

## **I.1 OBJECTIVES/PURPOSE AND NEED**

Under the California Environmental Quality Act (CEQA), a statement of objectives sought by the proposed project is required to help the lead agency develop and evaluate a reasonable range of alternatives required in an Environmental Impact Report (EIR) and aid the decision makers in preparing findings and/or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project.

Under the National Environmental Policy Act (NEPA), the purpose and need of a proposed action establishes a basis for the development of the range of reasonable alternatives required in an Environmental Impact Statement (EIS) and assists with the identification and eventual selection of a preferred alternative. The statement should briefly specify the underlying purpose and need to which an agency (or agencies) is responding in proposing the alternatives, including the preferred alternative.

This chapter briefly explains the objectives/purpose and need of the planning effort for each agency working on the Desert Renewable Energy Conservation Plan (DRECP or Plan) and EIR/EIS. This chapter also describes each agency's roles and responsibilities and identifies the discretionary approvals and/or decisions each proposed to make.

### **I.1.1 Interagency Objectives/Purpose and Need**

The fundamental interagency goal of the DRECP is to provide a streamlined process for the development of utility-scale renewable energy generation and transmission consistent with federal and state renewable energy targets and policies, while simultaneously providing for the long-term conservation and management of Covered Species and natural communities as well as other physical, cultural, scenic and social resources within the Plan Area with durable and reliable regulatory assurances.

### **I.1.2 Bureau of Land Management Purpose and Need**

The Bureau of Land Management (BLM) must respond to the increasing demand for renewable energy development and transmission, driven in part by:

- The Energy Policy Act's goal of at least 10,000 megawatts (MW) of renewable energy generation on public land as well as the more recent goal of an additional 10,000 MW on public land by 2020 (The President's Climate Action Plan, Executive Office of the President, June 2013).
- The Presidential Memorandum, issued May 17, 2013, directs federal agencies to modernize federal infrastructure review and permitting regulations, policies, and procedures. Among other best management practices, this memorandum directs federal agencies to integrate project reviews among agencies with permitting

responsibilities; ensure early coordination with other federal agencies, as well as with state, local, and tribal governments; strategically engage with, and conduct outreach to, stakeholders; employ project-planning processes and individual project designs that consider local and regional ecological planning goals; utilize landscape-level mitigation practices; promote the sharing of scientific and environmental data in open-data formats to minimize redundancy, facilitate informed project planning, and identify data gaps early in the review and permitting process; and apply best environmental and cultural practices as set forth in existing statutes and policies.

- The Department of the Interior's (DOI's) established national policy goals (Secretarial Order [SO] 3285 and SO 3285A1; DOI 2009) to identify and prioritize specific locations best suited for large-scale production of solar energy on public lands; encourage the production, development, and delivery of renewable energy as one of DOI's highest priorities; and work collaboratively with others to encourage the timely and responsible development of renewable energy and associated transmission while protecting the nation's water, wildlife, and other natural resources.
- SO 3330 establishes a DOI-wide mitigation strategy that will ensure inconsistency and efficiency in the review and permitting of infrastructure development projects and in conserving our nation's valuable national and cultural resources (DOI 2013). This strategy includes the use of a landscape-scale approach to identify and facilitate investment in key conservation priorities in a region, early integration of mitigation considerations in project planning and design, ensuring the durability of mitigation measures over time, ensuring transparency and consistency in mitigation decisions, and a focus on mitigation efforts that improve the resilience of our nation's resources in the face of climate change.

Meeting this goal will require the BLM to coordinate closely with the State of California in the permitting of renewable energy and transmission projects proposed on federally administered lands while also considering the state's Renewable Energy Portfolio goals (see Executive Order 13604 [77 FR 18887] on improving infrastructure permitting and review, Section 3[a(i)] on federal-state coordination). To accommodate this growth in renewable energy, the BLM also needs to consider changing land use allocations and management prescriptions in its California Desert Conservation Area (CDCA) Plan and Caliente and Bishop Resource Management Plans (RMPs) to address potential renewable energy and transmission development in the Plan Area.

