternative maternity colony sites. If the bat biologist determines, in consultation with and with the approval of the California Department of Fish and Game, that there are alternative roost sites used by the maternity colony and young are not present, then no further action is required. However, if there are no alternative roost sites used by the maternity colony, provision of substitute roosting bat habitat is required. If active maternity roosts are absent, but a hibernaculum (i.e., a non-maternity roost) is present, then exclusion of bats prior to demolition of roosts is required.

i. **Provision of substitute roosting bat habitat.** If a maternity roost will be impacted by the project, and no alternative maternity roosts are in use within one mile of the site, substitute roosting habitat for the maternity colony shall be provided on, or in close proximity to, the project site no less than three months prior to the eviction of the colony. Alternative roost sites will be constructed in accordance with the specific bats’ requirements in coordination with California Department of Fish and Game and Kern County. Alternative roost sites must be of comparable size and proximal in location to the impacted colony. The California Department of Fish and Game shall also be notified of any hibernacula or active nurseries within the construction zone.
ii. Exclude bats prior to demolition of roosts. If non-breeding bat hibernacula are found in rocky outcrops scheduled to be removed or in crevices in rock outcrops within the grading footprint, the individuals shall be safely evicted, according to timing and under the direction of the qualified bat biologist, by opening the roosting area to allow airflow through the cavity or other means determined appropriate by the bat biologist (e.g., installation of one-way doors). In situations requiring one-way doors, a minimum of one week shall pass after doors are installed and temperatures should be sufficiently warm for bats to exit the roost. This action should allow all bats to leave during the course of one week. Roosts that need to be removed in situations where the use of one-way doors is not necessary in the judgment of the qualified bat biologist shall first be disturbed by various means at the direction of the bat biologist at dusk to allow bats to escape during the darker hours, and the roost tree shall be removed or the grading shall occur the next day (i.e., there shall be no less or more than one night between initial disturbance and the grading or tree removal).

If an active maternity roost is located in an area to be impacted by the project, and alternative roosting habitat is available, the demolition of the roost site must commence before maternity colonies form (i.e., prior to 1 March) or after young are flying (i.e., after 31 July) using the exclusion techniques described above.

f. Burrowing Owl: A pre-construction survey for burrowing owls, in conformance with the Burrowing Owl Survey Protocol and Mitigation Guidelines (California Burrowing Owl Consortium, 1993), shall be completed no more than 30 days prior to the start of construction within suitable habitat at the project site(s) and buffer zone(s). The project proponent(s) shall submit the results of the pre-construction survey to the Kern County Planning and Community Development Department and the California Department of Fish and Game. The project proponent shall also submit evidence of conformance with federal and State regulations regarding the protection of the burrowing owl by demonstrating compliance with the following:

i. Unless otherwise authorized by California Department of Fish and Game, no disturbance shall occur within 50 meters of occupied burrows during the non-breeding season (September 1 through January 31) or within 75 meters during the breeding season (February 1 through August 31).

ii. Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by California Department of Fish and Game verifies through non-invasive methods that either the birds have not begun egg-laying and incubation or that juveniles from the occupied burrows are foraging independently and are capable of independent survival. Eviction outside the nesting season may be permitted pending evaluation of eviction plans (developed in accordance with California Department of Fish and Game protocol for burrowing owls) by California Department of Fish and Game and receipt of formal written approval from the California Department of Fish and Game authorizing the eviction.

iii. Unless otherwise authorized by California Department of Fish and Game, a 250-foot buffer, within which no activity will be permissible, will be maintained between project activities and nesting burrowing owls during the nesting season. This protected area will remain in effect until August 31 or at California Department of Fish and Game’s discretion and based upon monitoring evidence, until the young owls are foraging independently.
iv. If accidental take (disturbance, injury, or death of owls) occurs, the lead biological monitor will be notified immediately.

v. Impacts to burrowing owl territories shall be mitigated through the acquisition of occupied habitat off-site in an area where turbines would not pose a mortality risk. Acquisition of habitat shall be consistent with the Burrowing Owl Survey Protocol and Mitigation Guidelines (California Burrowing Owl Consortium, 1993). The preserved habitat shall be occupied by Burrowing Owl, and be of superior or similar habitat quality to the impacted areas in terms of soil features, extent of disturbance, habitat structure, and dominant species composition, as determined by a qualified avian specialist. In addition, this habitat must be suitable burrowing owl habitat, as defined in the Burrowing Owl Survey Protocol and Mitigation Guidelines (California Burrowing Owl Consortium, 1993). Additionally, the site shall be approved by the California Department of Fish and Game. Land should be placed in a conservation easement in perpetuity and managed to maintain suitable habitat. The area to be preserved can coincide with desert tortoise mitigation lands for this project.

**MM 4.4-14:** Prior to the issuance of grading or building permits, the project proponent(s) shall submit written documentation to the Kern County Planning and Community Development Department of the following regarding the California condor:

a. A qualified biologist with demonstrated knowledge of California condor identification will be on site to monitor all construction activities within the project area and assist the project proponent(s) in the implementation of the monitoring program.

b. Workers will be trained on the issue of microtrash—what it is, its potential effects to California condors, and how to avoid the deposition of microtrash. In addition, daily sweeps of the work area will occur to collect and remove trash. All spills of ethylene glycol will be cleaned up immediately and a report documenting the actions taken to remediate the spill will be provided to Kern County, United States Fish and Wildlife Service, and California Department of Fish and Game within 5 calendar days.

c. The project proponent(s) shall develop a flier that will be distributed to all workers on the project concerning information on the California condor. Information to be included consists of the following: species description with photos and/or drawings indicating how to identify the California condor and how to distinguish condors from turkey vultures and golden eagles; protective status and penalties for violation of the federal and California Endangered Species Acts; avoidance measures being implemented on the project; and contact information for communicating condor sightings. A copy of the flier shall be submitted to the Kern County Planning and Community Development Department to demonstrate compliance with this mitigation.

d. All California condor sightings in the project area during construction will be reported directly to the United States Fish and Wildlife Service, California Department of Fish and Game, and Kern County within 5 calendar days.

e. The project proponent(s) shall also provide written documentation to the Kern County Planning Department showing implementation of the following additional measures:
   i. Bird flight diverters shall be installed on all meteorological tower guy wires on structures constructed as part of the project.
   ii. During periods of livestock grazing, a full-time monitor shall be present to ensure immediate removal of carcasses on the project site.
   iii. Funding for conservation measures such as radio telemetry, condor feeding programs, or other such measures as deemed appropriate shall be provided to the California Condor Recovery Program. Funding shall be calculated at six (6) units
per one hundred (100) turbines installed as part of the project. Prior to the
issuance of any building or grading permits for the first (1st) turbine, the project
proponent shall fund six telemetry units in the amount of $188,100 ($4,150 per
unit plus an "endowment" of $163,200 to be used for tracking data over an eight-
year period). Prior to the issuance of any building or grading permits for the one-
hundred-and-first (101st) turbine, the project proponent shall fund six additional
telemetry units in the amount of $188,100 ($4,150 per unit plus an endowment of
$163,200 to be used for tracking data over an eight year period). The total
funding to be provided shall not exceed $376,200.

**MM 4.4-15:** Prior to the issuance of grading permits, and to reduce collisions of avian and bat
species with turbines, the project proponent(s) shall submit written documentation to the Kern
County Planning and Community Development Department demonstrating coordination with the
Federal Aviation Administration to minimize the number of wind turbine generators and
meteorological towers that require night lighting and to use lighting that would minimize attraction
of birds and bats to the project area. The project proponent(s) shall utilize only red, or dual red and
white strobe, strobe-like, or flashing lights, not steady burning lights, to meet Federal Aviation
Administration (FAA) requirements for visibility lighting of wind turbines, permanent met towers,
and communication towers. Only a portion of the turbines within the wind project should be lighted,
and all pilot warning lights should fire synchronously.

**MM 4.4-16:** The project proponent(s) or its representative shall conduct Post-Construction
Breeding Monitoring in the first, second, and third years following the initial operation of the
project to demonstrate to Kern County Planning and Development Department that sensitive
resident birds are compatible with operation of wind turbine generators, and that the level of
incidental injury and mortality does not result in a long-term decline in sensitive resident bird
species in the region. Post-construction Breeding Monitoring shall include a Nesting Analysis that
shall be conducted as follows:

a. The project proponent(s) shall provide to the Kern County Planning and Community
Development Department and the California Department of Fish and Game the results of
a study and comparative data analysis, using methods approved by the County. Qualified
ornithologists shall conduct the study of nesting raptors.

b. Nesting raptor surveys shall be conducted throughout the project site between February
15 and August 15.

c. Directed field surveys for nesting raptors shall be conducted during the breeding season
by vehicle and on foot to determine the presence or absence of raptor nests, especially
mid-sized to large raptor nests within suitable habitat areas.

d. If at the end of the second round of monitoring (three years following the initial operation
of the project), the operation of wind turbine generators has been determined to result in a
level of incidental injury and mortality to nesting birds that constitutes a significant
adverse impact on a breeding population, the project proponent(s) shall undertake
supplemental compensatory measures to support regional conservation of migratory
birds.

The results of the Nesting Analysis shall be made available to regional entities involved in
research related to the conservation of nesting birds such as the Audubon Society.

**MM 4.4-17:** The project proponent(s) or its representatives shall perform Post-Construction Avian
and Bat Mortality Monitoring in the first, second, third and fourth years following the initial
operation of the project to demonstrate the level of incidental injury and mortality to populations of
avian or bat species in the vicinity of the project site. The project proponent(s) shall develop a
Fatality Monitoring Plan which outlines the post-construction avian and bat mortality monitoring program. The Fatality Monitoring Plan shall include the proposed monitoring methods, frequency, and fatality estimators to be used during the monitoring program. The plan shall include trial surveys designed to determine the distance from turbines at which carcasses found approaches zero, and fatality monitoring transects shall be designed to detect fatalities out to that distance. The Fatality Monitoring Plan shall be submitted to the Kern County Planning and Community Development Department, the United States Fish and Wildlife Service, and the California Department of Fish and Game for review and approval prior to the issuance of approval for final occupancy.

Post-Construction Avian and Bat Mortality Monitoring shall also include a Mortality Analysis, which shall be conducted as follows:

a. The project proponent(s) shall provide to the Kern County Planning and Community Development Department, the United States Fish and Wildlife Service, and the California Department of Fish and Game the results of a mortality study for avian and bat species on an annual basis. A qualified wildlife biologist shall conduct mortality monitoring using a statistically significant sample size of operational turbines within the wind energy development project, as determined in the final approved Fatality Monitoring Plan.

b. The Mortality Analysis shall note species number, location, and distance from the turbine for each recovered bird or bat, availability of bird and bat prey species, and apparent cause of avian or bat mortality. The project proponent(s) shall provide all results to the Wildlife Response and Reporting System database within 90 days of completion of the annual study.

c. The mortality monitoring shall follow methods approved by the Kern County Planning and Community Development Department, the United States Fish and Wildlife Service, and the California Department of Fish and Game and shall include carcass scavenging and searcher efficiency trials.

d. The results of the Mortality Analysis shall be provided to the Kern County Planning Department and regional entities involved in the conservation of resident and migratory avian and bat species, including United States Fish and Wildlife Service, California Department of Fish and Game, and the Audubon Society. At a minimum, the Mortality Analysis shall consider four factors:
   i. Number of annual avian and bat mortalities per turbine,
   ii. Disproportionate representation of a particular species,
   iii. Identification of any turbines or turbine strings contributing to significantly higher mortality within the project, and
   iii. Comparison to existing data on wind farm mortality from the Tehachapi Wind Resource Area and the western United States.

e. Starting in year 1 of project operation and continuing for the life of the project, annual Post-Construction Mortality Monitoring for golden eagle shall be conducted by the project proponent and submitted to the Kern County Planning And Community Development Department Kern County Planning and Community Development Department, the United States Fish and Wildlife Service, and the California Department of Fish and Game.

MM 4.4-18: Prior to issuance of approval for final occupancy, the project proponent(s) shall submit written documentation to the Kern County Planning and Community Development Department showing that the following measures to reduce avian and bat impacts from turbine activities have been implemented. This mitigation measure includes the following:
a. Wherever feasible, turbines shall not be sited on or immediately adjacent to the upwind sides of ridge crests. Where the project proponent has determined this is infeasible, engineering data and any other information supporting the determination must be submitted to the Kern County Planning and Community Development Department for concurrence prior to any ground-disturbing activities at that location.

b. Turbine construction shall minimize cutting into hill slopes in an attempt to achieve smooth rounded terrain, rather than sudden berms or cuts, to reduce prey abundance.

c. Rocks unearthed during the excavation process shall be used during construction of foundations or hauled off site and disposed of properly, and not be left in piles near turbines.

d. Discourage small mammals and reptiles from burrowing under or near turbine bases by placing gravel at least 5 feet around each tower foundation.

e. The wind component developer shall not participate in rodent control programs on leased lands and will discourage landowners from using poisoning for rodent control in the vicinity of the project.

f. Un-guyed meteorological towers shall be constructed for the wind project, if feasible. If guy wires are necessary, bird deterrents shall be used.

**MM 4.4-19:** Prior to issuance of approval for final occupancy, the project proponent(s) shall submit written documentation to the Kern County Planning and Community Development Department showing that all power lines are constructed to the most current Avian Power Line Interaction Committee Guidelines. The project proponent(s) shall conform to the latest practices to protect birds from electrocution and collision.

**MM 4.4-20:** After three years of Post-Construction Avian and Bat Mortality Monitoring, the project proponent shall consult with the Kern County Planning and Community Development Department and the California Department of Fish and Game and United States Fish and Wildlife Service, to determine if the project is resulting in unanticipated significant adverse impacts on the population of an avian or bat species or is significantly interfering with any migratory corridor. If this determination is made, the project proponent(s) shall provide supplemental mitigation as determined by the Agencies listed above. In accordance with California Environmental Quality Act Guidelines Section 15065 and Appendix G, a significant impact shall be determined on a species-by-species basis according to the following criteria:

a. Cause an avian or bat species to drop below self-sustaining levels;

b. Threaten to eliminate a bat or avian community;

c. Substantially reduce the number or restrict the range of an endangered, rare or threatened species;

d. Substantially impair movement through any migratory corridor; or

e. Have a substantial adverse effect on any candidate, sensitive or special status avian or bat species.

Supplemental measures to be considered shall include:

a. Additional migration count surveys, conducted using a methodology that allows comparison with the baseline surveys conducted in 2010/2011.

b. Provision of additional nesting structures or platforms in off-site locations.

c. Operational modifications to the WTG(s) that contribute to significant avian and/or bat mortality. Operational modifications to be considered include changing WTG cut-in speed or decommissioning individual WTG(s) that are responsible for a disproportionately high amount of mortality.
d. Contribution to research that addresses the sources of mortality and population impacts on the species of concern.

If significant bat mortality occurs in a determined bat migratory corridor, select operational adjustments of turbines in the affected area shall be implemented. Between September 1 and November 30, rotors on the affected turbine(s) shall remain idle until wind speeds reach 4.5 meters per second (10 miles per hour) from one-half hours before sunset to one-half hours after sunrise. Shorter periods may be allowed if ongoing monitoring data indicate a shorter period of high activity near the affected turbine(s).

e. Funding of regional conservation measures with the intent of enhancing and preserving existing foraging and nesting habitat in an amount not to exceed the value of acreage representing the project’s rotor swept area based on installed turbines.

**MM 4.4-21:** The project proponent shall continuously comply with the following during all project-related construction activities:

a. During construction activities, if an injured or dead special-status species is encountered, the project proponent(s) shall stop work within the immediate vicinity. The project proponent(s) shall notify the Kern County Planning and Community Development Department, the on-call biologist, and the appropriate resources agency (e.g., United States Fish and Wildlife Service or California Department of Fish and Game) before construction is allowed to proceed.

b. At the end of each work day, the biological monitor shall ensure that all potential wildlife pitfalls (trenches, bores, and other excavations) have been backfilled. If backfilling is not feasible, all trenches, bores, and other excavations shall be sloped at a 3:1 ratio at the ends to provide wildlife escape ramps, or covered completely to prevent wildlife access, or fully enclosed with exclusion fencing. If any wildlife species become entrapped, construction shall not occur until the animal has left the trench or been removed by a qualified biological monitor as feasible. Employees and contractors shall look under vehicles and equipment for the presence of wildlife before moving vehicles and equipment. If wildlife is observed, no vehicles or equipment would be moved until the animal has left voluntarily or is removed by the biological monitor. No listed species will be handled.

c. Vehicle speed limits shall not exceed 15 miles per hour (mph) during construction and operation of the project. A speed limit sign shall be posted at all project site entry locations.

d. Within 24 hours prior to construction activities at each site within potential habitat for this species, a qualified biologist shall conduct focused clearance surveys for desert tortoise, including Mojave mixed woody scrub, creosote bush scrub, black brush scrub, and juniper woodlands. Clearance surveys are required in any area (including appropriate buffers) that supports suitable desert tortoise habitat and that would be subject to disturbance as a result of implementation and operation of the project, unless otherwise authorized by the United States Fish and Wildlife Service. Clearance surveys shall follow the most current United States Fish and Wildlife Service’s desert tortoise survey protocol. The authorized biologist shall determine whether tortoises are present at the site, and whether tortoises may occur in adjacent areas and immigrate into the impact area. If tortoises or intact burrows are found in the impact area or if the authorized biologist determines that a tortoise may enter the construction site, the project proponent(s) shall halt work within 500 feet of the tortoise or burrow and construction activities may not resume within this 500-foot buffer without concurrence from the United States Fish and
Wildlife Service and California Department of Fish and Game. Upon discovery of a tortoise or active tortoise burrow, and prior to any road widening or reconstruction on Jawbone Canyon Road, a Desert Tortoise Mitigation and Monitoring Plan shall be developed and implemented that includes the following measures in consultation with the United States Fish and Wildlife Service and California Department of Fish and Game:

i. The project proponent(s) shall retain a qualified biologist with demonstrated expertise with desert tortoise to monitor all construction activities and assist in the implementation of the monitoring program. This person will be approved by the United States Fish and Wildlife Service prior to the onset of ground-disturbing activities. This biologist will be referred to as the authorized biologist hereafter. The authorized biologist will be present during all construction activities immediately adjacent to or within habitat that supports desert tortoise.

ii. Prior to the onset of construction activities, the project proponent(s) shall provide all personnel who will be present on work areas within or adjacent to the project area the following information:

a. A detailed description of the desert tortoise including color photographs;

b. The protection the desert tortoise receives under the federal and State Endangered Species Acts and possible legal action that may be incurred for violation of the Acts;

c. The protective measures being implemented to conserve the desert tortoise and other species during construction activities associated with the project;

d. A point of contact if desert tortoises are observed.

iii. All trash that may attract predators of desert tortoises will be removed from work sites or completely secured at the end of each work day.

iv. Where construction can occur in habitat where desert tortoise are widely distributed, work areas will be fenced in a manner that excludes tortoises from the work area and prevents equipment and vehicles from straying from the designated work area into adjacent habitat. The authorized biologist will assist in determining the boundaries of the area to be fenced in consultation with the United States Fish and Wildlife Service/California Department of Fish and Game/Kern County. All workers will be advised that equipment and vehicles must remain within the fenced work areas. Installation of the fencing and any necessary surveys will be directed and/or conducted by the authorized biologist in concurrence with the United States Fish and Wildlife Service/California Department of Fish and Game/Kern County.

v. If desert tortoises are found within an area that has been fenced to exclude the species, activities will cease and the authorized biologist will contact California Department of Fish and Game and United States Fish and Wildlife Service for further direction.

vi. If desert tortoises are found in a construction area where fencing was deemed unnecessary, work will cease until the animal(s) leave on their own. The authorized biologist in consultation with United States Fish and Wildlife Service/California Department of Fish and Game/Kern County will then determine whether additional surveys or fencing are needed. Work may resume while this determination is being made, if deemed appropriate by the authorized biologist.

vii. The authorized biologist will have the authority to stop all activities until appropriate corrective measures have been completed.

If impacts to desert tortoise cannot be avoided, the California Department of Fish and Game and The United States Fish and Wildlife Service shall be consulted and the necessary approvals and/or permits obtained.
c. Nest trees for Swainson’s hawks within the project shall not be removed. If a nest tree for a Swainson’s hawk must be removed, a Management Authorization (including conditions to offset the loss of the nest tree) must be obtained from the California Department of Fish and Game. If construction or other project-related activities that may cause nest abandonment by a Swainson’s hawk or forced fledging occur, the work shall be halted until the birds have fledged.

**MM 4.4-22:** Prior to the issuance of the first building permit for a wind turbine generator, if applicable, the project proponent shall submit a current copy of their Avian and Bat Protection Plan to the Kern County Planning and Community Development Department.

**MM 4.4-23:** Prior to the issuance of grading or building permits, the project proponent(s) shall submit to the Kern County Planning and Community Development Department all required water quality permits before engaging in soil-disturbing construction activities, before entering flowing or ponded water, and before constructing crossing(s) at flowing or ponded water. Such permits may include, but are not limited to, a Streambed Alteration Agreement from the California Department of Fish and Game, a Clean Water Act Section 404 permit from the United States Army Corps of Engineers, a Clean Water Act Section 402 National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Activities, and/or a Clean Water Act Section 401 certification from the Lahontan Regional Water Quality Control Board, and Hazardous Materials Business Plan approval from the Kern County Environmental Health Services Department. Additionally, after review and approval of all required water quality permits, the project proponent(s) shall maintain and make available on-site at all times an approved copy of all required permits.

**MM 4.4-24:** The project proponent(s) shall continuously comply with the following during operation of the project:

a. If unauthorized take of a federal or state threatened or endangered avian or bat species occurs; including, but not limited to the Golden Eagle, during project construction or operation, the project proponent(s) shall notify the Kern County Planning and Community Development Department, the United States Fish and Wildlife Service, and the California Department of Fish and Game within 48 hours and shall confer with each agency on the appropriate action. The project proponent(s) shall then notify the County within three days of the receipt of any written response from the States Fish and Wildlife Service and/or the California Department of Fish and Game which identifies required or recommended actions resulting from the consultation, including whether either agency requires an incidental take permit and/or deems additional requirements necessary.

b. The project proponent(s) shall continuously maintain a 500-foot no-disturbance setback zone around any active or historical golden eagle nest(s) that is identified within or within 500 feet of the project boundary.

c. If a golden eagle carcass with a band is found within the project boundary, the project proponent(s) shall promptly report the banding information to the United States Fish and Wildlife Service’s Bird Banding Laboratory and shall coordinate with the Laboratory to include any pertinent project-specific avian mortality information provided by the United States Fish, if any, in future annual monitoring reports prepared by the project proponent.

d. The project proponent(s) shall not construct, operate or utilize any batch plants, construction lay-down areas, Operation & Maintenance buildings, or parking areas within 2 miles of an active or inactive golden eagle nest.

**Significant Effect:**
The Project will cause substantial adverse effects to federally protected wetlands (Impact 4.4-3)

Description of Specific Impact:

The project area contains no connectivity to traditional navigable waters (TNWs). A significant nexus to a TNW must be present for a wetland or water of the United States to be considered jurisdictional. Based on site-specific analysis and the determination of non-jurisdiction for other projects in the region, it is unlikely that the project contains any wetlands or waters subject to federal jurisdiction. However, a final determination of non-jurisdiction from the USACE has not been provided to date.

Potential direct impacts to federally protected wetland habitats, should they occur, include the removal of native riparian vegetation, the discharge of fill, degradation of water quality, and increased erosion and sediment transport. Most of these impacts will occur during access road improvements and heavy equipment and vehicle passage where jurisdictional waters traverse access roads. Potential indirect impacts include alterations to the existing topographical and hydrological conditions and the introduction of non-native, invasive plant species.

Finding:

The Project will cause substantial adverse effects to areas potentially qualifying as federally protected wetlands. However, these significant adverse impacts will be reduced to a level that is less than significant by implementation of mitigation measures described below.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the Project’s environmental impacts on federally protected wetlands. Mitigation Measures 4.4-4, 4.4-5, 4.4-23, and 4.4-24 will be incorporated into the Project to reduce the impacts to a level that is less than significant. These mitigation measures are identified above.

Significant Effect:

The Project will conflict with local policies or ordinances protecting biological resources (Impact 4.4-5).

Description of Specific Impact:

Joshua trees occur at low density in some habitats within the project, and oak woodlands are abundant within the southwestern portion of the project area. Section 1.10.10 of the Kern County General Plan provides policies and implementation measures for the conservation of oak woodlands and individual oak trees, and Joshua trees are also considered sensitive by Kern County.

With the exception of impacts to avian and bat species due to collision with WTGs, above-ground transmission lines, and other appurtenant structures, impacts to biological resources will be less than significant or mitigated to a less-than-significant level. Therefore, the project will not conflict with local policies or ordinances protecting biological resources.

Finding:

The Project will cause substantial adverse effects to biological resources, which could conflict with the Kern County General Plan. However, these significant adverse impacts will be reduced to a level that is less than significant by implementation of mitigation measures described below.
Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the Project's environmental impacts on biological resources protected by local policies or ordinances. Mitigation Measure 4.4-4 requires the preparation and implementation of a Joshua Tree Preservation Plan and an Oak Tree and Woodlands Preservation Plan, which will ensure impacts to Joshua trees and oaks will be minimized and mitigated in compliance with local policies. Mitigation Measures 4.4-1 through 4.4-24, identified above, will minimize impacts to biological resources protected by local policies or ordinances to the extent feasible.

Significant Effect:

The Project will conflict with an adopted Habitat Conservation Plan, Natural Communities Conservation Plan, or other approved local, regional, or State Habitat Conservation Plan (Impact 4.4-6).

Description of Specific Impact:

The project area is within the boundaries of the West Mojave Plan (WMP), which is comprised of a pending Habitat Conservation Plan and an approved amendment to the California Desert Conservation Area Plan for the desert tortoise, Mohave ground squirrel, and nearly 100 additional species. The WMP was approved for BLM lands in 2006, and the portion of the WMP that will apply to non-BLM lands is still pending. Therefore, the WMP is only applicable to BLM lands within the project. Elements of the project that could potentially occur on BLM lands include access roads and transmission line right-of-way (ROW). WTGs, the project substation, the O & M facility, staging areas, and the majority of project roads and power lines will occur on private lands. Any impacts to BLM lands will be a small proportion of the total disturbance associated with development of the project.

Suitable habitat for desert tortoise and Mohave ground squirrel exists on portions of the project site as well as along the Jawbone Canyon access road. However, through project design and the mitigation measures proposed for biological resources, the project proponent shall ensure consistency with the conservation goals of the HCP. With the implementation of mitigation proposed for impacts to biological resources, the project will not conflict with the WMP on BLM lands or on private lands if it is approved.

Finding:

The Project will cause substantial adverse effects to private lands that are within the boundaries of a pending Habitat Conservation Plan. However, these significant adverse impacts will be reduced to a level that is less than significant by implementation of mitigation measures described below.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the Project's potential conflicts with an adopted Habitat Conservation Plan, Natural Communities Conservation Plan, or other approved local, regional, or State Habitat Conservation Plan. Mitigation Measures 4.4-1 through 4.4-24 will be incorporated into the Project to lessen the impacts to a level that is less than significant. These mitigation measures are identified above.

C. Environmental Effects of the Project That Cannot Be Mitigated to a Level Less Than Significant.

Significant Effect:
The Project will cause significant adverse impacts to special-status species that cannot be mitigated to a level that is less than significant (Impact 4.4-1).

Description of Specific Impact:

A total of 91 special-status plant species and 81 special-status wildlife species were identified as potentially occurring in the project area. Of these, 15 special-status plants were identified in the project study area and 41 wildlife species were observed or detected in the project study area during surveys. Additionally, 25 special-status plant species and 28 special-status wildlife species were determined to have a moderate or high potential to occur. The remaining 51 special-status plant species and 13 special-status wildlife species were determined to have a low potential or were unlikely to occur in the project area.

Construction and operation of the project could impact plants and wildlife in a variety of ways. Construction activities could result in mortality or harm to sensitive species or displace wildlife. The construction of WTGs and associated infrastructure including roads, substations, transmission lines, etc. will result in the loss of habitat for plant and wildlife species. Operation of the project could result in mortality through collision or displacement of avian and bat species utilizing the project area. Use of access roads for maintenance operations could also result in the injury or mortality of wildlife species.

Finding:

The Project will cause significant adverse impacts to special-status wildlife species due to construction-related impacts, displacement, habitat loss, and collisions with wind turbines. With the exception of bird and bat mortality due to collisions with WTGs, the impacts will be mitigated to a less-than-significant level.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. Impacts to special-status wildlife species due to loss of habitat, construction-related impacts, habitat loss, and displacement will be less than significant with implementation of Mitigation Measures 4.4-1 through 4.4-22, identified above. However, because some level of mortality of birds and bats due to collisions with WTGs will occur, impacts to those species will remain significant and unavoidable. All feasible and reasonable changes or alterations have been required in, or incorporated into, the project to substantially lessen the potentially significant effects identified in the EIR.

Significant Effect:

The Project will cause interference with wildlife movement, migration corridors, or nursery sites (Impact 4.4-4).

Description of Specific Impact:

Construction activities will temporarily limit terrestrial wildlife movement at WTG and infrastructure locations; however, the broad geographic range and habitat that occurs in the area of the Project will remain available to wildlife. Mobile wildlife will be able to respond to construction activities by moving to adjacent habitats, and as many large species move during the evening or early morning when construction activities will be limited, construction will not substantially interfere with their movement.
Work areas will be fenced during construction. This fencing will be utilized to prevent wildlife or unauthorized persons from entering the work areas. This fencing will temporarily impede wildlife movement through the work area, thereby preventing injury or mortality. After construction, permanent fencing will be installed around individual portions of the Project site, as required by the County. This fencing will permanently preclude access by some larger terrestrial wildlife, depending on the fencing option chosen, but small animals will be able to pass under the fence as the bottom strand of smooth barbed wire will be a minimum of 18 inches above the ground. This will minimize habitat fragmentation for small animals, but not larger ones, although some larger species may still be able to pass under or over the fence.

The construction of new WTGs could interfere with aerial migratory movements of birds and possibly bats. A major avian migratory pathway occurs through Butterbredt Springs/Canyon and Kelso Valley, adjacent to the Project site. Results of a full year of avian surveys have demonstrated that this migratory pathway includes the northeastern portion of the Project site. Mitigation measures identified above will reduce impacts to migrating birds and bats, but will not reduce this impact below a level of significance. The Project therefore will interfere substantially with avian movement and migration corridors.

No bat nursery colonies were detected during surveys, but suitable habitat occurs within and near the Project area. Bat nursery colonies are adversely impacted by the Project if humans approach an active nursery colony, if entrances to nursery colony sites become blocked, if construction involves blasting or drilling that causes substantial vibration of the ground surrounding an active nursery colony, or if a structure such as a bridge is disturbed by construction. Implementation of mitigation measures will reduce disturbance to bat nursery colonies in the Project area, if present.

Finding:

The Project has the potential to cause significant interference with wildlife movement, migration corridors, or nursery sites. With the exception of the avian migration corridor on site, these impacts will be reduced to a level that is less than significant with implementation of the mitigation measures described below.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. Mitigation Measures 4.4-1 through 4.4-24, identified above will be incorporated into the Project to lessen the interference with wildlife movement and nursery sites to a less than significant level. However, because of the presence of an avian migratory corridor on and adjacent to the project site, impacts to migration corridors will remain significant and unavoidable. All feasible and reasonable changes or alterations have been required in, or incorporated into the project to substantially lessen the potentially significant effects identified in the EIR.


None.

E. Cumulative Environmental Effects of the Proposed Project That Will Have a Significant Impact on the Environment.

Significant Effect:

The Project will contribute to significant cumulative impacts to biological resources.
Description of Specific Impact:

The Project will have less than significant impacts on sensitive natural communities, special-status plants and special-status wildlife due to loss of habitat, construction related impacts, and displacement. However, the Project will have significant and unavoidable impacts on avian and bat species due to collision with WTGs. Numerous energy, infrastructure, housing and commercial developments are planned within the scope of the Project area. These developments will further reduce habitat for special-status and common plants and wildlife, fragment wildlife corridors, contribute to construction related impacts, and displace special-status and common wildlife. Impacts related to avian and bat collisions will also occur at these planned developments. Impacts of the project will combine with impacts of past, present, and reasonably foreseeable future projects to result in significant and unavoidable cumulative impacts to special status species and habitat.

With regard to effects to federally protected wetlands, the project proponents have indicated that no drainages or wetland onsite are likely to fall under federal jurisdiction. Therefore, the project will have no effect on these wetlands and will not contribute to cumulative impacts. With regard to State-protected wetlands, several drainages that likely fall under CDFG jurisdiction are located within the project area. However, the project proponent(s) will obtain a SAA from CDFG for any jurisdictional drainages that will be impacted within the project. Other projects in the cumulative analysis area will be required to do the same. Therefore, the project does not have the potential to combine with impacts of other past, present, and reasonably foreseeable future projects to result in a cumulative impact.

The Project has the potential to disrupt wildlife movement and a known avian migration corridor. Wildlife movement will be disrupted during construction due to avoidance of construction activities and temporary barriers to movement such as fencing. Permanent fencing will obstruct movement of many large animals during Project operation, but small animals and some larger ones will be able to pass under fences. Birds migrating through the project area will be at risk for collisions with WTGs. Other development projects within the region will also disrupt wildlife movement and potentially migration corridors, depending on the location. Therefore, Project impacts will combine with impacts of past, present, and reasonably foreseeable projects to result in a significant and unavoidable cumulative impact.

With regard to local policies or ordinances protecting biological resources, the project will comply with the goals, policies, and implementation measures of the KCGP and therefore will not violate any local policies or ordinances protecting biological resources. As such, impacts of the project will not have the potential to combine with impacts from past, present, or reasonably foreseeable projects to result in a cumulative impact.

With regard to adopted HCPs, NCCPs, or other approved local, regional, or State HCPs; only the WMP occurs in the project area. The WMP is a HCP that has been proposed but has not yet been approved for private lands, and is only applicable to BLM lands at this time. While the project falls within the planning area for the WMP, it will not conflict with the conservation goals of the WMP. Therefore, impacts of the project will not have the potential to combine with impacts from past, present, or reasonably foreseeable projects to result in a cumulative impact to an adopted HCP.

Finding:

Cumulative impacts caused by the Project will be significant and unavoidable, even after mitigation. All feasible and reasonable changes or alterations have been required in, or incorporated into, the project that substantially lessen the potentially significant effects identified in the EIR.
Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the Project’s contribution to unavoidable cumulative environmental impacts to biological resources. There are no feasible and reasonable mitigation measures that can reduce the Project’s impacts on biological resources in the area to a level that is less than significant. However, implementation of Mitigation Measures 4.4-1 through 4.4-24 will reduce these Project impacts to the greatest extent possible.

5. CULTURAL RESOURCES


None.

B. Environmental Effects of the Project That Are Potentially Significant, but That Can Be Mitigated to Less Than Significant Levels.

Significant Effect:

The Project will directly or indirectly destroy a unique paleontological resource or site or unique geologic feature (Impact 4.5-2).

Description of Specific Impact:

The potential exists for unique paleontological resources to be encountered within the project area during ground-disturbing construction activities, including grubbing, grading, and excavation. Potential adverse impacts on these resources include, but are not limited to, being directly impacted and destroyed by construction equipment and project-related vehicles, exposure of alluvium during construction that may subject any potentially fossil-bearing units to increased weathering and erosion, unauthorized collection of fossils by project personnel (as well as amateur and commercial collectors who will have greater access to the area), and vandalism. The northernmost portion of the project area is underlain by low-sensitivity (PFYC Class 2) Older Alluvium, which may include lenses of higher-sensitivity sediment such as river deposits. Construction activities in these deposits could impact unique paleontological resources.

Finding:

The Project has the potential to impact unique paleontological resources during construction. These impacts will be reduced to a level that is less than significant with implementation of the mitigation measures described below.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the Project’s impacts to the paleontological resources in the environment. The following mitigation measures will be incorporated into the Project to lessen the impacts to those resources to a level that is less than significant.

**MM 4.5-9:** Prior to the issuance of grading permits, the project proponent shall hire a qualified paleontologist to conduct a preconstruction reconnaissance-level field survey for
project areas underlain by paleontologically sensitive sediment, or sediment that may be paleontologically sensitive. After the field survey is conducted and the final impacts assessment is developed, the project proponent shall retain a qualified paleontologist to prepare a Paleontological Resource Monitoring and Mitigation Plan (PRMMP) for implementation during construction. The PRMMP shall be submitted to the Kern County Planning and Community Development Department for review and approval prior to the start of grading or construction and shall include the following:

a. Procedures for the discovery, recovery, and salvage of paleontological resources encountered during construction, if any, in accordance with standards for recovery established by the Society of Vertebrate Paleontology;

b. Identification and mapping of specific areas of high and moderate sensitivity that will be monitored during construction;

c. Verification that the project proponent has an agreement with a recognized museum repository (e.g., the Buena Vista Museum of Natural History), for the disposition of recovered fossils and that the fossils shall be prepared prior to submittal to the repository as required by the repository (e.g., prepared, analyzed at a laboratory, curated, or cataloged); and

d. Description of monitoring reports that will be prepared, which shall include daily logs and a final monitoring report with an itemized list of specimens found to be submitted to Kern County Planning and Community Development Department, the project proponent, the Buena Vista Museum of Natural History, and the Natural History Museum of Los Angeles County within 90 days of the completion of monitoring.