BLM's objective for the DRECP and EIR/EIS is to:

- Conserve biological, physical, cultural, social, and scenic resources.
- Promote renewable energy and transmission development, consistent with federal renewable energy and transmission goals and policies, in consideration of state renewable energy targets.

- Comply with all applicable federal laws, including the BLM’s obligation to manage the public lands consistent with the Federal Land Policy and Management Act’s (FLPMA) multiple-use<sup>1</sup> and sustained yield<sup>2</sup> principles, unless otherwise specified by law.
- “Preserve the unique and irreplaceable resources, including archaeological values, and conserve the use of the economic resources” of the CDCA (FLPMA 601[a][6]; 43 United States Code [U.S.C.] 1701 et seq.).
- Identify and incorporate public lands managed for conservation purposes within the CDCA as components of the National Landscape Conservation System (NLCS), consistent with the Omnibus Public Land Management Act of 2009 (PL 111-11).
- Amend existing land use plans consistent with the criteria in FLPMA and the CDCA Plan.
- Coordinate planning and management activities with other federal, state, local, and tribal planning and management programs by considering the policies of approved land resource management programs, to the extent consistent with federal law.
- Make some land use allocation decisions outside the Plan Area but within the CDCA, including Visual Resource Management Classes, land use allocations to replace multiple-use classes, and NLCS designations.

### **I.1.2.1 Bureau of Land Management Roles and Responsibilities**

The BLM is an agency of the DOI authorized by Congress to manage and regulate federal public lands. The BLM promulgates rules and land use authorizations, including the permitting of renewable energy and transmission facilities on public lands. The BLM develops land use plans to ensure that public lands are managed to protect various resource values while providing for human occupancy and use under the mandates of multiple use and sustained yield, while still allowing the possibility for change as required by federal law. Proponents for utility-scale solar and wind renewable energy facilities must

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<sup>1</sup> The term “multiple use” means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output (FLPMA 103[c]; 43 U.S.C. 1701 et seq.).

<sup>2</sup> The term “sustained yield” means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use (FLPMA 103[h]; 43 U.S.C. 1701 et seq.).

obtain a right-of-way grant from the BLM to operate on federal public land. Geothermal energy resources development is permitted under the BLM's geothermal leasing program.

The BLM also has specific responsibilities and authorities to consider, plan for, protect, and enhance historic properties and other resources that may be affected by its actions, in compliance with FLPMA, NEPA, the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) and implementing regulations (36 Code of Federal Regulations [CFR] 800), the Archaeological Resources Protection Act, the Native American Graves Protection and Repatriation Act, the Historic Sites Act of 1935, the Antiquities Act, the American Indian Religious Freedom Act, the Religious Freedom Restoration Act, Indian Sacred Sites (Executive Order [EO] 13007, 61 FR 26771 et seq.), Preserve America (EO 13287), Consultation and Coordination with Indian Tribal Governments (EO 13175), and related authorities.

In carrying out its responsibilities specific to the National Historic Preservation Act, the BLM has (1) developed policies and procedures through its directives system (BLM 2004); (2) executed a national programmatic agreement in 2012 to help guide the BLM's planning and decision making as it affects historic properties as defined in the National Historic Preservation Act; (3) executed a programmatic agreement in 2012 among the BLM and the State Historic Preservation Officers of six western states (including the California State Historic Preservation Officer) and the Advisory Council on Historic Preservation regarding solar energy development on lands administered by the BLM; and (3) assembled cultural heritage specialists to advise BLM managers and to implement cultural heritage policies consistent with the BLM's statutory authorities.

#### ***1.1.2.1.1 DRECP Development***

The BLM has entered into the Memorandums of Understanding related to DRECP development to establish the Renewable Energy Action Team (REAT), establish the Renewable Energy Policy Group, participate with other agencies, and implement California renewable energy goals. During the planning process for the DRECP, BLM has used the findings of the Solar Programmatic Environmental Impact Statement (BLM and DOE 2010) and other relevant BLM studies and analyses to help inform DRECP development.

#### ***1.1.2.1.2 Federal Endangered Species Act***

The BLM will make a decision whether to amend its land use plans within and outside the Plan Area. Furthermore, within the CDCA boundary, the BLM will make decisions regarding NLCS designations. These decisions will constitute a federal action subject to Section 7 consultation under the federal Endangered Species Act (ESA). For a full description of Section 7(a)(2) interagency cooperation process, see Section I.2.1.3, Endangered Species Act of 1973. The BLM will use the DRECP as a basis for consultation with the U.S. Fish and

Wildlife Service (USFWS). In addition, under ESA Section 7(a)(1), all federal agencies shall, in consultation with and with the assistance of the Secretary of the Interior, utilize their authorities in furtherance of the purposes of the ESA by carrying out programs for the conservation of listed endangered and threatened species (16 U.S.C. 1531 et seq.). The Biological Opinion may also include a Conference Opinion for any proposed species or critical habitat (50 CFR 402.10).

#### ***1.1.2.1.3 Bureau of Land Management Land Use Plan Amendments***

BLM regulations (43 CFR 1610.5-5) allow BLM land use plans to be changed through amendment. The BLM may determine that an amendment is needed to consider monitoring and evaluation findings, new data, new or revised policy, or a change in circumstances or a proposed action that may result in a change in the scope of resource uses or a change in the terms, conditions, and decisions of an approved plan. The BLM regulations (43 CFR 1600) guide preparation of land use plan amendments, which must also undergo NEPA analysis as detailed in the Council on Environmental Quality regulations (40 CFR 1500) and DOI regulations (43 CFR 46). BLM is the lead agency for NEPA under FLPMA, and USFWS is the lead for NEPA under the ESA.

#### **1.1.2.2 Bureau of Land Management Decisions to Be Made**

The BLM will decide whether to amend the CDCA Plan, as currently amended, as well as the Caliente and Bishop RMPs. These amendments would identify desired outcomes expressed as specific goals and objectives, and allowable uses and management actions designed to achieve those specific goals and objectives. Specifically, in furtherance of the purpose of the DRECP to conserve biological, environmental, cultural, social, and scenic resources; respond to federal renewable energy goals and policies and consider state renewable energy targets; and comply with the FLPMA multiple-use management goals, the plan amendments would identify:

- Areas of the public lands that are suitable and available for utility-scale solar, wind, and geothermal energy development and transmission, and where that development can be focused and streamlined
- Areas of the public lands that are not suitable and are unavailable for these types of uses
- Areas of the public lands and actions that may be used as mitigation for these types of uses
- Public lands within the CDCA to be managed as components of the NLCS pursuant to the Omnibus Public Lands Management Act

- Other changes to land use allocations on the public lands, including but not limited to multiple-use classes in the CDCA, Visual Resource Management Classes, special recreation management areas, National Trail Management Corridors, wildlife and plant management areas, Areas of Critical Environmental Concern, and utility corridors
- Allowable uses, management actions, stipulations, best management practices, and mitigation measures to reduce or avoid impacts associated with large ground-disturbing activities, including renewable energy and transmission projects on public lands, and allowable uses and management actions designed to enhance resources and visitor experiences on public lands.

### **I.1.3 U.S. Fish and Wildlife Service Purpose and Need**

The USFWS, along with the BLM, is a co-lead federal agency for the EIS. The USFWS's proposed action is to consider the issuance of Section 10(a)(1)(B) permits under the federal ESA for the incidental take of Covered Species on nonfederal lands within the DRECP for the proposed General Conservation Plan (GCP), and the issuance of take permits for golden eagles (*Aquila chrysaetos*) under the Bald and Golden Eagle Protection Act (Eagle Act) on both federal and nonfederal lands within the Plan Area. The proposed take would be incidental to otherwise lawful activities that are necessary to develop renewable energy resources and transmission development and conservation actions within the Plan Area.