**MM 4.5-10:** Prior to the commencement of construction activities, the project proponent shall provide for a qualified paleontologist to provide construction personnel with training on implementation of the PRMMP. All construction personnel shall be trained regarding the recognition of possible buried paleontological resources and protection of paleontological resources during construction, prior to the initiation of construction or ground-disturbing activities. Training shall inform construction personnel of the procedures to be followed upon the discovery of paleontological materials. All personnel shall be instructed that unauthorized collection or disturbance of fossils is unlawful.

**Significant Effect:**

The Project may disturb human remains, including those interred outside of formal cemeteries (Impact 4.5-3).

**Description of Specific Impact:**

Buried human remains that were not identified during field surveys could be inadvertently unearthed during excavation activities, which could result in damage to these human remains.

**Finding:**

The Project has the potential to disturb human remains. These impacts will be reduced to a level that is less than significant with implementation of the mitigation measure described below.
Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the Projects impacts to the paleontological resources in the environment. The following mitigation measure will be incorporated into the Project to lessen the impacts to those resources to a level that is less than significant.

**MM 4.5-11:** Prior to the issuance of grading permits, the project proponent shall submit evidence which demonstrates that the Cultural Resources Management Plan specifies standard procedures for recording and treating human remains in accordance with applicable laws, regulations and guidelines. In-place preservation and protection from further disturbance shall always be the preferred approach. If human remains are discovered, work in the immediate vicinity shall stop until the Kern County coroner can determine whether the remains are those of a Native American. If they are those of a Native American, the following would apply:

a. The coroner shall contact the Native American Heritage Commission.

b. If discovered human remains are determined to be Native American remains, and are released by the coroner, these remains shall be left in situ and covered by fabric or other temporary barriers.

c. The human remains shall be protected until Kern County and the Native American Heritage Commission come to a decision on the final disposition of the remains.

According to the California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and willful disturbance of human remains is a felony (Section 7052).

**C. Environmental Effects of the Project That Cannot Be Mitigated to a Level Less Than Significant.**

**Significant Effect:**

The Project will cause a substantial adverse change in the significance of a historical or archaeological resource as defined in Section 15064.5.

**Description of Specific Impact:**

A cultural resources assessment of the project area has demonstrated that the project area contains sensitive prehistoric and historical archaeological resources. Further, archaeological sites recorded within the project could have buried components that may yield significant data about the nature of human occupation of the area. Important archaeological deposits with no surface expression may also be buried beneath deep alluvial sediments.

In the unanticipated event that a subsurface site that does not have surface exposure is encountered during construction, mitigation measures are provided to salvage and record from that site in a manner such that impacts will be reduced. Because archaeological resources are non-renewable and each resource contributes important information about prehistory, mitigative data recovery is itself destructive. Although a portion of each site can be salvaged so that impacts can be reduced, impacts will remain significant. If individual project elements cannot be redesigned to avoid impacts to cultural resources,
mitigation measures shall be implemented to ensure that significant cultural resources will be avoided to the greatest extent possible. Mitigation measures will also be required to protect significant cultural resources located outside areas of direct impact (i.e., grading for wind turbine generators foundations/tower pads, roads, and ancillary facilities), but within 100 feet of those direct impacts, to ensure that buried deposits and known features are not inadvertently impacted. These mitigation measures will also require alternative forms of site treatment authorized in the event that avoidance is not possible. There is also potential to encounter buried significant archaeological resources (including human remains) that were not previously identified during archaeological surveys. This impact is considered potentially significant and mitigation will be required.

Given the scope of the project’s construction of wind turbine generators, as well as of temporary and permanent supporting facilities within the project area, even with full implementation of the preventative measures outlined above, it is unlikely that the project’s impacts to cultural resources can be avoided or fully mitigated.

Finding:

The potential impacts to the cultural resources in the Project area are considered significant and implementation of Mitigation Measures will reduce any impacts to unknown cultural resources, but impacts will be significant and unavoidable.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the Project’s impacts to the cultural resources of the Project area and its surroundings. Mitigation Measures 4.5-1 through 4.5-8 will be incorporated into the Project to reduce impacts, but impacts will remain significant and unavoidable. There are no feasible and reasonable mitigation measures that can reduce this impact to a level that is less than significant. However, mitigation measures will be incorporated into the Project to lessen the impacts to the greatest extent possible:

**MM 4.5-1** Prior to issuance of grading or building permits, the project proponent shall prepare a Cultural Resources Management Plan that will detail how all cultural resources within the project disturbance area will be avoided or treated. The Cultural Resources Management Plan shall: (i) be prepared by a certified archaeologist, at the sole expense of the project proponent; and (ii) shall be submitted to the Kern County Planning and Community Development Department.

The Cultural Resources Management Plan shall include:

a. A statement indicating that archaeological collections, final reports, field notes, and other standard documentation collected during project implementation shall be permanently curated at a facility in the County that meets Guidelines for the Curation of Archeological Collections (California Department of Parks and Recreation 1993).

b. Detailed avoidance and protection plan for resources that are eligible or potentially eligible for the California Register of Historical Resources.

c. Documentation of Coordination with Native Americans A description of all efforts made to consult with Native Americans that may have interest in the project, including those identified by the Kern County Planning and Community Development Department, those identified by the Native American Heritage Commission, and tribes consulted through government-to-government consultation by BLM. The plan shall include provisions for...
full documentation of any ongoing consultation, including maintaining records of all contacts and meetings.


If it is determined that a project element requiring ground disturbance cannot be located at least 100 feet from the mapped boundaries of a California Register of Historical Resources eligible or potentially eligible cultural resources site, then subsurface testing (Phase II evaluation) shall be conducted to characterize the nature and extent of previous disturbance and the density, diversity and horizontal and vertical distribution of cultural materials within areas needed for grading, trenching and other ground disturbance and shall verify whether or not the site would be affected by the disturbance.

Evaluative testing shall be designed to record horizontal extent, depth of the cultural matrix, and degree of internal stratification. Because subsurface testing, like any form of site excavation, is destructive it shall be conducted only when necessary and in moderation. This evaluation program shall involve the following:

- A detailed testing plan that includes a research design (from which to evaluate California Register of Historical Resources eligibility); excavation plan with rationale for sample size and placement, and discussion of special studies/analyses that may be required—to be reviewed and approved by the County before implementation.
- Controlled hand excavation and surface collection of a representative sample of the site deposit as detailed in the approved testing plan.
- A detailed analysis of the material recovered.
- An assessment of cultural resource data potentials, integrity, and eligibility for listing on the California Register of Historical Resources.
- Preparation of a final report with recommendations for impact mitigation if necessary.
- Curation of all artifacts and data from testing evaluations.

e. Programmatic Data Recovery Plan.

To assist the development of site-specific data recovery investigations, the Cultural Resources Management Plan shall include a Programmatic Data Recovery Plan that identifies, among other topics, standard procedures and guidelines for determining sampling intensity, and data recovery methods based on testing results. The Data Recovery Plan shall also address research issues that would be investigated. Further the Data Recovery Plan shall consider the project’s grading plan and utility plan, and any other plan that delineates areas of project disturbance in determining portions of a significant site that would be investigated. The Data Recovery Plan shall be reviewed by the Kern County Planning and Community Development Department before initiation of data recovery fieldwork.

**MM 4.5-2** If the project proponent revises the location of proposed facilities and ground-disturbing activities that affect areas beyond the area surveyed for this Environmental Impact Report, the project proponent shall complete the following prior to the issuance of grading permits:
a. Not conduct work in the previously unsurveyed areas until approval has been received from Kern County Planning and Community Development Department;

b. Provide for a qualified archaeologist to conduct a supplemental Phase I evaluation (records search and intensive pedestrian surveys) of all new areas that would be affected (i.e., within the revised area of impact);

c. Provide a supplemental technical report to Kern County Planning and Community Development Department discussing the supplemental Phase I evaluation and potential impacts and avoidance and minimization measures;

d. Based on the results of the supplemental Phase I evaluation, ensure that the qualified archaeological provides documentation to Kern County Planning and Community Development Department verifying that all newly identified cultural resources would be avoided and that all ground-disturbing activities would occur at least 100 feet away;

e. If the revised location of facilities avoids newly identified cultural resources but ground-disturbing activities are located within 100 feet of the sites, provide for a qualified archaeologist to monitor during initial ground-disturbing activities (MM 4.5-4, below), as well as exclusionary fencing (MM 4.5-3, below); and

f. If the revised location of facilities impacts newly identified sites (e.g., sites could not be avoided), consult with the Kern County Planning and Community Development Department regarding further requirements, including a Phase II evaluation, and possibly data recovery or additional mitigation.

**MM 4.5-3** The project proponent shall install exclusion fencing around known cultural resources that are located within 100 feet of project facilities and planned ground-disturbing activities within the project boundary. Verification of completion shall be submitted to the Kern County Planning and Community Development Department.

**MM 4.5-4** Prior to the issuance of grading permits, the project proponent shall submit evidence which demonstrates that the Cultural Resources Management Plan contains a plan for monitoring ground-disturbing activity within 100 feet of California Register of Historical Resources eligible or potentially-eligible resources. The Cultural Resources Management Plan shall indicate specific locations where Native Americans have identified a particular cultural sensitivity. If Native Americans request that a tribal member be allowed to monitor construction at these location(s), then the project proponent shall retain and schedule any required Native American monitors. The Cultural Resources Management Plan shall specify the tribal affiliation of individual Native American monitors. Native American monitors will be required to complete and submit daily monitoring logs to the project proponent’s lead archaeologist while at the project site.

The archaeologist shall be authorized to halt construction, if necessary, in the immediate area where buried cultural resources are encountered. The monitor shall maintain a daily log of activities and shall submit a final monitoring report, to California Environmental Quality Act standards, describing the results of cultural resources monitoring efforts associated with the Project, within 90 days of completion of the archaeological monitoring, to Kern County Planning and
Community Development Department, the project proponent, and the Southern San Joaquin Valley Information Center at California State University, Bakersfield.

**MM 4.5-5** Prior to issuance of the grading or building permits, the project proponent shall provide Kern County Planning and Community Development Department with documentation that a qualified archeologist has reviewed the final proposed wind energy development scenario and conducted a spatial analysis in geographic information systems to verify that:

a. All facilities and planned ground-disturbing activities would occur within areas that have been intensively surveyed and documented; and

b. Provisions have been made for avoiding and protecting any cultural resources that are eligible or potentially eligible for the California Register of Historical Resources that have not been treated using data recovery excavations under MM 4.5-1.

**MM 4.5-6** Prior to the issuance of grading permits, the project proponent shall submit evidence which demonstrates that the Cultural Resources Management Plan requires that a workshop be held to brief all construction workers and supervisors on monitor roles, responsibilities, and authority; restricted areas and approved vehicle corridors; the types of artifacts that may be encountered; penalties for unauthorized collection of artifacts; and the need to temporarily redirect work away from the location of any unanticipated discovery until it is recorded and adequately documented and treated. The names of all personnel who attend the training shall be recorded and workers shall be issued hardhat stickers indicating they have received the workshop training. The workshop shall be videotaped or digitally recorded on Digital Video Discs or other similar media in order to train additional personnel who may join the construction project in the future. Construction workers shall not be permitted to operate equipment within construction zones unless they have attended the workshop or viewed the presentation and are wearing hardhats with the required sticker.

**MM 4.5-7** Prior to the issuance of grading or building permits, the project proponent shall minimize or avoid impacts to potentially significant cultural resources discovered during construction by developing and implementing an Unanticipated Discovery Protocol as part of the Cultural Resources Management Plan. The Unanticipated Discovery Protocol shall include discussion of the following:

a. Specific wording that if evidence of archeological resources (e.g., chipped or ground stone, historical debris, building foundations, or human bone) is identified during excavation, all work within 100 feet of the discovery site shall stop until a qualified archaeologist can assess the significance of the find;

b. Notification requirements, including immediate notification by the project proponent to a qualified archaeologist and to Kern County Planning and Community Development Department;

c. Consultation with the Kern County Planning and Community Development Department, the qualified archaeologist, Native American representatives (if appropriate) and the project proponent to determine whether the discovered resource can be avoided and, if impacts have not occurred, work can continue. If it is determined that the resource has been impacted then an assessment of its significance is required:
• A qualified archaeologist shall develop appropriate treatment measures for the discovered and impacted resource in consultation with Kern County Planning and Community Development Department, Native American tribes, the Office of Historic Preservation, and other appropriate agencies; and

• Work will not resume until permission is received from Kern County.

MM 4.5-8 All plans shall be prepared in a manner consistent with professional standards (e.g., California Office of Historic Preservation’s Guidelines for Archaeological Research Designs) and submitted to the County for review and approval prior to implementation. Further, all cultural resource investigations shall be documented in high quality technical reports that meet professional standards (e.g., California Office of Historic Preservation’s Archaeological Resource Management Reports: Recommended Contents and Format, Secretary of the Interior’s Standards and Guidelines). Reports shall be made available to professional archaeologists and (without confidential site location information) to the interested public.


None.

E. Cumulative Environmental Effects of the Proposed Project That Will Have a Significant Impact on the Environment.

Significant Effect:

The Project will contribute to cumulative cultural resources impacts that are significant and unavoidable.

Description of Specific Impact:

The project has the potential to contribute significantly to cumulative impacts within the region. The project will have impacts on archaeological sites. Federally licensed projects, such as the PdV Wind Energy Project, Antelope Transmission Project, and the Tehachapi Renewable Transmission Project, will require compliance with Section 106 of the National Historic Preservation Act to consider and resolve adverse effects to significant cultural resources. Likewise, compliance with CEQA for projects such as the Pacific Wind Energy Project, the Pine Canyon Wind Project, and the Pine Tree Wind Development Project will be expected to reduce impacts on archaeological resources, but impacts could remain significant. Therefore, impacts of the project will have the potential to combine with impacts from past, present, or reasonably foreseeable projects to result in a cumulative impact to historic and archaeological resources.

Paleontological resources are generally not considered subject to cumulative impacts because they are localized and site-specific and are either individually impacted in a way that changes the significance of the resource or are avoided. In addition, other cumulative projects will also be expected to reduce potential impacts on paleontological resources to a less than significant level through avoidance or mitigation and, therefore, not contribute to a significant cumulative impact.
Although no human remains have been identified within the project area, to date, there is potential for their discovery during project construction. If human remains were to be discovered during construction, mitigation will ensure that the remains are treated in accordance with the California Public Resources Code. The potential impacts of other cumulative projects will also be expected to be reduced by compliance with Public Resources Codes but could be significant based on site-specific issues.

Finding:

The cumulative impacts to the cultural resources in the Project area are considered significant and implementation of Mitigation Measures will reduce any impacts to unknown cultural resources, but impacts will be significant and unavoidable.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the Project’s cumulative impacts to the cultural resources of the Project area and its surroundings. Mitigation Measures 4.5-1 through 4.5-8 will be incorporated into the Project to reduce impacts, but impacts will remain significant and unavoidable. There are no feasible and reasonable mitigation measures that can reduce this impact to a level that is less than significant. However, mitigation measures will be incorporated into the Project to lessen the impacts to the greatest extent possible.

6. GEOLOGY AND SOILS


The Project will not expose people or structures to substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking (Impact 4.6-2)

The Project will not result in substantial soil erosion or loss of topsoil (Impact 4.6-5).

B. Environmental Effects of the Project That Are Potentially Significant, but That Can Be Mitigated to Less Than Significant Levels.

Significant Effect:

The Project will expose people or structures to substantial adverse effects, including the risk of loss, injury or death involving the rupture of a known earthquake fault (Impact 4.5-1).

Description of Specific Impact:

The Project site is not located within a State-designated Alquist-Priolo Earthquake Fault Zone. The closest faults mapped within an Alquist-Priolo Earthquake Fault Zone are the Garlock Fault Zone (12.6 miles to the southeast) and the San Andreas Fault Zone (43 miles to the southwest). The White Wolf fault, which has evidence of historic displacement, is 9.5 miles to the southwest. Given the proximity of the project site to the Garlock and White Wolf faults and the overall seismic activity in the region, structures on the project site may be subject to moderate to severe ground shaking, which may result in structural damage.

Finding:
The Project will expose people or structures to substantial adverse effects, including the risk of loss, injury or death involving the rupture of a known earthquake fault. However, these significant adverse impacts will be reduced to a level that is less than significant by implementation of mitigation measures described below.

**Brief Explanation of the Rationale for the Finding:**

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. The following mitigation measure will be incorporated into the Project to lessen the impacts to a level that is less than significant:

**MM 4.6-1:** Prior to the issuance of building or grading permits, the project proponents shall conduct a full geotechnical study to evaluate soil conditions and geologic hazards on the project site and submit it to the Kern County Engineering, Surveying, and Permit Services Department for review and approval. The geotechnical study must be signed by a California-registered professional engineer and must identify the following:

- Location of fault traces and potential for surface rupture;
- Maximum considered earthquake and associated ground accelerations;
- Potential for seismically induced ground shaking, liquefaction, landslides, differential settlement, and mudflows;
- Stability of existing cut-and-fill slopes;
- Collapsible or expansive soils;
- Foundation material type;
- Potential for wind erosion, water erosion, sedimentation, and flooding;
- Location and description of unprotected drainage that could be impacted by the proposed development; and
- Recommendations for placement and design of facilities, foundations, and remediation of unstable ground.

The project proponent shall determine the final siting of project facilities based on the results of the geotechnical study and implement recommended measures to minimize geologic hazards. The project proponent shall not locate project facilities on or immediately adjacent to a fault trace. The Kern County Engineering, Surveying, and Permit Services Department will evaluate any final facility siting design developed prior to the issuance of any building or grading permits to verify that geological constraints have been avoided.

**Significant Effect:**

The project will expose people or structures to substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction (Impact 4.5-3).

**Description of Specific Impact:**

Due to the presence of faults that have displaced recent alluvial deposits in the project area, seismic-related ground failure has the potential to result in surface rupture at or near the proposed project site. Seismic event(s) also have the potential to result in liquefaction, which occurs when saturated granular sediments temporarily lose their shear strength.

**Finding:**
The Project will expose people or structures to substantial adverse effects, including the risk of loss, injury or death involving the rupture of a known earthquake fault resulting in liquefaction. However, these significant adverse impacts will be reduced to a level that is less than significant by implementation of mitigation measures described below.

**Brief Explanation of the Rationale for the Finding:**

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. Implementing MM 4.6-1 (as identified above) will lessen the impacts to a level that is less than significant.

**Significant Effect**

The project will expose people or structures to substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including landslides (Impact 4.6-4).

**Description of Specific Impact:**

Strong shaking has the potential to activate landslides on hillsides (particularly the steeper bluffs along the ridgelines of the Jawbone study area boundary), slope failures on creek banks, and tension cracking in areas underlain by loose, low-density soil, such as extensive fill. This potential impact will more likely occur immediately following construction activities. During construction of the proposed project, destabilization of natural or constructed slopes could occur as a result of excavation and/or grading activities. Unmapped landslides and areas of localized slope instability may also be encountered, particularly during installation of project facilities. Excavation operations associated with construction of WTG foundations and grading operations for temporary and permanent access roads, as well as construction activities in areas of hilly or sloping terrain could result in slope instability, landslides, soil creep, or debris flows.

**Finding:**

The Project will expose people or structures to substantial adverse effects, including the risk of loss, injury or death involving the rupture of a known involving seismic-related ground failure, including landslides. However, these significant adverse impacts will be reduced to a level that is less than significant by implementation of mitigation measures described below.

**Brief Explanation of the Rationale for the Finding:**

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. The following mitigation measure will be incorporated into the Project to lessen the impacts to a level that is less than significant:

**MM 4.6-2:** Prior to the issuance of grading and building permits, the project proponents shall demonstrate compliance with the following:

(a) The project proponents shall design cut/fill slopes for an adequate factor of safety, considering material type and compaction, identified during the site-specific geotechnical study. The slope of cut surfaces shall be no steeper than 2:1 (horizontal to vertical), unless the project proponents furnish a soils engineering or an engineering geology report, or both, stating that the site has been investigated and given an opinion that a cut at a steeper slope will be stable, if acceptable stabilization methods are employed and it will not create a hazard to public or...
private property. Other potential considerations would include structures set back from the slopes, and subsequent design recommendations.

(b) The project proponents shall avoid locating roads and structures near landslide and mudflow areas. Where avoidance of landslide areas is not feasible, the project proponents shall construct relatively flat cut-and-fill at slopes not to exceed 2:1 (horizontal to vertical), or 26 percent, or flatter.

(c) The project proponents will not locate turbines, transmission lines, and/or associated structures across faults, lineaments, or unstable areas.

**Significant Effect:**

The Project will be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse (Impact 4.6-6).

**Description of Specific Impact:**

Portions of the proposed project site are located within 6 miles of the Garlock Fault Alquist-Priolo Special Study Zone, and seismic-related ground failure may result in surface rupture near the proposed project site. Such event(s) could potentially result in damage to project facilities/structures, introducing the potential to subsequently result in on- or off-site landslide, liquefaction, or collapse.

**Finding:**

The Project will expose people or structures to substantial adverse effects by being located on a geologic unit that is unstable. However, these significant adverse impacts will be reduced to a level that is less than significant by implementation of mitigation measures described below.

**Brief Explanation of the Rationale for the Finding:**

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. Implementing MM 4.6-1 (as identified above) will lessen the impacts to a level that is less than significant.

**Significant Effect:**

The Project will be located on expansive soil, as defined in section 1802.3.2 of the California building code (2007), creating substantial risks to life or property (Impact 4.6-7).

**Description of Specific Impact:**

Due to the presence of faults that have displaced recent alluvial deposits in the project area, project structures have the potential to be located on expansive soils.

**Finding:**

The Project will expose people or structures to substantial adverse effects by being located on a geologic unit that is unstable and contains expansive soils. However, these significant adverse impacts will be reduced to a level that is less than significant by implementation of mitigation measures described below.

**Brief Explanation of the Rationale for the Finding:**

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CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. The following mitigation measure will be incorporated into the Project to lessen the impacts to a level that is less than significant:

**MM 4.6-3:** Utility lines shall be designed to withstand vertical and horizontal displacement. If determined necessary by the findings of the site-specific geotechnical study, the project proponents shall remove and replace shrink-swell soils with a non-expansive or non-collapsible soil material.

**Significant Effect:**

The Project will have soils that are incapable of adequately supporting the use of septic tanks or alternative wastewater systems where sewers are not available for the disposal of wastewater (Impact 4.6-8).

**Description of Specific Impact:**

A septic system and leach line will be used for sewage treatment of the proposed project’s permanent Operation and Maintenance (O&M) Facility. The septic system and leach lines will be located away from surface drainages and protected from potential surface runoff. If located in the older alluvial soils, leach line wastewater infiltration will be slow due to the dense soils, while the younger alluvial, sandy soils will experience moderate to fast wastewater infiltration.

**Finding:**

The Project will include a septic system and leach line that if located in the older alluvial soils, leach line wastewater infiltration will be slow due to the dense soils, while the younger alluvial, sandy soils will experience moderate to fast wastewater infiltration. However, these significant adverse impacts will be reduced to a level that is less than significant by implementation of mitigation measures described below.

**Brief Explanation of the Rationale for the Finding:**

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. The following mitigation measure will be incorporated into the Project to lessen the impacts to a level that is less than significant:

**MM 4.6-4:** Prior to the issuance of any building permit for the Operation and Maintenance Facility or Facilities, the project proponents shall obtain all required permits and approvals from the Kern County Environmental Health Services Department, and shall implement all required conditions including but not limited to the set-back of project sewage system(s) from area fault traces and drainages.

**C. Environmental Effects of the Project That Cannot Be Mitigated to a Level Less Than Significant.**

None.

**Significant Effect:**

Impacts from the Project have the potential to combine with impacts from other current and potential projects in the area, contributing to significant cumulative impacts (Impact 4.6-9)

**Description of Specific Impact:**

It is possible that ground rupture and/or failure could occur in the project area, and that such an event could result in damage to project infrastructure. However, such an impact will be site-specific. The characteristics of soil at the proposed project site indicate that the potential for substantial erosion or loss of topsoil will be low. This impact is not expected to combine with similar impacts of other cumulative projects located in the Jawbone Canyon watershed. The Project will be required to implement a Storm Water Pollution Prevention Plan, which includes the National Pollutant Discharge Elimination System requirements. Additionally, MM 4.6-1 through 4.6-3 will reduce these impacts to less than significant. With regard to the proposed project’s potential to have soils incapable of adequately supporting the use of septic tanks, MM 4.6-4 will reduce this site-specific impact to less than significant. Therefore, the implementation of MM 4.6-1 through 4.6-4 will reduce the potential cumulative impacts to a less than significant level.

**Finding:**

Impacts from the Project could combine with impacts from other current and potential projects in the area, contributing to significant cumulative impacts. These impacts will be reduced to a level that is less than significant with implementation of the mitigation measures described below.

**Brief Explanation of the Rationale for the Finding:**

CEQA requires that all feasible and reasonable mitigation be applied to reduce the cumulative environmental impacts of the Project. Mitigation Measures 4.6-1 through 4.6-4 will be incorporated into the Project to lessen the cumulative impacts to a level that is less than significant.

E. Cumulative Environmental Effects of the Proposed Project That Will Have a Significant Impact on the Environment.

None.

7. **GREENHOUSE GAS EMISSIONS**


The Project will not generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment (Impact 4.7-1).

The Project will not conflict with an applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases (Impact 4.7-2).
B. Environmental Effects of the Project That Are Potentially Significant, but That Can Be Mitigated to Less Than Significant Levels.

None.

C. Environmental Effects of the Project That Cannot Be Mitigated to a Level Less Than Significant.

None.


The Project will not have a localized cumulative impact due to total cumulative project greenhouse gas emissions (Impact 4.7-3).

E. Cumulative Environmental Effects of the Proposed Project That Will Have a Significant Impact on the Environment.

None.

8. HAZARDS AND HAZARDOUS MATERIALS


None.

B. Environmental Effects of the Project That Are Potentially Significant, but That Can Be Mitigated to Less Than Significant Levels.

Significant Effect:

The Project will create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials (Impact 4.8-1).

Description of Specific Impact:

The construction phase of the Project will require the use of gasoline, diesel fuel, motor oil, hydraulic fluid, solvents, cleaners, sealants, welding flux, various lubricants, paint, and paint thinner. Due to the remote location of the proposed project site, it is expected that one 5,000-gallon temporary diesel storage tank will be installed on site to serve construction vehicles. Small spills may occur during re-fueling. During operations, hazardous and potentially hazardous chemicals (for example, oil, grease, and ethylene glycol) will be used to lubricate and cool the WTGs and ancillary facilities; a radiator will contain a water and ethylene mixture that will be tested annually. The WTG gearbox will contain approximately 70 gallons of oil. Possible leakage or spillage during operations and/or maintenance of the WTGs will be confined within the towers, as each WTG will be equipped with leak-proof gaskets. A supply of chemicals will be stored on site in the maintenance yard. Due to the remote location of the site, it is expected that two 500-gallon diesel storage tanks will be installed on site to serve...
O&M vehicles. Construction or operation of the Project will result in a potentially significant hazard to the public or personnel if a hazardous material spill or leak were to occur.

Although it is not anticipated that blasting will be required during construction, the use of explosives at the project site could pose a hazard to personnel or serve as a wildfire ignition source. A large wildfire would pose hazards both to personnel and the public. Hazards to personnel and the public from project-related blasting are potentially significant.

Herbicides may be used for vegetation control around the collector substation, transformers, riser poles, and the O&M facility, which could result in adverse health effects to the public, maintenance personnel, wildlife, or sensitive vegetation if herbicides are handled improperly or chemical drift occurs away from the target area.

Finding:

Use of hazardous materials during construction or operation of the Project could result in a potentially significant hazard to the public or personnel. The potential for such a hazard will be reduced to a less than significant level by implementation of the mitigation measures described below.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation measures be applied to the Project to reduce the potential impacts caused by the use of hazardous materials. Implementation of the following mitigation measures will reduce the impacts to a less than significant level.

MM 4.8-1: Prior to the issuance of grading or building permits, in accordance with the California Health and Safety Code and Kern County regulations, the project proponents shall prepare a Hazardous Materials Business Plan and submit it to the Kern County Environmental Health Services Department for review and approval.

The Hazardous Materials Business Plan shall delineate hazardous material and hazardous waste storage areas; describe proper handling, storage, and disposal techniques; describe methods to be used to avoid spills and minimize impacts in the event of a spill; describe procedures for handling and disposing of unanticipated hazardous materials encountered during construction; and establish public and agency notification procedures for spills and other emergencies, including fires. The project proponents shall provide the Hazardous Materials Business Plan to all contractors working on the project and will ensure that one copy is available at the project site at all times.

MM 4.8-2: Prior to the issuance of grading or building permits, if blasting is required, the project proponents shall contract with a blasting contractor with experience conducting blasting activities, licensed to use Class A explosives, and licensed as a contractor in the State of California. The blasting contractor shall prepare a blasting plan for the proposed blasting activities to prevent endangering worker safety. The blasting plan shall be submitted for review to the Kern County Planning and Community Development Department, in consultation with the Kern County Environmental Health Services Department, the Kern County Fire Department, and the Kern County Air Pollution Control District. A copy of the blasting plan shall be provided to Edwards Air Force Base. The blasting plan shall:

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a. Describe procedures to be implemented to protect workers during blasting, such as using a signaling system to alert workers of an impending blast and using blasting mats to prevent or reduce the number of rock particles thrown into the air;

b. Describe procedures for proper storage and transportation of explosive materials, including protecting explosives from wildfires;

c. Prohibit blasting during extreme fire danger periods; and

d. Comply with the U.S. Bureau of Mines and the U.S. Department of the Interior Office of Surface Mining Reclamation and Enforcement guidelines for minimizing damage to structures from blasting.

**MM 4.8-3:** Prior to the issuance of grading or building permits, if herbicides are utilized, the contractor or personnel applying herbicides must have all the appropriate State and local herbicide applicator licenses and comply with all State and local regulations regarding herbicide use. Herbicides shall be mixed and applied in conformance with the product manufacturer’s directions. The herbicide applicator shall be equipped with splash protection clothing and gear, chemical resistant gloves, chemical spill/splash wash supplies, and material safety data sheets for all hazardous materials to be used. To minimize harm to wildlife, vegetation, and waterbodies, herbicides shall not be applied directly to wildlife, products identified as non-toxic to birds and small mammals shall be used if nests or dens are observed, and herbicides shall not be applied within 50 feet of any surface water-body when water is present. Herbicides shall not be applied if it is raining at the site, rain is imminent, or the target area has puddles or standing water. Herbicides shall not be applied when wind velocity exceeds 10 miles per hour. If spray is observed to be drifting to a non-target location, spraying shall be discontinued until conditions causing the drift have abated.

**Significant Effect:**

The Project will create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment (Impact 4.8-2).

**Description of Specific Impact:**

The potential exists for contamination to occur on Project properties as a result of unknown or unreported spills or leaks, or from illegal dumping. Contamination from petroleum products (crude oil, gasoline, motor oil, and diesel) is one of the most common types of unknown contamination encountered and is generally detectable by visual and olfactory observation. Grading, drilling, or excavation at the Project site has the potential to mobilize hazardous materials currently in the soil, which could result in exposure of personnel and other sensitive receptors such as plants and wildlife to contaminant levels that could result in short-term and/or long-term health effects.

There is also the potential for motor vehicle fuel to be released from on-site storage tanks or for transformer oil to be released at the project substation if a leak were to occur. As jurisdictional drainages occur on the project site, the project proponents will be subject to the Clean Water Act (CWA)/Spill, Prevention, Control, and Countermeasure (SPCC) Rule, which requires a secondary means of containment for spills of large quantities of petroleum products used at the Project site.

There is the potential for hazardous materials being used at the Project site to be released into the desert washes and ephemeral streams that traverses the Project site, as well as on-site water wells ((Schoolhouse Well, San Antonio Well, and possibly Dug Well (at Green Spring)); however, mitigation measures will require hazardous materials use and storage to occur at a distance from watercourses and wells.
Wind tower and rotor failures could cause blades to be thrown several hundred feet. Kern County setback requirements, Project fencing, and safety and engineering features incorporated into the WTG design will reduce the likelihood of injury resulting from tower and rotor failure.

Finding:

The Project could cause significant adverse effects to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment, or failure of equipment or infrastructure. These significant adverse impacts will be reduced to a level that is less than significant by implementation of the mitigation measures described below.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. Implementation of Mitigation Measures 4.6-1 through 4.6-4 and 4.8-1, described above, and incorporation of the following mitigation measures into the Project will reduce the impacts to a level that is less than significant:

**MM 4.8-4:** If, during grading or excavation work, the contractor observes visual or olfactory evidence of contamination or if soil contamination is otherwise suspected, work near the excavation site shall be terminated, the work area cordoned off, and appropriate health and safety procedures implemented for the location by the contractor’s Health & Safety Officer. Samples shall be collected by an Occupational Safety and Health Administration-trained individual with a minimum of 40-hours hazardous material site worker training. Laboratory data from suspected contaminated material shall be reviewed by the contractor’s Health and Safety Officer. If the sample testing determines that contamination is not present, work may proceed at the site. However, if contamination is detected above regulatory limits, the Kern County Environmental Health Services Department shall be notified. All actions related to encountering unanticipated hazardous materials at the site shall be documented and submitted to the Kern County Environmental Health Services Department.

**MM 4.8-5:** The project proponents shall site all fueling, hazardous materials storage areas, and operation and maintenance activities involving hazardous materials at least 100 feet away from blue-line drainages as identified on U.S. Geological Survey topography maps and wetlands, as well as all existing water wells.

**MM 4.8-6:** Prior to the issuance of grading or building permits, in order to mitigate the effects of a spill of transformer oil, gasoline, or diesel fuel, the project proponents shall develop and implement a spill prevention, control, and countermeasures plans for the storage and use of transformer oil, gasoline, or diesel fuel at the site in quantities of 660 gallons or greater. The plans shall include design features of the project that will contain accidental releases of petroleum and transformer oil products from onsite fuel tanks and transformers. The plans shall be submitted to the U.S. Environmental Protection Agency, the California Environmental Protection Agency, and the Kern County Environmental Health Services Department at least 30 days prior to construction (for motor vehicle fuel) and 30 days prior to energizing the proposed project (for substation transformer oil). Compliance will be verified by the Kern County Building Inspection Department.

**MM 4.8-7:** Prior to the issuance of grading or building permits, the project proponents shall develop and implement a project site safety and security plan to ensure the safety of personnel and other persons in or around the project site. Issues to be addressed in the plan shall include a
zero-injury safety policy, responsibilities and roles of personnel, health and safety for subcontractors, worker safety orientation and training, severe weather conditions, accident/incident reporting procedures, employee safe work programs, and safety signage and fencing requirements. The plan shall be submitted to the Kern County Environmental Health Services Department at least 30 days prior to construction. Compliance will be verified by the Kern County Building Inspection Department.

**Significant Effect:**

The Project will result in a hazard to air navigation in the vicinity of a public airport (Impact 4.8-3).

**Description of Specific Impact:**

The Project site falls inside the boundaries of the Special Use Airspace of the Joint Service Restricted R-2508 Complex, where total WTG height including turbine, tower, and blade shall not exceed the maximum allowable heights specified in Figure 19.08.160 of the Kern County Zoning Ordinance, unless the military authority responsible for operations in that flight area first provides the Planning Director with written concurrence that the height of the structure or building would create no significant military mission impacts. The Project would create a hazard if the height of the WTGs at the site were to create obstructions to air navigation, and if the WTGs were to be poorly lit or marked. A portion of the WTG towers will be furnished with blinking lights for night-time visibility by aircraft in accordance with FAA rules (FAA Advisory Circular 70/7460-1, Obstruction Lighting/Marking).

**Finding:**

The Project will cause a significant impact to air navigation. However, this significant adverse impact will be reduced to a level that is less than significant by implementation of the mitigation measure described below.

**Brief Explanation of the Rationale for the Finding:**

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. Implementation of the following mitigation measures will reduce the impacts to a less than significant level.