The USFWS has prepared this DRECP and EIR/EIS to analyze the impacts of the USFWS's proposed action. The USFWS's purpose for taking action is to (1) provide a means to conserve the ecosystems upon which federally protected species may be found and (2) to provide a program for the conservation of such species for the continued benefit of the American people. The USFWS's purpose is also to support DOI's national policy goals (Secretarial Order [SO] 3285 and SO 3285A1; DOI 2009) to identify and prioritize specific locations best suited for large-scale production of solar energy on public lands; encourage the production, development, and delivery of renewable energy as one of DOI's highest priorities; and work collaboratively with others to encourage the timely and responsible development of renewable energy and associated transmission while protecting the nation's water, wildlife, and other natural resources.

The USFWS's need for taking action is to respond to permit requests by determining whether to issue permits for Covered Species related to activities that have the potential to result in incidental take (ESA Section 10[a][1][B] and the Eagle Act). In making permit decisions, the USFWS needs to ensure the survival and recovery of endangered and threatened species, and the preservation of golden eagles, affected by proposed renewable energy, transmission projects, and conservation actions within the Plan Area. The USFWS's permit decisions would be based on the Record of Decision for the EIS and approval of the

GCP component of the DRECP, which would provide a programmatic framework for a streamlined permitting process and result in greater conservation values than a project-by-project, species-by-species process.

### **I.1.3.1 U.S. Fish and Wildlife Service Roles and Responsibilities**

The USFWS is authorized by Congress to administer and enforce the ESA of 1973, as amended (16 U.S.C. 1531 et seq.), with respect to terrestrial wildlife, non-anadromous fish species, insects, and plants; to enter into agreements with states, local governments, and other entities to conserve threatened, endangered, and other species of concern; to authorize take under the ESA; and to provide regulatory assurances (50 CFR 17.22[b][5] and 17.32[b][5]). In addition, the USFWS administers and enforces other federal wildlife laws such as the Eagle Act and the Migratory Bird Treaty Act.

The USFWS has two roles in the DRECP and EIR/EIS planning effort that involve different responsibilities: (1) as a REAT agency working collaboratively with other agencies and stakeholders to develop the interagency DRECP and EIR/EIS alternatives on both federal and nonfederal lands, and (2) as a regulatory agency responsible for conservation of federal trust resources.

In the first role, USFWS contributed to designing alternatives for a renewable energy program and conservation strategy for all public trust resources, including natural communities, wildlife, and special-status species consistent with the conservation objectives under the ESA, NEPA, Migratory Bird Treaty Act, Eagle Act, and other applicable federal laws, regulations, and policies. USFWS also worked with interested parties to determine an environmentally sustainable proportion of the state's renewable energy portfolio to be met in the California deserts. This determination provides for timely and responsible ESA permitting decisions relating to renewable energy and associated transmission projects in the Plan Area while protecting the nation's water, wildlife, and other natural resources through avoiding, minimizing, and mitigating adverse effects to public trust fish and wildlife resources. The USFWS participated in developing the EIR/EIS to analyze the effects of the interagency Preferred Alternative and other alternatives, which address issues such as development restrictions, reserve design and mitigation options, and the extent of renewable energy development to occur on wildlands and disturbed lands in the desert ecosystem.