**MM 4.8-8:** Prior to issuance of building permits, the project proponents shall submit Form 7460-1 (Notification of Proposed Construction or Alteration) to the Federal Aviation Administration, in the form and manner prescribed in 14 Code of Federal Regulation 77.17. The project proponents shall also provide documentation to the Kern County Planning and Community Development Department demonstrating that the Federal Aviation Administration has issued a “Determination of No Hazard to Air Navigation.” This documentation shall include: (1) written concurrence from the military authority responsible for operations in the flight area depicted in Kern County Zoning Ordinance Figure 19.08.160 that all project components would create no significant military mission impacts; (2) a wind turbine generator lighting plan; and (3) a helicopter lift plan demonstrating compliance with all requirements set forth by the Federal Aviation Administration and Kern County. Documentation shall also be furnished to the Kern County Planning and Community Development Department demonstrating that a copy of the approved form(s) has been provided to the operators of Kelso Valley Airport, California City Municipal Airport, Tehachapi Municipal Airport, Edwards Air Force Base, China Lake Naval Air Weapons Station, and Fort Irwin/National Training Center.
**Significant Effect:**

The Project will result in a safety hazard for people residing or working in the vicinity of a private airstrip (Impact 4.7-4).

**Description of Specific Impact:**

The Project could pose a navigation hazard to private aircraft and high performance gliders using nearby private airstrips due to the height of the WTG structures (maximum height of 500 feet above ground surface).

**Finding:**

The Project will cause a significant navigation hazard to private aircraft and high performance gliders in the project area. However, this significant adverse impact will be reduced to a level that is less than significant by implementation of the mitigation measure described below.

**Brief Explanation of the Rationale for the Finding:**

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. Implementation of Mitigation Measures 4.8-8, described above, will reduce this impact to a level that is less than.

**Significant Effect:**

The Project will impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan (Impact 4.8-5).

**Description of Specific Impact:**

The Project is located in a rural area with few established access roads, including Jawbone Canyon Road (from the east), Beck Canyon Road (from the west), and South Kelso Valley Road (from the north), to the site in the event of an emergency. Perimeter fencing and security gates could also physically interfere with emergency vehicle access or personnel evacuation from the site. Heavy construction-related traffic could cause congestion and delays during construction of the Project, interfering with emergency evacuation or emergency response to residences in the area.

**Finding:**

The Project will cause significant impacts to implementation of, or physical interference with, an adopted emergency response plan or emergency evacuation plan. However, these significant adverse impacts will be reduced to a level that is less than significant by implementation of mitigation measures described below.

**Brief Explanation of the Rationale for the Finding:**

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. Implementation of Mitigation Measures 4.16-1 and 4.16-4 described below and incorporation of the following mitigation measure will reduce the impacts to a level that is less than significant:
MM 4.8-9: Prior to the issuance of grading or building permits, the project proponents shall appoint an Emergency Response Liaison to coordinate the reduction of construction-related traffic for the duration of any emergency at or nearby the project site. The Kern County Fire Department, Kern County Sherriff’s Department, and the California Highway Patrol shall be provided with the construction schedule and the on-site contact information for the Liaison prior to construction. The Liaison shall be immediately reachable at all times during project construction. The Liaison shall have radio contact with project construction vehicles at all times to coordinate traffic reduction measures. In addition, the Liaison shall coordinate with the Kern County Fire Department, the Kern County Sherriff’s Department and the California Highway Patrol to establish emergency procedures for access to the project site in the event of emergency.

Significant Effect:

The Project will expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands (Impact 4.8-6).

Description of Specific Impact:

The Project is located within “moderate,” “high,” and “very high” Fire Hazard Severity Zones. Construction and maintenance activities involving blasting (if required), vehicles, heavy machinery, and personnel smoking at the Project site could result in the ignition of a wildfire. During operation, if the rotor blades were to spin out of control a fire could occur in the nacelle, or if lightning were to strike the WTG's power surges could result in a wildfire. Unauthorized use of the project area for activities including: target practice shooting, camping, hunting, and off-road vehicle recreation, could also present a high risk for wildfire ignition.

Project design features and operations would reduce the potential for wildfire ignition and the potential for a wildfire to spread out of control. The manned operations of the facility would reduce traffic associated with non-property owners and would decrease unauthorized use of the project area. Vegetation would be cleared as required by CPUC GO 95 (Rule 35) and PRC 4292, including around the collector substation, transformers, riser poles, and the O&M facility. Temporary and permanent roads across the project site would break the continuity of fuels at the site, which would slow or stop the progression of potential wildfires.

Finding:

Construction, operations and maintenance activities will pose a potentially significant hazard with respect to the ignition of wildfires. These hazards will be reduced to a level that is less than significant with implementation of the mitigation measures described below.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. Implementation of Mitigation Measure 4.8-2 described above and incorporation of the following mitigation measures will reduce the impacts to a level that is less than significant:

MM 4.8-10: Prior to the issuance of grading or building permits, the project proponents shall develop and implement a Fire Safety Plan for use during construction and operation. The project proponents shall submit the Fire Safety Plan, along with maps of the project site and access roads,
to the Kern County Fire Department for review and approval prior to the issuance of any building permit or grading permits.

The Fire Safety Plan shall contain notification procedures and emergency fire precautions including, but not limited to, the following:

a. All internal combustion engines, stationary and mobile, shall be equipped with spark arresters. Spark arresters shall be in good working order.
b. Light trucks and cars with factory-installed (type) mufflers shall be used only on roads where the roadway is cleared of vegetation. Said vehicle types shall maintain their factory-installed (type) muffler in good condition.
c. Fire rules shall be posted on the project bulletin board at the contractor’s field office and areas visible to employees.
d. Equipment parking areas and small stationary engine sites shall be cleared of all extraneous flammable materials.
e. Personnel shall be trained in the practices of the Fire Safety Plan relevant to their duties. Construction and maintenance personnel shall be trained and equipped to extinguish small fires in order to prevent them from growing into more serious threats.
f. The project proponents shall make an effort to restrict use of chain saws, chippers, vegetation masticators, grinders, drill rigs, tractors, torches, and explosives to outside of the official fire season. When the above tools are used, water tanks equipped with hoses, fire rakes, and axes shall be accessible to personnel.
g. Smoking shall be prohibited in wildland areas and shall be limited to paved areas or areas cleared of all vegetation.

**MM 4.8-11**: When a Red Flag Warning is issued by the National Weather Service for the project area, all non-emergency construction and maintenance activities shall cease. This provision shall be clearly stated in the Fire Safety Plan. The Emergency Response Liaison (see Mitigation Measure 4.8-9) shall ensure implementation of a system that allows for immediate receipt of Red Flag Warning information from the Los Angeles/Oxnard office of the National Weather Service.

**MM 4.8-12**: Prior to the final occupancy approval, the project proponents shall install an automatic fire detection and extinguishing system that complies with international standards for fire protection systems on each wind turbine generator at the proposed project site. Proof of system installation shall be submitted to the Kern County Planning and Community Development Department prior to energizing the proposed project.

**MM 4.8-13**: In the areas of the site mapped as annual grassland (see North Sky River Biological Resources Technical Report, Appendix B; and for all grassland areas on the Jawbone site), grazing shall be continued for the duration of construction, and shall cease prior to energizing the project (per Mitigation Measure 4.4-14 [Mitigation Measure for condors]). During the fire season, grasses shall be maintained at a height of 2 inches or less during construction.

**Significant Effect:**

The Project will generate vectors or have a component that includes agricultural waste exceeding adopted qualitative thresholds (Impact 4.8-7).

**Description of Specific Impact:**
While the Project does not possess a component that includes agricultural waste, implementation will involve construction and operations that could result in standing water, trash piles, or open containers that could provide breeding areas for mosquitoes, flies, or rodents. These potential disease vectors could pose a hazard to personnel or the public. Additionally, construction of the Project would occur in an area favorable to the growth of the Valley Fever vector, where construction would disturb the soil and cause the fungal spores to become airborne, potentially putting construction personnel and wildlife at risk of contracting Valley Fever.

Finding:

Construction activities will pose a potentially significant hazard with respect to the generation of vectors. These hazards will be reduced to a level that is less than significant with implementation of the mitigation measures described below.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. Implementation of Mitigation Measure 4.3-1 described above and incorporation of the following mitigation measure will reduce the impacts to a level that is less than significant:

**MM 4.8-14:** In order to eliminate the risk of generating disease vectors at the site, during project construction and operations the project proponents shall ensure that trash is stored in closed containers and removed from the site at regular intervals. Open containers shall be inverted and construction ditches shall not be allowed to accumulate water. Construction and maintenance operations shall not generate standing water. Naturally occurring depressions, drainages, and pools at the site shall not be drained or filled without consulting with the appropriate resource agency (Kern County, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, California Department of Fish and Game) and obtaining the appropriate permits. The environmental monitor will ensure that standing water and large quantities of trash do not accumulate on site. Compliance will be verified by the Kern County Building Inspection Department during the course of that agency’s performance of any on-site inspections.

C. Environmental Effects of the Project That Cannot Be Mitigated to a Level Less Than Significant.

None.


Significant Effect:

The Project will contribute to significant and cumulative impacts to the hazards and hazardous materials (Impact 4.8-8).

Description of Specific Impact:

Heavy construction-related traffic from the Project could combine with other current and future projects to generate high volumes of traffic on area roadways if the construction schedules overlapped. The increased traffic could interfere with emergency response plans or emergency evacuation plans.
All other impacts of the Project would be reduced to a less-than-significant level with implementation of mitigation measures, and these impacts would not combine with other past, present, or reasonably foreseeable projects to result in a cumulative impact.

Finding:

The Project will contribute to cumulative impacts that interfere with emergency response or evacuation to and from the Project site or with emergency response to residences in the Project vicinity. With mitigation, these impacts will be reduced to a level that is less than significant.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. Implementation of Mitigation Measures 4.3-1, 4.6-1 through 4.6-5, 4.8-1 through 4.8-14, 4.9-3, 4.16-1 and 4.16-4 will reduce the Project’s contribution to cumulative impacts to hazards and hazardous materials to a level that is less than significant.

E. Cumulative Environmental Effects of the Project That Will Have a Significant Impact on the Environment.

None.

9. HYDROLOGY AND WATER QUALITY


The Project will not create or contribute runoff water which will exceed stormwater drainage system capacity or provide a substantial additional source of polluted runoff (Impact 4.9-5).

The Project will not otherwise substantially degrade water quality (Impact 4.9-6).

The Project will not place structures within a 100-year Flood Hazard Area which will impede or redirect flood flows (Impact 4.9-7).

The Project will not result in inundation by seiche, tsunami, or mudflow (Impact 4.8-8).

B. Environmental Effects of the Project That Are Potentially Significant, but That Can Be Mitigated to Less Than Significant Levels.

Specific Effect:

The Project could violate water quality standards or waste discharge requirements (Impact 4.9-1).

Description of Specific Impact:

The Project could result in a significant impact to hydrology and water quality if associated construction, maintenance, or decommissioning activities violated water quality standards or waste discharge requirements. Grading and excavation activities during construction could cause water quality degradation from soil disturbance and erosion. Accidental release of hazardous or potentially hazardous
materials during construction, operation, or maintenance could degrade water quality and contaminate both surface and groundwater. If determined necessary, dewatering activities during Project construction could result in the discharge of contaminated groundwater.

Finding:

The Project could result in a significant impact to hydrology and water quality if associated construction, maintenance, or decommissioning activities violated water quality or waste discharge standards. These impacts will be reduced to a less than significant level by implementation of mitigation measures.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. Implementation of Mitigation Measures 4.4-30, 4.6-5, 4.6-6, 4.8-1, 4.8-3, and 4.9-1 (presented below) will avoid or reduce potential impacts to hydrology and water quality to a level that is less than significant.

**MM 4.9-1** The project proponent(s) shall submit a Road Plan to the Kern County Engineering, Surveying, and Permit Services Department for approval prior to any access or spur road construction and/or upgrades. The Road Plan shall identify the precise location of all planned access and spur road construction and/or improvements to existing roads, the specific improvements/modifications that would be undertaken at each location or road segment, including the planned width of each completed segment, the engineered limits of cut and fill, the location of any drainage and/or sensitive habitat within 100 feet of either edge of the planned access or spur road, and the location and construction details of any new or modified stream crossings or drainage diversion structures. Should the Road Plan propose a “cut” or “fill” of more than twelve (12) inches, or the movement of more than fifty (50) cubic yards of material, the Road Plan shall be submitted in the form of a grading permit application to the Kern County Engineering, Surveying, and Permit Services Department for review and approval.

**Significant Effect:**

The Project could substantially deplete groundwater supplies or interfere with groundwater recharge such that there will be a net deficit in aquifer volume or a lowering of the local groundwater table level (Impact 4.8-2).

**Description of Specific Impact:**

Construction, operation, and/or decommissioning of the project could impact groundwater supply and recharge if one of the following occurs: the affected groundwater basin is in long-term overdraft conditions; construction activities cause the affected groundwater basin to be in long-term overdraft; substantial drawdown occurs at groundwater wells in the area as a result of construction groundwater pumping; or project activities redirect natural recharge to groundwater basin(s), such as through the introduction of impervious areas that prevent infiltration. The Project will use local groundwater resources to meet construction and operational water requirements, and will introduce new impervious surfaces to the area that could affect groundwater recharge rates and patterns.

**Findings:**

The Project could result in a significant impact to groundwater resources if groundwater use and Project site construction activities are not conducted in coordination with applicable agencies and in compliance
with groundwater monitoring activities. Potential groundwater impacts will be reduced to a less than significant level by implementation of mitigation measures.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. Implementation of the following mitigation measures will avoid or reduce potential impacts to groundwater supply and recharge to a level that is less than significant. If water for project construction and operation is obtained from the Tehachapi-Cummings County Water District and trucked to the site instead of pumped from groundwater wells at the project site, Mitigation Measures 4.9-2 and 4.9-3 will not be required, and the project proponents will not be responsible for implementing a Water Supply Contingency Plan or a Groundwater Monitoring and Reporting Plan. Regardless of the water source used during project construction and operation, the project proponents will be required to implement Mitigation Measures 4.9-4 and 4.9-5 to address drainage designs and dewatering practices.

4.9-2 Prior to construction, the project proponent(s) shall develop and implement a Water Supply Contingency Plan. The Water Supply Contingency Plan shall be prepared by a qualified hydrogeologist and submitted by the project proponent(s) to Kern County for review and approval. The Water Supply Contingency Plan shall provide detailed procedures for conducting a groundwater investigation to determine whether the identified groundwater resource(s) to be used for the project is in overdraft conditions; such investigation may include review of historic groundwater well data, groundwater monitoring, and/or interviews and coordination with private well owners near the project site if possible. This groundwater investigation shall occur prior to the onset of construction in order to ensure that no groundwater resources from overdrafted basins are used to meet project needs and that temporary local drawdown effects are mitigated.

The Water Supply Contingency Plan shall identify at least two groundwater supply wells for project use during construction, a primary supply well and a secondary supply well. The Water Supply Contingency Plan shall identify the well sites, proximity to other active wells, estimated total depth, well screen depth, diameter, estimated yield and water quality. If the daily yields of the primary supply well are inadequate or become inadequate to meet the project requirements, the secondary supply well shall be used in order to avoid potential drawdown impacts at wells near the primary. Use of a secondary supply well would not alter the quantity of groundwater pumped for project purposes; the purpose of the secondary supply well would be to avoid potential impacts associated with over-pumping the primary supply well.

The Water Supply Contingency Plan shall specify when the second supply well shall be used, what conditions would trigger necessary use of the second supply well, the person responsible for determining when to utilize the second supply well, and how such use shall be reported. The Environmental Monitor shall verify that the secondary supply well is installed and is capable of producing daily yields sufficient to supplement or replace the primary supply well in meeting construction water demand, as needed.

4.9-3 The project proponent(s) shall develop and implement a Groundwater Monitoring and Reporting Plan prior to the onset of construction of the project. The Groundwater Monitoring and Reporting Plan shall be prepared by a qualified hydrogeologist and submitted by the project proponent(s) to Kern County for review and approval. The Groundwater Monitoring and Reporting Plan shall provide detailed methodology for monitoring background and site groundwater levels, water quality, and flow. Monitoring shall be performed during pre-construction, construction, and project operation with the intent to establish pre-construction and project-related groundwater level and water quality trends. The monitoring wells shall include
locations up-gradient, lateral, and down-gradient of all project supply wells and a minimum of two down-gradient wells. Water quality monitoring shall include annual sampling and testing for Total Dissolved Solids, which include minerals, salts, and metals dissolved in water. Water quality samples shall be drawn from project supply wells, one up-gradient well, and a minimum of two down-gradient wells.

During construction, quarterly water level monitoring data reports shall be submitted by the project proponent(s) to Kern County for review. Based on the results of the quarterly trend analyses, the project proponent(s) shall determine if the project pumping has resulted in water level decline of five feet or more below the baseline trend at nearby private wells. If drawdown of five feet or more occurs at off-site wells, the project proponent(s) shall immediately reduce groundwater pumping until water levels stabilize or recover, sustaining drawdown of less than five feet. Alternatively, the project proponent(s) shall provide compensation to the well owner, that may include: replacement water, reimbursement of increased energy costs, or deepening the well or pump setting.

4.9-4 Prior to the onset of construction of the project, the project proponent(s) shall submit a Drainage Design Plan to Kern County for review and approval. In the Drainage Design Plan, groundcover for the new substation shall be comprised of a pervious and/or high-roughness material (for example, gravel) to the maximum extent feasible, in order to ensure maximum percolation of rainfall after construction. Detention/retention basins shall be installed to reduce local increases in runoff, particularly on frequent runoff events (up to 10 year frequency). Downstream drainage discharge points shall be provided with erosion protection and designed such that flow hydraulics exiting the site mimic the natural conditions as much as possible.

4.9-5 If groundwater is unexpectedly encountered during construction, operation, or decommissioning of the project, dewatering activities shall be performed in compliance with the California Stormwater Quality Association Handbook for Construction or other similar guidelines, as approved by Kern County. The project proponent(s) shall notify Kern County and the Lahontan Regional Water Quality Control Board at the onset of dewatering activities, and submit written description of all executed dewatering activities, including steps taken to return encountered groundwater to the subsurface, upon the completion of dewatering activities at the affected site(s). The Environmental Monitor shall periodically check grading activities for groundwater exposure.

**Significant Effect:**

The Project will substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that will result in substantial erosion or siltation on- or off-site (Impact 4.8-3).

**Description of Specific Impact:**

The topography of the Project site will remain similar to the existing conditions during and after site grading and construction. Grading, leveling, and excavation will be required for each WTG installation site, the meteorological tower, and the access road. These activities will result in changes to the drainage across the Project site if the improved access road and/or WTG and meteorological tower construction sites are not properly designed. Careful design of the access road gradients and WTGs and meteorological tower sites will prevent substantial alteration of drainage patterns and/or erosion within the Project area. Encroachment of a WTG or other Project-related permanent infrastructure into a stream channel or floodplain, including Federal Emergency Management Agency (FEMA)-designated Flood...
Hazard Areas, will result in flooding or erosion damage to the encroaching structure, diversion of flows and increased flood risk for adjacent property, or increased erosion on adjacent properties.

Findings:

The Project could result in substantial erosion or siltation if the Project is not designed properly. These impacts will be reduced to a less than significant level by implementation of mitigation measures as well as compliance with the Kern County General Plan, Kern County Ordinance, Storm Water Pollution Prevention Plan, and a Streambed Alteration Agreement.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. Implementation of Mitigation Measures 4.9-1, 4.4-30, 4.6-5, and 4.6-6 will avoid or reduce potential impacts of drainage pattern alterations on erosion and siltation to a level that is less than significant.

Significant Effect:

The Project will substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that will result in substantial flooding on- or off-site (Impact 4.8-4).

Description of Specific Impact:

It is not anticipated that any permanent Project features will be constructed within a FEMA-designated flood hazard area. However, there are multiple ephemeral drainages across the project site, which convey surface runoff in response to storm events, and some drainage crossings will be required to accommodate access road alignments. These crossings will be designed to mimic natural drainage patterns to the maximum extent feasible. The potential for development of the project to alter the existing drainage patterns will be minimized through compliance with design specifications and BMPs required by the Kern County Grading Code and Floodplain Management Ordinance. Although the amount of surface runoff within the Project area will not change, the pattern and concentration of this runoff could be altered by grading activities associated with the project.

Findings:

The Project could result in substantially altering the existing drainage pattern of the site or increasing the rate or amount of surface runoff. These impacts will be reduced to a less than significant level by implementation of mitigation measures as well as compliance with the Kern County General Plan, Kern County Ordinance, Storm Water Pollution Prevention Plan, and a Streambed Alteration Agreement.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. Implementation of Mitigation Measures 4.9-1, 4.4-30, 4.6-5, and 4.6-6 will avoid or reduce potential impacts of drainage pattern alterations on flooding to a level that is less than significant.

C. Environmental Effects of the Project That Cannot Be Mitigated to a Level Less Than Significant.
None.

D. **Cumulative Environmental Effects of the Project That Will Have a Less Than Significant Impact on the Environment.**

The Project will not contribute to cumulative hydrology and water quality impacts (Impact 4.8-9).

E. **Cumulative Environmental Effects of the Project That Will Have a Significant Impact on the Environment.**

None.

10. **LAND USE AND PLANNING**

A. **Environmental Effects of the Project Found to Have No Impact on the Environment, or Have a Less Than Significant Impact on the Environment.**

None.

B. **Environmental Effects of the Project That Are Potentially Significant, but That Can Be Mitigated to Less Than Significant Levels.**

**Significant Effect:**

The project will not conflict with an applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (Impact 4.9-1).

**Description of Specific Impact:**

The project site is located 22 miles west of the boundary of the Edwards Air Force Base (AFB) and 27 miles from the China Lake NAWS. The Kern County Airport Land Use Compatibility Plan requires compliance with Federal Aviation Regulations (FAR) and notification of construction to Edwards AFB. In addition, as defined by Section 19.64 and Figure 19.08.160 of the Kern County Zoning Ordinance, the maximum allowable structure height in the project area is 500 feet.

The project site is located across several of the military review zones in Figure 19.08.106, including green (no review requirement), yellow (all structures over 500 feet), and red (wind turbines and communications towers over 80 feet and all other structures over 100 feet). Without military review, those structures falling within the yellow zone will be limited to 500 feet above ground elevation; those structures falling within the red zone, which includes the eastern portion of the site (10.1 percent of the site with 1,337 acres), will be limited to 80 feet above ground elevation for wind turbines and communications towers and 100 feet for all other structures. As stated in Section 3.0 (Project Description), depending on the WTG manufacturer(s) and model(s) chosen, the WTGs will range in height from 398 to 493 feet (see Tables 3-3 and 3-4), as measured from the top of the foundation to the blade tip (with the blade in the vertical position). Therefore, Mitigation Measures 4.10-1 and 4.8-8 are required which include notification of construction to Edwards AFB and China Lake and compliance with FAR Title 14, Part 77, respectively.

**Finding:**
With implementation of the MMs, the project will be consistent with the Kern County Airport Land Use Compatibility Plan and FAR.

**Brief Explanation of Rationale for the Finding:**

CEQA requires that all feasible and reasonable mitigation be applied to ensure compliance with applicable plans and policies. As presented in Section 8, Hazards and Hazardous Materials, MM 4.8-8 will ensure compliance with FAR. In addition, the following mitigation measure will be incorporated to ensure compliance with the County’s Airport Land Use Compatibility Plan:

**MM 4.10-1:** Prior to the issuance of grading or building permits, the project proponent(s) shall submit a final project design to the authorized officer of Edwards Air Force Base and China Lake Naval Air Weapons Station. Said final project design, shall be in the form of a detailed plan as required by Section 19.64.140 (Detailed Plot Plan Required - Contents) of the Kern County Zoning Ordinance and shall include final specifications on the height and location of the wind turbine generators to be installed as well as the anticipated schedule of each construction phase.

**MM 4.10-2:** The project operator shall encourage all contractors of the project to hire at least 25 percent of their workers from the local Kern County communities. The applicant shall provide the contractors a list of training programs that provide skilled wind workers and shall require the contractor to advertise locally for available jobs, notify the training programs of job availability, all in conjunction with normal hiring practices of the contractor. The applicant shall submit a letter detailing the hiring efforts prior to commencement of construction.

**Significant Effect:**

The Project will not conflict with any applicable habitat conservation plan or natural community conservation plan (Impact 4.10-2).

**Description of Specific Impact:**

The project area is within the boundaries of the West Mojave Plan (WMP), which is comprised of a pending HCP and an approved amendment to the California Desert Conservation Area Plan for the desert tortoise, Mohave ground squirrel, and nearly 100 additional species. The WMP was approved for BLM lands only in 2006, and the portion of the WMP that will apply to non-BLM lands is still pending. Therefore, the WMP is only applicable to BLM lands within the project. Elements of the project that could potentially occur on BLM lands include access roads, transmission line right-of-way (ROW), and possibly a staging area. WTGs, the project substation, the O & M facility, and the majority of project roads and power lines will occur on private lands. The extent of impact to BLM lands is not known at this time pending final engineering of the gen-tie route and access roads. However, impacts will be a small proportion of the total disturbance associated with development of the project.

The Jawbone-Butterbredt ACEC has been designated on most of the BLM lands in the project area. As described in Section 4.4.2 (Biological Resources), this ACEC was established to manage and protect significant cultural and biological resources present in the transition zone environment between the mountains and the Mojave Desert. Provisions of the WMP applicable to the Jawbone-Butterbredt ACEC include a 1% limitation on allowable ground disturbance and the requirement of a 5:1 mitigation fee ratio. Impacts within the ACEC, should they occur, will be mitigated in accordance with the WMP through the context of an Environmental Assessment being prepared by the BLM for the project. Through project design and the mitigation measures for biological resources, the project proponent shall ensure consistency with the conservation goals of the HCP.
Finding:

With the implementation of mitigation for impacts to biological resources, the project will not conflict with the WMP on BLM lands or on private lands if it is approved.

Brief Explanation of Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to ensure compliance with the applicable HCP. Mitigation measures 4.4-1 through 4.4-31 (presented in Section 4) will ensure consistency with the conservation goals of the HCP.

C. **Environmental Effects of the Project That Cannot Be Mitigated to a Level Less Than Significant.**

None.

D. **Cumulative Environmental Effects of the Project That Will Have a Less Than Significant Impact on the Environment.**

The Project will not contribute to cumulative land use impacts.

E. **Cumulative Environmental Effects of the Project That Will Have a Significant Impact on the Environment.**

None.

11. **MINERAL RESOURCES**

A. **Environmental Effects of the Project Found to Have No Impact on the Environment, or Have a Less Than Significant Impact on the Environment.**

The Project will not result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan (Impact 4.11-1)

B. **Environmental Effects of the Project That Are Potentially Significant, but That Can Be Mitigated to Less Than Significant Levels.**

None.

C. **Environmental Effects of the Project That Cannot Be Mitigated to a Level Less Than Significant.**

None.
D. **Cumulative Environmental Effects of the Project That Will Have a Less Than Significant Impact on the Environment.**

**Significant Effect:**

Impacts from the Project have the potential to combine with impacts from other current and potential projects in the area, contributing to significant cumulative impacts (Impact 4.11-2)

**Description of Specific Impact:**

With regard to the loss of availability of a locally important mineral resource, the project will not impact access to any locally designated Mineral and Petroleum areas. Impacts of the project will not have the potential to restrict access to additional Mineral and Petroleum areas. Therefore, impacts of the project will not have the potential to combine with impacts from past, present, or reasonably foreseeable projects to result in a cumulative impact.

**Finding:**

Impacts from the Project could combine with impacts from other current and potential projects in the area, contributing to significant cumulative impacts. These impacts were found to be less than significant.

**Brief Explanation of the Rationale for the Finding:**

No mitigation is required to reduce the cumulative environmental impacts of the Project.

E. **Cumulative Environmental Effects of the Project That Will Have a Significant Impact on the Environment.**

None.

12. **NOISE**

A. **Environmental Effects of the Project Found to Have No Impact on the Environment, or Have a Less Than Significant Impact on the Environment.**

Operation of the Project, including A-weighted and low frequency noise from WTG operations, and noise generated by the substation, transmission line, and operations and maintenance traffic, will not expose persons to, or generation of, noise levels in excess of standards established in the local general plan or noise ordinance or applicable standards of other agencies (Impact 4.12-1).

The Project will not generate or expose persons to excessive ground borne vibration or ground borne noise levels (Impact 4.12-2), as closest residence is located too far away to experience vibration impacts.

The Project will not result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project (Impact 4.12-3), as modeled noise levels for operations are within the range of existing background noise levels.

The Project will not expose people residing or working in the Project area to excessive noise levels, as the Project is not located within the Kern County Airport Land Use Compatibility Plan (Impact 4.12-5).
The Project will not expose people residing or working in the Project area to excessive noise levels from private airstrips, as the closest private airstrip (1.2 miles away) houses only a few small planes (one single-engine aircraft and two gliders) (Impact 4.12-6).

B. Environmental Effects of the Project That Are Potentially Significant, but That Can Be Mitigated to Less Than Significant Levels.

Significant Effect:

The Project will cause a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project (Impact 4.12-4).

Description of Specific Impact:

Project construction will result in temporary increases in ambient noise levels in the Project vicinity, both on and off site, during the anticipated 12-month construction duration. Installation of the Wilderness transmission reinforcement line will result in the highest noise levels at a residence, which was estimated at 59 dBA. Construction traffic, which is estimated to result in noise levels of 61 dBA at the closest receptor, will result in a considerable increase in ambient noise levels (estimated to be approximately 40-45 dBA). Construction of the North Sky River Wind Energy Project will occur between 6:00 a.m. to 9:00 p.m. Monday through Friday, and between 8:00 a.m. and 9:00 p.m. on Saturdays, which complies with the limitations established in the Ordinance Code of Kern County. Construction of the Jawbone Wind Energy Project will occur between 5:30 a.m. to 9:00 p.m. Monday through Saturday, and between 7:00 a.m. and 6:00 p.m. on Sundays, which will not conflict with the Ordinance Code of Kern County as no residences are located within 1,000 feet of the main Jawbone Wind Energy Project site, and in fact the closest residence is located approximately two miles to the northwest.

Finding:

Project construction will cause a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project. These impacts will be mitigated to a level that is less than significant.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. The following mitigation measure will be incorporated into the Project to reduce the impacts to a level that is less than significant:

**MM 4.12-1:** During all grading and construction activities and throughout the operation of the project, the project proponents shall continuously comply with the following:

(a) All construction equipment shall be equipped with mufflers and other suitable noise attenuation devices, that equipment engines are enclosed, and that all construction equipment is in good working order.

(b) The project proponent shall require the construction contractor to utilize quieter equipment, when feasible (e.g., when such equipment is available and appropriate for on-site conditions), such as grading and construction equipment with rubber tires rather than tracks, or use of a vibratory pile driver instead of an impact pile driver.
(c) All stationary equipment, such as a concrete batch plants and long-term-use (greater than one month) staging areas, shall be located a minimum of 1,000 feet away from sensitive receptors.

(d) All construction equipment shall be turned off when not in use for prolonged periods.

(e) The project proponent shall comply with the Ordinance Code of Kern County, Chapter 8.36 (Section 8.36.020, Prohibited Sounds), such that no construction will occur at construction sites within 1,000 feet of an occupied residential dwelling between 9:00 p.m. and 6:00 a.m. weekdays and 9:00 p.m. and 8:00 a.m. on weekends.

(f) A noise disturbance coordinator shall be established. The disturbance coordinator shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall be required to implement reasonable measures to resolve the complaint. Signs posted at the construction site shall list the telephone number for the disturbance coordinator.

C. Environmental Effects of the Project That Cannot Be Mitigated to a Level Less Than Significant.

None.


Significant Effect:

The Project will contribute to cumulative noise impacts.

Description of Specific Impact:

The Project site is located immediately south of the Pine Tree Wind Development Project, where such proximity presents the potential from noise from the Project to combine with noise from the Pine Tree Wind Development Project to result in a cumulative noise impact with regard to exceeding established standards (Impact 4.12-1). However, the Pine Tree Wind Development Project is currently in operation and therefore is represented in the background noise levels of the Project area. Furthermore, as noise impacts are generally site-specific, any potential combining of noise will only occur in the area where the two projects are located closest to each other. The estimated noise level at the one receptor located closest to both projects will experience noise levels below ambient, resulting in a less-than-significant cumulative impact.

When considered cumulatively with the Pine Tree Wind Development Project, it is not anticipated that the Project will contribute to substantial ground-borne vibration levels at sensitive receptors. Therefore, impacts of the Project will not be cumulatively considerable (Impact 4.12-2).

The A-weighted operational noise generated by the Project’s WTGs when considered cumulatively with noise from the Pine Tree Wind Development Project will not be anticipated to result in a perceptible increase in noise levels at sensitive receptors above those determined for operation of the WTGs; therefore cumulative operation impacts on ambient noise levels will be less than significant (Impact 4.12-3).
No other construction projects are scheduled to occur in the immediate vicinity of the Project; therefore no cumulative noise impact will occur related to substantial temporary or periodic increases in ambient noise levels in the project vicinity (impact 4.12-4).

The Project will result in a greater number of people working in the Project area and being exposed to airport noise; however, the noise generated by airplanes are part of the existing ambient noise conditions of the area, are of short duration, and are not known to cause hearing-loss or other long-term noise impacts. These impacts will combine with impacts from past, present, or reasonably foreseeable projects, but will not result in a significant cumulative impact.

Finding:

Construction of the Project is expected to overlap with operation of the Pine Tree Wind Development Project, resulting in potential conflicts with established noise standards. This impact will be reduced to a level that is less than significant.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the cumulative environmental impacts of the Project. Mitigation Measure 4.12-1 will be incorporated into the Project to reduce the Project’s impacts to a level that is less than significant. Since the Pine Tree Wind Development Project is currently in operation and therefore is represented in the background noise levels of the Project area, Project compliance through mitigation reduced any potential cumulative impact.

E. Cumulative Environmental Effects of the Project That Will Have a Significant Impact on the Environment.

None.

13. PUBLIC SERVICES


The Project will result in increased need for or alter, police protection services (Impact 4.14-2).

The Project will result in increased need for or alter, school services (Impact 4.14-3).

The Project will result in increased need for or alter, park services (Impact 4.14-4).

The Project will result in increased need for or alter, medical services (Impact 4.14-5).

B. Environmental Effects of the Project That Are Potentially Significant, but That Can Be Mitigated to Less Than Significant Levels.

Significant Effect:

The Project will result in increased need for or alter, fire protection services (Impact 4.14-1).

Description of Specific Impact:
The CAL FIRE Fire and Resource Assessment Program provides a map depicting fire threat to SRAs in Kern County. Much of the southeast areas within the County range mostly from “Moderate” to “Very High” fire threat rating, and the project site, similarly, is located in an area ranging from “Moderate” to “Very High” fire threat ratings. Onsite vegetation consists primarily of juniper woodland and Mojave Creosote scrub interspersed with introduced annual grasses. During the construction phase, heavy equipment and passenger vehicles driving on vegetated areas before clearing and grading could increase the danger of fire. Heated mufflers could ignite surrounding vegetation. In addition, during operation, lightning strikes on WTGs could create power surges and start a fire.

Finding:

The Project will increase the need for fire protection services. Mitigation measures will be implemented to reduce this impact to a level that is less than significant.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. The following mitigation measure will be incorporated into the Project to lessen the impacts to a level that is less than significant:

**MM4.14-1**: The Project Operator shall work with County staff to determine how the receipt of sales and use taxes related to the construction of the project will be maximized. This process shall include, but is not necessarily limited to the Project Operator: obtaining a street address within the unincorporated portion of Kern County for acquisition, purchasing and billing purposes, registering this address with the State Board of Equalization, using this address for acquisition, purchasing and billing purposes associated with the proposed project. The Project Operator shall allow the County to use this sales tax information publicly for reporting purposes.

**MM4.14-2**: Payment of property taxes has been determined to be sufficient to mitigate impacts to fire, sheriff and emergency services. Written verification of ownership of the project shall be submitted to the Kern County Planning Department by April 30 of each calendar year. If the project is sold to a city, county, or utility company that pays assessed taxes that equal less than $5,000 per turbine per year, then they will pay those taxes plus an amount necessary to equal the equivalent of $5,000 per turbine. The amount shall be paid for all years of operation. That amount shall be adjusted annually for inflation using the U.S Cities Average - All Urban Consumers (CPI-U) Consumer Price Index provided by the U.S Bureau of Labor Statistics. The fee shall be paid to the Kern County Auditor/Controller by April 30 of each calendar year.

C. Environmental Effects of the Project That Cannot Be Mitigated to a Level Less Than Significant.

None.


**Significant Effect**

The Project will contribute to cumulative public service impacts.

Description of Specific Impact:
The Project and other past, present, and future commercial, residential, natural resource, wind and solar energy projects will stimulate population growth and contribute to development of a region that is currently rural and undeveloped. This will require additional emergency and medical services, increase enrollment in local schools, and increase recreational activities in local and regional parks. Kern County General Plan provisions require that discretionary development pay its proportional share of local costs of infrastructure improvements. Therefore, impacts on existing public services caused by these combined projects will be offset by that requirement.

Finding:

The Project will contribute to cumulative public service impacts. These cumulative impacts will be mitigated to a level that is less than significant.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. Implementation of Mitigation Measures 4.14-1 and 4.14-2 will be incorporated into the Project to lessen the cumulative impacts to a level that is less than significant.

E. Cumulative Environmental Effects of the Project That Will Have a Significant Impact on the Environment.

None.

14. POPULATION AND HOUSING


The Project will not displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere (Impact 4.13-1).

B. Environmental Effects of the Project That Are Potentially Significant, but That Can Be Mitigated to Less Than Significant Levels.

None.

C. Environmental Effects of the Project That Cannot Be Mitigated to a Level Less Than Significant.

None.


The Project will not contribute to cumulative impacts to population and housing.

E. Cumulative Environmental Effects of the Project That Will Have a Significant Impact on the Environment.
15. RECREATION


The Project will increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated.

B. Environmental Effects of the Project That Are Potentially Significant, but That Can Be Mitigated to Less Than Significant Levels.

Significant Effect:

The Project will include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment (Impact 4.15-1).

Description of Specific Impact:

Although the project will not result in construction or expansion of any recreational facilities, construction of the project will alter the existing character of the project site, and therefore may affect recreational uses of the site as a result of the altered viewshed, increased noise, altered airplane or glider routes, traffic on Jawbone Canyon Road, and possible safety concerns. The Pacific Crest Trail, which roughly parallels the western side of the project site, is designated as a National Scenic Trail; therefore, viewers' expectations for scenery and natural views are high. Additionally, portions of the Pacific Crest Trail will be crossed by project transmission lines. Scattered red lights required by the Federal Aviation Administration (FAA) on WTGs will alter the relatively unobstructed night sky, resulting in a significant aesthetic impact for campers or night hikers. Site preparation and construction activities will temporarily increase noise levels, disrupting the level of sound that trail users are accustomed to hearing. Noise-generating construction activities associated with transmission lines and transmission reinforcement, primarily from heavy-duty construction equipment, will be limited to daylight hours Monday through Saturday. However, the project will affect the recreational experience of the Pacific Crest Trail because it will affect the viewshed, increase noise, and could pose a potential safety concern.

Additionally, while project components will be located outside of the Jawbone Off Highway Vehicle (OHV) Area, access to the project site for construction and operational traffic on Jawbone Canyon Road will affect recreational use of the Jawbone OHV Area. While OHV users are not permitted on Jawbone Canyon Road, OHVs crossing Jawbone Canyon Road could pose a hazard for both OHV users as well as project personnel.

Finding:

The Project will cause significant impacts by adversely affecting the character of the Pacific Crest Trail and conflicting with OHV use. These impacts will be reduced to a level that is less than significant with implementation of mitigation measures.

Brief Explanation of the Rationale for the Finding:
CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. Implementation of MM 4.16-1 and the following mitigation measures will be incorporated into the Project to lessen the impacts to a level that is less than significant:

**MM 4.15-1:** The project proponents shall site all wind turbine generators and associated infrastructure other than roads or collector cable lines with a minimum setback of 150 feet from both edges of the Pacific Crest Trail, or otherwise noted by the final noise analysis. The setback shall be clearly delineated on all applicable site plans submitted prior to issuance of grading or building permits.

**C. Environmental Effects of the Project That Cannot Be Mitigated to a Level Less Than Significant.**

None.

**D. Cumulative Environmental Effects of the Project That Will Have a Less Than Significant Impact on the Environment.**

**Significant Effect:**

The Project will contribute to cumulative recreation impacts.

**Description of Specific Impact:**

With regard to adverse effects to the recreational experience of the Pacific Crest Trail, the project will have significant and unavoidable impacts. Several of the past, present, and reasonably foreseeable projects will result in similar impacts to the Pacific Crest Trail as the project through adverse changes to the viewed area observable from the Pacific Crest Trail as well as increased noise. Therefore, impacts of the project will combine with impacts from cumulative projects to result in a significant impact.

With the exception of the Pine Tree Wind Project, none of the past, present, and reasonably foreseeable projects are located within close proximity of this OHV area. The Pine Tree Wind Project is currently operational and does not contribute substantial traffic to area roads and does not substantially restrict or otherwise impact OHV use; therefore impacts of the project will not have the potential to combine with impacts of other projects to result in a cumulative impact related to substantial restriction of OHV use.

With regard to the construction or expansion of new parks, the project will result in no impact. Therefore, impacts of the project will not have the potential to combine with impacts from cumulative projects to result in a significant impact.

**Finding:**

The Project will contribute to cumulative recreation impacts. These impacts will be reduced to a less than significant level by implementation of the Mitigation Measures listed below.

**Brief Explanation of the Rationale for the Finding:**

CEQA requires that all feasible and reasonable mitigation be applied to reduce the cumulative environmental impacts of the Project. Mitigation Measures 4.15-1 and 4.16-1 described above will be incorporated into the Project to lessen the cumulative impacts to a level that is less than significant.
E. Cumulative Environmental Effects of the Project That Will Have a Significant Impact on the Environment.

None.

16. TRANSPORTATION AND TRAFFIC.


None.

B. Environmental Effects of the Project That Are Potentially Significant, but That Can Be Mitigated to Less Than Significant Levels.

**Significant Effect:**

The Project will exceed the capacity of the existing circulation system, based on an applicable measure of effectiveness (as designated in a general plan policy, ordinance, etc.), taking into account all relevant components of the circulation system and/or conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures or other standards established by the County congestion management agency or adopted County threshold for designated roads or highways (Impacts 4.16-1 and 4.16-2).

**Description of Specific Impact:**

The addition of Project-related construction traffic to utilized intersections and roadway segments will not exceed any designated performance standard or capacity. Detailed level of service (LOS) analyses were not completed because the surrounding roadways and intersections are assumed to operate well below capacity given the remote and rural nature of the area, and the existing low daily volumes on these roadways. Though the project will result in a notable temporary increase in traffic, it is anticipated that the increase will have little effect on roadway and intersection operations, therefore; those operations will still be well within the County and Caltrans’ acceptable capacities and performance standards. A Construction Traffic Control Plan to reduce any potential construction-related traffic impacts on the immediate roadways and study intersections will be required. Project construction and operations related traffic is expected to be in compliance with Kern County General Plan LOS Standards. Project traffic is not expected to result in a substantial increase in congestion on State highways. Furthermore, the Construction Traffic Control Plan required by MM 4.16-1 will address and minimize potential construction vehicle conflicts with off highway vehicle (OHV) users of the BLM controlled Jawbone Canyon OHV Area, located along Jawbone Canyon Road.

**Finding:**

The Project will cause temporary traffic impacts by generating vehicle trips during construction that may affect the capacity or any applicable measure of effectiveness of the existing circulation system and/or an applicable congestion management program, including, but not limited to LOS standards and travel demand measures or other standards established by the County congestion management agency or adopted County threshold for designated roads or highways. These impacts will be reduced to a level that is less than significant with implementation of mitigation measures.
Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. The following mitigation measures will be incorporated into the Project to lessen the impacts to a level that is less than significant:

**MM 4.16-1** Prior to the issuance of grading or building permits, the project proponents shall prepare and submit a Construction Traffic Control Plan to Kern County Roads Department, Bureau of Land Management, and Caltrans District 9 office for approval. The Construction Traffic Control Plan shall be prepared in accordance with both the California Department of Transportation Manual on Uniform Traffic Control Devices and the Work Area Traffic Control Handbook and must include, but not be limited to, the following issues:

- Timing of deliveries of heavy equipment and building materials;
- Directing construction traffic with a flag person;
- Temporary signing, lighting, and traffic control devices placement if required;
- Determining the need for construction work hours and arrival/departure times outside peak traffic periods;
- Ensuring access for emergency vehicles to the project site;
- Temporary closure of travel lanes or disruptions to street segments and intersections during materials delivery, trenching activities within roadway rights-of-way, transmission line stringing activities, or any other utility connections;
- Maintaining access to adjacent property;
- Specification of both construction-related vehicle travel and oversize load haul routes, the minimization of construction traffic during the AM and PM peak hour, distributing construction traffic flow across alternative routes to access the proposed project site; and
- Identification of vehicle safety procedures for entering and exiting site access roads.

**Jawbone Canyon Road – Jawbone Canyon OHV Area**

- Transporters shall follow Kern County regulations for the transportation of oversized and overweight loads on all county roads, including the segment of Jawbone Canyon Road that would be utilized for access to the project. These regulations include provisions for time of day, pilot cars, law enforcement escorts, speed limits, flaggers, and warning lights.
- During project construction, delivery of equipment and materials shall be prohibited on Jawbone Canyon Road on the following holiday periods:
  - Veterans Day, from 12 p.m. on the preceding Thursday to the following Monday;
  - Thanksgiving, from 12 p.m. on the preceding Wednesday to the following Monday;
  - Christmas and New Years, from 12 p.m. on the Friday preceding Christmas to the Tuesday following New Years;
  - Martin Luther King Day, from 12 p.m. on the preceding Friday to the following Tuesday;
  - Presidents Day, from 12 p.m. on the preceding Friday to the following;
  - Easter, from 12 p.m. on the preceding Friday to the following Monday;
  - Memorial Day, from 12 p.m. on the preceding Friday to the following; and
- Labor Day, from 12 p.m. on the preceding Friday to the following Tuesday.
- With at least four weeks notification to the project proponents, prohibit construction deliveries on additional sanctioned event weekends in the Jawbone Canyon OHV Area.

- On weekends and holiday periods during the high-use recreation season in the Jawbone Canyon OHV Area (late fall to late spring), construction workers shall be prohibited from travel in individual vehicles on Jawbone Canyon Road and shall be shuttled to and from the project site in multi-person vehicles beginning on the day preceding the weekend or holiday. This limitation on the use of vehicles does not include conducting limited critical activities associated with minimal security and safety monitoring and construction management.

- During construction, the existing cattle guards shall be maintained and new cattle guards provided if none exist at entry gates on Jawbone Canyon Road to prevent livestock from entering the Jawbone Canyon OHV Area.

- During the high-use recreation season in the Jawbone Canyon OHV Area (late fall to late spring), the delivery of large loads on Jawbone Canyon Road shall be avoided to the extent practicable on weekends (in addition to those weekends during which project deliveries shall be prohibited). In addition, the transportation safety plan shall include time of day limitations during which no project-related traffic, except limited critical activities associated with minimal security and safety monitoring and construction management, shall be allowed on Jawbone Canyon Road. Transportation permits for oversized and overweight loads on County-maintained portions of Jawbone Canyon Road on high-use weekends shall be issued at the direction of the Kern County Roads Department.

- No construction activity related to road improvements on Jawbone Canyon Road shall be conducted during high-use recreation periods in the Jawbone Canyon OHV Area. All road improvements shall be completed in a manner and according to a schedule that provides uninterrupted access on Jawbone Canyon Road during high-use recreation periods in the Jawbone Canyon OHV Area. If a temporary closure of the County-maintained portions of Jawbone Canyon Road is allowed, it shall be in accordance with Kern County Roads Department policies and standards.

- A training program regarding the rules and regulations for project-related travel shall be conducted with all project transporters and drivers within ten days of each employee's first day working at the site. The program shall address issues such as vehicle speed limits, pilot vehicle requirements, and warnings regarding potential safety conflicts with recreation use in the Jawbone Canyon OHV Area. All drivers shall be strictly monitored to ensure compliance with rules and regulations, and consequences (e.g., revocation of permission to deliver or drive for the project) shall be applied to individuals and/or the project for noncompliance. Enforcement measures shall be defined in the Construction Traffic Control Plan.

- Traffic signs shall be provided to control traffic and ensure safety along Jawbone Canyon Road and at designated crossings of the road within the Jawbone Canyon OHV Area. These signs shall adhere to the Federal Highway Administration Manual on Uniform Traffic Control devices and shall include regulatory signs (e.g., stop, speed limits, yield), warning signs (e.g., OHV road crossings), and construction signs (e.g., temporary lane closures, flaggers). All signs shall be maintained throughout the project construction.
• The project proponents shall continue to consult with the Friends of Jawbone, other recreation groups, the Bureau of Land Management, and the Kern County Roads Department regarding concerns related to project construction traffic on Jawbone Canyon Road. The project proponents shall notify the Off Highway Vehicle groups, the Bureau of Land Management, and the Kern County Roads Department of the date and anticipated duration of construction deliveries on Jawbone Canyon Road.

• A brochure describing the project and its construction, including a copy of the Construction Traffic Control Plan, shall be posted at the Jawbone Canyon OHV Area information kiosk and made available at the Jawbone Station.

• To mitigate potential safety impacts caused by haul truck movements onto and off of Jawbone Canyon and Pine Tree Canyon roads, the following measures are proposed:
  - The contractor shall apply for encroachment permits with Caltrans and County of Kern and post warning signs in State and local road rights-of-way (State Route 14 and Jawbone Canyon Road).
  - The contractor shall discuss construction plans for truck movements with State and County transportation officials prior to the start of construction.
  - The contractor shall apply for installation of appropriate California Department of Transportation warning signage for Jawbone and Pine Tree intersections. This could include California Department of Transportation Warning Sign SW-40 Truck Crossing and/or Warning Sign SC-5 Special Event Ahead pursuant to State Highway Design Guidelines.
  - As required by State or local transportation departments, traffic control flaggers, pilot cars, and signage warning of construction activity shall be employed.

MM 4.16-2 Prior to the issuance of grading or building permits, the project proponents shall conduct a pavement index assessment and load rating analysis to ensure Jawbone Canyon Road can accommodate construction related truck traffic, particularly over crossing of the Los Angeles Aqueduct. The traffic index assessment shall determine the required pavement structure required to accommodate the additional truck trips and then implement pavement repairs to achieve safe passage of construction-related truck traffic. The project proponents shall implement all recommendations of the pavement including roadway rehabilitation or other structural improvements. The project proponents shall coordinate with the affected jurisdictions (Los Angeles Department of Water and Power and Kern County) and shall obtain any required permits prior to construction of improvements. The project proponents shall implement appropriate wheel load weight distribution and/or physical improvements to aqueduct crossings to ensure such crossings are adequately protected.

**Significant Effect:**

The Project will cause a change in air traffic patterns that result in substantial safety risks (Impact 4.16-3).

**Description of Specific Impact:**

Because the WTGs and meteorological towers will be more than 200-feet in height, the project will be required to comply with Federal Aviation Administration (FAA) Advisory Circular 70/7460-1,
Obstruction Lighting/Marking requirements. The project site falls inside the boundaries of the Special Use Airspace of the Joint Service Restricted R-2508 Complex. For projects with components that will exceed the height limits set forth for the R-2508 Complex, Section 4 of the Kern County Airport Land Use Compatibility Plan (ALUCP) requires military consultation to confirm that the project will not interfere with military communications or airspace. Due to military air traffic restrictions, the WTGs will need to conform to the height requirements for the project area as defined by Section 19.64 and Figure 19.08.160 of the Kern County Zoning Ordinance unless the military authority responsible for operations in that flight area first provides the planning director with written concurrence that the height of the proposed structure or building will create no significant military mission impacts.

Finding:

The Project will substantially increase aviation hazards due to the height of project components and the proximate location to both public and military aviation facilities. These impacts will be reduced to a level that is less than significant by implementation of Mitigation Measures described below.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. The following mitigation measures will be incorporated into the Project to lessen the impacts to a level that is less than significant:

**MM 4.8-8:** Prior to issuance of building permits, the project proponents shall submit Form 7460-1 (Notification of Proposed Construction or Alteration) to the Federal Aviation Administration, in the form and manner prescribed in 14 Code of Federal Regulation 77.17. The project proponents shall also provide documentation to the Kern County Planning and Community Development Department demonstrating that the Federal Aviation Administration has issued a “Determination of No Hazard to Air Navigation.” This documentation shall include: (1) written concurrence from the military authority responsible for operations in the flight area depicted in Kern County Zoning Ordinance Figure 19.08.160 that all project components would create no significant military mission impacts; (2) a wind turbine generator lighting plan; and (3) a helicopter lift plan demonstrating compliance with all requirements set forth by the Federal Aviation Administration and Kern County. Documentation shall also be furnished to the Kern County Planning and Community Development Department demonstrating that a copy of the approved form(s) has been provided to the operators of Kelso Valley Airport, California City Municipal Airport, Tehachapi Municipal Airport, Edwards Air Force Base, China Lake Naval Air Weapons Station, and Fort Irwin/National Training Center.

**MM 4.10-1:** Prior to the issuance of grading or building permits, the project proponent(s) shall submit a final project design to the authorized officer of Edwards Air Force Base and China Lake Naval Air Weapons Station. Said final project design, shall be in the form of a detailed plan as required by Section 19.64.140 (Detailed Plot Plan Required - Contents) of the Kern County Zoning Ordinance and shall include final specifications on the height and location of the wind turbine generators to be installed as well as the anticipated schedule of each construction phase.

**Significant Effect:**

The Project will cause an increase in construction-related hazards or will substantially increase hazards due to a design feature or incompatible uses (Impact 4.16-4).

**Description of Specific Impact:**

Findings of Fact - Section 15091
North Sky River Wind Energy Project
and Jawbone Wind Energy Project EIR
During construction the Project will require the delivery of heavy construction equipment and large WTG components on oversized vehicles using area roadways, creating a potential hazard to the public by limiting motorist views on roadways and obstructing space. In addition, the maneuvering of construction-related vehicles and equipment among the general-purpose traffic on area roadways will cause safety hazards, including when heavy equipment maneuvers through an intersection.

Finding:

The Project will substantially increase hazards due to a design feature or incompatible uses. These impacts will be reduced to a level that is less than significant by implementation of Mitigation Measures described below.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. The following mitigation measures will be incorporated into the Project to lessen the impacts to a level that is less than significant:

**MM 4.16-3:** Prior to the issuance of grading or building permits, the project proponents shall obtain all applicable permits from the California Department of Transportation, Kern County, and any other applicable agencies pertaining to vehicle sizes, weights, roadway encroachment, and travel routes and adhere to any conditions in these permits.

**MM 4.16-4** Prior to the issuance of grading or building permits, the project proponents shall complete the following:
- Submit engineering drawings of proposed access road design for the review and approval of the Kern County Roads Department.
- Shall obtain an encroachment permit from the Kern County Roads Department for applicable roads in the Kern County road maintenance system.
- Enter into a secured agreement with Kern County to ensure that any County roads that are demonstrably damaged by project-related activities are promptly repaired and, if necessary, paved, slurry-sealed, or reconstructed as per requirements of the State and/or Kern County.

While the project is under construction, the condition of Jawbone Canyon Road shall be monitored and the roadway shall be kept in safe operating condition using generally accepted methods of maintenance. At the conclusion of construction, repair of damage to the roadway shall be completed to the satisfaction of the Kern County Roads Department.

**Significant Effect:**

The Project will result in inadequate emergency access (Impact 4.16-5).

**Description of Specific Impact:**

The Project is in a rural area with several alternative access roads allowing easy access in the event of an emergency, so it will not physically interfere with emergency vehicle access or personnel evacuation. Project related traffic will not cause a significant increase in congestion or affect existing LOS on roads or require closure of public roads. During construction, however, heavy equipment and traffic could interfere with emergency response to wildfire, accident at the Project, or to residences or businesses in the vicinity. This is a significant impact that can be mitigated to a less than significant level.
Finding:

The Project will result in inadequate emergency access. These impacts will be reduced to a level that is less than significant by incorporation of the mitigation measures listed below.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. The following mitigation measures will be incorporated into the Project to lessen the impacts to a level that is less than significant:

**MMs 4.16-1 and 4.16-4 (as identified earlier)**

**MM 4.8-9:** Prior to the issuance of grading or building permits, the project proponents shall appoint an Emergency Response Liaison to coordinate the reduction of construction-related traffic for the duration of any emergency at or nearby the project site. The Kern County Fire Department, Kern County Sherriff’s Department, and the California Highway Patrol shall be provided with the construction schedule and the on-site contact information for the Liaison prior to construction. The Liaison shall be immediately reachable at all times during project construction. The Liaison shall have radio contact with project construction vehicles at all times to coordinate traffic reduction measures. In addition, the Liaison shall coordinate with the Kern County Fire Department, the Kern County Sherriff’s Department and the California Highway Patrol to establish emergency procedures for access to the project site in the event of emergency.

C. **Environmental Effects of the Project That Cannot Be Mitigated to a Level Less Than Significant.**

None.

D. **Cumulative Environmental Effects of the Proposed Project That Will Have a Less Than Significant Impact on the Environment.**

**Significant Effect:**

The Project will contribute to cumulative transportation and traffic impacts.

**Description of Specific Impact:**

The Project will combine with other past, present, and reasonably foreseeable projects to contribute to cumulative impacts related to (a) an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system; (b) increase in transportation and traffic hazards; and (c) emergency access. These cumulative impacts will be reduced to less than significant by incorporation of mitigation measures.

**Finding:**

The Project will contribute to cumulative transportation and traffic impacts. These impacts will be reduced to a less than significant level by implementation of the Mitigation Measures listed below.

**Brief Explanation of the Rationale for the Finding:**
CEQA requires that all feasible and reasonable mitigation be applied to reduce the cumulative environmental impacts of the Project. Mitigation Measures 4.8-8, 4.8-9, 4.10-1, and 4.16-1 through 4.16-4 described above will be incorporated into the Project to lessen the cumulative impacts to a level that is less than significant.

E. **Cumulative Environmental Effects of the Project That Will Have a Significant Impact on the Environment.**

None.

17. **UTILITIES.**

A. **Environmental Effects of the Project Found to Have No Impact on the Environment, or Have a Less Than Significant Impact on the Environment.**

The Project will not exceed wastewater requirements of the applicable Regional Water Quality Control Board (Impact 4.17-1).

The Project will not require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects (Impact 4.17-3).

B. **Environmental Effects of the Project That Are Potentially Significant, but That Can Be Mitigated to Less Than Significant Levels.**

**Significant Effect:**
The Project will require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects (Impact 4.17-2).

**Description of Specific Impact:**

The project will require construction of septic systems and leach lines. Wastewater generation during operation is not expected to be substantial as the project will require up to 32 full and part-time employees. Water, including potable water for drinking purposes, for the O&M facility personnel and operations, as well as for construction (dust suppression and concrete mixing), will either be obtained from a well located within the project boundaries, or will be secured from a nearby water purveyor and trucked in. Since the project will provide its own water source, it will not impact existing water supply systems. However, the project will require construction of some or all of the facilities listed above.

**Finding:**

The Project will require or result in the construction of new wastewater treatment facilities, the construction of which could cause significant environmental effects. These impacts will be reduced to a level that is less than significant by implementation of the mitigation measure described below.

**Brief Explanation of the Rationale for the Finding:**

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. The following mitigation measure will be incorporated into the Project to lessen the impacts to a level that is less than significant:

**MM 4.17-1:** The method of sewage disposal shall be as required and approved by the Kern County Environmental Health Services Department. Compliance with this requirement will necessitate that the project proponents obtain the necessary approvals for the design of the septic systems from the Kern County Engineering, Surveying, and Permit Services Department prior to issuance of building permits for the operations & maintenance buildings. The septic system disposal fields shall be located a minimum of 100 feet from a classified stream or 25 feet from a non-classified stream and shall not be located where it would impact State wetlands or special-status plant species.

**Significant Effect:**

The Project will require sufficient water supplies available to serve the project from existing entitlements and resources, and new or expanded entitlements are needed (Impact 4.17-4).

**Description of Specific Impact:**

Water is required for construction and operation of the project. No existing water source is currently serving the project site. However, water, including potable water for drinking purposes, for the O&M facility personnel and operations will either be obtained from a well located within the project boundaries, or will be secured from a nearby water purveyor and trucked in. The project proponents will be required to obtain well permits from Kern County prior to construction of the wells and to provide additional information on volumes of water, rates of withdrawal, and other required data at that time. Also, water that is required for construction, such as for dust suppression and concrete mixing, will also be obtained from a well within the project boundaries or will be trucked in from nearby municipalities, such as the community of Mojave or city of Tehachapi.
Finding:

The Project will require sufficient water supplies available to serve the project from existing entitlements and resources, and new or expanded entitlements are needed. These impacts will be further reduced to a level that is less than significant by implementation of the mitigation measure described below.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. The following mitigation measure will be incorporated into the Project to lessen the impacts to a level that is less than significant:

**MM 4.17-2:** Prior to issuance of grading or building permits for the proposed project, the project proponents shall obtain permits for water wells or obtain other water appropriation rights for on-site potable water to the satisfaction of the Kern County Environmental Health Services Department.

**Significant Effect:**

The Project will comply with federal, state and local statutes and regulations related to solid waste (Impact 4.17-5).

Description of Specific Impact:

The Project will generate solid waste during construction and operations. Reuse and recycling of construction debris will keep those materials out of the landfill. The Project is expected to generate a minimal amount of waste.

Finding:

The Project could violate federal, state and local statutes and regulations related to solid waste. These impacts will be reduced to a level that is less than significant by implementation of the mitigation measures described below.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. The following mitigation measures will be incorporated into the Project to lessen the impacts to a level that is less than significant:

**MM 4.17-3:** The project proponents shall reduce construction waste transported to landfills by recycling solid waste construction materials to the extent feasible, such as taking materials to recycling and reuse locations listed in the brochure on recycling construction and demolition materials available on the Kern County Waste Management Department Web site.

**MM 4.17-4:** The project proponents shall provide a fenced storage area for recyclable materials that is clearly identified for recycling. This area shall be maintained on the sites during construction and operations. Site plans showing the recycling storage areas shall be submitted to the Kern County Planning and Community Development Department and Kern County Waste Management Department prior to the issuance of any grading or building permits for the sites.
C. Environmental Effects of the Project That Cannot Be Mitigated to a Level Less Than Significant.

None.


Significant Effect:

The Project could contribute to cumulative impacts on utilities (Impact 4.17-6).

Description of Specific Impact:

The Project is not expected to combine with impacts from past, present, or reasonably foreseeable projects to result in significant cumulative impacts to stormwater runoff, wastewater, water supplies, or landfills. Major projects planned for the area will pay their proportional share of local costs of infrastructure improvements required to serve the developments. Impacts caused by future projects will be offset by this requirement.

Finding:

The Project could contribute to cumulative impacts to stormwater runoff, wastewater, water supplies, or landfills. These potential impacts will be reduced to a level that is less than significant by implementation of the mitigation measures listed below.

Brief Explanation of the Rationale for the Finding:

CEQA requires that all feasible and reasonable mitigation be applied to reduce the environmental impacts of the Project. Mitigation Measures 4.17-1 through 4.17-4 will be incorporated into the Project to lessen the impacts to a level that is less than significant.

E. Cumulative Environmental Effects of the Project That Will Have a Significant Impact on the Environment.

None.

SECTION III. FINDINGS REGARDING CONSIDERATIONS WHICH MAKE CERTAIN ALTERNATIVES ANALYZED IN THE FINAL ENVIRONMENTAL IMPACT REPORT INFEASIBLE

The following findings and brief explanation of the rationale for the findings regarding project alternatives identified in the EIR are set forth to comply with the requirements of Section 15091(s)(3) of the State CEQA Guidelines.

The consideration of alternatives is an integral component of the CEQA process. The selection and evaluation of a reasonable range of alternatives provides the public and decision-makers with information on ways to avoid or lessen environmental impacts created by a project. When selecting alternatives for evaluation, CEQA requires alternatives that meet most of the basic objectives of the project, while avoiding or substantially lessening the project’s significant effects.

Findings of Fact - Section 15091
North Sky River Wind Energy Project
and Jawbone Wind Energy Project EIR 87

August 11, 2011
Draft Planning Commission
Three alternatives to the project were defined and analyzed.

**Alternative A: No Project**

Alternative A, the “No Project” Alternative, assumes that the proposed zone change and subsequent development would not be implemented. Existing land uses on the project site would remain, which include recreational off-highway vehicle, livestock grazing, and open space. However, if the project is not implemented, the project site would remain available for some other type of unspecified future use that is consistent with the Kern County General Plan (KCGP). For the purposes of this analysis, it is assumed that build-out of the project site in accordance with a consistent use under the KCGP would eventually occur. Because the Project site would remain unchanged, few or no environmental impacts would occur. This Alternative serves as the baseline against which to evaluate the effects of the Project and other Project Alternatives presented below.

**Aesthetics**

Alternative A would not introduce new wind-generating equipment into the landscape. However, the property would remain available for other projects allowed by the KCGP. Visual impacts may still be significant, as development would replace undeveloped land, but the visual impacts on the landscape would likely be reduced compared to the project, which involves the installation of very large and highly visible WTGs. This alternative would reduce aesthetic impacts, but would not necessarily reduce them to a less-than-significant level.

**Air Quality**

Alternative A would not introduce new wind-generating equipment into the landscape. It would therefore not require the use of construction equipment resulting in construction-related emissions that would exceed the applicable thresholds and result in an increase of criteria pollutions in regions that are nonattainment for Federal or State standards. However, the property would remain available for other projects allowed by the KCGP. Air quality impacts may still be significant, as development would replace undeveloped land, but the air quality impacts on the landscape would likely be reduced compared to the project, which involves the installation of very large WTGs and associated construction equipment. This alternative would reduce air quality impacts, but would not necessarily reduce them to a less-than-significant level. Additionally, the project would result in a reduction of greenhouse gas emissions over the life of the project, a beneficial impact. Alternative A would eliminate this beneficial impact.

**Biological Resources**

Under this alternative, the project’s impacts on existing natural resources, including plant communities and habitat used by both common wildlife and sensitive species, would not occur. Therefore, the potential to kill resident and migratory birds and bats would not be introduced to the project site. However, as noted above, the property would remain available for other projects allowed by the KCGP. Development of the property would result in habitat loss. Although the absence of WTGs would eliminate the threat of bird and bat strikes, the loss of habitat as a result of other types of development could also result in significant impacts on biological resources.
Cultural Resources

Under this alternative, the project’s impacts to archaeological resources would not occur. However, other development of a portion of the site could result in potentially significant effects on archaeological and other cultural resources.

Recreation

Under this alternative, impacts on recreational facilities would be avoided when compared to the project. Impacts on the PCT, which runs approximately 0.6 mile west of the southwestern corner of the project site, would be avoided because no WTGs would be constructed. However, as noted above, the property would remain available for other projects allowed by the KCGP. Visual impacts would occur as development would replace open land. Due to the high expectations of views, quality by hikers and equestrians on the PCT, this alternative could still result in significant impacts to recreation, but likely of a lesser magnitude than the project due to the reduced height of the development.

Conclusion and Relationship to Project Objectives

This alternative would reduce, but not necessarily avoid, significant impacts associated with the project. Moreover, this alternative would not achieve any of the project objectives, such as reducing criteria pollutants and GHGs generated from fossil fuels, help to achieve California’s renewable energy goals, assist Kern County in promoting its role as the State’s leading renewable energy producer, or provide green jobs to Kern County and the State of California. In addition, this alternative would not result in the project’s proposed commitment to restore onsite degraded lands, provide onsite habitat set asides, and expand ongoing avian conservation activities.

Alternative B: Relocate to San Gorgonio Wind Resource Area

Alternative B would relocate the wind power project to the San Gorgonio Wind Resource Area (WRA). An alternative site in the San Gorgonio WRA was selected based on the presence of a suitable, nearly contiguous tract of land that would accommodate up to approximately 290 WTGs and that does not currently have wind power projects or applications for wind power projects. In addition, the chosen alternative site has few or no residential or commercial structures and is otherwise compatible with wind power development.

Aesthetics

The westernmost boundary of the Alternative B site is two miles east of the PCT; however, the San Bernardino mountains would screen views of the Alternative B WTGs from the PCT. This would reduce aesthetic impacts for users of the PCT relative to the project. The number of sensitive viewers (i.e. drivers) would be higher at the Alternative B site due the larger number of travellers along I-10 compared with Jawbone Canyon Road and Kelso Valley. Night lighting impacts for users of the PCT would be reduced compared to the project because Alternative B is located 2 miles from the Trail and is blocked by the San Bernardino mountains; however, night lighting impacts would be more severe for residents for Alternative B, as the site is within 10 miles of the cities of Cathedral City, North Palm Springs, Palm Springs, and Desert Hot Springs. Overall, aesthetic impacts of Alternative B would be commensurate with those of the project.

Air Quality
The Alternative B site is located in the South Coast Air Basin regulated by the South Coast Air Quality Management District. As with the Mojave Desert Air Basin the South Coast Air Basin has been designated as nonattainment for both Federal and State ozone and serious nonattainment for PM10 standards. South Coast Air Basin is also designated as nonattainment for Federal and State PM2.5 standards. Alternative B is located in an area with a larger number of sensitive receptors than the project. This is in part because Alternative B is located within 6 miles of three urban centers, Palm Springs, Desert Hot Springs, and Cathedral City.

Impacts related to violations of air quality standards would occur for Alternative B as a result of the emissions of the air pollutants VOCs, NOX, CO, PM10, PM2.5, and sulfur oxides. Alternative B is located in an area that is in nonattainment status for PM10 and PM2.5 and the worst case mitigated annual construction emissions would result in significant impacts for NOx, PM10, and PM2.5. Additionally, the SCAQMD is nonattainment for the State 1-hour ozone standard and nonattainment for federal 8-hour ozone and Federal and State PM10. Implementation of MM's 4.3-1 and 4.3-2 would reduce fugitive dust emissions and engine NOx emissions. However, as shown above in the annual construction NOx, PM10, and PM2.5 emissions would exceed the SCAQMD thresholds. Because of the higher number of residents that would be impacted by air emission impacts, Impact 4.3-4 Expose Sensitive Receptors to Substantial Pollutant Concentration would be more severe at the alternate site; however, Impact 4.3-4 is not a significant impact. Overall, air quality impacts of Alternative B would be commensurate but slightly more severe than those of the project.

Biological Resources

The Alternative B site is located within the Coachella Valley Multiple Species Habitat Conservation Plan and Natural Community Conservation Plan (MSHCP/NCCP), the goal of which is to conserve over 240,000 acres of open space and protect 27 plant and animal species. Several listed species that have the potential to occur at the Alternative B site, including Coachella Valley milkvetch, triple-ribbed milkvetch, Coachella Valley fringe-toed lizard, Palm Springs round-tailed ground squirrel, and desert tortoise, are covered by the MSHCP/NCCP. Participation in the MSHCP/NCCP would ensure that impacts to listed species remain less than significant. However, impacts to other special-status species not covered by the MSHCP/NCCP are unknown at this time as site-specific studies have not been conducted. Therefore, impacts to special-status species could be significant and unavoidable. The risk of avian and bat collisions with WTGs would likely be lower than the project based on the estimated raptor fatalities at the San Gorgonio Wind Resource Area compared with the estimates for the Tehachapi Pass (Anderson, et al., 2000 and 2005). However, some mortality of bird and bat species would still occur, and this impact would remain significant and unavoidable. Cumulative impacts to birds and bats due to collisions with WTGs would also remain significant and unavoidable.

Cultural Resources

A cultural records search for this alternative has not been conducted. A cultural resources records search would be necessary to identify the potential for cultural resources at the Alternative B site; however, it could be anticipated, based upon the understanding of the records searches completed for the project and other areas near the Alternative B site, that, as with the project site, there may be potential cultural resource impacts related to this alternative that could be considered significant. The Alternative B site falls within the traditional use area of the Cahuilla Indians and in the 1870’s the Southern Pacific Rail line ran through the San Gorgonio Pass (BLM, 2008). Because of the previous use of the San Gorgonio region there may be impacts to archaeological and historical resources similar to the project site.
Land Use and Planning

Alternative B would result in greater land use impacts than the project. Both the project site and the Alternative B site are zoned for residential living; however, Alternative B would require the placement of WTGs on land that is within area designated as Rural Residential in the General Plan. Land Use Policy 15.1 prohibits commercial wind turbines within areas designated as Rural Residential and as such Alternative B would conflict with the Riverside County General Plan in some areas (Riverside County, 2003). As with the project, amendments to zoning and to the General Plan land use designations would be required to allow wind development to occur.

Additionally, the boundaries of Alternative B would be located immediately adjacent to existing residences. Existing WTGs are located south of 14th Ave west of N. Indian Canyon Dr., approximately 1,500 feet from existing homes and an existing RV Resort. Alternative B would require placing additional WTGs near the existing homes and RV Resort. Similar proximity between rural residences and Alternative B boundary would be required along Dillon Road and near the Desert Dunes Golf Course near Mountain View Rd (Google, 2011). General Plan Land Use Policy 15.9 restricts placement of commercial wind turbine arrays within 2,000 feet of homes or resorts for arrays with 10 or fewer wind turbines and within 3,000 feet of homes or resorts for arrays with more than 10 turbines (Riverside County, 2003). As such, placement of WTGs could conflict with Policy 15.9 unless strict placement of WTGs was followed. Due to the increased proximity between the WTGs and the existing residences and the potential conflict between Alternative B and General Plan policies, impacts to land use and planning would be greater with Alternative B than with the project.

Recreation

As described above under “Aesthetics” the westernmost boundary of the Alternative B site is two miles east of the PCT, and the San Bernardino Mountains would screen views of the Alternative B WTGs from the PCT. Therefore, recreational impacts for users of the PCT would be reduced to less-than-significant levels.