In the second role as a regulatory agency in this planning process, the USFWS prepared the EIS element of the Plan that considers the USFWS's proposed action under NEPA (i.e., to consider the issuance of Section 10[a][1][B] permits for the incidental take of Covered Species on nonfederal lands within the GCP Permit Area and the issuance of take permits under the Eagle Act on both federal and nonfederal lands within the Plan Area). The USFWS is also responsible for consulting under Section 7(a)(2) of the ESA at the request of other

federal action agencies, such as BLM, if the agency's action may affect federally listed species or designated critical habitat, as described earlier in Section I.1.2.1.2, Federal Endangered Species Act. Thus, the USFWS's second role in the DRECP effort is to determine whether to issue incidental take permits under Section 10(a)(1)(B) of the ESA for Covered Species that would be affected by covered development activities on nonfederal lands within the GCP Permit Area; to determine whether BLM's land use plan amendment and proposed development on federal lands is consistent with Section 7(a)(2) of the ESA, including formal consultations that result in biological opinions; to aid BLM in meeting its obligations under Section 7(a)(1) of the ESA; and to determine whether to issue Eagle Act permits for golden eagles that would be affected by Covered Activities on federal and nonfederal lands within the Plan Area.

In making permit decisions and issuing biological opinions, the USFWS strives to ensure the survival and recovery of endangered and threatened species. For renewable energy and transmission development covered by the DRECP, the DRECP would provide the basis for the USFWS's permit decisions under Section 10 for projects on nonfederal lands, and for its jeopardy analyses and incidental take exemptions under Section 7 for projects on federal lands.

In addition, the USFWS is considering the issuance of take permits for golden eagles under the regulatory provisions of the Eagle Act. These regulations allow the USFWS to authorize take of eagles through the issuance of Eagle Act take permits (50 CFR 22.26) or to confer take authorization through an ESA Section 10(a)(1)(B) permit process, as long as the permitting standards of the Eagle Act have been met (50 CFR 22.11). The golden eagle is proposed as an unlisted Covered Species under the GCP element of the DRECP.

### **I.1.3.2 U.S. Fish and Wildlife Service Decisions to Be Made**

The USFWS must determine whether to issue incidental take permits under Section 10 of the ESA based on USFWS approval of the GCP component of the DRECP that includes the mandatory elements of ESA Section 10(a)(2)(A) and the Eagle Act. Incidental take permit issuance criteria are defined in ESA Section 10(a)(2)(B) and its implementing regulations (50 CFR 17.22[b][2] and 17.32[b][2]). In addition, incidental take permit issuance is a federal action subject to ESA Section 7. Section 7(a)(2) requires all federal agencies, in consultation with the USFWS, to ensure that any action authorized, funded, or carried out by any such agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of such species' designated critical habitat. Because the USFWS is the action agency for the proposed GCP component of the DRECP action alternatives, as part of its approval process the USFWS will conduct an internal Section 7 consultation on the proposed issuance of the Section 10 permits under the GCP. Because issuance of a Section 10 permit involves a

federal authorization, it also must be considered through the NEPA process. After public review of the DRECP and EIR/EIS and the GCP component, the USFWS will determine whether the required permit issuance criteria have been met, as documented within an ESA Section 10 Findings document, an ESA Section 7 Biological Opinion, and a NEPA Record of Decision document.

The USFWS must also determine whether to authorize take of golden eagles under the regulatory provisions of the Eagle Act, either through ESA Section 10 permits or take permits under the Eagle Act. Unintentional take permit issuance criteria for eagles are defined in the Eagle Act permit implementing regulations (50 CFR 22.26).

## **I.1.4 State Objectives**

### **California Energy Commission, California Department of Fish and Wildlife, and California State Lands Commission Objectives**

The California Energy Commission (CEC), California Department of Fish and Wildlife (CDFW), and California State Lands Commission (CSLC) identified three primary objectives for the DRECP:

1. Reduce the biological and other environmental impacts of future utility-scale renewable energy developments in the Plan Area by designating appropriate areas for renewable energy development within the context of a landscape-scale conservation plan that are sufficient to accommodate the foreseeable demand for renewable energy in the DRECP through 2040.
2. Contribute to California's Renewables Portfolio Standard and the state's greenhouse gas reduction mandates and goals by planning for approximately 20,000 MWs of renewable energy generation and associated transmission capacity in the Plan Area by 2040, including obtaining state and federal incidental take authorizations with regulatory assurances needed for covered renewable energy and transmission projects.
3. Provide for the long-term conservation and management of Covered Species within the Plan Area and preserve, restore, and enhance natural communities and ecosystems in which those species are found by focusing renewable energy development away from areas of greatest biological importance or sensitivity; coordinating and standardizing biological avoidance, minimization, mitigation, compensation, conservation, and management requirements for Covered Activities within the Plan Area; and taking other actions to meet conservation planning requirements in state and federal law.