Conclusion and Relationship to Project Objectives

Alternative B would achieve all of the project’s objectives. Alternative B would reduce significant, unavoidable aesthetic and recreational impacts of the project to a level that is less than significant, but would have significant, unavoidable impacts on biological resources commensurate with those of the project. This alternative would also fulfill the project’s objectives of helping to achieve California’s renewable energy goals and provide green jobs in the State of California but, the provision of increased property tax revenues and green jobs would be directed to San Bernardino County in lieu of Kern County.

Alternative C: Reduced Project Size

Alternative C would reduce the extent of the project area of disturbance in order to reduce the severity of biological and cultural impacts. Alternative C would be identical to the project, except that areas with the most sensitive biological and cultural resources would be established as avoidance areas. Areas near riparian habitats, the northeastern portion of the site nearest the Butterbredt Springs, and three areas of high cultural resource sensitivity would not be developed. This would reduce the project size by approximately 41 acres due to a reduction associated with road improvements (calculated using the 40-foot buffer) and 11 acres associated with the WTGs. This would result in:
• A removal of up to nine WTGs in the northeast portion of the site to increase the distance between the WTGs and both Butterbrett Springs and the nearest golden eagle nest,

• A removal of up to 12 WTGs along either side of Cottonwood Creek to avoid riparian habitat, and

• A removal of up to 4 WTGs to avoid sensitive cultural resources (two of the WTGs overlap with those removed along Cottonwood Creek.)

Aesthetics

Aesthetic impacts would be similar to the project, except that fewer WTG sites would be developed, reducing the aesthetic effects of the Project. However, because there are no feasible mitigation measures that can be implemented to preserve the existing open space landscape character, impacts to visual resources would be significant and unavoidable. Because the effects of night lighting as a result of FAA regulations would remain, and because Alternative C would introduce WTGs to an open-space landscape that would combine with aesthetic impacts of other projects in the TWRA, impacts to visual resources would remain significant and unavoidable. Overall, compared with the Project, Alternative C would reduce one of the three significant, unavoidable aesthetics impacts but not to a less-than-significant level.

Air Quality

Air quality impacts would be similar to those of the project. Although approximately 52 acres would be eliminated from the project site and would not be available for siting WTGs. Due to the extensive nature of the remaining project area, it is possible that many or all of the displaced WTGs could be sited elsewhere within the remaining Alternative C boundary. If most of the WTGs could be sited elsewhere, the air quality impacts would remain as with the project, significant and unavoidable. Should none of the displaced WTGs be sited elsewhere, the project WTGs would be reduced by up to 19 percent resulting in a reduction in construction emissions. If peak construction conditions remained the same, the worst case annual unmitigated and mitigated construction air emissions would remain the same. However, the duration of construction activities would be reduced. Because the worst case construction air emissions would remain the same, the mitigated annual construction-related NOx, PM10, and PM2.5 emissions would still be estimated to exceed the applicable thresholds, which would result in a significant impact.

If, instead of reducing construction time, the project proponents reduced the intensity of the construction, the worst case annual unmitigated and mitigated construction air emissions would be reduced. However, because Alternative C would retain 81 percent of the project WTGs requiring extensive construction equipment, it is unlikely that the impact would be reduced to less than significant. Similarly, the project’s contribution to cumulative effects on air quality would be reduced, but not to a less-than-significant level.

Biological Resources

Biological resources impacts would be similar to those of the project, except that the severity for terrestrial species movement corridors would be reduced as a result of the reduced level of construction, the reduced number of WTGs on the landscape, and the avoidance of the Cottonwood Creek riparian area. Impacts to birds and bats would also be reduced with implementation of Alternative C. While up to 116 WTGs would still be sited at Alternative C, the distance between the nearest WTG and Butterbrett Springs, a nationally recognized migratory stopover, would be increased. Additionally, eliminating the WTGs in the northeast corner would eliminate the WTGs nearest to the golden eagle nest #10, which is located within a 4-mile radius of one turbine. This option would reduce the risk of collision with these towers. Any mortality of special-status species would be significant, and because some level of mortality
of birds and bats due to collisions with WTGs would likely occur, impacts to these species would remain significant and unavoidable.

Riparian habitat onsite is centered mostly along Cottonwood Creek, and this area attracts birds and bats in the otherwise arid landscape. By removing the WTGs sited closest to these riparian habitats, Alternative C would reduce the potential for bird and bat collisions with WTGs. However, impacts to birds and bats would not be reduced to less than significant because the alternative would retain use of up to 116 WTGs which would result in collision risk and displacement of sensitive avian and bat species elsewhere in the project area. Similarly, although Alternative C would marginally decrease impacts associated with movement corridors within the project area due to a decrease in project size, the overall size of Alternative C would still result in significant and unavoidable impacts. The project’s contribution to cumulative effects on biological resources would be reduced, but not to a less-than-significant level.

Cultural Resources

Cultural resource impacts would be similar to those of the project, except that decreasing land disturbance under this alternative would potentially result in less impacts to these areas of known sensitive cultural resources. However, as with the project, there remains an unanticipated potential to discover buried significant archaeological sites during construction that, if not feasible to avoid, would result in significant and unavoidable impacts.

Recreation

Recreational impacts would be similar to those of the project. The distance from the project site and nearest WTG to the PCT would not change. Because of the significant alteration in the viewshe, particularly as viewed from the PCT, would not change with Alternative C compared with the project, the visual impact would remain significant and unavoidable. Similarly, the red lights required by the FAA on WTGs would alter the relatively unobstructed night sky, resulting in a significant aesthetic impact for campers or night hikers. Alternative C’s contribution to cumulative recreation effects would remain the same as with the project.

Conclusion and Relationship to Project Objectives

Alternative C would achieve some of the project proponents objectives. Because the alternative would reduce the project by up to 23 WTGs, it would reduce the contribution towards achieving the California RPS goal (North Sky River Energy, LLC’s Objective 1) and would subsequently reduce the benefit renewable energy offers to greenhouse gas emissions (Objective 5). Although Alternative C may still be able to accommodate up to 116 WTGs, this alternative would use only disturb 1,240 acres (compared to 1,292 acres of disturbance associated with the project). Alternative C would result in less severe but nonetheless significant and unavoidable impacts on aesthetics, biological resources, cultural resources, and recreation. Air quality impacts would also be reduced if the removed WTGs are not sited at a different location on the project site.

Environmentally Superior Alternative

An EIR must identify the environmentally superior alternative to the project. Alternative A, the No Project Alternative, would be environmentally superior to the project on the basis of the minimization or avoidance of physical environmental impacts. Section 15126.6(e)(2) of the State CEQA Guidelines states
that if the no project alternative is found to be environmentally superior, “the EIR shall also identify an environmentally superior alternative among the other alternatives.”

Due to the reduction of impacts to aesthetics, biological resources, and cultural resources achieved by Alternative C (Reduced Project Size), it is considered the environmentally superior alternative. Alternative C reduces the significant and unavoidable impacts of the project, although, not to acceptable levels, and has less severe significant impacts as compared to Alternative B. As described above, Alternative C would achieve most of the project’s objectives.
EXHIBIT B
15093 STATEMENT OF OVERRIDING CONSIDERATION
STATEMENT OF OVERRIDING CONSIDERATIONS

State CEQA Guidelines Section 15093

For

NORTH SKY RIVER WIND ENERGY PROJECT
North Sky River Energy, LLC

and

JAWBONE WIND ENERGY PROJECT
Jawbone Wind Energy, LLC

Zone Change Case No. 2, Map 110
Zone Change Case No. 2, Map 111
Zone Change Case No. 8, Map 131
Zone Change Case No. 9, Map 131
Zone Change Case No. 5, Map 132
Conditional Use Permit No. 3, Map 131

Final Environmental Impact Report
(SCH 2010121042)

Lead Agency: Kern County Planning and Community Development Department

The California Environmental Quality Act ("CEQA") requires a public agency to balance the benefits of a proposed project against its significant unavoidable adverse impacts in determining whether to approve the project. The North Sky River Wind Energy Project and Jawbone Wind Energy Project ("Project") will result in environmental effects which, although mitigated to the extent feasible by the implementation of mitigation measures required for the project, will remain significant and unavoidable adverse impacts, as discussed in the Final Environmental Impact Report (EIR) and CEQA Findings of Fact. These impacts are summarized below and constitute those impacts for which this Statement of Overriding Considerations is made.

1. Despite the implementation of all feasible and reasonable mitigation, impacts to the existing visual character or quality of the Project and its surroundings are considered significant and unavoidable. The existing visual environment will be altered to accommodate the construction and operation of the Project because of the introduction of tall wind turbine generators (WTGs), transmission lines, a meteorological tower, and a dirt road. The entire Project site will be transformed from its current condition (natural open space and/or grazing land) to a commercial-scale wind farm consisting of up to 116 WTGs.

2. Despite the implementation of all feasible and reasonable mitigation, impacts from light or glare that adversely affects day or nighttime views in the area are considered significant and unavoidable. Lighting on turbines and security lighting could adversely affect views in the area.
3. Despite the implementation of all feasible and reasonable mitigation, cumulative impacts to the existing visual character or quality of the area and cumulative impacts from light or glare are considered significant and unavoidable.

4. Project impacts caused by emissions of PM10, PM2.5 and NOx during construction will result in temporary significant and unavoidable impacts. Mitigated annual construction-related NOx, PM10, and PM2.5 emissions are estimated to exceed the applicable thresholds, which will result in a significant impact. Maximum annual NOx emissions during construction are estimated to be over the Eastern Kern Air Pollution Control District EKAPCD significant threshold. Implementation of MM 4.3-2 and MM 4.3-3 will reduce the NOx air quality impacts to the extent feasible to meet EKAPCD regulations and KCGP policies. MM 4.3-2 includes the requirement to use Tier 3 compliant or better diesel-fueled off-road equipment as proposed by the two project proponents. MM 4.3-3 includes the requirement to use newer lower emitting on-road heavy haul trucks. However, even with these two MMs, the NOx emissions during construction will exceed the EKAPCD regional significance threshold of 25 tons per year.

5. The Project is located in the EKAPCD, which is moderate nonattainment for State one-hour ozone standard and nonattainment for federal eight-hour ozone and State PM10 standards. Despite the implementation of all feasible and reasonable mitigation, during construction the Project will combine with past, present, and reasonably foreseeable projects in the area to result in a cumulatively considerable net increase of NOx, PM10, and PM2.5 emissions, in excess of the EKAPCD threshold, resulting in a temporary but significant and unavoidable impact.

6. Despite the implementation of all feasible and reasonable mitigation, the Project will cause significant and unavoidable adverse impacts, including mortality, to special status birds and bats due to collision with wind turbines.

7. Despite the implementation of all feasible and reasonable mitigation, the Project will combine with past, present, and reasonably foreseeable projects in the area to cause significant and unavoidable adverse impacts, including mortality, to special status birds and bats due to collision with wind turbines.

8. The Project will cause a substantial adverse change in the significance of a historical or archaeological resource as defined in Section 15064.5. Given the scope of project construction, even with full implementation of preventative measures, it is unlikely that the project’s impacts to cultural resources can be avoided or fully mitigated.

9. The Project will combine with impacts from other past and future projects to result in a significant cumulative impact to cultural resources.

Findings

The Board of Supervisors finds and determines in approving the North Sky River Wind Energy Project and Jawbone Wind Energy Project Application that it has considered the identified means of lessening or avoiding the Project’s significant effects and that to the extent any significant direct or indirect environmental effects, including cumulative project impacts, remain unavoidable or not mitigated to below a level of significance after mitigation, such impacts are at an acceptable level in light of the social, legal, economic, environmental, technological and other project benefits discussed below, and such benefits override, outweigh, and make “acceptable” any such remaining environmental impacts of the project (CEQA Guidelines Section 15092(b)).
The following benefits and considerations outweigh such significant and unavoidable adverse environmental impacts. All of these benefits and considerations are based on the facts set forth in the Findings, the Final EIR, and the record of proceedings for the Project. Each of these benefits and considerations is a separate and independent basis that justifies approval of the Project, so that if a court were to set aside the determination that any particular benefit or consideration will occur and justifies project approval, this Board of Supervisors determines that it would stand by its determination that the remaining benefit(s) or considerations is or are sufficient to warrant project approval.

Facts

Each benefit set forth below constitutes an overriding consideration warranting approval of the Project, independent of the other benefits, and the Board of Supervisors determine that the adverse environmental impacts of the Project are “acceptable” if any one of these benefits will be realized. The Project will provide benefits to Kern County as follows:

1. **Economic Benefits of the Project**

   Once operational, the Project will provide up to 339 megawatts (MW) of installed capacity. This will assist in making Kern County a major supplier of clean renewable energy to the growing demand of California electricity consumers.

   The Project will offset the need for additional electricity generated from fossil fuels and will assist the State in meeting its air quality and greenhouse gas reduction goals. The Project will help realize the full potential of the wind resource on the lands under lease. The investment in renewable energy directly translates into investment in California’s economy. High-quality jobs will result from the manufacturing, installation, and servicing of renewable energy systems. The Project also places Kern County at the forefront of the rapidly growing clean energy industry.

   The Project will result in direct economic benefits to Kern County. The Project will create approximately 250 temporary jobs during construction. Once operational, the Project will provide up to 20 permanent positions. The project is estimated to provide $400,000 in property tax payments its first year, with a forecasted payment of $8 million in property tax payments over the 20-year life of the Project. This revenue will be used to provide essential services to County residents such as educational, infrastructure, fire and law enforcement services. The Project itself will not generate a significant need for County services. The Project will provide further economic benefit to the County and its residents by increased spending in the community as a result of construction and development related work. The Project will also provide access roads that enable emergency vehicles, including firefighting equipment, to access property that would not otherwise be accessible.

2. **Reduce Greenhouse Gas Emissions**

   The Project will offset the need for additional electricity generated from fossil fuels and will assist the State in meeting its air quality and greenhouse gas reduction goals. In 2002 Senate Bill (SB) 1078 established the California Renewables Portfolio Standard (RPS) program, which required an annual increase in renewable generation by the utilities equivalent to at least one percent of sales, with an aggregate goal of 20 percent by 2017. The California Public Utilities Commission (PUC) accelerated the goal, requiring the utilities to obtain 20 percent of their power from renewable sources by 2010. This deadline was codified in 2006 by SB 107.
In April 2011, SBX1-2 increased the RPS goal to 33 percent renewable energy by 2020. Likewise, Assembly Bill (AB) 32 contains the goal of reducing greenhouse gas emissions to 1990 levels by 2020.

The Project will help the State meet these goals by providing up to 339 MW of electricity, which is enough clean, renewable power for 3,690 homes. This clean energy will displace 314,598 metric tons of carbon dioxide (a greenhouse gas) emissions per year. Therefore accounting for the emissions that would be associated with operations-related worker commutes, the Project would result in net displacement of 314,156 metric tons of carbon dioxide equivalent per year, or an average of over 26,000 metric tons of carbon dioxide equivalent per month. Furthermore, investment in renewable energy directly translates into investment of California’s economy. High-quality jobs will result from the manufacturing, installation, and servicing of renewable energy systems. It also places California at the forefront of the rapidly growing clean energy industry.

3. **Power Infrastructure**

The Project will tie into the next phase of the Tehachapi Renewable Transmission Plan (TRTP) as outlined by SCE. Construction of the planned High Wind substation will commence at approximately the same time as the construction of the windfarm and will tie into the existing Wind Hub substation. Upon completion of the planned transmission facilities, the Project will be connected as envisioned in the master plan of the TRTP. Thus, the Project will be able to deliver renewable power for 3,690 homes in a cost effective manner with a potentially smaller environmental footprint than a project further away from existing transmission lines.
EXHIBIT C

MMMP
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<td>#1</td>
<td>MM 4.1-1: Each wind turbine generator shall be painted a uniform light-gray color (such as “RAL 7035” or a similar color). To minimize the reflectivity of the structures, the paint used shall have a gloss level that does not exceed 30 percent or 60-70 gloss units, as calculated by the manufacturer. The surfaces of all other structures (such as substations, operation and maintenance buildings, and transmission structures and appurtenances) shall have low reflectivity finishes in neutral desert tans or other muted colors appropriate to the location so as to minimize the contrast between structures in their background.</td>
<td>Prior to energizing the project</td>
<td>Kern County Building Inspection Department</td>
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<td>Steps to Compliance:</td>
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<td>A. The project proponents shall paint wind turbines a uniform low-gloss light gray color, and all other structures low-reflectivity neutral desert tan colors.</td>
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<td>B. The Kern County Building Inspection Department will verify in the field prior to energizing the project.</td>
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<td>#2</td>
<td>MM 4.1-2: Construction staging and laydown areas shall be located in areas that, where feasible, are already disturbed, or in locations with low visual sensitivity and not visible from offsite. All construction-related areas shall be kept clean and tidy by storing construction materials and equipment within the proposed construction staging and laydown areas and away from public view. The project proponents shall remove construction debris promptly at intervals of two weeks or less, at any one location.</td>
<td>During grading and construction</td>
<td>Kern County Building Inspection Department</td>
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<td>Steps to Compliance:</td>
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<td>A. The project proponents shall make use of disturbed areas and areas of low visual sensitivity for laydown.</td>
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<td>B. The project proponents shall keep construction areas clean and away from public view by debris removal at least every two weeks.</td>
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<td>C. The Kern County Building Inspection Department will verify in the field during the construction period.</td>
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<td>#3</td>
<td>MM 4.1-3: All operation and maintenance areas shall be kept clean and tidy by storing in an orderly manner all wind generation equipment, parts, and supplies in areas that are screened from view and/or are generally not visible to the public. The project proponents shall remove derelict wind turbine generators and derelict parts and pieces within 60 days of decommissioning, and shall relocate such equipment, derelict parts and pieces to an area that is screened from view and/or is not visible to the general public.</td>
<td>During project operation and decommissioning</td>
<td>Kern County Building Inspection Department</td>
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<td>Steps to Compliance:</td>
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<td>A. The project proponents shall screen equipment from public view.</td>
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<td>B. The project proponents shall remove derelict wind turbine generators and derelict parts and pieces within 60 days of decommissioning, and shall screen such equipment from public view.</td>
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<td>C. The Kern County Building Inspection Department will verify in the field during project operation.</td>
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<td>#4</td>
<td>MM 4.1-4: Grading and landscape treatment of surface areas around Wind Turbine Generator tower bases that is not otherwise required for the maintenance and safety of the structure shall match conditions of the surrounding landscape and habitat.</td>
<td>Prior to energizing the project</td>
<td>Kern County Building Inspection Department</td>
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<td>Steps to Compliance:</td>
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<td>A. The project proponents shall match tower base grading vegetation to surrounding landscape conditions.</td>
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<td>B. The Kern County Building Inspection Department will verify in the field at the end of the construction period.</td>
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<tr>
<td>#5 4.1-3 and 4.1-5</td>
<td>MM 4.1-5: For overhead transmission lines, tubular steel poles shall be used instead of lattice steel towers. Tubular steel poles shall be painted light-gray colors or shall be dulled galvanized steel. All aboveground structures (tubular steel poles, cross-arms, insulators, etc.) specified for this project shall be made of materials that do not reflect or refract light. All conductors specified for the project shall be non-specular, that is, they shall be treated at the factory to dull their surfaces to reduce their potential to reflect light.</td>
<td>Prior to energizing the project</td>
<td>Kern County Building Inspection Department</td>
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<td><strong>Steps to Compliance:</strong></td>
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<tr>
<td></td>
<td>A. The project proponents shall use tubular steel poles painted light-gray or that are dulled galvanized steel.</td>
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<td>B. The project proponents shall use aboveground structures made of materials that do not reflect or refract light.</td>
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<td>C. The project proponents shall use conductors that are non-specular.</td>
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<td>D. The Kern County Building Inspection Department will verify in the field prior to energizing the project.</td>
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<td>#6 4.1-3 and 4.1-5</td>
<td>MM 4.1-6: All substation equipment shall be coated with a low reflectivity, neutral finish. All insulators at the substations shall be non-reflective and non-refractive. Fencing surrounding the substations or other facilities shall have a dulled finish to reduce contrast with the surroundings.</td>
<td>Prior to energizing the project</td>
<td>Kern County Building Inspection Department</td>
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<td></td>
<td>A. The project proponents shall coat all substation equipment with a low reflectivity, neutral finish.</td>
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<td>B. The project proponents shall use insulators at the substations that are non-reflective and non-refractive.</td>
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<td>C. The project proponents shall use a chain-link fence that has a dulled, darkened finish.</td>
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<td>D. The Kern County Building Inspection Department will verify in the field prior to energizing the project.</td>
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<td>#7 4.1-4 and 4.1-5</td>
<td>MM 4.1-7: Outdoor and exterior lighting shall be the minimum required to meet safety and security standards. All non-Federal Aviation Administration required light fixtures shall be fully shielded to eliminate any potential for uplighting, glare effects, to prevent light from spilling off the site or up into the nighttime sky, and to minimize the potential for light trespass off of the project site. In addition, the fixtures shall have sensors and switches to permit the lighting to be turned off when it is not required/needed.</td>
<td>Prior to energizing the project</td>
<td>Kern County Building Inspection Department</td>
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<td>A. The project proponents shall shield light fixtures and install automatic on/off sensors for the fixtures.</td>
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<td>B. The Kern County Building Inspection Department will verify after dusk in the field at the end of the construction period.</td>
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**Justification:** Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.

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4.2 Agricultural and Forest Resources

| #8 4.2-1 | MM 4.2-1: Prior to issuance of grading or building permits, the project proponent shall submit to the Planning and Community Development Department a written statement indicating how the existing cattle guards shall | Prior to issuing building and grading permits | Kern County Planning and Community Development Department | | |

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<td>be maintained at entry gates on Jawbone Canyon Road to prevent livestock from entering the project site.</td>
<td>Steps to Compliance:</td>
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<td>A. The project proponents shall submit to the Planning and Community Development Department a written statement indicating how the existing cattle guards shall be maintained at entry gates on Jawbone Canyon Road to prevent livestock from entering the project site.</td>
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<td>B. The Kern County Planning and Community Development Department will approve the statement prior to issuing grading or building permits.</td>
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**Justification:** Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.

### 4.3 Air Quality
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<td>#9 4.3-1</td>
<td>MM 4.3-1: Prior to the issuance of grading or building permits, the project proponents shall develop a Fugitive Dust Control Plan in compliance with East Kern County Air Pollution Control District Rule 402 to reduce PM10 and PM2.5 emissions during construction. The Fugitive Dust Control Plan shall include: a. Name(s), address(es), and phone number(s) of person(s) responsible for the preparation, submission, and implementation of the plan; b. Description and location of operation(s); and c. Listing of all fugitive dust emissions sources included in the operation. d. The following dust control measures shall be implemented: 1. All onsite unpaved roads shall be effectively stabilized using soil stabilizers that can be determined to be as efficient as or more efficient for fugitive dust control than California Air Resources Board approved soil stabilizers, and that shall not increase any other environmental impacts including loss of vegetation. 2. All material excavated or graded will be sufficiently watered to prevent excessive dust. Watering will occur as needed with complete coverage of disturbed areas. The excavated soil piles are watered hourly for the duration of construction or covered with temporary coverings. 3. Construction activities that occur on unpaved surfaces will be discontinued during windy conditions when winds exceed 25 miles per hour and those activities cause visible dust plumes. Construction activities may continue if dust suppression measures are used to minimize visible dust plumes. The measures shall follow the EKAPCD’s Reasonably Available Control Measures (Rule 402 Table I) or more stringent measures to ensure that: 1) the visible dust plumes are not transported off the project site or within 400 feet of any regularly occupied structure not owned by the project proponents; and, 2) the visible dust plumes generated from linear construction are not transported 200 feet beyond the centerline of the linear facilities and do not cause a traffic obscuration hazard on public roads. 4. Track-out shall not extend 25 feet or more from an active operation and track-out shall be removed at the conclusion of each workday. 5. A wheel-washing system shall be installed and used to remove bulk material from tires and vehicle undercarriages before vehicles exit the proposed project property. 6. All hauling materials should be moist while being loaded into dump</td>
<td>Prior to issuing building and grading permits</td>
<td>Kern County Planning and Community Development Department</td>
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<td>trucks. All haul trucks hauling soil, sand, and other loose materials shall be covered (e.g., with tarps or other enclosures that would reduce fugitive dust emissions). 7. Soil loads should be kept below 18 inches or the freeboard of the truck. 8. Drop heights should be minimized when loaders dump soil into trucks. 9. Gate seals should be tight on dump trucks. 10. Traffic speeds on unpaved roads shall be limited to 15 miles per hour. 11. Other fugitive dust control measures as necessary to comply with Eastern Kern Air Pollution Control District Rules and Regulations. 12. Disturbed areas should be minimized. 13. Disturbed areas should be revegetated as soon as possible after disturbance.</td>
<td>Steps to Compliance: A. The project proponents shall prepare a Fugitive Dust Control Plan and submit it to the Kern County Planning and Community Development Department prior to construction. B. The Kern County Planning and Community Development Department will approve the Plan prior to issuing grading or building permits.</td>
<td>Kern County Planning and Community Development Department</td>
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| 4.3-4  and 4.3-5 | diesel emission controls will be used to the extent possible.  
  b. All on-road construction vehicles, except those meeting the 2006/CARB certified Level 3 diesel emissions controls, shall meet all applicable California on-road emission standards and shall be licensed in the State of California. This does not apply to worker personal vehicles.  
  c. The construction contractor shall ensure that all on-road construction vehicles are properly tuned and maintained in accordance with the manufacturer’s specifications. | | | | |
| #12 4.3-1 4.3-2 4.3-3 4.3-4 and 4.3-5 | MM 4.3-4: The project proponents shall continuously comply with the following during operation to control fugitive dust emissions from the use of unpaved roads on the site:  
  a. The unpaved main access road for employees and deliveries to the maintenance complex shall be paved or effectively stabilized using soil stabilizers that can be determined to be as efficient as or more efficient for fugitive dust control than California Air Resources Board approved soil stabilizers, and that shall not increase any other environmental impacts including loss of vegetation.  
  b. The other unpaved roads at the site shall be stabilized using water or soil stabilizers so that vehicle travel on these roads does not cause visible dust plumes.  
  c. Traffic speeds on unpaved roads shall be limited to 15 miles per hour. Traffic speed signs shall be displayed prominently at all site entrances and at egress point(s) from the central maintenance complex. | During operation | Kern County Planning and Community Development Department and Kern County Building Inspection Department | | |
| #13 4.3-1 4.3-2 4.3-3 4.3-4 and 4.3-5 | MM 4.3-5: The project proponents shall continuously comply with the following during project operation to control emissions from the on-site dedicated equipment (i.e. equipment that would remain onsite each day):  
  a. All onsite off-road equipment and on-road vehicles for operation/maintenance shall be new equipment that meets the recent California Air Resources Board engine emission standards or alternatively fueled construction equipment, such as compressed natural gas, liquefied natural gas, or electric, as appropriate.  
  b. All equipment shall be turned off when not in use. Engine idling of all equipment shall be minimized.  
  c. All equipment engines shall be maintained in good operating condition and in proposed tune per manufacturers’ specification. | During operation | Kern County Planning and Community Development Department and Kern County Building Inspection Department | | |

### Steps to Compliance:

- A. The project proponents shall take the specified steps to control NOx emissions from on-road heavy-duty diesel haul vehicles during construction and operation.
- B. The Kern County Building Inspection Department will verify in the field during construction and operation.

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#### Justification:
Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.

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### 4.4 Biological Resources

| #14 | MM 4.4-1: Prior to the issuance of grading permits, the project proponent(s) shall minimize to the greatest extent feasible the area required for project construction and operation by grading a minimal amount of new roads, facilitating joint-use of access roads where possible, etc. Additionally, all fences installed on the project site will be a maximum of four (4) feet in height, wire strand, with a smooth bottom wire at least eighteen (18) inches from the ground to facilitate wildlife movement during operation of the project. | Prior to issuing building and grading permits | Kern County Planning and Community Development Department and California Department of Fish and Game | | |

#### Steps to Compliance:
A. The project proponents shall minimize the area required for project construction and operation, and install fencing according to the specified requirements.
B. The project proponents shall submit final development plans showing a minimal area of disturbance to the Kern County Planning and Community Development Department.
C. The Kern County Planning and Community Development Department will verify minimization of disturbed area prior to issuing building and grading permits.

| #15 | MM 4.4-2: Prior to the issuance of building permits, the project proponent(s) shall implement the following siting constraint measures and provide documentation to Kern County Planning and Community Development Department that these design measures have been met on the final siting plan: a. All work and any work involving hazardous materials shall be conducted at least 100 feet from wetlands and riparian areas. b. Specifications for wind tower foundations shall provide at least a 2,500-square-foot (50 feet by 50 feet) clear vegetation zone. c. Turbine specifications shall ensure that the lower reach of rotor blades is no lower than 85 feet above the ground surface. | Prior to issuing building and grading permits | Kern County Planning and Community Development Department | | |

#### Steps to Compliance:
A. The project proponents shall follow the siting constraints outlined in the mitigation measure.
B. The project proponents shall provide documentation to Kern County Planning and Community Development Department that the siting constraints have been incorporated into the final siting plan.
C. The Kern County Planning and Community Development Department will verify prior to issuing building and grading permits.

| #16 | MM 4.4-3: Prior to the issuance of final occupancy approval, the building inspector shall verify that all exterior lighting at operation and maintenance facilities, substations, and appurtenant structures located within half a mile of the turbines shall be of the lowest illumination required for security and human safety. The project proponent(s) shall install and continuously use and maintain lights with motion or heat sensors and switches to keep lights off when not required. Light fixtures shall be fully shielded and directed downward to minimize illumination above the horizontal plane. The project | During grading and construction | Kern County Building Inspection Department | | |

#### Steps to Compliance:
A. The project proponents shall design lighting requirements per the mitigation measure.
B. The Kern County Building Inspection Department will verify after dusk in the field during construction.
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<td>and 4.10-2</td>
<td>proponent(s) shall continuously minimize use of high-intensity lighting, steady-burning, or bright lights such as sodium vapor, quartz, halogen, or other bright spotlights. Nighttime vehicle traffic associated with project activities shall be kept to a minimum volume and speed to prevent mortality of nocturnal wildlife species.</td>
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<td>#17</td>
<td>MM 4.4-4: Prior to the issuance of building or grading permits, the project proponent(s) shall develop and submit a Habitat Restoration and Revegetation Plan to the Kern County Planning and Community Development Department for review and approval.</td>
<td>Prior to the issuance of building or grading permits</td>
<td>Kern County Planning and Community Development Department</td>
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<td>4.2-3</td>
<td>The Habitat Restoration and Revegetation Plan shall include, but not be limited to, the following:</td>
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<td>4.2-4</td>
<td>a. All areas disturbed by project construction, including temporary disturbance areas around structure construction sites, laydown/staging areas, and temporary access roads shall be fully restored to their pre-project conditions. Non-native areas will be restored with an appropriate native seed mix.</td>
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<td>4.4-3</td>
<td>b. All grading activities shall include topsoil salvage. The upper 3 to 6 inches of soil (topsoil and seedbank) shall be salvaged in all areas where the terrain will allow it. Topsoil shall be windrowed and marked to keep it separated from other soil. Topsoil piles shall be stabilized by crusting with sprayed water to protect the soil from wind erosion. All salvaged topsoil shall be spread over all restored areas as a top dressing within the project boundaries.</td>
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<td>4.4-4</td>
<td>c. Hydroseeding, drill seeding, broadcast seeding or an otherwise proven restoration technique shall be utilized on all disturbed surfaces using a locally endemic native seed mix approved by Kern County.</td>
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<td>4.4-5</td>
<td>d. Erosion control mats, blankets, and straw or fiber wattles shall be composed of natural fiber, biodegradable meshes to minimize the potential for wildlife impacts.</td>
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<td>4.4-6</td>
<td>e. The plan shall include the Best Management Practices identified in the California Department of Fish and Game Streambed Alteration Agreement.</td>
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<td>4.4-7</td>
<td>f. Weed control methods used during implementation of the Habitat Restoration and Revegetation Plan shall include all legally permitted herbicide, manual, and mechanical methods applied with the authorization of the Kern County Planning and Community Development Department and California Department of Fish and Game, where appropriate. The application of herbicides shall be in</td>
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<td>compliance with all State and federal laws and regulations and implemented by a Licensed Qualified Applicator. Herbicides shall not be applied during or within 72 hours of a scheduled rain event. In riparian areas only water-safe herbicides shall be used. Herbicides shall not be applied when wind velocities exceed 6 mph. g. For the permanent loss of desert wash and riparian habitat, the project proponent(s) shall mitigate at a minimum of 3:1 or as identified in the California Department of Fish and Game Streambed Alteration Agreement. All other native habitats shall be mitigated at a 1:1 ratio for permanent impacts. Permanent impacts to ruderal or disturbed habitats shall be mitigated at a 1:1 ratio if those habitats support special-status species, such as the burrowing owl or American badger. Permanent impacts shall be mitigated through one or more of the following: i. Acquisition and conservation of off-site lands supporting comparable habitats and species. Restoration and/or enhancement/re-vegetation shall be conducted on mitigation lands as necessary to achieve a functional value comparable to habitats impacted by the project. ii. Onsite restoration, enhancement, and management (i.e., weed control, etc.) of disturbed areas not impacted by project construction. Onsite restoration is not appropriate as mitigation for impacts to burrowing owls. iii. Mitigation banking, in consultation with Kern County.</td>
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<td>h. The Habitat Restoration and Revegetation Plan shall establish performance criteria, time frames for restoration of the site, and provisions for a monitoring program to assess the success of restoration efforts. The Habitat Restoration and Revegetation Plan shall be developed and implemented to preserve native habitats to the maximum extent feasible. i. As part of the Habitat Restoration and Revegetation Plan, the project proponent(s) shall prepare and implement a Joshua Tree Preservation Plan to compensate for permanent impacts to Joshua trees. The Joshua Tree Preservation Plan shall be submitted for review and approval by the Kern County Planning and Community Development Department. Upon approval of the Plan, and prior to initiating project construction, the project proponent(s) shall have a qualified biologist document the location, size, and branching complexity of all individual Joshua trees that would be subject to</td>
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<td>permanent disturbance. The Joshua Tree Preservation Plan shall describe field methods used to delineate acreage of Joshua tree woodland; and shall provide a detailed compensatory mitigation strategy, based on one or both of the following options:</td>
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<td>i. On-site preservation of parcels containing at minimum the number of individual Joshua trees impacted by the project. The project proponent(s) may mitigate all or part of the project’s impacts to Joshua trees on-site, as follows: Delineate and designate one or more parcels on-site for dedication for permanent conservation management; establish a conservation easement on those parcels, the easement to be held and managed by a suitable management entity as determined by the Director of the Kern County Planning and Community Development Department; prepare and implement a Habitat Management Plan to maintain habitat conditions on the site in perpetuity; and provide a non-wasting endowment sufficient to implement the habitat management plan in perpetuity. The mitigation lands shall provide habitat at a 1:1 ratio for impacted lands, comparable to habitat to be impacted by the project (i.e., similar abundance and size of Joshua trees, similar dominant vegetation community, similar levels of disturbance or habitat degradation). The Habitat Management Plan shall specify maintenance and monitoring requirements for each parcel, which shall include but shall not be limited to fencing and access control; signage; security and enforcement; weed control; control measures for feral animals or pets; native habitat enhancement; fire prevention and management; and other long-term habitat considerations as appropriate.</td>
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<td>ii. In lieu monetary funding. The project proponent(s) may mitigate all or part of the project’s impacts to Joshua trees by funding the acquisition and management in perpetuity of Joshua tree woodland habitat or habitats similar to those that contain impacted Joshua trees on site. Funding and management may be provided either through an existing mitigation bank (e.g., as managed by the City of Lancaster Parks, Recreation and Arts Department) or through a third-party entity such as the Wildlife Conservation Board or a regional Land Trust. The in-lieu fee shall provide sufficient</td>
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<td>funds to acquire appropriate lands to provide habitats containing Joshua trees at a 1:1 ratio for impacted lands, comparable to habitat to be impacted by the project (i.e., similar abundance and size of Joshua trees, similar dominant vegetation community, similar levels of disturbance or habitat degradation).</td>
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<td>j. As part of the Habitat Restoration and Revegetation Plan, the project proponent(s) shall prepare and implement an Oak Tree and Woodlands Preservation Plan to minimize and compensate for permanent impacts to oak woodlands and individual oaks. The Oak Tree and Woodlands Preservation Plan shall be submitted for review and approval by the Kern County Planning and Community Development Department. Upon approval of the Plan, and prior to initiating project construction, the project proponent(s) shall have a qualified biologist document the location and size (diameter at breast height; DBH) of all individual oak trees that would be subject to permanent disturbance. The acreage of impacts to oak woodlands, which are defined as having canopy cover of at least 10 percent (10%), as determined from base line aerial photography or by site survey performed by a Registered Professional Forester (RPF), shall be quantified for the entire project site.</td>
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<td>The Oak Tree and Woodlands Preservation Plan shall include, but not be limited to, the following:</td>
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<td>i. Oak woodlands are subject to a minimum canopy coverage retention standard of thirty percent (30%). The Registered Professional Forester shall include recommendations regarding thinning and diseased tree removal in conjunction with the discretionary project.</td>
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<td>ii. Use of aerial photography and a dot grid system shall be considered adequate in determining the required canopy coverage standard.</td>
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<td>iii. Adjustments below thirty percent (30%) minimum canopy standard may be made based on a report to assess the management of oak woodlands.</td>
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<td>iv. All oak trees within 25 feet of ground disturbance will be fenced three feet outside the dripline with plastic mesh fencing. Fencing shall be in place prior to any ground disturbance, and shall remain until ground disturbance is completed within 25</td>
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<td>v.</td>
<td>No equipment staging or materials storage shall be allowed beneath the canopy of any oak tree.</td>
<td>Prior to issuing building and grading permits</td>
<td>Kern County Planning and Community Development Department</td>
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<td>vi.</td>
<td>No parking shall be permitted beneath the canopy of any oak tree.</td>
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<td>vii.</td>
<td>The area around oak tree trunks shall be kept clear of soils, debris, construction tools, etc.</td>
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<td>viii.</td>
<td>Those areas of the project site having an oak tree canopy cover of less than ten percent (10%), but containing individual oak trees equal to or greater than a 12-inch diameter trunk at 4.5 feet breast height shall be subject to the following: Such trees shall be identified on plot plans, project development shall avoid the area beneath and within the trees unaltered drip line unless approved by a licensed or certified arborist or botanist, and specified tree removal related to the construction of the project may be only be granted by the Board of Supervisors upon showing that a hardship exists based on substantial evidence in the record.</td>
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The creation or restoration of all habitats, as mitigation for both temporary and permanent impacts, shall be monitored until established success criteria are met, to assess progress and identify potential problems with the restoration site. Remedial activities (e.g., additional planting, weeding, or erosion control) shall be taken during the monitoring period if necessary to ensure the success of the restoration effort. If the mitigation fails to meet the established performance criteria within the established maintenance and monitoring period, monitoring shall extend beyond the initial period until the criteria are met or unless otherwise approved by Kern County and the California Department of Fish and Game.

Steps to Compliance:
A. The project proponents shall prepare and submit a comprehensive, adaptive Weed Control Plan to the Kern County Planning and Community Development Department.
B. The Kern County Planning and Community Development Department will approve the Plan prior to issuing grading or building permits.
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<td>b) All straw materials such as those used for erosion control shall be certified weed-free.</td>
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<td>c) Revegetate areas of temporary disturbance with local native plant species as soon as construction is complete to reduce erosion and inhibit the establishment of invasive weeds.</td>
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<td>d) Vehicles and equipment shall be cleaned (with water or high pressure air) prior to commencing work on the project site. Vehicles and equipment shall be cleaned at existing construction yards or legally operating car washes, or at onsite washing station(s) at project access points. Once equipment and vehicles have been staged on the job site no further washing would be required unless the vehicles or equipment are exposed to populations of non-native and invasive weeds present on the site.</td>
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<td>e) The project proponent(s) shall document that all vehicles have been washed prior to commencing project work, if those vehicles have left the project boundaries since they were last used on-site. A written daily log shall be kept for all vehicle/equipment washing that states the date, time, location, type of equipment washed, methods used, and staff present. The log shall include the signature of a responsible staff member. Logs shall be available to Kern County for inspection at any time and shall be submitted to Kern County upon request.</td>
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<td><strong>Weed Control Methods</strong></td>
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<td>a) Develop species-specific control procedures for high priority invasive weeds (as determined through consultation with the BLM weed specialist, the Kern County Agricultural Commissioner, and the Kern County Weed Management Area)</td>
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<td>b) Potential methods include physical or mechanical removal, chemical control, and environmental control</td>
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<td>c) The application of herbicides shall be in compliance with all State and federal laws and regulations and implemented by a Licensed Qualified Applicator. Herbicides shall not be applied during or within 72 hours of a scheduled rain event. In riparian areas only water-safe herbicides shall be used. Herbicides shall not be applied when wind velocities exceed 6 mph.</td>
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<td>d) Establish a long-term schedule for regular weed control throughout the project site.</td>
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<td>e) Implement a regular weed control program using approved</td>
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<td>MM 4.4-6. Prior to the issuance of grading permits, the project proponent(s) shall submit written documentation to the Kern County Planning and Community Development Department showing that a biological firm has been retained to monitor construction activities and to recover and relocate ground-dwelling special-status species as encountered during construction.</td>
<td>Prior to ground-disturbing activities</td>
<td>Kern County Planning and Community Development Department</td>
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<td>MM 4.4-7: Prior to the issuance of grading permits, the project proponent(s) shall submit written documentation to the Kern County Planning and Community Development Department showing that environmental training will be provided to all personnel working on the site during construction and operation. Training materials and briefings shall include but not be limited to: discussion of the Federal and State Endangered Species Acts, Bald and Golden Eagle Protection Act, and the Migratory Bird Treaty Act; the consequences of non-compliance with these acts; identification and values of plant and wildlife species and significant natural plant community habitats; fire protection measures; measures to minimize the spread of weeds during construction; hazardous substance spill prevention and containment measures; a contact person at the on-call biological services provider in the event of the discovery of dead or injured wildlife; and review of mitigation requirements.</td>
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<td>MM 4.4-8: Prior to the issuance of grading permits and initial ground-disturbing activities (e.g., mechanized clearing or rough grading) for all</td>
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<td>project-related construction activities, a qualified biologist shall conduct a pre-construction sweep of the project site for special-status wildlife species. If these species are detected, then California Department of Fish and Game shall be contacted and the appropriate surveys, approvals and/or permits shall be conducted/obtained before construction can proceed.</td>
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<td>Department, United States Fish and Wildlife Service, and California Department of Fish and Game</td>
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<td>The project proponent(s) shall submit written documentation to the Kern County Planning and Community Development Department demonstrating compliance with this mitigation. During these surveys the biologist will: a. Inspect the project area for any sensitive wildlife species; b. Ensure that potential habitats within the construction zone are not occupied by sensitive species (e.g., potential burrows/nests are inspected); and c. In the event of the discovery of a non-listed, special-status ground-dwelling animal, recover and relocate the animal to adjacent suitable habitat within the project site at least 200 feet from the limits of construction activities.</td>
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<td>4.4-4</td>
<td>#22 MM 4.4-9: Prior to the issuance of grading permits, the project proponent(s) shall conduct rare plant surveys prior to any ground disturbance, and implement avoidance/minimization/compensation strategies. Rare plants are defined as all State and federally listed Endangered, Threatened, and Rare plant species; plant species that are candidates for state or federal listing as Endangered, Threatened, or Rare; and California Rare Plant Rank [previously known as CNPS List] 1B and 2 species. The project proponent(s) shall conduct surveys during the floristic period appropriate for each of the rare plant species identified with the potential to occur within the project area and within 100 feet of all surface-disturbing activities. Surveys shall be conducted by qualified botanists according to protocols established by the United States Fish and Wildlife Service, California Department of Fish and Game, Bureau of Land Management, and the California Native Plant Society. Populations of rare plants shall be flagged and mapped prior to construction. Populations of the State-listed endangered Mojave tarplant shall be flagged and avoided. No impacts to this species shall occur. If rare plants are located during the focused surveys, then modification of the placement of structures, access roads, laydown areas, and other ground-disturbing activities would be implemented in order to avoid the plants, if feasible. A report of the rare plants observed during the referenced surveys shall be prepared and submitted to Kern County Planning and Community Development Department and the appropriate resource agencies before the start of construction.</td>
<td>Prior to issuing building and grading permits</td>
<td>Kern County Planning and Community Development Department Qualified Plant Ecologist</td>
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<td>4.4-5</td>
<td>Steps to Compliance: A. A qualified biologist shall conduct a pre-construction sweep of the project site for special status wildlife species as specified in the mitigation measure. B. The Kern County Planning and Community Development, the on-call biologist, and the appropriate resources agency will decide on when construction is allowed to proceed.</td>
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<td>construction. Impacts to rare plant species shall first be avoided where feasible, and, where not feasible, impacts shall be compensated through reseeding (with locally collected seed stock), or other Kern County approved methods (for California Rare Plant Rank List 1B and 2 species only). Compensation for impacts to State and/or federally listed or candidate plant species would be determined in consultation with the appropriate resource agency for each affected species, and could include reseeding, transplant, acquisition of off-site mitigation lands, or restoration, conservation, and preservation of occupied on-site lands. The preserved on-site habitat shall be occupied by the plant species impacted, and be of superior or similar habitat quality to the impacted areas in terms of soil features, extent of disturbance, habitat structure, and dominant species composition, as determined by a qualified plant ecologist. If project activities will result in the loss of more than 10 percent of the known individuals within an existing population of a California Rare Plant Rank 1B or 2 plant species, the project proponent(s) shall preserve existing on-site or off-site occupied habitat that is not already part of the public lands in perpetuity at a 2:1 mitigation ratio (habitat preserved: habitat impacted) or preservation in accordance with any Incidental Take Permit (including, but not limited to relocation, if deemed appropriate). The preserved habitat shall be occupied by the plant species impacted, and be of superior or similar habitat quality to the impacted areas in terms of soil features, extent of disturbance, habitat structure, and dominant species composition, as determined by a qualified plant ecologist. If impacts to State or federally listed or candidate plant species cannot be avoided, the appropriate resource agency (California Department of Fish and Game and/or the United States Fish and Wildlife Service) shall be contacted and the appropriate approvals and/or permits shall be obtained.</td>
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<td>#23</td>
<td>MM 4.4-10: Prior to the issuance of grading permits, the project proponent(s) shall conduct pre-construction surveys for nesting birds if construction, ground disturbance, and/or vegetation trimming/removal activities are scheduled to occur during the breeding season (February 1 to August 31). A qualified biologist shall conduct the breeding bird surveys within thirty (30) days prior to the start of construction, ground disturbance, or vegetation trimming/removal activities to identify the presence of breeding birds protected by the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act, and the California and federal Endangered Species Acts. In riparian habitats, pre-construction nesting surveys for southwestern willow</td>
<td>Prior to construction</td>
<td>Kern County Planning and Community Development Department</td>
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**Steps to Compliance:**

A. The project proponents shall submit written documentation to the Kern County Planning and Community Development Department that a pre-construction avian nest survey was conducted on the project site per the requirements of this mitigation.

B. The Kern County Planning and Community Development Department shall verify prior to construction.
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<td>#24</td>
<td>MM 4.4-11: Prior to the issuance of grading or building permits, a Raven Management Plan shall be developed for those portions of the project site that are adjacent to or within recorded desert tortoise habitat in consultation with the United States Fish and Wildlife Service and California Department of Fish and Game, as required, to minimize the potential for the project to indirectly impact desert tortoises by subsidizing raven populations. The Raven Management Plan will require measures such as annual nest removal by a qualified biologist in consultation with the California Department of Fish and Game and the United States Fish and Wildlife Service, removal of carrion at the base of turbines, storage of garbage in raven-proof containers, and installation of anti-nesting devices on structures where raven nests could be built. In addition, should the United States Fish and Wildlife Service determine it is necessary to offset the cumulative contributions of the project.</td>
<td>Prior to issuing building and grading permits</td>
<td>Kern County Planning and Community Development Department</td>
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**Steps to Compliance:**

A. The project proponents shall develop a Raven Management Plan in consultation with the United States Fish and Wildlife Service and California Department of Fish and Game with the steps specified in the measure.

B. To offset the cumulative contributions of the project to desert tortoise from increased raven numbers, the project proponents shall also contribute to the United States Fish and Wildlife Service Regional Common Raven Management Program.

C. The Kern County Planning and Community Development Department shall verify prior to issuing building and grading permits.
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<td>#25</td>
<td>MM 4.4-12: Prior to the issuance of grading or building permits, the project proponent(s) shall provide documentation to the California Department of Fish and Game, United States Fish and Wildlife Service, and the Kern County Planning and Community Development Department that the project is in compliance with the Bald and Golden Eagle Protection Act (Title 16, United States Code, sections 668-668c).</td>
<td>Prior to issuing building and grading permits</td>
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<td>MM 4.4-13: Prior to the issuance of grading or building permits, the project proponent shall conduct the following pre-construction surveys:</td>
<td>Prior to issuing building and grading permits</td>
<td>Kern County Planning and Community Development Department</td>
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<td>a. Swainson's hawks: To assure that nesting Swainson's hawks are not disturbed by construction activities, the project proponent shall submit written documentation to the Kern County Planning and Community Development Department and the California Department of Fish and Game showing that a qualified ornithologist has conducted a pre-construction nesting survey within one-half mile of the project in areas with potentially suitable nesting habitat for Swainson's hawks no more than thirty (30) days prior to commencement of construction. If a nest site is found, consultation with California Department of Fish and Game shall be required to ensure project construction will not result in nest disturbance. No new disturbances or other project-related activities that may cause nest abandonment or forced fledging shall be initiated within one-half mile of an active nest between March 1 and September 15, or until August 15 if a Management Authorization is obtained for the project from the California Department of Fish and Game. These buffer zones may be adjusted as appropriate in consultation with a qualified ornithologist and California Department of Fish and Game. If impacts to nesting Swainson's hawks cannot be avoided, the California Department of Fish and Game shall be notified.</td>
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consulted for authorization, through the context of an incidental take permit.

b. Mohave Ground Squirrel: The project proponent(s) shall submit written documentation to the Kern County Planning and Community Development Department showing implementation of pre-construction surveys for the Mohave ground squirrel within all suitable habitat prior to initial ground disturbing activities. The name and phone number of the biological monitor shall be provided to a California Department of Fish and Game regional representative at least 14 days before the initiation of ground-disturbing activities. If the biological monitor observes a Mohave ground squirrel on the construction site, work shall be halted and redirected to areas not supporting this species. A written report shall be sent to California Department of Fish and Game within five calendar days of the sighting. The report will include the date, time of the finding or incident (if known), and location of the animal. If a dead Mohave ground squirrel is encountered the remains shall be collected, frozen as soon as possible, and California Department of Fish and Game shall be contacted to determine where the remains will be sent.

Permanent impacts to potential Mohave ground squirrel habitat at the project site shall be mitigated on site and/or off site at a ratio of one acre impacted to one acre preserved. Potential habitat shall include areas in the northern portion of the site, as determined by the project proponent’s Mohave ground squirrel habitat model (Appendix H of CH2M Hill, 2010) as well as impacts along Jawbone Canyon Road (outside of the current roadbed). Impacts to potential habitat shall be mitigated through acquisition and preservation of habitat for this species, or preservation of potential habitat on site. If acquisition is necessary for some or all of the mitigation lands, mitigation acquisition shall occur at a California Department of Fish and Game-approved location and shall be coordinated through a California Department of Fish and Game-approved entity. The project proponent(s) shall enter into a binding legal agreement with California Department of Fish and Game regarding the preservation of on-site and/or off-site lands describing the terms of the acquisition, enhancement, and management of those lands. Fee title acquisition of habitat lands or a conservation easement over these lands will be transferred to an entity approved by California Department of Fish and Game, along with funding for enhancement of the land and an endowment for permanent management of the lands. Management of off-highway vehicles is necessary on Mohave ground squirrel mitigation areas to prevent burrow collapse, especially
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<td>during the aestivation season. Mitigation areas should be relatively flat with a perennial plant cover ranging from 10 to 20 percent and should support several plant species necessary for Mohave ground squirrel survival, including herbaceous annuals, winterfat (Krascheninnikovia lanata), spiny hopsage (Grayia spinosa), creosote bush (Larrea tridentata), and burrobush (Ambrosia dumosa).</td>
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<td>c. Desert kit fox and American badger: The project proponent(s) shall submit written documentation to the Kern County Planning and Community Development Department showing implementation of pre-construction surveys for desert kit fox and American badger within suitable habitat. If present, occupied kit fox and/or badger dens shall be flagged and ground-disturbing activities avoided within 50 feet of the occupied den avoided. Maternity dens shall be avoided during pup-rearing season (February 15 through July 1) and a minimum 200-foot buffer established. Maternity dens shall be flagged for avoidance, identified on construction maps, and a biological monitor shall be present during construction. If avoidance of a non-maternity den is not feasible, kit foxes and badgers shall be passively relocated by slowly excavating the burrow (either by hand or mechanized equipment under the direct supervision of the biologist, removing no more that 4 inches at a time) before or after the rearing season (February 15 through July 1). Any relocation of kit foxes and/or badgers shall occur only after consultation with the California Department of Fish and Game and the Kern County monitor. A written report documenting the kit fox and/or badger removal shall be provided to the California Department of Fish and Game and Kern County within 30 days of relocation.</td>
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<td>d. Ringtails: The project proponent(s) shall conduct pre-construction ringtail surveys at sites with suitable denning habitat within the project area. This includes oak woodland and riparian habitat within 200 feet of any ground-disturbing activity. Occupied dens will be flagged and ground-disturbing activities within 200 feet will be avoided.</td>
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<td>e. Bats: The project proponent(s) shall conduct a survey for roosting bats prior to any ground disturbance activities in all areas within 200 feet of rocky outcrops, large trees, or any other habitat capable of supporting roosting bats. The project proponent(s) shall also conduct surveys for roosting bats during the maternity season (1 March to 31 July) within 300 feet of project activities near rocky outcrops or other habitat capable of supporting bat nursery colonies. These areas shall be surveyed by a qualified bat biologist. Surveys shall include a minimum of one day and</td>
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<td>one evening visit. If active maternity roosts or hibernacula are found, the rock outcrop or tree occupied by the roost shall be avoided (i.e., not removed) by the project, if feasible. If avoidance of the roost is not feasible, the bat biologist shall survey (through the use of radio telemetry or other California Department of Fish and Game-approved methods) for nearby alternative maternity colony sites. If the bat biologist determines in consultation with and with the approval of the California Department of Fish and Game that there are alternative roost sites used by the maternity colony and young are not present, then no further action is required. However, if there are no alternative roost sites used by the maternity colony, provision of substitute roosting habitat is required. If active maternity roosts are absent, but a hibernaculum (i.e., a non-maternity roost) is present, then exclusion of bats prior to demolition of roosts is required.</td>
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<td>i. Provision of substitute roosting habitat. If a maternity roost will be impacted by the project, and no alternative maternity roosts are in use within one mile of the site, substitute roosting habitat for the maternity colony shall be provided on, or in close proximity to, the project site no less than three months prior to the eviction of the colony. Alternative roost sites will be constructed in accordance with the specific bats’ requirements in coordination with California Department of Fish and Game and Kern County. Alternative roost sites must be of comparable size and proximal in location to the impacted colony. The California Department of Fish and Game shall also be notified of any hibernacula or active nurseries within the construction zone.</td>
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<td>ii. Exclude bats prior to demolition of roosts. If non-breeding bat hibernacula are found in rocky outcrops scheduled to be removed or in crevices in rock outcrops within the grading footprint, the individuals shall be safely evicted, according to timing and under the direction of the qualified bat biologist, by opening the roosting area to allow airflow through the cavity or other means determined appropriate by the bat biologist (e.g., installation of one-way doors). In situations requiring one-way doors, a minimum of one week shall pass after doors are installed and temperatures should be sufficiently warm for bats to exit the roost. This action should allow all bats to leave during the course of one week. Roosts that need to be removed in situations where the use of one-way doors is not necessary in the judgment of the qualified bat biologist shall first be disturbed by various means at the direction of the bat biologist at dusk to allow bats to escape during the darker hours, and the roost tree shall be removed or the grading shall occur the next day.</td>
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<td>(i.e., there shall be no less or more than one night between initial disturbance and the grading or tree removal). If an active maternity roost is located in an area to be impacted by the project, and alternative roosting habitat is available, the demolition of the roost site must commence before maternity colonies form (i.e., prior to 1 March) or after young are flying (i.e., after 31 July) using the exclusion techniques described above.</td>
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<td>f.</td>
<td>Burrowing Owl: A pre-construction survey for burrowing owls, in conformance with the Burrowing Owl Survey Protocol and Mitigation Guidelines (California Burrowing Owl Consortium, 1993), shall be completed no more than 30 days prior to the start of construction within suitable habitat at the project site(s) and buffer zone(s). The project proponent(s) shall submit the results of the pre-construction survey to the Kern County Planning and Community Development Department and the California Department of Fish and Game. The project proponent shall also submit evidence of conformance with federal and State regulations regarding the protection of the burrowing owl by demonstrating compliance with the following:</td>
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<td>i. Unless otherwise authorized by California Department of Fish and Game, no disturbance shall occur within 50 meters of occupied burrows during the non-breeding season (September 1 through January 31) or within 75 meters during the breeding season (February 1 through August 31).</td>
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<td>ii. Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by California Department of Fish and Game verifies through non-invasive methods that either the birds have not begun egg-laying and incubation or that juveniles from the occupied burrows are foraging independently and are capable of independent survival. Eviction outside the nesting season may be permitted pending evaluation of eviction plans (developed in accordance with California Department of Fish and Game protocol for burrowing owls) by California Department of Fish and Game and receipt of formal written approval from the California Department of Fish and Game authorizing the eviction.</td>
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<td>iii. Unless otherwise authorized by California Department of Fish and Game, a 250-foot buffer, within which no activity will be permissible, will be maintained between project activities and nesting burrowing owls during the nesting season. This protected area will remain in effect until August 31 or at California Department of Fish and Game's</td>
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<td>discretion and based upon monitoring evidence, until the young owls are foraging independently. iv. If accidental take (disturbance, injury, or death of owls) occurs, the lead biological monitor will be notified immediately. v. Impacts to burrowing owl territories shall be mitigated through the acquisition of occupied habitat off-site in an area where turbines would not pose a mortality risk. Acquisition of habitat shall be consistent with the Burrowing Owl Survey Protocol and Mitigation Guidelines (California Burrowing Owl Consortium, 1993). The preserved habitat shall be occupied by Burrowing Owl, and be of superior or similar habitat quality to the impacted areas in terms of soil features, extent of disturbance, habitat structure, and dominant species composition, as determined by a qualified avian specialist. In addition, this habitat must be suitable burrowing owl habitat, as defined in the Burrowing Owl Survey Protocol and Mitigation Guidelines (California Burrowing Owl Consortium, 1993). Additionally, the site shall be approved by the California Department of Fish and Game. Land should be placed in a conservation easement in perpetuity and managed to maintain suitable habitat. The area to be preserved can coincide with desert tortoise mitigation lands for this project.</td>
<td>Prior to issuing building and grading permits; during grading and construction</td>
<td>Kern County Planning and Community Development Department United States Fish and Wildlife Service California Department of Fish and Game Qualified Biologist</td>
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<th>Steps to Compliance:</th>
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<td>A. A qualified biologist shall monitor all construction activities for impacts to the California condor.</td>
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<td>B. The project proponents shall implement a condor education and communication program prior to the start of construction.</td>
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<td>C. The project proponent shall train workers on the issue of microtrash—what it is, its potential effects to California condors, and how to avoid the deposition of microtrash.</td>
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<td>D. The project proponent shall perform daily sweeps of the work area to collect and remove trash.</td>
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<td>E. The project proponents shall immediately clean up and report all spills of</td>
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**#28**

4.4-1 Prior to the issuance of grading permits, and to reduce collisions of avian and bat species with turbines, the project proponent(s) shall submit

4.4-2 written documentation to the Kern County Planning and Community Development Department demonstrating coordination with the Federal Aviation Administration to minimize the number of wind turbine generators and meteorological towers that require night lighting and to use lighting that

4.4-3

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Steps to Compliance:

A. The project proponent shall coordinate with the FAA to minimize night
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<td>would minimize attraction of birds and bats to the project area. The project proponent(s) shall utilize only red, or dual red and white strobe, strobe-like, or flashing lights, not steady burning lights, to meet Federal Aviation Administration (FAA) requirements for visibility lighting of wind turbines, permanent met towers, and communication towers. Only a portion of the turbines within the wind project should be lighted, and all pilot warning lights should fire synchronously.</td>
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<td><strong>MM 4.4-16:</strong> The project proponent(s) or its representative shall conduct following the initial operation of the project to demonstrate to Kern County Planning and Development Department that sensitive resident birds are compatible with operation of wind turbine generators, and that the level of incidental injury and mortality does not result in a long-term decline in sensitive resident bird species in the region. Post-construction Breeding Monitoring shall include a Nesting Analysis that shall be conducted as follows: a. The project proponent(s) shall provide to the Kern County Planning and Community Development Department and the California Department of Fish and Game the results of a study and comparative data analysis, using methods approved by the County. Qualified ornithologists shall conduct the study of nesting raptors. b. Nesting raptor surveys shall be conducted throughout the project site between February 15 and August 15. c. Directed field surveys for nesting raptors shall be conducted during the breeding season by vehicle and on foot to determine the presence or absence of raptor nests, especially mid-sized to large raptor nests within suitable habitat areas. d. If at the end of the second round of monitoring (three years following the initial operation of the project), the operation of wind turbine generators has been determined to result in a level of incidental injury and mortality to nesting birds that constitutes a significant adverse impact on a breeding population, the project proponent(s) shall undertake supplemental compensatory measures to support regional conservation of migratory birds. The results of the Nesting Analysis shall be made available to regional entities involved in research related to the conservation of nesting birds such as the Audubon Society.</td>
<td>One, two and three years after energizing the project</td>
<td>Kern County Planning and Community Development Department Qualified Ornithologist</td>
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<td><strong>MM 4.4-17:</strong> The project proponent(s) or its representatives shall perform Post-Construction Avian and Bat Mortality Monitoring in the first, second, third, and fourth years following the initial operation of the project to demonstrate the level of incidental injury and mortality to populations of avian or bat species in the vicinity of the project site. Post-Construction Avian and Bat Mortality Monitoring shall include a Mortality Analysis, which shall be conducted as follows: a. The project proponent(s) shall provide to the Kern County Planning and Community Development Department, the United States Fish and Wildlife Service, and the California Department of Fish and Game the results of the mortality study for avian and bat species on an annual basis. A qualified wildlife biologist shall conduct mortality monitoring using a statistically significant sample size of operational turbines within the wind energy development project. b. The Mortality Analysis shall note species number, location, and distance from the turbine for each recovered bird or bat, availability of bird and bat prey species, and apparent cause of avian or bat mortality. The project proponent(s) shall provide all results to the Wildlife Response and Reporting System database within 90 days of completion of the annual study. c. The mortality monitoring shall follow methods approved by the Kern County Planning and Community Development Department, the United States Fish and Wildlife Service, and the California Department of Fish and Game, and shall include carcass scavenging and searcher efficiency trials. d. The results of the Mortality Analysis shall be provided to the Kern County Planning and Community Development Department and regional entities involved in the conservation of resident and migratory avian and bat species, including United States Fish and Wildlife Service, California Department of Fish and Game, and the Audubon Society. At a minimum, the Mortality Analysis shall consider four factors: i. Number of annual avian and bat mortalities per turbine, ii. Disproportionate representation of a particular species, iii. Identification of any turbines or turbine strings contributing to significantly higher mortality within the project, and iv. Comparison to existing data on wind farm mortality from the Tehachapi Wind Resource Area and the western United States. e. Starting in year 1 of project operation and continuing for the life of the project, annual Post-Construction Mortality Monitoring for golden eagle.</td>
<td>One, two and three years after energizing the project</td>
<td>Kern County Planning and Community Development Department United States Fish and Wildlife Service California Department of Fish and Game Audubon Society</td>
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**Steps to Compliance:**

A. The project proponents shall conduct Avian and Bat Mortality Monitoring, a Mortality Analysis, and a Fatality Monitoring Plan as specified in the mitigation measure.

B. The project proponents shall provide the results of the Mortality Analysis to the Kern County Planning and Community Development Department, U.S. Fish and Wildlife Service, California Department of Fish and Game, and the Audubon Society.
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<td>#31</td>
<td>MM 4.4.18: Prior to issuance of approval for final occupancy, the project proponent(s) shall submit written documentation to the Kern County Planning and Community Development Department showing the following measures to reduce avian and bat impacts from turbine activities have been implemented. This mitigation measure includes the following:</td>
<td>During grading and construction</td>
<td>Kern County Building Inspection Department</td>
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<td>4.4-1</td>
<td>a. Wherever feasible, turbines shall not be sited on or immediately adjacent to the upwind sides of ridge crests. Where the project proponent has determined this is infeasible, engineering data and any other information supporting the determination must be submitted to the Kern County Planning and Community Development Department for concurrence prior to any ground-disturbing activities at that location.</td>
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<td>4.4-2</td>
<td>b. Turbine construction shall minimize cutting into hill slopes in an attempt to achieve smooth rounded terrain, rather than sudden berms or cuts, to reduce prey abundance.</td>
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<td>4.4-3</td>
<td>c. Rocks unearthed during the excavation process shall be used during construction of foundations or hauled off site and disposed of properly, and not be left in piles near turbines.</td>
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<td>4.4-4</td>
<td>d. Discourage small mammals and reptiles from burrowing under or near turbine bases by placing gravel at least 5 feet around each tower foundation.</td>
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<td>4.4-5</td>
<td>e. The wind component developer shall not participate in rodent control programs on leased lands and will discourage landowners from using poisoning for rodent control in the vicinity of the project.</td>
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<td>4.4-6</td>
<td>f. Un-guyed meteorological towers shall be constructed for the wind project, if feasible. If guy wires are necessary, bird deterrents shall be used.</td>
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<td>#32</td>
<td>MM 4.4.19: Prior to issuance of approval for final occupancy, the project proponent(s) shall submit written documentation to the Kern County Planning and Community Development Department showing that all power lines are constructed to the most current Avian Power Line Interaction Committee Guidelines. The project proponent(s) shall conform to the latest practices to protect birds from electrocution and collision.</td>
<td>Prior to energizing the project</td>
<td>Kern County Building Inspection Department</td>
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North Sky River Wind Energy Project and Jawbone Wind Energy Project Final Environmental Impact Report

Draft - July 2011

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<td>#33</td>
<td>MM 4.4-20: After three years of Post-Construction Avian and Bat Mortality Monitoring, the project proponent shall consult with the Kern County Planning and Community Development Department and the California Department of Fish and Game and United States Fish and Wildlife Service, to determine if the project is resulting in unanticipated significant adverse impacts on the population of an avian or bat species or is significantly interfering with any migratory corridor. If this determination is made, the project proponent(s) shall provide supplemental mitigation as determined by the Agencies listed above. In accordance with California Environmental Quality Act Guidelines Section 15065 and Appendix G, a significant impact shall be determined on a species-by-species basis according to the following criteria:</td>
<td>During the fourth year after energizing the project</td>
<td>Kern County Planning and Community Development Department United States Fish and Wildlife Service California Department of Fish and Game Audubon Society</td>
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**Steps to Compliance:**

A. The Kern County Planning and Community Development Department in consultation with the U.S. Fish and Wildlife Service and the California Department of Fish and Game will determine whether the results of the Mortality Study indicate a significant interference of the project with a migration corridor.

B. As directed by the Kern County Planning and Community Development Department, the project proponents shall provide supplemental mitigation as specified in the mitigation measure.
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<td>4.4-1</td>
<td>MM 4.4-21: The project proponent shall continuously comply with the following during all project-related construction activities:</td>
<td>Prior to ground-disturbing activities</td>
<td>Kern County Planning and Community Development Department United States Fish and Wildlife Service California Department of Fish and Game</td>
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<td>4.4-2</td>
<td>a. During construction activities, if an injured or dead special-status species is encountered, the project proponent(s) shall stop work within the immediate vicinity. The project proponent(s) shall notify the Kern County Planning and Community Development Department, the on-call biologist, and the appropriate resources agency (e.g., United States Fish and Wildlife Service or California Department of Fish and Game) before construction is allowed to proceed.</td>
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<td>4.4-3</td>
<td>b. At the end of each work day, the biological monitor shall ensure that all potential wildlife pitfalls (trenches, bores, and other excavations) have been backfilled. If backfilling is not feasible, all trenches, bores, and other excavations shall be sloped at a 3:1 ratio at the ends to provide wildlife escape ramps, or covered completely to prevent wildlife access, or fully enclosed with exclusion fencing. If any wildlife species become entrapped, construction shall not occur until the animal has left the trench or been removed by a qualified biological monitor as feasible. Employees and contractors shall look under vehicles and equipment for the presence of wildlife before moving vehicles and equipment. If wildlife is observed, no vehicles or equipment would be moved until the animal has left voluntarily or is removed by the biological monitor. No listed species will be handled.</td>
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<td>4.10-2</td>
<td>c. Vehicle speed limits shall not exceed 15 miles per hour (mph) during construction and operation of the project. A speed limit sign shall be posted at all project site entry locations.</td>
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<td>d. Within 24 hours prior to construction activities at each site within potential habitat for this species, a qualified biologist shall conduct focused clearance surveys for desert tortoise, including Mojave mixed woody scrub, creosote bush scrub, black brush scrub, and juniper woodlands. Clearance surveys are required in any area (including appropriate buffers) that supports suitable desert tortoise habitat and that would be subject to disturbance as a result of implementation and operation of the project, unless otherwise authorized by the United States Fish and Wildlife Service. Clearance surveys shall follow the most</td>
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| The current United States Fish and Wildlife Service's desert tortoise survey protocol. The authorized biologist shall determine whether tortoises are present at the site, and whether tortoises may occur in adjacent areas and immigrate into the impact area. If tortoises or intact burrows are found in the impact area or if the authorized biologist determines that a tortoise may enter the construction site, the project proponent(s) shall halt work within 500 feet of the tortoise or burrow and construction activities may not resume within this 500-foot buffer without concurrence from the United States Fish and Wildlife Service and California Department of Fish and Game. Upon discovery of a tortoise or active tortoise burrow, and prior to any road widening or reconstruction on Jawbone Canyon Road, a Desert Tortoise Mitigation and Monitoring Plan shall be developed and implemented that includes the following measures in consultation with the United States Fish and Wildlife Service and California Department of Fish and Game:

i. The project proponent(s) shall retain a qualified biologist with demonstrated expertise with desert tortoise to monitor all construction activities and assist in the implementation of the monitoring program. This person will be approved by the United States Fish and Wildlife Service prior to the onset of ground-disturbing activities. This biologist will be referred to as the authorized biologist hereafter. The authorized biologist will be present during all construction activities immediately adjacent to or within habitat that supports desert tortoise.

ii. Prior to the onset of construction activities, the project proponent(s) shall provide all personnel who will be present on work areas within or adjacent to the project area the following information:
   a. A detailed description of the desert tortoise including color photographs;
   b. The protection the desert tortoise receives under the federal and State Endangered Species Acts and possible legal action that may be incurred for violation of the Acts;
   c. The protective measures being implemented to conserve the desert tortoise and other species during construction activities associated with the project;
   d. A point of contact if desert tortoises are observed.

iii. All trash that may attract predators of desert tortoises will be removed from work sites or completely secured at the end of each work day.
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<td>Where construction can occur in habitat where desert tortoise are widely distributed, work areas will be fenced in a manner that excludes tortoises from the work area and prevents equipment and vehicles from straying from the designated work area into adjacent habitat. The authorized biologist will assist in determining the boundaries of the area to be fenced in consultation with the United States Fish and Wildlife Service/California Department of Fish and Game/Kern County. All workers will be advised that equipment and vehicles must remain within the fenced work areas. Installation of the fencing and any necessary surveys will be directed and/or conducted by the authorized biologist in concurrence with the United States Fish and Wildlife Service/California Department of Fish and Game/Kern County.</td>
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<td>If desert tortoises are found within an area that has been fenced to exclude the species, activities will cease and the authorized biologist will contact California Department of Fish and Game and United States Fish and Wildlife Service for further direction.</td>
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<td>vi</td>
<td>If desert tortoises are found in a construction area where fencing was deemed unnecessary, work will cease until the animal(s) leave on their own. The authorized biologist in consultation with United States Fish and Wildlife Service/California Department of Fish and Game/Kern County will then determine whether additional surveys or fencing are needed. Work may resume while this determination is being made, if deemed appropriate by the authorized biologist.</td>
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<td>The authorized biologist will have the authority to stop all activities until appropriate corrective measures have been completed. If impacts to desert tortoise cannot be avoided, the California Department of Fish and Game and The United States Fish and Wildlife Service shall be consulted and the necessary approvals and/or permits obtained.</td>
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<td>Nest trees for Swainson’s hawks within the project shall not be removed. If a nest tree for a Swainson’s hawk must be removed, a Management Authorization (including conditions to offset the loss of the nest tree) must be obtained from the California Department of Fish and Game. If construction or other project-related activities that may cause nest abandonment by a Swainson’s hawk or forced fledging occur, the work shall be halted until the birds have fledged.</td>
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<td><strong>MM 4.4-22</strong>: Prior to the issuance of the first building permit for a wind turbine generator, if applicable, the project proponent shall submit a current copy of their Avian and Bat Protection Plan to the Kern County Planning and Community Development Department.</td>
<td>Prior to issuing building permits</td>
<td>Kern County Planning and Community Development Department, United States Fish and Wildlife Service</td>
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<td><strong>Steps to Compliance:</strong></td>
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<td>A. The project proponents shall provide documentation to the United States Fish and Wildlife Service, and the Kern County Planning and Community Development Department an Avian and Bat Protection Plan.</td>
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<td>B. The Kern County Planning and Community Development Department will verify prior to issuing building permits.</td>
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<td>#36</td>
<td><strong>MM 4.4-23</strong>: Prior to the issuance of grading or building permits, the project proponent(s) shall submit to the Kern County Planning and Community Development Department all required water quality permits before engaging in soil-disturbing construction activities, before entering flowing or ponded water, and before constructing crossing(s) at flowing or ponded water. Such permits may include, but are not limited to, a Streambed Alteration Agreement from the California Department of Fish and Game, a Clean Water Act Section 404 permit from the United States Army Corps of Engineers, a Clean Water Act Section 402 National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Activities, and/or a Clean Water Act Section 401 certification from the Lahontan Regional Water Quality Control Board, and Hazardous Materials Business Plan approval from the Kern County Environmental Health Services Department. Additionally, after review and approval of all required water quality permits, the project proponent(s) shall maintain and make available on-site at all times an approved copy of all required permits.</td>
<td>Prior to issuing grading and building permits</td>
<td>Kern County Planning and Community Development Department</td>
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<td>A. The project proponent(s) shall submit to the Kern County Planning and Community Development Department all required water quality permits before engaging in soil-disturbing construction activities.</td>
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<td>B. The Kern County Planning and Community Development Department shall verify prior to issuing grading and building permits.</td>
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<td><strong>MM 4.4-24</strong>: The project proponent(s) shall continuously comply with the following during operation of the project:</td>
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<td>a. If unauthorized take of a federal or state threatened or endangered avian or bat species occurs; including, but not limited to the Golden Eagle, during project construction or operation, the project proponent(s) shall notify the Kern County Planning and Community Development Department, the United States Fish and Wildlife Service, and the California Department of Fish and Game within 48 hours and shall confer with each agency on the appropriate action. The project proponent(s) shall then notify the County within three days of the receipt</td>
<td>Prior to issuing grading and building permits</td>
<td>Kern County Planning and Community Development Department</td>
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<td>A. The project proponent(s) shall continuously comply with the listed mitigation measures during all construction and operational activities.</td>
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<td>of any written response from the States Fish and Wildlife Service and/or the California Department of Fish and Game which identifies required or recommended actions resulting from the consultation, including whether either agency requires an incidental take permit and/or deems additional requirements necessary.</td>
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<td>b. The project proponent(s) shall continuously maintain a 500-foot no-disturbance setback zone around any active or historical golden eagle nest(s) that is identified within or within 500 feet of the project boundary.</td>
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<td>c. If a golden eagle carcass with a band is found within the project boundary, the project proponent(s) shall promptly report the banding information to the United States Fish and Wildlife Service’s Bird Banding Laboratory and shall coordinate with the Laboratory to include any pertinent project-specific avian mortality information provided by the United States Fish, if any, in future annual monitoring reports prepared by the project proponent.</td>
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<td>d. The project proponent(s) shall not construct, operate or utilize any batch plants, construction lay-down areas, Operation &amp; Maintenance buildings, or parking areas within 2 miles of an active or inactive golden eagle nest.</td>
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**Justification:** Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.