The state must meet these objectives to achieve the fundamental purpose of the DRECP. For that reason, each of the alternatives analyzed in detail for CEQA purposes includes both of these objectives, but uses different approaches to accomplishing those objectives.

#### **I.1.4.1 California Energy Commission**

##### ***I.1.4.1.1 California Energy Commission Roles and Responsibilities***

As the CEQA lead agency for the DRECP, the CEC prepared, in consultation with CDFW, USFWS, BLM, and CSLC, the portions of the EIR/EIS that evaluate the environmental effects of the Natural Community Conservation Plan (NCCP) under CEQA. CEC also shares responsibility for preparing the NCCP portions of the DRECP. CEC is an applicant for a federal incidental take permit under the GCP, and after the DRECP is approved by CDFW, a regulatory agency exercising authority pursuant to the Natural Community Conservation Planning Act (NCCPA) and the Warren-Alquist Act.

##### **I.1.4.1.1.1 General Conservation Plan**

The DRECP and EIR/EIS contains the GCP component proposing a conservation plan to address mitigation for the effects of covered renewable energy projects on Covered Species *on nonfederal lands* within the Plan Area. The CEC has submitted a Federal Fish and Wildlife Permit Application Form and GCP Supplementary Application Form to the USFWS for an incidental take permit under ESA Section 10(a)(1)(B) for Covered Activities. In its application, CEC intends to provide assurances to the USFWS that the permit application meets the ESA permit issuance criteria by complying with the terms and conditions of the GCP. The CEC intends to request an incidental take permit with a term through 2040. The CEC would extend any take authorization it receives to developers of geothermal and solar thermal facilities 50 MW and larger that are licensed by CEC and whose projects qualify as Covered Activities under the DRECP, and that are conducted in compliance with CEC's Section 10 permit under the GCP.

##### **I.1.4.1.1.2 Natural Community Conservation Plan**

Under the NCCPA, participating agencies within an NCCP area can receive take authorization through permits issued by CDFW (California Fish and Game Code, Section 2835). Such permits allow these agencies to confer to project developers take authorization for projects that conform to the approved NCCP. But the Warren-Alquist Act provides that the CEC's license to construct and operate geothermal and solar thermal facilities 50 MW and larger replaces all necessary state and local permits. This provision means that CDFW does not issue incidental take under the California Endangered Species Act (CESA) or take authorizations under the NCCPA for projects licensed by the CEC; instead, the CEC has independent authority to authorize take consistent with CESA or, if applicable, with the

terms of a CDFW-approved NCCP for projects within CEC's jurisdiction. For this reason, CEC will apply to CDFW for approval of the DRECP as an NCCP, but will not seek a Section 2835 take permit from CDFW for its licensing activities as part of that approval. CDFW alone will determine whether the DRECP meets the approval criteria under the NCCPA, and CDFW and CEC will both implement and issue take authorizations under any approved NCCP according to their respective jurisdiction.

As part of its exclusive permitting authority under the Warren-Alquist Act for projects under its jurisdiction, the CEC must confer with CDFW on proposed projects, mitigation measures, and conditions of CEC certification to ensure that projects licensed by CEC meet state standards for the protection of fish, wildlife, and other natural resources under CDFW's jurisdiction. When approving projects covered by the DRECP, CEC would also need to make findings that the project conforms to the terms and conditions of the NCCP that has been approved by CDFW.

At a future date, CEC might apply to CDFW for a Section 2835 take permit under the DRECP for the limited and specific purpose of obtaining authorization to take Covered Species during conservation activities that are not related to power plant licensing. CEC is not certain it will require take authorization from CDFW for this purpose, so does not intend to apply for a Section 2835 at the outset of DRECP approval and implementation. But the DRECP and the EIR/EIS analyze the impact of take associated with conservation activities required by the DRECP, so a later application by CEC for a Section 2835 permit for this purpose would likely be within the scope of the DRECP, and would not require extensive analysis under CEQA.

#### ***1.1.4.1.2 California Energy Commission Discretionary Approvals/Decisions to Be Made***

CEC anticipates it will consider discretionary decisions relating to the DRECP for the following: (1) certification of the programmatic EIR/EIS under CEQA, (2) submission of the NCCP element of the DRECP to CDFW for approval, and (3) submission of an application to the USFWS for the issuance of an ESA incidental take permit under the GCP for CEC-licensed renewable energy projects on nonfederal lands within the Plan Area. The CEC also anticipates taking subsequent actions, consistent with its existing authority, to implement and administer an approved plan.

#### **1.1.4.2 California Department of Fish and Wildlife**

As outlined in the Memorandum of Understanding between CEC and CDFW, CDFW is participating in developing the DRECP and will ultimately consider approving the NCCP

element under the NCCPA (CEC and CDFG 2008).<sup>3</sup> The NCCP is intended to conserve and manage Covered Species, natural communities, and habitats in the Plan Area while providing for a streamlined permitting process for renewable energy projects in designated development areas. The NCCP also is intended to provide applicants with conservation and siting compliance conditions.

The proposed CDFW actions include (1) consideration of approval of the NCCP element of the DRECP under the NCCPA; (2) cooperative implementation of the DRECP's regional natural resource conservation strategy; (3) issuance of Section 2835 take authorizations for Covered Species to CSLC and any other state or local agencies, other than CEC, that participate in the NCCP or directly to project proponents where the state or local agency with jurisdiction over the project has not itself received a Section 2835 permit and is not under the CEC's jurisdiction; and (4) issuance of Section 2835 take authorizations for Covered Species on federal lands directly to project proponents. The BLM will not seek, and is not required to obtain, a permit under the NCCPA for its activities on public land. While a renewable energy project proponent may seek a permit from CDFW under the NCCP for activities on federal public lands, all such activities on federal public lands must not conflict with federal law.

#### ***1.1.4.2.1 California Department of Fish and Wildlife Roles and Responsibilities***

Under the provisions of both the California Fish and Game Code and CEQA, the CDFW is authorized to act as trustee for the state's wildlife; designated rare, threatened, and endangered plants; ecological reserves; and other areas administered by the CDFW. The CDFW also administers and enforces the provisions of the California Fish and Game Code and enters into agreements with federal, state, and local government agencies and other entities for the conservation of species and habitats. The CDFW may authorize, pursuant to the CESA, the take of species (listed by the California Fish and Game Commission) as threatened, endangered, or candidates for listing, where that take is incidental to an otherwise lawful activity. CDFW may also permit incidental take and provide regulatory assurances under the NCCPA for covered state-listed and unlisted species whose conservation and management are provided for in a CDFW-approved NCCP. CDFW also regulates streambed and lake alterations (California Fish and Game Code, Section 1600 et seq.).

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<sup>3</sup> On January 1, 2013, the California Department of Fish and Game (CDFG) changed its name to the California Department of Fish and Wildlife (CDFW). For documents published before the name change, this document cites CDFG as the author.

#### ***1.1.4.2 Discretionary Approvals/Decisions to Be Made***

CDFW is a responsible agency under CEQA and will decide whether to approve the DRECP as an NCCP. If approved as an NCCP, the CDFW may issue take authorizations under Section 2835 of the NCCPA to state and local agencies on nonfederal land, or directly to project proponents on nonfederal or federal land (California Fish and Game Code, Section 2800 et seq.).