### 4.5 Cultural Resources

**#37 4.5-1**: Prior to issuance of grading or building permits, the project proponent shall prepare a Cultural Resources Management Plan that will detail how all cultural resources within the project disturbance area will be avoided or treated. The Cultural Resources Management Plan shall: (i) be prepared by a certified archaeologist, at the sole expense of the project proponent; and (ii) shall be submitted to the Kern County Planning and Community Development Department.

The Cultural Resources Management Plan shall include:

a. A statement indicating that archaeological collections, final reports, field notes, and other standard documentation collected during project implementation shall be permanently curated at a facility in the County that meets Guidelines for the Curation of Archeological Collections (California Department of Parks and Recreation 1993).

b. Detailed avoidance and protection plan for resources that are eligible or potentially eligible for the California Register of Historical Resources.

**Steps to Compliance:**

A. The project proponents shall ensure that a County-approved archaeologist prepare a Cultural Resources Management Plan per the specifications of the mitigation measure.

B. The project proponents shall submit the Cultural Resources Management Plan to the Kern County Planning and Community Development Department.

C. The Kern County Planning and Community Development Department will approve the Cultural Resources Management Plan prior to issuing building and grading permits.
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<td>c.</td>
<td>Documentation of Coordination with Native Americans A description of all efforts made to consult with Native Americans that may have interest in the project, including those identified by the Kern County Planning and Community Development Department, those identified by the Native American Heritage Commission, and tribes consulted through government-to-government consultation by BLM. The plan shall include provisions for full documentation of any ongoing consultation, including maintaining records of all contacts and meetings.</td>
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<td>If it is determined that a project element requiring ground disturbance cannot be located at least 100 feet from the mapped boundaries of a California Register of Historical Resources eligible or potentially eligible cultural resources site, then subsurface testing (Phase II evaluation) shall be conducted to characterize the nature and extent of previous disturbance and the density, diversity and horizontal and vertical distribution of cultural materials within areas needed for grading, trenching and other ground disturbance and shall verify whether or not the site would be affected by the disturbance.</td>
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<td>Evaluative testing shall be designed to record horizontal extent, depth of the cultural matrix, and degree of internal stratification. Because subsurface testing, like any form of site excavation, is destructive it shall be conducted only when necessary and in moderation. This evaluation program shall involve the following:</td>
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<td>• A detailed testing plan that includes a research design (from which to evaluate California Register of Historical Resources eligibility); excavation plan with rationale for sample size and placement; and discussion of special studies/ analyses that may be required—to be reviewed and approved by a professional archaeologist selected by the County before implementation.</td>
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<td>• Controlled hand excavation and surface collection of a representative sample of the site deposit as detailed in the approved testing plan.</td>
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<td>• A detailed analysis of the material recovered.</td>
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<td>• An assessment of cultural resource data potentials, integrity, and eligibility for listing on the California Register of Historical Resources in a regional context.</td>
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<td>• Preparation of a final report with recommendations of eligibility impact mitigation if necessary, to be reviewed and approved by a</td>
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|        | professional archaeologist selected by the County.  
  • Curation of all artifacts and data from testing evaluations. | | | | |
| e.  | Programmatic Data Recovery Plan. | | | | |
|      | To assist the development of site-specific data recovery investigations, the Cultural Resources Management Plan shall include a Programmatic Data Recovery Plan that identifies, among other topics, standard procedures and guidelines for determining sampling intensity, and data recovery methods based on testing results. The Data Recovery Plan shall also address research issues that would be investigated. Further the Data Recovery Plan shall consider the project's grading plan and utility plan, and any other plan that delineates areas of project disturbance in determining portions of a significant site that would be investigated. The Data Recovery Plan shall be reviewed by a professional archaeologist selected by the Kern County Planning and Community Development Department before initiation of data recovery fieldwork. | | | |
| #38 MM 4.5-2: If the project proponent revises the location of proposed facilities and ground-disturbing activities that affect areas beyond the area surveyed for this Environmental Impact Report, the project proponent shall complete the following prior to the issuance of grading permits: | | | | | |
| a.  | Not conduct work in the previously un-surveyed areas until approval has been received from Kern County Planning and Community Development Department; | Prior to construction | Kern County Planning and Community Development Department  
Qualified Archaeologist | | |
| b.  | Provide for a qualified archaeologist to conduct a supplemental Phase I evaluation (records search and intensive pedestrian surveys) of all new areas that would be affected (i.e., within the revised area of impact); | | | | |
| c.  | Provide a supplemental technical report to Kern County Planning and Community Development Department discussing the supplemental Phase I evaluation and potential impacts and avoidance and minimization measures; | | | | |
| d.  | Based on the results of the supplemental Phase I evaluation, ensure that the qualified archaeologist provides documentation to Kern County Planning and Community Development Department verifying that all newly identified cultural resources would be avoided and that all ground-disturbing activities would occur at least 100 feet away; | | | | |
| e.  | If the revised location of facilities avoids newly identified cultural resources but ground-disturbing activities are located within 100 feet of the sites, provide for a qualified archaeologist to monitor during initial ground- | | | | |
|      | Steps to Compliance:  
  A. If work is required outside the areas surveyed for the Environmental Impact Report and subsequent targeted surveys, the project proponents shall ensure that a qualified archaeologist conduct a Phase I evaluation for additional areas of impact. | | | | |
<p>|      | B. The project proponents shall provide a supplemental technical report on the Phase I evaluation and mitigation strategies to Kern County Planning and Community Development Department. | | | | |
|      | C. The project proponents shall ensure that a qualified archaeologist is present if ground-disturbing activities will be located within 100 feet of known cultural resources. | | | | |
|      | D. The project proponents shall consult with Kern County Planning and Community Development Department on additional cultural resource evaluations. | | | | |
|      | E. The Kern County Planning and Community Development Department will issue construction permits for new areas only if satisfactory avoidance can be achieved. | | | | |</p>
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|        | disturbing activities (MM 4.5-3, below), as well as exclusionary fencing (MM 4.5-3, below); and  
  f. If the revised location of facilities impacts newly identified sites (e.g., sites could not be avoided), consult with the Kern County Planning and Community Development Department regarding further requirements, including a Phase II evaluation, and possibly data recovery or additional mitigation. | Prior to issuing grading permits | Kern County Planning and Community Development Department  
Qualified Archaeologist |      |         |
| #39 4.5-1 | MM 4.5-3: Prior to the issuance of grading permits, the project proponent shall install exclusion fencing around California Register of Historical Resources eligible or potentially-eligible cultural resources that are located within 100 feet of project facilities and planned ground-disturbing activities within the project boundary. Verification of completion shall be submitted to the Kern County Planning and Community Development Department. |                              |                              |      |         |
| #40 4.5-1 | MM 4.5-4: Prior to the issuance of grading permits, the project proponent shall submit evidence which demonstrates that the Cultural Resources Management Plan contains a plan for monitoring ground-disturbing activity within 100 feet of California Register of Historical Resources eligible or potentially-eligible resources. The Cultural Resources Management Plan shall indicate specific locations where Native Americans have identified a particular cultural sensitivity. If Native Americans request that a tribal member be allowed to monitor construction at these location(s), then the project proponent shall retain and schedule any required Native American monitors. The Cultural Resources Management Plan shall specify the tribal affiliation of individual Native American monitors. Native American monitors will be required to complete and submit daily monitoring logs to the project proponent's lead archaeologist while at the project site. The archaeologist shall be authorized to halt construction, if necessary, in the | Prior to, during, and after construction | Kern County Planning and Community Development Department  
Qualified Archaeologist |      |         |

Steps to Compliance:
A. The project proponents shall install exclusion fencing around the archaeological sites that are eligible for or potentially eligible for the California Register of Historical Resources within 100 feet of construction.
B. The project proponents shall submit documentation of completion to the Kern County Planning and Community Development Department.
C. The Kern County Planning and Community Development Department will verify the documentation.
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<td>immediate area where buried cultural resources are encountered. The monitor shall maintain a daily log of activities and shall submit a final monitoring report, to California Environmental Quality Act standards, describing the results of cultural resources monitoring efforts associated with the Project, within 90 days of completion of the archaeological monitoring, to Kern County Planning and Community Development Department, the project proponent, and the Southern San Joaquin Valley Information Center at California State University, Bakersfield.</td>
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<td>#41</td>
<td>MM 4.5-5: Prior to issuance of the grading or building permits, the project proponent shall provide Kern County Planning and Community Development Department with documentation that a qualified archaeologist has reviewed the final proposed wind energy development scenario and conducted a spatial analysis in geographic information systems to verify that:</td>
<td>Prior to, during, and after construction</td>
<td>Kern County Planning and Community Development Department</td>
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<td>#41.5-1 and #4.5-4</td>
<td>a. All facilities and planned ground-disturbing activities would occur within areas that have been intensively surveyed and documented; and b. Provisions have been made for avoiding and protecting any cultural resources that are eligible or potentially eligible for the California Register of Historical Resources that have not been treated using data recovery excavations under MM 4.5-1.</td>
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<td>Qualified Archaeologist</td>
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<td>#42</td>
<td>MM 4.5-6: Prior to the issuance of grading permits, the project proponent shall submit evidence which demonstrates that the Cultural Resources Management Plan requires that a workshop be held to brief all construction workers and supervisors on monitor roles, responsibilities, and authority; restricted areas and approved vehicle corridors; the types of artifacts that may be encountered; penalties for unauthorized collection of artifacts; and the need to temporarily redirect work away from the location of any unanticipated discovery until it is recorded and adequately documented and treated. The names of all personnel who attend the training shall be recorded and workers shall be issued hardhat stickers indicating they have received the workshop training. The workshop shall be videotaped or digitally recorded on Digital Video Discs or other similar media in order to train additional personnel who may join the construction project in the future. Construction workers shall not be permitted to operate equipment within construction zones unless they have attended the workshop or viewed the presentation and are wearing hardhats with the required sticker.</td>
<td>Prior to issuing grading permits</td>
<td>Kern County Planning and Community Development Department</td>
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<td>#43</td>
<td>MM 4.5-7: Prior to the issuance of grading or building permits, the project proponent shall minimize or avoid impacts to potentially significant cultural resources discovered during construction by developing and implementing an</td>
<td>Prior to issuing building and grading permits</td>
<td>Kern County Planning and Community Development Department</td>
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<td>Unanticipated Discovery Protocol as part of the Cultural Resources Management Plan. The Unanticipated Discovery Protocol shall include discussion of the following: a. Specific wording that if evidence of archeological resources (e.g., chipped or ground stone, historical debris, building foundations, or human bone) is identified during excavation, all work within 100 feet of the discovery site shall stop until a qualified archaeologist can assess the significance of the find; b. Notification requirements, including immediate notification by the project proponent to a qualified archeologist and to Kern County Planning and Community Development Department; c. Consultation with the Kern County Planning and Community Development Department, the qualified archaeologist, Native American representatives (if appropriate) and the project proponent to determine whether the discovered resource can be avoided and, if impacts have not occurred, work can continue. If it is determined that the resource has been impacted then an assessment of its significance is required: • A qualified archaeologist shall develop appropriate treatment measures for the discovered and impacted resource in consultation with Kern County Planning and Community Development Department, Native American tribes, the Office of Historic Preservation, and other appropriate agencies; and • Work will not resume until permission is received from Kern County.</td>
<td>Steps to Compliance: A. The project proponents shall develop an Unanticipated Discovery Protocol as specified in the mitigation measure. B. The project proponents shall submit the Unanticipated Discovery Protocol to the Kern County Planning and Community Development Department. C. Kern County Planning and Community Development Department will approve the Protocol prior to issuing building and grading permits.</td>
<td>Prior to and during construction</td>
<td>Kern County Planning and Community Development Department</td>
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<td>MM 4.5-8: All plans shall be prepared in a manner consistent with professional standards (e.g., California Office of Historic Preservation’s Guidelines for Archaeological Research Designs) and submitted to the County for review and approval prior to implementation. Further, all cultural resource investigations shall be documented in high quality technical reports that meet professional standards (e.g., California Office of Historic Preservation’s Archaeological Resource Management Reports: Recommended Contents and Format, Secretary of the Interior’s Standards and Guidelines). Reports shall be made available to professional archaeologists and (without confidential site location information) to the interested public.</td>
<td>Steps to Compliance: A. The project proponents shall ensure that all cultural resources plans and documents be prepared in a manner consistent with professional standards as detailed in the mitigation measure. B. The project proponents shall submit all written cultural resources reports to the Kern County Planning and Community Development Department. C. The Kern County Planning and Community Development Department will verify compliance.</td>
<td>Prior to issuing building and grading permits</td>
<td>Kern County Planning and Community Development Department Qualified Paleontologist</td>
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<td>impacts assessment is developed, the project proponent shall retain a qualified paleontologist to prepare a Paleontological Resource Monitoring and Mitigation Plan (PRMMP) for implementation during construction. The PRMMP shall be submitted to the Kern County Planning and Community Development Department for review and approval prior to the start of grading or construction and shall include the following:</td>
<td>Prior to issuing building and grading permits</td>
<td>Kern County Planning and Community Development Department</td>
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<td>a. Procedures for the discovery, recovery, and salvage of paleontological resources encountered during construction, if any, in accordance with standards for recovery established by the Society of Vertebrate Paleontology;</td>
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<td>b. Identification and mapping of specific areas of high and moderate sensitivity that will be monitored during construction;</td>
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<td>c. Verification that the project proponent has an agreement with a recognized museum repository (e.g., the Buena Vista Museum of Natural History), for the disposition of recovered fossils and that the fossils shall be prepared prior to submittal to the repository as required by the repository (e.g., prepared, analyzed at a laboratory, curated, or cataloged); and</td>
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<td>d. Description of monitoring reports that will be prepared, which shall include daily logs and a final monitoring report with an itemized list of specimens found to be submitted to Kern County Planning and Community Development Department, the project proponent, the Buena Vista Museum of Natural History, and the Natural History Museum of Los Angeles County within 90 days of the completion of monitoring.</td>
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<td>#46</td>
<td>MM 4.5-10: Prior to the commencement of construction activities, the project proponent shall provide for a qualified paleontologist to provide construction personnel with training on implementation of the PRMMP. All construction personnel shall be trained regarding the recognition of possible buried paleontological resources and protection of paleontological resources during construction, prior to the initiation of construction or ground-disturbing activities. Training shall inform construction personnel of the procedures to be followed upon the discovery of paleontological materials. All personnel shall be instructed that unauthorized collection or disturbance of fossils is unlawful.</td>
<td>Steps to Compliance:</td>
<td>Kern County Planning and Community Development Department</td>
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<td>#47</td>
<td>MM 4.5-11: Prior to the issuance of grading permits, the project proponent shall submit evidence which demonstrates that the Cultural Resources Management Plan specifies standard procedures for recording and treating</td>
<td>Prior to issuing building and grading permits</td>
<td>Kern County Planning and Community Development Department</td>
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| 4.5-4  | Human remains in accordance with applicable laws, regulations and guidelines. In-place preservation and protection from further disturbance shall always be the preferred approach. If human remains are discovered, work in the immediate vicinity shall stop until the Kern County coroner can determine whether the remains are those of a Native American. If they are those of a Native American, the following would apply:  
  a. The coroner shall contact the Native American Heritage Commission.  
  b. If discovered human remains are determined to be Native American remains, and are released by the coroner, these remains shall be left in situ and covered by fabric or other temporary barriers.  
  c. The human remains shall be protected until Kern County and the Native American Heritage Commission come to a decision on the final disposition of the remains.  
  According to the California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and willful disturbance of human remains is a felony (Section 7052). | Steps to Compliance:  
  A. The project proponents shall ensure that the Cultural Resources Management Plan specify standard procedures for recording and treating human remains in accordance with applicable laws, regulations, guidelines, and the specifications of the mitigation measure.  
  B. The project proponents shall submit the Cultural Resources Management Plan to the Kern County Planning and Community Development Department.  
  C. The Kern County Planning and Community Development Department will verify contents prior to issuing building and grading permits. | |

Justification: Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.

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### Geology and Soils

| #48    | Geotechnical and geologic hazards on the project site and submit it to the Kern County Engineering, Surveying, and Permit Services Department for review and approval. The geotechnical study must be signed by a California-registered professional engineer and must identify the following:  
  • Location of fault traces and potential for surface rupture;  
  • Maximum considered earthquake and associated ground accelerations;  
  • Potential for seismically induced ground shaking, liquefaction, landslides, differential settlement, and mudflows;  
  • Stability of existing cut-and-fill slopes;  
  • Collapsible or expansive soils;  
  • Foundation material type;  
  • Potential for wind erosion, water erosion, sedimentation, and flooding; | Prior to issuing building and grading permits | Kern County Engineering and Survey Services Department Registered Professional Engineer |

Steps to Compliance:  
A. The project proponents shall ensure that a full geotechnical study be carried out at the project site by a California-registered professional engineer, and that the study include the specifications of the mitigation measure.  
B. The project proponents shall submit the geotechnical report to the Kern County Engineering and Survey Services Department.  
C. The Kern County Engineering and Survey Services Department will review prior to issuing building and grading permits.
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<td>• Location and description of unprotected drainage that could be impacted by the proposed development; and&lt;br&gt;• Recommendations for placement and design of facilities, foundations, and remediation of unstable ground.</td>
<td>Prior to issuing building and grading permits</td>
<td>Kern County Engineering and Survey Services Department</td>
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<td>The project proponent shall determine the final siting of project facilities based on the results of the geotechnical study and implement recommended measures to minimize geologic hazards. The project proponent shall not locate project facilities on or immediately adjacent to a fault trace. The Kern County Engineering, Surveying, and Permit Services Department will evaluate any final facility siting design developed prior to the issuance of any building or grading permits to verify that geological constraints have been avoided.</td>
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<td>#49 4.6-4 4.6-9 4.8-2 and 4.8-8</td>
<td>MM 4.6-2: Prior to the issuance of grading and building permits, the project proponents shall demonstrate compliance with the following:&lt;br&gt;(a) The project proponents shall design cut/fill slopes for an adequate factor of safety, considering material type and compaction, identified during the site-specific geotechnical study. The slope of cut surfaces shall be no steeper than 2:1 (horizontal to vertical), unless the project proponents furnish a soils engineering or an engineering geology report, or both, stating that the site has been investigated and given an opinion that a cut at a steeper slope will be stable, if acceptable stabilization methods are employed and it will not create a hazard to public or private property. Other potential considerations would include structures set back from the slopes, and subsequent design recommendations.&lt;br&gt;(b) The project proponents shall avoid locating roads and structures near landslide and mudflow areas. Where avoidance of landslide areas is not feasible, the project proponents shall construct relatively flat cut-and-fill at slopes not to exceed 2:1 (horizontal to vertical), or 26 percent, or flatter.&lt;br&gt;(c) The project proponents will not locate turbines, transmission lines, and/or associated structures across faults, lineaments, or unstable areas.</td>
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<td>#50 4.6-1 4.6-7 4.6-9 and 4.8-2</td>
<td>MM 4.6-3: Utility lines shall be designed to withstand vertical and horizontal displacement. If determined necessary by the findings of the site-specific geotechnical study, the project proponents shall remove and replace shrink-swell soils with a non-expansive or non-collapsible soil material.</td>
<td>Prior to issuing building and grading permits</td>
<td>Kern County Engineering and Survey Services Department</td>
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**#51 4.6-8**

Prior to the issuance of any building permit for the Operation and Maintenance Facility or Facilities, the project proponents shall obtain all required permits and approvals from the Kern County Environmental Health Services Department, and shall implement all required conditions including but not limited to the set-back of project sewage system(s) from area fault traces and drainages.

**Steps to Compliance:**

A. The project proponents shall obtain the required permits and/or approvals from the Kern County Health Services Department and implement all required conditions.

B. The Kern County Health Services Department will verify.

**Justification:** Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.

### 4.8 Hazards and Hazardous Materials

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<td>4.8-1</td>
<td>MM 4.8-1: Prior to the issuance of grading or building permits, in accordance with the California Health and Safety Code and Kern County regulations, the project proponents shall prepare a Hazardous Materials Business Plan and submit it to the Kern County Environmental Health Services Department for review and approval.</td>
<td>Prior to issuing building and grading permits</td>
<td>Kern County Environmental Health Services Department</td>
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**Steps to Compliance:**

A. The project proponents shall prepare a Hazardous Materials Business Plan and submit it to the Kern County Environmental Health Services Department.

B. The Kern County Environmental Health Services Department will review and approve the Plan prior to ground-disturbing activities.

C. The project proponents shall provide the Hazardous Materials Business Plan to all contractors working on the project and ensure that one copy is available at the project site at all times.

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<td>4.8-2</td>
<td>MM 4.8-2: Prior to the issuance of grading or building permits, if blasting is required, the project proponents shall contract with a blasting contractor with experience conducting blasting activities, licensed to use Class A explosives, and licensed as a contractor in the State of California. The blasting contractor shall prepare a blasting plan for the proposed blasting activities to prevent endangering worker safety. The blasting plan shall be submitted for review to</td>
<td>Prior to issuing building and grading permits; prior to blasting</td>
<td>Kern County Planning and Community Development Department Engineering and Survey Services Department Kern County Fire Department</td>
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<td>the Kern County Planning and Community Development Department, in consultation with the Kern County Environmental Health Services Department, the Kern County Fire Department, and the Kern County Air Pollution Control District. A copy of the blasting plan shall be provided to Edwards Air Force Base. The blasting plan shall: a. Describe procedures to be implemented to protect workers during blasting, such as using a signaling system to alert workers of an impending blast and using blasting mats to prevent or reduce the number of rock particles thrown into the air; b. Describe procedures for proper storage and transportation of explosive materials, including protecting explosives from wildfires; c. Prohibit blasting during extreme fire danger periods; and d. Comply with the U.S. Bureau of Mines and the U.S. Department of the Interior Office of Surface Mining Reclamation and Enforcement guidelines for minimizing damage to structures from blasting.</td>
<td>Steps to Compliance: A. If blasting is required, the project proponents shall retain a licensed blasting contractor to prepare a blasting plan according to the specification of the mitigation measure. B. The project proponents shall submit the blasting plan to the Kern County Planning and Community Development Department. C. The Kern County Planning and Community Development Department, in consultation with the Kern County Engineering and Survey Services Department, the Kern County Fire Department, and the Kern County Air Pollution Control District, will approve the blasting plan prior to blasting. D. The project proponents shall provide a copy of the blasting plan to Edwards Air Force Base prior to blasting activities.</td>
<td>Kern County Air Pollution Control District</td>
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<td>#54 4.8-3</td>
<td>Prior to the issuance of grading or building permits, if herbicides are utilized, the contractor or personnel applying herbicides must have all the appropriate State and local herbicide applicator licenses and comply with all State and local regulations regarding herbicide use. Herbicides shall be mixed and applied in conformance with the product manufacturer’s directions. The herbicide applicator shall be equipped with splash protection clothing and gear, chemical resistant gloves, chemical spill/splash wash supplies, and material safety data sheets for all hazardous materials to be used. To minimize harm to wildlife, vegetation, and waterbodies, herbicides shall not be applied directly to wildlife, products identified as non-toxic to birds and small mammals shall be used if nests or dens are observed, and herbicides shall not be applied within 50 feet of any surface water-body when water is present. Herbicides shall not be applied if it is raining at the site, rain is imminent, or the target area has puddles or standing water. Herbicides shall not be applied when wind velocity exceeds 10 miles per hour. If spray is observed to be drifting to a non-target location, spraying shall be discontinued until conditions causing the drift have abated.</td>
<td>Prior to issuing building and grading permits; During application of herbicides Step to Compliance: A. The project proponents shall ensure that herbicide applicators are licensed and comply with all State and local regulations. B. The project proponents shall ensure that herbicide application be carried out according to the specifications of the mitigation measure. C. Documentation of herbicide use shall be provided to the Kern County Planning and Community Development Department. D. The Kern County Planning and Community Development Department will verify appropriate use.</td>
<td>Kern County Planning and Community Development Department</td>
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<td>#55 4.8-4</td>
<td>If, during grading or excavation work, the contractor observes visual or olfactory evidence of contamination or if soil contamination is otherwise suspected, work near the excavation site shall be terminated, the area cordoned off, and appropriate health and safety procedures implemented for the location by the contractor’s Health &amp; Safety Officer. Samples shall be collected by an Occupational Safety and Health Administration-trained individual with a minimum of 40-hours hazardous</td>
<td>During grading and excavation</td>
<td>Kern County Environmental Health Services Department</td>
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**Steps to Compliance:**
A. The project proponents shall ensure that work stop if soil contamination is suspected.
B. The Health & Safety Officer shall implement health and safety procedures and soil samples shall be collected by an Occupational Safety and Health Administrator.
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<td>material site worker training. Laboratory data from suspected contaminated material shall be reviewed by the contractor's Health and Safety Officer. If the sample testing determines that contamination is not present, work may proceed at the site. However, if contamination is detected above regulatory limits, the Kern County Environmental Health Services Department shall be notified. All actions related to encountering unanticipated hazardous materials at the site shall be documented and submitted to the Kern County Environmental Health Services Department.</td>
<td>Administration-trained individual with a minimum of 40-hours hazardous material site worker training. C. Laboratory data from suspected contaminated material shall be reviewed by the contractor's Health and Safety Officer. D. If the sample testing determines that contamination is not present, work may proceed at the site. E. If contamination is detected above regulatory limits, the Kern County Environmental Health Services Department shall be notified. F. All actions related to encountering unanticipated hazardous materials at the site shall be documented and submitted to the Kern County Environmental Health Services Department. G. The Kern County Environmental Health Services Department will verify documentation.</td>
<td>Prior to issuing grading and building permits; Prior to installing transformers</td>
<td>Kern County Planning and Community Development Department</td>
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<tr>
<td>#56</td>
<td>MM 4.8-5: The project proponents shall site all fueling, hazardous materials storage areas, and operation and maintenance activities involving hazardous materials at least 100 feet away from blue-line drainages as identified on U.S. Geological Survey topography maps and wetlands, as well as all existing water wells.</td>
<td><strong>Steps to Compliance:</strong> A. The project proponents shall site all fueling, hazardous materials storage areas, and O&amp;M activities involving hazardous materials at least 100 feet away from blue-line drainages, as identified on U.S. Geological Survey topography maps, and from wetlands. B. The project proponents shall submit final siting plans to the Kern County Planning and Community Development Department. C. The Kern County Planning and Community Development Department will review prior to issuing building and grading permits.</td>
<td>Kern County Planning and Community Development Department</td>
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<td>#57</td>
<td>MM 4.8-6: Prior to the issuance of grading or building permits, in order to mitigate the effects of a spill of transformer oil, gasoline, or diesel fuel, the project proponents shall develop and implement a spill prevention, control, and countermeasures plans for the storage and use of transformer oil, gasoline, or diesel fuel at the site in quantities of 660 gallons or greater. The plans shall include design features of the project that will contain accidental releases of petroleum and transformer oil products from onsite fuel tanks and transformers. The plans shall be submitted to the U.S. Environmental Protection Agency, the California Environmental Protection Agency, and the Kern County Environmental Health Services Department at least 30 days prior to construction (for motor vehicle fuel) and 30 days prior to energizing the proposed project (for substation transformer oil). Compliance will be verified by the Kern County Building Inspection Department.</td>
<td><strong>Steps to Compliance:</strong> A. The project proponents shall develop and implement a spill prevention, control, and countermeasures plans for the storage and use of transformer oil, gasoline, or diesel fuel at the site in quantities of 660 gallons or greater. B. The plans shall be submitted to the U.S. Environmental Protection Agency, the California Environmental Protection Agency, and the Kern County Environmental Health Services Department at least 30 days prior to construction and 30 days prior to energizing the proposed project. C. The Kern County Building Inspection Department shall verify adequacy prior to installation of transformers.</td>
<td>Kern County Building Inspection Department</td>
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<td>#58 4.8-2 and 4.8-8</td>
<td><strong>MM 4.8-7:</strong> Prior to the issuance of grading or building permits, the project proponents shall develop and implement a project site safety and security plan to ensure the safety of personnel and other persons in or around the project site. Issues to be addressed in the plan shall include a zero-injury safety policy, responsibilities and roles of personnel, health and safety for subcontractors, worker safety orientation and training, severe weather conditions, accident/incident reporting procedures, employee safe work programs, and safety signage and fencing requirements. The plan shall be submitted to the Kern County Environmental Health Services Department at least 30 days prior to construction. Compliance will be verified by the Kern County Building Inspection Department.</td>
<td>Prior to issuing grading and building permits</td>
<td>Kern County Building Inspection Department</td>
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<td>#59 4.1-4, 4.1-5, 4.8-3, 4.8-4, 4.8-8, 4.16-3 and 4.16-6</td>
<td><strong>MM 4.8-8:</strong> Prior to issuance of building permits, the project proponents shall submit Form 7460-1 (Notification of Proposed Construction or Alteration) to the Federal Aviation Administration, in the form and manner prescribed in 14 Code of Federal Regulation 77.17. The project proponents shall also provide documentation to the Kern County Planning and Community Development Department demonstrating that the Federal Aviation Administration has issued a “Determination of No Hazard to Air Navigation.” This documentation shall include: (1) written concurrence from the military authority responsible for operations in the flight area depicted in Kern County Zoning Ordinance Figure 19.08.160 that all project components would create no significant military mission impacts; (2) a wind turbine generator lighting plan; and (3) a helicopter lift plan demonstrating compliance with all requirements set forth by the Federal Aviation Administration and Kern County. Documentation shall also be furnished to the Kern County Planning and Community Development Department demonstrating that a copy of the approved form(s) has been provided to the operators of Kelso Valley Airport, California City Municipal Airport, Tehachapi Municipal Airport, Edwards Air Force Base, China Lake Naval Air Weapons Station, and Fort Irwin/National Training Center.</td>
<td>Prior to issuing building permits</td>
<td>Kern County Planning and Community Development Department</td>
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<td>#60 4.8-5 and 4.8-8 and 4.16-6</td>
<td><strong>MM 4.8-9:</strong> Prior to the issuance of grading or building permits, the project proponents shall appoint an Emergency Response Liaison to coordinate the reduction of construction-related traffic for the duration of any emergency at or nearby the project site. The Kern County Fire Department, Kern County Sheriff's Department, and the California Highway Patrol shall be provided with the construction schedule and the on-site contact information for the Liaison prior to construction. The Liaison shall be immediately reachable at all times during project construction. The Liaison shall have radio contact with project construction vehicles at all times to coordinate traffic reduction.</td>
<td>Prior to issuing grading and building permits</td>
<td>Kern County Planning and Community Development Department</td>
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**Steps to Compliance:**
A. The project proponents shall develop and implement a project site safety and security plan to ensure the safety of personnel and other persons in or around the project site.
B. The project proponents shall submit the plan to the Kern County Environmental Health Services Department at least 30 days prior to construction.
C. The Kern County Building Inspection Department will review prior to issuing building and grading permits.

**Steps to Compliance:**
A. The project proponents shall comply with all requirements to maintain the Federal Aviation Administration Determination of No Hazard to Air Navigation.
B. The project proponents shall consult with the FAA to resolve adverse effects on aeronautical operations.
C. The project proponents shall submit documentation of all communications with the FAA and evidence of compliance with FAA requests to the Kern County Planning and Community Development Department.
D. The Kern County Planning and Community Development Department will verify prior to issuing building and grading permits for the disputed turbines or areas.
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<td>measures. In addition, the Liaison shall coordinate with the Kern County Fire Department, the Kern County Sherriff’s Department and the California Highway Patrol to establish emergency procedures for access to the project site in the event of emergency.</td>
<td>County Sherriff’s Department, and the California Highway Patrol prior to the start of construction.</td>
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<td>Kern County Sherriff’s Department, and the California Highway Patrol prior to the start of construction</td>
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<td>MM 4.8-10: Prior to the issuance of grading or building permits, the project proponents shall develop and implement a Fire Safety Plan for use during construction and operation. The project proponents shall submit the Fire Safety Plan, along with maps of the project site and access roads, to the Kern County Fire Department for review and approval prior to the issuance of any building permit or grading permits.</td>
<td>Prior to issuing grading and building permits.</td>
<td>Kern County Fire Department</td>
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<td>A. The project proponents shall develop a Fire Safety Plan according to the specifications of the mitigation measure.</td>
<td>Steps to Compliance:</td>
<td>Kern County Fire Department</td>
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<td>B. The project proponents shall submit the Fire Safety Plan with project site and access road maps to the Kern County Fire Department.</td>
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<td>C. The Kern County Fire Department will review and approve the Fire Safety Plan prior to issuing building and grading permits.</td>
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<td>used, water tanks equipped with hoses, fire rakes, and axes shall easily accessible to personnel. g. Smoking shall be prohibited in wildland areas and shall be limited to paved areas or areas cleared of all vegetation.</td>
<td>During Red Flag Warnings</td>
<td>Kern County Planning and Community Development Department</td>
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<td>#62</td>
<td><strong>MM 4.8-11:</strong> When a Red Flag Warning is issued by the National Weather Service for the project area, all non-emergency construction and maintenance activities shall cease. This provision shall be clearly stated in the Fire Safety Plan. The Emergency Response Liaison (see Mitigation Measure 4.8-9) shall ensure implementation of a system that allows for immediate receipt of Red Flag Warning information from the Los Angeles/Oxnard office of the National Weather Service.</td>
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<td><strong>Steps to Compliance:</strong></td>
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<td>A. The project proponents shall cease non-emergency construction and maintenance activities and shall ensure that this requirement be clearly stated in the Fire Safety Plan. B. The Emergency Response Liaison (see MM 4.8-9) shall ensure implementation of a system that allows for immediate receipt of Red Flag Warning information from the Los Angeles/Oxnard office of the National Weather Service. C. Documentation of Red Flag Warning information receipt shall be provided to the Kern County Planning and Community Development Department prior to the start of construction. D. The Kern County Planning and Community Development Department will verify.</td>
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<td>#63</td>
<td><strong>MM 4.8-12:</strong> Prior to the final occupancy approval, the project proponents shall install an automatic fire detection and extinguishing system that complies with international standards for fire protection systems on each wind turbine generator at the proposed project site. Proof of system installation shall be submitted to the Kern County Planning and Community Development Department prior to energizing the proposed project.</td>
<td>Prior to energizing the project</td>
<td>Kern County Planning and Community Development Department</td>
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<td><strong>Steps to Compliance:</strong></td>
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<td>A. The project proponents shall install an automatic fire detection and extinguishing system that complies with international standards for fire protection systems on each wind turbine generator. B. The project proponents shall submit the Proof of system installation to the Kern County Planning and Community Development Department prior to energizing the proposed project.</td>
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<td>#64</td>
<td><strong>MM 4.8-13:</strong> In the areas of the site mapped as annual grassland (see North Sky River Biological Resources Technical Report, Appendix B; and for all grassland areas on the Jawbone site), grazing shall be continued for the duration of construction, and shall cease prior to energizing the project (per Mitigation Measure 4.4-14 [Mitigation Measure for condors]). During the fire season, grasses shall be maintained at a height of 2 inches or less during construction.</td>
<td>During construction and prior to operation</td>
<td>Kern County Building Inspection Department</td>
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<td><strong>Steps to Compliance:</strong></td>
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<td>A. In the areas of the site mapped as annual grassland (see North Sky River Biological Resources Technical Report, Appendix B; and for all grassland areas on the Jawbone site), grazing shall continue. B. During the fire season, grasses shall be maintained at a height of 2 inches or less. C. The Kern County Building Inspection Department will verify compliance.</td>
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<td>#65 4.8-14:</td>
<td>In order to eliminate the risk of generating disease vectors at the site, during project construction and operations the project proponents shall ensure that trash is stored in closed containers and removed from the site at regular intervals. Open containers shall be inverted and construction ditches shall not be allowed to accumulate water. Construction and maintenance operations shall not generate standing water. Naturally occurring depressions, drainages, and pools at the site shall not be drained or filled without consulting with the appropriate resource agency (Kern County, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, California Department of Fish and Game) and obtaining the appropriate permits. The environmental monitor will ensure that standing water and large quantities of trash do not accumulate on site. Compliance will be verified by the Kern County Building Inspection Department during the course of that agency’s performance of any on-site inspections.</td>
<td>During construction and operation</td>
<td>Kern County Building Inspection Department</td>
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**Steps to Compliance:**
A. The project proponents shall implement the measures specified in the mitigation measure to eliminate the risk of generating disease vectors at the site.
B. The environmental monitor shall ensure that standing water and large quantities of trash do not accumulate onsite.
C. The Kern County Building Inspection Department will verify compliance.

**Justification:** Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.

### 4.9 Hydrology and Water Quality

| #66 4.9-1 | The project proponent(s) shall submit a Road Plan to the Kern County Engineering, Surveying, and Permit Services Department for approval prior to any access or spur road construction and/or upgrades. The Road Plan shall identify the precise location of all planned access and spur road construction and/or improvements to existing roads, the specific improvements/modifications that would be undertaken at each location or road segment, including the planned width of each completed segment, the engineered limits of cut and fill, the location of any drainage and/or sensitive habitat within 100 feet of either edge of the planned access or spur road, and the location and construction details of any new or modified stream crossings or drainage diversion structures. Should the Road Plan propose a “cut” or “fill” of more than twelve (12) inches, or the movement of more than fifty (50) cubic yards of material, the Road Plan shall be submitted in the form of a grading permit application to the Kern County Engineering, Surveying, and Permit Services Department for review and approval. | Prior to issuing building and grading permits | Kern County Engineering and Survey Services Department | | |

**Steps to Compliance:**
A. The project proponents shall submit a road plan according to the specifications of the mitigation measure to the Kern County Engineering and Survey Services Department.
B. The Kern County Engineering and Survey Services Department will review and approve prior to issuing building and grading permits for roads.

| #67 4.9-2 | Prior to construction, the project proponent(s) shall develop and implement a Water Supply Contingency Plan. The Water Supply Contingency Plan shall be prepared by a qualified hydrogeologist and submitted by the project proponent(s) to Kern County for review and approval. The Water Supply Contingency Plan shall provide detailed procedures for conducting a groundwater investigation to determine whether | Prior to issuing building and grading permits | Kern County Engineering and Survey Services Department | | |

**Steps to Compliance:**
A. The project proponents shall submit a water contingency plan according to the specifications of the mitigation measure to the Kern County Engineering and Survey Services Department.
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<td>the identified groundwater resource(s) to be used for the project is in overdraft conditions; such investigation may include review of historic groundwater well data, groundwater monitoring, and/or interviews and coordination with private well owners near the project site if possible. This groundwater investigation shall occur prior to the onset of construction in order to ensure that no groundwater resources from overdrafted basins are used to meet project need and that temporary local drawdown effects are mitigated.</td>
<td>Prior to issuing building and grading permits</td>
<td>Kern County Engineering and Survey Services Department</td>
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<td>The Water Supply Contingency Plan shall identify at least two groundwater supply wells for project use during construction, a primary supply well and a secondary supply well. The Water Supply Contingency Plan shall identify the well sites, proximity to other active wells, estimated total depth, well screen depth, diameter, estimated yield and water quality. If the daily yields of the primary supply well are inadequate or become inadequate to meet the project requirements, the secondary supply well shall be used in order to avoid potential drawdown impacts at wells near the primary. Use of a secondary supply well would not alter the quantity of groundwater pumped for project purposes; the purpose of the secondary supply well would be to avoid potential impacts associated with over-pumping the primary supply well.</td>
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and
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| MM 4.9-3: The project proponent(s) shall develop and implement a Groundwater Monitoring and Reporting Plan prior to the onset of construction of the project. The Groundwater Monitoring and Reporting Plan shall be prepared by a qualified hydrogeologist and submitted by the project proponent(s) to Kern County for review and approval. The Groundwater Monitoring and Reporting Plan shall provide detailed methodology for monitoring background and site groundwater levels, water quality, and flow. Monitoring shall be performed during pre-construction, construction, and project operation with the intent to establish pre-construction and project-related groundwater level and water quality trends. The monitoring wells shall include locations up-gradient, lateral, and down-gradient of all project |      |      |      |         |

Steps to Compliance:

A. The project proponents shall submit a Groundwater Monitoring and Reporting Plan according to the specifications of the mitigation measure to the Kern County Engineering and Survey Services Department.
B. During construction, quarterly water level monitoring data reports will be submitted by the project proponents to Kern County for review.
C. The Kern County Engineering and Survey Services Department will review and approve prior to issuing building and grading permits.
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<td>supply wells and a minimum of two down-gradient wells. Water quality monitoring shall include annual sampling and testing for Total Dissolved Solids, which include minerals, salts, and metals dissolved in water. Water quality samples shall be drawn from project supply wells, one up-gradient well, and a minimum of two down-gradient wells. [...] quarterly water level monitoring data reports shall be submitted by the project proponent(s) to Kern County for review. Based on the results of the quarterly trend analyses, the project proponent(s) shall determine if the project pumping has resulted in water level decline of five feet or more below the baseline trend at nearby private wells. If drawdown of five feet or more occurs at off-site wells, the project proponent(s) shall immediately reduce groundwater pumping until water levels stabilize or recover, sustaining drawdown of less than five feet. Alternatively, the project proponent(s) shall provide compensation to the well owner, that may include: replacement water, reimbursement of increased energy costs, or deepening the well or pump setting.</td>
<td>Prior to issuing building and grading permits</td>
<td>Kern County Engineering and Survey Services Department</td>
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<td>#69</td>
<td>MM 4.9-4: Prior to the onset of construction of the project, the project proponent(s) shall submit a Drainage Design Plan to Kern County for review and approval. In the Drainage Design Plan, groundwater for the new subdivision shall be comprised of a pervious and/or high-roughness material (for example, gravel) to the maximum extent feasible, in order to ensure maximum percolation of rainfall after construction. Detention/retention basins shall be installed to reduce local increases in runoff, particularly on frequent runoff events (up to 10 year frequency). Downstream drainage discharge points shall be provided with erosion protection and designed such that flow hydraulics exiting the site mimic the natural conditions as much as possible.</td>
<td>Steps to Compliance: [...] A. The project proponents shall submit a Drainage Design Plan according to the specifications of the mitigation measure to the Kern County Engineering and Survey Services Department. B. The Kern County Engineering and Survey Services Department will review and approve prior to issuing building and grading permits.</td>
<td>Kern County Engineering and Survey Services Department</td>
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<td>4.9-2</td>
<td>MM 4.9-5: If groundwater is unexpectedly encountered during construction, operation, or decommissioning of the project, dewatering activities shall be performed in compliance with the California Stormwater Quality Association Handbook for Construction or other similar guidelines, as approved by Kern County. The project proponent(s) shall notify Kern County and the Lahontan Regional Water Quality Control Board at the onset of dewatering activities, and submit written description of all executed dewatering activities, including steps taken to return encountered groundwater to the subsurface, upon the completion of dewatering activities at the affected site(s). The Environmental Monitor shall periodically check grading activities for groundwater exposure.</td>
<td>Steps to Compliance: [...] A. The project proponents shall notify Kern County and the Lahontan Regional Water Quality Control Board at the onset of dewatering activities, and submit written description of all executed dewatering activities. B. The Environmental Monitor shall periodically check grading activities for groundwater exposure.</td>
<td>Kern County Engineering and Survey Services Department Lahontan Regional Water Quality Control Board</td>
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<td>Justification: Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.</td>
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#### 4.10 Land Use and Planning

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<th>MM 4.10-1: Prior to the issuance of grading or building permits, the project proponent(s) shall submit a final project design to the authorized officer of Edwards Air Force Base and China Lake Naval Air Weapons Station. Said final project design, shall be in the form of a detailed plan as required by Section 19.64.140 (Detailed Plot Plan Required - Contents) of the Kern County Zoning Ordinance and shall include final specifications on the height and location of the wind turbine generators to be installed as well as the anticipated schedule of each construction phase.</th>
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<td>Prior to issuing building and grading permits</td>
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<td>Kern County Planning and Community Development Department</td>
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<td>Edwards Air Force Base</td>
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<tr>
<td>China Lake Naval Air Weapons Station</td>
</tr>
</tbody>
</table>

**Steps to Compliance:**

A. The project proponents shall submit final project design in conformance with Section 19.64.130 of the Kern County Zoning Ordinance and including WTG height, location, and construction schedule to the authorized officer of Edwards Air Force Base and China Lake Naval Air Weapons Station.

B. A copy of the submission shall be provided to the Kern County Planning and Community Development Department.

C. The Kern County Planning and Community Development Department will verify prior to issuing building and grading permits.

<table>
<thead>
<tr>
<th>MM 4.10-2: The project operator shall encourage all contractors of the project to hire at least 25 percent of their workers from the local Kern County communities. The applicant shall provide the contractors a list of training programs that provide skilled wind workers and shall require the contractor to advertise locally for available jobs, notify the training programs of job availability, all in conjunction with normal hiring practices of the contractor. The applicant shall submit a letter detailing the hiring efforts prior to commencement of construction.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior to commencement of construction.</td>
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<tr>
<td>Kern County Planning and Community Development Department</td>
</tr>
</tbody>
</table>

**Steps to Compliance:**

D. The project proponents shall submit a letter detailing the hiring efforts prior to commencement of construction.

E. A copy of the submission shall be kept in the project file at the Kern County Planning and Community Development Department.

Justification: Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.
<table>
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<tr>
<th>Impact</th>
<th>Mitigation Measure</th>
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<th>Responsible Monitoring Agency</th>
<th>Date</th>
<th>Initials</th>
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<tbody>
<tr>
<td>4.12</td>
<td><strong>Noise</strong></td>
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</table>
| #72 4.12-4 and 4.12-7 | **MM 4.12-1:** During all grading and construction activities and throughout the operation of the project, the project proponents shall continuously comply with the following:  
(a) All construction equipment shall be equipped with mufflers and other suitable noise attenuation devices, that equipment engines are enclosed, and that all construction equipment is in good working order.  
(b) The project proponent shall require the construction contractor to utilize quieter equipment, when feasible (e.g., when such equipment is available and appropriate for on-site conditions), such as grading and construction equipment with rubber tires rather than tracks, or use of a vibratory pile driver instead of an impact pile driver.  
(c) All stationary equipment, such as a concrete batch plants and long-term-use (greater than one month) staging areas, shall be located a minimum of 1,000 feet away from sensitive receptors.  
(d) All construction equipment shall be turned off when not in use for prolonged periods.  
(e) The project proponent shall comply with the Ordinance Code of Kern County, Chapter 8.36 (Section 8.36.020, Prohibited Sounds), such that no construction will occur at construction sites within 1,000 feet of an occupied residential dwelling between 9:00 p.m. and 6:00 a.m. weekdays and 9:00 p.m. and 8:00 a.m. on weekends.  
(f) A noise disturbance coordinator shall be established. The disturbance coordinator shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall be required to implement reasonable measures to resolve the complaint. Signs posted at the construction site shall list the telephone number for the disturbance coordinator.                                                                 | During grading and construction | Kern County Planning and Community Development Department                                                                 |      |          |
|            | **Steps to Compliance:**  
A. The project proponent shall comply with all requirements specified in the mitigation measure during grading and construction activities.  
B. The Kern County Planning and Community Development Department will verify.                                                                                                                                                                                                  |                               |                                                                                              |      |          |
| Justification: Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.                                                                                                                                                                                                 |                               |                                                                                              |      |          |
| 4.14       | **Public Services**                                                                                                                                                                                                                                                                                                                                 |                               |                                                                                              |      |          |
| #73 4.14-1 and 4.14-6 | **MM 4.14-1:** The Project Operator shall work with County staff to determine how the receipt of sales and use taxes related to the construction of the project will be maximized. This process shall include, but is not necessarily limited to the Project Operator: obtaining a street address within the project area from the Kern County Assessor's Office, and ensuring that the Project Operator is listed as the owner of the property in the tax records.  
Steps to Compliance:                                                                 | Prior to construction | Kern County Planning and Community Development Department |                              |          |

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<tbody>
<tr>
<td>#74 4.14-2 and 4.14-6</td>
<td>Mitigation Measure: Payment of property taxes has been determined to be sufficient to mitigate impacts to fire, sheriff and emergency services. Written verification of ownership of the project shall be submitted to the Kern County Planning and Community Development Department by April 30 of each calendar year. If the project is sold to a city, county, or utility company that pays assessed taxes that equal less than $5,000 per turbine per year, then they will pay those taxes plus an amount necessary to equal the equivalent of $5,000 per turbine. The amount shall be paid for all years of operation. That amount shall be adjusted annually for inflation using the U.S Cities Average - All Urban Consumers (CPI-U) Consumer Price Index provided by the U.S Bureau of Labor Statistics. The fee shall be paid to the Kern County Auditor/Controller by April 30 of each calendar year.</td>
<td>A. The project proponent shall work with the County to obtain a street address within the unincorporated portion of Kern County for acquisition, purchasing and billing purposes, to register with the State Board of Equalization, to use this address for acquisition, and for purchasing and billing purposes associated with the proposed project. B. The Kern County Planning and Community Development Department will verify.</td>
<td>Prior to construction</td>
<td>Kern County Planning and Community Development Department</td>
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</table>

**Justification:** Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.

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<tr>
<th>4.15</th>
<th>Recreation</th>
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<tbody>
<tr>
<td>#75 4.15-1 and 4.15-2</td>
<td>Mitigation Measure: The project proponents shall site all wind turbine generators and associated infrastructure other than roads or collector cable lines with a minimum setback of 150 feet from both edges of the Pacific Crest Trail, or otherwise noted by the final noise analysis. The setback shall be clearly delineated on all applicable site plans submitted prior to issuance of grading or building permits.</td>
<td>Prior to issuing grading and building permits</td>
<td>Kern County Planning and Community Development Department</td>
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</table>

**Steps to Compliance:**
A. The project proponents shall site all wind turbine generators and associated infrastructure with a minimum setback of 150 feet from both edges of the Pacific Crest Trail. B. The project proponents shall submit a site plan to the Kern County Planning and Community Development Department. C. The Kern County Planning and Community Development Department will verify.

**Justification:** Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.
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<tr>
<td>4.16</td>
<td><strong>Transportation and Traffic</strong></td>
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<td>#76</td>
<td>MM 4.16-1: Prior to the issuance of grading or building permits, the project proponents shall prepare and submit a Construction Traffic Control Plan to Kern County Roads Department, Bureau of Land Management, and Caltrans District 9 office for approval. The Construction Traffic Control Plan shall be prepared in accordance with both the California Department of Transportation Manual on Uniform Traffic Control Devices and the Work Area Traffic Control Handbook and must include, but not be limited to, the following issues:</td>
<td>Prior to issuing grading and building permits</td>
<td>Kern County Roads Department California Department of Transportation</td>
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<td>Time Frame for Implementation</td>
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| 4.16-6 | Overall Project Area and connecting roads:  
  - Timing of deliveries of heavy equipment and building materials;  
  - Directing construction traffic with a flag person;  
  - Temporary signing, lighting, and traffic control devices placement if required;  
  - Determining the need for construction work hours and arrival/departure times outside peak traffic periods;  
  - Ensuring access for emergency vehicles to the project site;  
  - Temporary closure of travel lanes or disruptions to street segments and intersections during materials delivery, trenching activities within roadway rights-of-way, transmission line stringing activities, or any other utility connections;  
  - Maintaining access to adjacent property;  
  - Specification of both construction-related vehicle travel and oversize load haul routes, the minimization of construction traffic during the AM and PM peak hour, distributing construction traffic flow across alternative routes to access the proposed project site; and  
  - Identification of vehicle safety procedures for entering and exiting site access roads.  
  
  **Steps to Compliance:**  
  A. The project proponents shall prepare and submit to the Kern County Roads Department and the Caltrans District 9 office a Construction Traffic Control Plan prepared in accordance with the Caltrans Manual on Uniform Traffic Control Devices, the Work Area Traffic Control Handbook (WATCH), and the specifications of the mitigation measure.  
  B. The Kern County Roads Department, in consultation with Caltrans, will approve the Construction Traffic Control Plan prior to issuing building and grading permits. |                               |                                |      |          |

**Jawbone Canyon Road – Jawbone Canyon OHV Area**  
- Transports shall follow Kern County regulations for the transportation of oversized and overweight loads on all county roads, including the segment of Jawbone Canyon Road that would be utilized for access to the project. These regulations include provisions for time of day, pilot cars, law enforcement escorts, speed limits, flaggers, and warning lights.

- During project construction, delivery of equipment and materials shall be prohibited on Jawbone Canyon Road on the following holiday periods:  
  - Veterans Day, from 12 p.m. on the preceding Thursday to the following Monday;  
  - Thanksgiving, from 12 p.m. on the preceding Wednesday to the following Monday;
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<td>- Christmas and New Years, from 12 p.m. on the Friday preceding Christmas to the Tuesday following New Years;</td>
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<td>- Martin Luther King Day, from 12 p.m. on the preceding Friday to the following Tuesday;</td>
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<td>- Presidents Day, from 12 p.m. on the preceding Friday to the following;</td>
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<td>- Easter, from 12 p.m. on the preceding Friday to the following Monday;</td>
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<td>- Memorial Day, from 12 p.m. on the preceding Friday to the following; and</td>
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<tr>
<td>- Labor Day, from 12 p.m. on the preceding Friday to the following Tuesday.</td>
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With at least four weeks notification to the project proponents, prohibit construction deliveries on additional sanctioned event weekends in the Jawbone Canyon OHV Area.

- On weekends and holiday periods during the high-use recreation season in the Jawbone Canyon OHV Area (late fall to late spring), construction workers shall be prohibited from travel in individual vehicles on Jawbone Canyon Road and shall be shuttled to and from the project site in multi-person vehicles beginning on the day preceding the weekend or holiday. This limitation on the use of vehicles does not include conducting limited critical activities associated with minimal security and safety monitoring and construction management.

- During construction, the existing cattle guards shall be maintained and new cattle guards provided if none exist at entry gates on Jawbone Canyon Road to prevent livestock from entering the Jawbone Canyon OHV Area.

- During the high-use recreation season in the Jawbone Canyon OHV Area (late fall to late spring), the delivery of large loads on Jawbone Canyon Road shall be avoided to the extent practicable on weekends (in addition to those weekends during which project deliveries shall be prohibited). In addition, the transportation safety plan shall include time of day limitations during which no project-related traffic, except limited critical activities associated with minimal security and safety monitoring and construction management, shall be allowed on Jawbone Canyon Road. Transportation permits for oversized and overweight loads on County-maintained portions of Jawbone Canyon Road on high-use weekends shall be issued at the direction of the Kern County Roads Department.
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<tr>
<td>- No construction activity related to road improvements on Jawbone</td>
<td>No construction activity related to road improvements on Jawbone Canyon Road shall be conducted during high-use recreation periods in the Jawbone Canyon OHV Area. All road improvements shall be completed in a manner and according to a schedule that provides uninterrupted access on Jawbone Canyon Road during high-use recreation periods in the Jawbone Canyon OHV Area. If a temporary closure of the County-maintained portions of Jawbone Canyon Road is allowed, it shall be in accordance with Kern County Roads Department policies and standards.</td>
</tr>
<tr>
<td>- A training program regarding the rules and regulations for project-related travel shall be conducted with all project transporters and drivers within ten days of each employee’s first day working at the site. The program shall address issues such as vehicle speed limits, pilot vehicle requirements, and warnings regarding potential safety conflicts with recreation use in the Jawbone Canyon OHV Area. All drivers shall be strictly monitored to ensure compliance with rules and regulations, and consequences (e.g., revocation of permission to deliver or drive for the project) shall be applied to individuals and/or the project for noncompliance. Enforcement measures shall be defined in the Construction Traffic Control Plan.</td>
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<td>- Traffic signs shall be provided to control traffic and ensure safety along Jawbone Canyon Road and at designated crossings of the road within the Jawbone Canyon OHV Area. These signs shall adhere to the Federal Highway Administration Manual on Uniform Traffic Control devices and shall include regulatory signs (e.g., stop, speed limits, yield), warning signs (e.g., OHV road crossings), and construction signs (e.g., temporary lane closures, flaggers). All signs shall be maintained throughout the project construction.</td>
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<tr>
<td>- The project proponents shall continue to consult with the Friends of Jawbone, other recreation groups, the Bureau of Land Management, and the Kern County Roads Department regarding concerns related to project construction traffic on Jawbone Canyon Road. The project proponents shall notify the Off-Highway Vehicle groups, the Bureau of Land Management, and the Kern County Roads Department of the date and anticipated duration of construction deliveries on Jawbone Canyon Road.</td>
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<td>- A brochure describing the project and its construction, including a copy of the Construction Traffic Control Plan, shall be posted at the Jawbone Canyon OHV Area information kiosk and made available at the Jawbone Station.</td>
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<td>• To mitigate potential safety impacts caused by haul truck movements onto and off of Jawbone Canyon and Pine Tree Canyon roads, the following measures are proposed:</td>
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<td>- The contractor shall apply for encroachment permits with Caltrans and County of Kern and post warning signs in State and local road rights-of-way (State Route 14 and Jawbone Canyon Road).</td>
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<td></td>
<td>- The contractor shall discuss construction plans for truck movements with State and County transportation officials prior to the start of construction.</td>
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<td>- The contractor shall apply for installation of appropriate California Department of Transportation warning signage for Jawbone and Pine Tree intersections. This could include California Department of Transportation Warning Sign SW-40 Truck Crossing and/or Warning Sign SC-5 Special Event Ahead pursuant to State Highway Design Guidelines.</td>
</tr>
<tr>
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<td>- As required by State or local transportation departments, traffic control flaggers, pilot cars, and signage warning of construction activity shall be employed.</td>
</tr>
<tr>
<td>#77</td>
<td><strong>MM 4.16-2:</strong> Prior to the issuance of grading or building permits, the project proponents shall conduct a pavement index assessment and load rating analysis to ensure Jawbone Canyon Road can accommodate construction related truck traffic, particularly over crossing of the Los Angeles Aqueduct. The traffic index assessment shall determine the required pavement structure required to accommodate the additional truck trips and then implement pavement repairs to achieve safe passage of construction-related truck traffic. The project proponents shall implement all recommendations of the pavement including roadway rehabilitation or other structural improvements. The project proponents shall coordinate with the affected jurisdictions (Los Angeles Department of Water and Power and Kern County) and shall obtain any required permits prior to construction of improvements. The project proponents shall implement appropriate wheel load weight distribution and/or physical improvements to aqueduct crossings to ensure such crossings are adequately protected.</td>
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<td>4.8-8</td>
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<td>4.16-1</td>
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<td>4.16-6</td>
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**Steps to Compliance:**

A. The project proponents shall conduct a pavement index assessment and load rating analysis according to the specified mitigation measure.

B. The project proponents shall coordinate with the affected jurisdictions (Los Angeles Department of Water and Power and Kern County) and shall obtain any required permits prior to construction of improvements.

C. The Kern County Planning and Community Development Department will verify receipt of appropriate permits.
<table>
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<tbody>
<tr>
<td>#78 4.8-8 4.16-4 4.16-5 and 4.16-6</td>
<td><strong>MM 4.16-3:</strong> Prior to the issuance of grading or building permits, the project proponents shall obtain all applicable permits from the California Department of Transportation, Kern County, and any other applicable agencies pertaining to vehicle sizes, weights, roadway encroachment, and travel routes and adhere to any conditions in these permits.</td>
<td>Prior to issuing grading and building permits</td>
<td>Kern County Planning and Community Development Department California Department of Transportation</td>
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**Steps to Compliance:**

A. The project proponents shall obtain all applicable permits from Caltrans, Kern County, and any other applicable agencies prior to construction pertaining to vehicle sizes, weights, roadway encroachment, and travel routes.

B. The Kern County Planning and Community Development Department will verify receipt of appropriate permits.

C. The project proponents shall adhere to any conditions in these permits.
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<tr>
<td>#79 4.16-4</td>
<td>Prior to the issuance of grading or building permits, the project proponents shall complete the following:</td>
<td>Prior to issuing grading and building permits</td>
<td>Kern County Planning and Community Development Department Kern County Roads Department</td>
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<tr>
<td>4.16-4</td>
<td>• Submit engineering drawings of proposed access road design for the review and approval of the Kern County Roads Department.</td>
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<td>and 4.16-6</td>
<td>• Shall obtain an encroachment permit from the Kern County Roads Department for applicable roads in the Kern County road maintenance system.</td>
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<td>• Enter into a secured agreement with Kern County to ensure that any County roads that are demonstrably damaged by project-related activities are promptly repaired and, if necessary, paved, slurry-sealed, or reconstructed as per requirements of the State and/or Kern County.</td>
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<td>While the project is under construction, the condition of Jawbone Canyon Road shall be monitored and the roadway shall be kept in a safe operating condition using generally accepted methods of maintenance. At the conclusion of construction, repair of damage to the roadway shall be completed to the satisfaction of the Kern County Roads Department.</td>
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**Steps to Compliance:**

A. The project proponents shall submit engineering drawings of proposed access road design to the Kern County Roads Department.
B. The project proponents shall obtain an encroachment permit from the Kern County Roads Department for applicable roads in the Kern County road maintenance system.
C. The project proponents shall enter into a secured agreement with Kern County to ensure that any County roads that are demonstrably damaged by project-related activities are promptly repaired and, if necessary, paved, slurry-sealed, or reconstructed as per requirements of the State and/or Kern County.
D. The condition of Jawbone Canyon Road shall be monitored and the roadway shall be kept in a safe operating condition using generally accepted methods of maintenance.
E. At the conclusion of construction, repair of damage to the roadway shall be completed to the satisfaction of the Kern County Roads Department.
F. The Kern County Planning and Community Development Department, in consultation with the Kern County Roads Department, will verify prior to issuing building and grading permits.

**Justification:** Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.

<p>| 4.17 Utilities | MM 4.17-1: The method of sewage disposal shall be as required and approved by the Kern County Environmental Health Services Department. Compliance with this requirement will necessitate that the project proponents obtain the necessary approvals for the design of the septic systems from the | Prior to final tract and parcel map recordation | Kern County Environmental Health Services Department Kern County Engineering and Survey Services Department |      |          |</p>
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| Kern County Engineering, Surveying, and Permit Services Department prior to issuance of building permits for the operations & maintenance buildings. The septic system disposal fields shall be located a minimum of 100 feet from a classified stream or 25 feet from a non-classified stream and shall not be located where it would impact State wetlands or special-status plant species. | **Steps to Compliance:**
A. The project proponents shall design the septic system according to the Kern County Environmental Health Services Department requirements.
B. The septic system disposal field shall be located a minimum of 100 feet from a classified stream or 25 feet from a non-classified stream and shall not be located where it would impact State wetlands or special-status plant species.
C. The septic system design plan shall be submitted to the Kern County Environmental Health Services Department and the Kern County Engineering and Survey Services Department.
D. The Kern County Engineering and Survey Services Department, in consultation with the Kern County Environmental Health Services Department, will approve the septic system design prior to issuing a building permit for the O&M building. | **Prior to issuing building and grading permits** | Kern County Planning and Community Development Department
Kern County Environmental Health Services Department | | |

| #81 4.17-4 and 4.17-6 | MM 4.17-2: Prior to issuance of grading or building permits for the proposed project, the project proponents shall obtain permits for water wells or obtain other water appropriation rights for on-site potable water to the satisfaction of the Kern County Environmental Health Services Department. | **Steps to Compliance:**
A. The project proponents shall obtain a permit for a water well or obtain other water appropriation rights for on-site potable water to the satisfaction of the Kern County Environmental Health Services Department.
B. The Kern County Planning and Community Development Department, in consultation with the Kern County Environmental Health Services Department, will verify prior to issuing building and grading permits. | | |
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<tbody>
<tr>
<td>#82 4.17-5</td>
<td><strong>MM 4.17-3:</strong> The project proponents shall reduce construction waste transported to landfills by recycling solid waste construction materials to the extent feasible, such as taking materials to recycling and reuse locations listed in the brochure on recycling construction and demolition materials available on the Kern County Waste Management Department Web site.</td>
<td>During construction</td>
<td>Kern County Planning and Community Development Department</td>
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<td>and 4.17-6</td>
<td><strong>Steps to Compliance:</strong></td>
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<tr>
<td></td>
<td>A. The project proponents shall reduce construction waste transported to landfills by recycling solid waste construction materials to the extent feasible, such as taking materials to recycling and reuse locations listed in the brochure on recycling construction and demolition materials available on the Kern County Waste Management Department Web site.</td>
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<td>B. The project proponents shall submit documentation of construction waste minimization to the Kern County Planning and Community Development Department.</td>
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<td>C. The Kern County Planning and Community Development Department will verify minimization of construction waste.</td>
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<tr>
<td>#83 4.17-5</td>
<td><strong>MM 4.17-4:</strong> The project proponents shall provide a fenced storage area for recyclable materials that is clearly identified for recycling. This area shall be maintained on the sites during construction and operations. Site plans showing the recycling storage areas shall be submitted to the Kern County Planning and Community Development Department and Kern County Waste Management Department prior to the issuance of any grading or building permits for the sites.</td>
<td>Prior to issuing building and grading permits</td>
<td>Kern County Planning and Community Development Department Kern County Waste Management Department</td>
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<td>and 4.17-6</td>
<td><strong>Steps to Compliance:</strong></td>
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<tr>
<td></td>
<td>A. A site plan showing a recycling storage area shall be submitted to the Kern County Planning and Community Development Department and Kern County Waste Management Department.</td>
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<td></td>
<td>B. The Kern County Planning and Community Development Department, in consultation with the Kern County Waste Management Department, will verify prior to issuing building and grading permits.</td>
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<td></td>
<td>C. The project proponents shall provide a fenced storage area for recyclable materials that is clearly identified for recycling.</td>
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<td>D. This area shall be maintained on the site during construction and operation.</td>
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Exhibit D
Additional Information from Applicant
Memorandum

To Lorelei Oviatt, Planning Director, Kern County, CA
From Jess Melin, Project Director, NextEra Energy Resources, LLC
Date July 26, 2011
Subject Economic Impacts of Curtailment on Wind Energy Facilities

BACKGROUND

NextEra Energy Resources has prepared the following analysis of economic impacts of curtailment on a typical 200 megawatt wind energy facility. This analysis was prepared at the request of the Kern County Planning Department in response to a letter sent by U.S. Fish and Wildlife Service (FWS) to the Bureau of Land Management (BLM) regarding Informal Consultation for Four Wind Energy Projects (see letter from FWS Acting Regional Director, Pacific Southwest Region, Sacramento, California to BLM Acting State Director, California State Office, Sacramento, California, May 20, 2001).

In May 20, 2011 letter, FWS suggests that BLM and project applicants:

“[s]hould consider employing various curtailment regimes to avoid take of California Condors. Curtailment regimes could include seasonal operation of wind turbines if California Condors are shown to occupy the area during certain months of the year, or operation of turbines exclusively at night. When California Condors are at roost.”

The discussion below provides an analysis describing why curtailment as suggested in the FWS letter is economically infeasible and would therefore would have detrimental effect on the ability to secure financing for and operate a commercial scale wind project.

DISCUSSION

It is commonly understood that wind energy facilities produce variable energy which means that unlike base load power (coal, nuclear, etc.); there is a limited amount of power that can be generated and subsequently sold to the off-taker. Long term measurements and rigorous studies are conducted during the development phase of a wind energy facility determine the annual production of Megawatt Hours (MWh) that a potential wind site will produce. The MWh, along with its associated green attributes, is the only product that is sold to generate the revenue which makes up the financial income of the wind energy facility. Any reduction in the production of MWh (be it through curtailment, maintenance, low wind, or any other source) has a direct negative effect on the economics of the installed capital which makes up the wind energy facility.
ECONOMIC IMPACT ANALYSIS OF LARGE SCALE CURTAILMENT

If we pick a number which seems to be a small amount of curtailment (e.g., 200 hours per year) we begin to see a potential for a disproportionate negative impact to the overall economics of the project. Although 200 hours represents only 2.3 percent of the hours in a year, it is possible for the impact of 200 hours of curtailment to erode up to 6.3 percent of the economic return of the project. Specifically, a given year has 8760 hours, so 200 hours only represents 2.3 percent of the total hours in a full year. However, a 2.3 percent curtailment would represent a much higher percentage of the hours that the wind energy facility is actually operating if the curtailments occur simultaneously with the high wind periods where the wind energy facility is operating at or near nameplate capacity.

The following discussion further illustrates this example.

- A 100 MW wind energy facility with a 36% capacity factor (fairly representative of a wind energy facility in the Tehachapi area) is expected to produce approximately 315,360 MWh of energy each year (100MW x 8670 hours x .36).

- A hypothetical wind energy facility with 200 hours of full nameplate production would represent 20,000 MWh (200 hours x 100 MW).

- Simple math shows us that 200 hours of max production curtailment can yield a decline of 6.3 percent of the energy production (20,000 MWh / 315,360 MWh) which would equate a decline of a corresponding amount of revenue.

With this example we can see that even a small amount of curtailment can have a large negative impact on the financial returns of a wind energy facility.

This is a large financial risk. This fact has not escaped the risk analysts of the lender firms on Wall Street who ultimately provides the financial backing for nearly every wind project built in the United States. Even a small amount of curtailment can provide serious financial risk to a wind project and any amount of curtailment can have detrimental effects on the ability to secure financing for a commercial scale wind project.

ADDITIONAL ECONOMIC AND OTHER RISKS RELATED TO CURTAILMENT

Other economic risks posed by curtailment could include impacts to grid stability and load and an increase in fossil fuel emissions. For example, wind energy is inherently an intermittent source. However, there is still a measure of predictability in the actual delivery of that energy to the grid and that energy delivery is scheduled in such a way as to allow for load balancing to occur in an organized and scheduled manner. If curtailment were to occur without sufficient warning, it would certainly affect load and if the curtailment is large enough it could potentially destabilize parts of the grid if the load...
could not be balanced in time to make up for the sudden curtailment. Furthermore, the balancing of load for additional curtailment would likely need to originate from fossil fuel sources such as gas fired power plants, thus adding additional greenhouse gas emissions.

Finally, it should be noted that substantial curtailment exists at the Altamont Pass Wind Resource Area where several thousand turbines are currently curtailed during a three month seasonal shutdown. However, the evidence is inconclusive as to whether a three month seasonal shutdown is effective at reducing avian mortality. *Altamont Pass Wind Resource Area Bird Fatality Study, ICF International (Jan. 2011).* Given the fact that there are several thousand turbines at Altamont Pass and there is no real consensus on the effectiveness of the curtailment effort, it is difficult to ascertain the potential effectiveness of wholesale curtailment of 100 turbines.