#### ***1.1.4.3 California State Lands Commission***

Under the School Land Bank Act (California Public Resources Code, Section 8700 et seq.), CSLC is responsible for the development and management of school lands in the Plan Area. The majority of the approximate 340,500 acres under the jurisdiction of the CSLC in the Plan Area are fragmented and isolated such that the size of the individual parcels is insufficient for development of renewable energy projects. In addition, significant portions of these parcels are located within national parks, preserves, monuments, and forests. Although such lands retain significant conservation value, their location limits development potential.

The May 21, 2012, Memorandum of Agreement between the BLM and CSLC outlines the objectives of the agencies for implementing land exchanges as well as the process for developing a proposal and completing the land exchanges (see Section I.0.1, Document Organization; BLM and CSLC 2012). The CSLC's participation in the DRECP and school land consolidation effort is in anticipation of identifying renewable energy development opportunities and in using the DRECP to prepare tiered CEQA and NEPA analysis for specific land exchange transactions and renewable energy projects on CSLC land.

##### ***1.1.4.3.1 General Conservation Plan***

As described in I.0.3.2, CSLC has submitted a Federal Fish and Wildlife Permit Application Form and GCP Supplementary Application Form to the USFWS for an incidental take permit under ESA Section 10(a)(1)(B) for Covered Activities that affect Covered Species on CSLC lands. In its application, CSLC intends to provide assurances to the USFWS that the permit application meets the ESA permit issuance criteria by complying with the terms and conditions of the GCP. CSLC intends to request an incidental take permit with a term through 2040. CSLC would extend any take authorization it receives to renewable energy projects on CSLC lands that qualify as Covered Activities under the DRECP and that are conducted in compliance with CSLC's Section 10 permit under the GCP.

#### ***1.1.4.3.2 Natural Community Conservation Plan***

CLSC is also applying for a take permit from CDFW under California Fish and Game Code Section 2835 for Covered Activities that affect Covered Species on CSLC lands. Similar to its ESA Section 10(a)(1)(B) application, CSLC intends to:

- Provide assurances to the CDFW that the permit application meets the NCCPA permit issuance criteria by complying with the terms and conditions of the NCCP.
- Request an incidental take permit with a term through 2040.
- Extend any take authorization it receives to renewable energy projects on CSLC lands that qualify as Covered Activities under the DRECP and that are conducted in compliance with CSLC's Section 2835 permit under the NCCP.

#### ***1.1.4.3.3 California State Lands Commission Roles and Responsibilities***

The CSLC is the landowner and manager of the state school lands in the Plan Area; it has jurisdiction over any reserved mineral interests, regardless of surface ownership. The CSLC is also the owner and administrator of sovereign lands held in trust by the State of California, including Owens Lake and the bed of the Colorado River. During project-specific review and approval, the CSLC may be a lead or responsible agency under CEQA due to its authority to require a lease or permit for covered renewable energy project proposals that may be developed on school lands or sovereign lands in the Plan Area. CSLC may also be a lead agency due to its authority to approve land exchanges to facilitate consolidation of school lands for purposes of developing renewable energy projects within the Plan Area, as described in the following discussion.

#### ***1.1.4.3.4 California State Lands Commission Discretionary Approvals/Decisions to Be Made***

The CSLC's discretionary approval authority includes (1) proposing and implementing land exchanges with the BLM in the Plan Area for the purpose of creating large, contiguous land holdings for large renewable energy projects or mitigation; (2) considering project proposals and issuance of permits and/or leases for the use of school lands; and (3) considering project proposals and issuance of permits and/or leases for the use of State of California lands.

CSLC will consider discretionary decisions relating to the DRECP for Covered Activities that affect Covered Species on CSLC lands within the Plan Area, based on CSLC's submission of an application to the USFWS for the issuance of an ESA incidental take permit under the GCP for renewable energy projects on CSLC lands. CSLC may also apply for a take permit from CDFW (California Fish and Game Code, Section 2835).