I.2 LEGAL FRAMEWORK

At both the federal and state levels, current energy policy includes targets for increasing electricity generated from renewable energy sources. California's deserts have renewable energy potential of statewide importance, and renewable energy and transmission development is proceeding throughout the desert region. California's deserts also support irreplaceable biological, physical, cultural, scenic, and social resources. The Desert Renewable Energy Conservation Plan (DRECP or Plan) and Environmental Impact Report/Environmental Impact Statement (EIR/EIS) analyzes the potential environmental impacts of covered renewable energy and transmission projects and establishes requirements and conditions, including impact avoidance, and minimization and mitigation measures, which allow for streamlined state and federal permitting of such projects.

The Natural Community Conservation Plan (NCCP) and General Conservation Plan (GCP) components of the DRECP include biological goals and objectives as well as Conservation and Management Actions (CMAs), which provide for the conservation and management of certain Covered Species and natural communities within the Plan Area. The Land Use Plan Amendment (LUPA) includes conservation and management actions for the Covered Species and natural communities, as well as other physical, cultural, scenic, and social resources, on Bureau of Land Management (BLM) lands.

The chapter describes the context within which the DRECP and EIR/EIS was developed. The following statutes, regulations, executive orders, and policies establish requirements or standards for the lead and cooperating agencies in the development and implementation of the DRECP and EIR/EIS. For a summary of other resource-specific federal and state laws, orders, and regulations, see Volume III. The following provides the relevant regulatory framework for each Renewable Energy Action Team agency.

I.2.1 Bureau of Land Management

I.2.1.1 Federal Land Policy and Management Act

The Federal Land Policy and Management Act of 1976 (FLPMA), as amended, 43 United States Code (U.S.C.) Section 1701 et seq., provides the authority for the BLM land use planning. Section 102 (a) (7) and (8) sets forth the policy of the United States concerning the management of the public lands. FLPMA requires that "goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law" (Section 102[7]):

> 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 lands 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 non-renewable 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.

Section 201 requires the Secretary of the Interior to prepare and maintain an inventory of the public lands and their resources and other values, giving priority to Areas of Critical Environmental Concern (ACECs), and, as funding and workforce are available, to determine the boundaries of the public lands, provide signs and maps to the public, and provide inventory data to state and local governments.

Section 202 (a) requires the Secretary, with public involvement, to develop, maintain, and when appropriate, revise land use plans that provide by tracts or areas for the use of the public lands.

Section 202(c)(1–9) requires that, in developing land use plans, the BLM shall use and observe the principles of multiple use and sustained yield; use a systematic interdisciplinary approach; give priority to the designation and protection of ACECs; rely, to the extent it is available, on the inventory of the public lands; consider present and potential uses of the public lands; consider the relative scarcity of the values involved and the availability of alternative means and sites for realizing those values; weigh long-term benefits to the public against short-term benefits; provide for compliance with applicable pollution control laws, including state and federal air, water, noise, or other pollution standards or implementation plans; and consider the policies of approved state and tribal land resource management programs; developing land use plans that are consistent with state and local plans to the maximum extent possible and consistent with federal law and the purposes of the FLPMA.

Section 202 (d) provides that all public lands, regardless of classification, are subject to inclusion in land use plans, and that the Secretary may modify or terminate classifications consistent with land use plans.

Section 202 (f) and Sec. 309 (e) provide that federal, state, and local governments and the public be given adequate notice and an opportunity to comment on the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for the management of the public lands.

Section 302 (a) requires the Secretary to manage BLM lands under the principles of multiple use and sustained yield, in accordance with available land use plans developed under Section 202 of FLPMA. There is one exception: where a tract of BLM land has been dedicated to specific uses according to other provisions of law, it shall be managed in accordance with such laws.

Section 302 (b) recognizes the entry and development rights of mining claimants, while directing the Secretary to prevent unnecessary or undue degradation of the public lands.

Section 601 establishes the California Desert Conservation Area (CDCA), and instructs the Secretary of the Interior to prepare and implement a comprehensive, long-range plan for the management, use, development, and protection of the public lands within the CDCA. That plan must take into account the principles of multiple use and sustained yield in providing for resource use and development, including, but not limited to, maintenance of environmental quality, rights-of-way (ROWs), and mineral development. Changes must be made through and in consideration of land use planning and other FLPMA considerations.

I.2.1.1.1 California Desert Conservation Area Plan

The CDCA Plan was approved in 1980 to meet this congressional direction. The CDCA Plan provides a multiple-use management blueprint for approximately 25 million acres in Imperial, Inyo, Kern, Los Angeles, Mono, Riverside, and San Bernardino counties, of which 10 million acres are managed by the BLM. Since adoption, the BLM has amended the CDCA Plan numerous times (BLM 1999). The major CDCA amendments within the Plan Area include the West Mojave Desert CDCA Plan Amendment (2006), the Northern and Eastern Mojave Desert CDCA Plan Amendment (2002), the Northern and Eastern Colorado Desert CDCA Plan Amendment (2002), the Western Colorado Desert California Desert Conservation Amendment CDCA Plan Amendment (2003), and the Imperial Sand Dunes Recreation Area Management Plan (2013). These amendments are discussed in detail in Volume III, Section III.11.3.1.1, Bureau of Land Management.

The CDCA Plan, as amended, is based on the concepts of multiple use, sustained yield, and maintenance of environmental quality. The goal of the CDCA Plan "is to provide for the use of the public lands, and resources of the California Desert Conservation Area, including economic, educational, scientific, and recreational uses, in a manner which enhances wherever possible—and which does not diminish, on balance—the environmental, cultural, and aesthetic values of the Desert and its productivity" (CDCA Plan, Introduction, BLM 1999, pp. 5–6).

This goal is achieved in the CDCA Plan through the direction given for management actions and resolution of conflicts. "Direction is stated first on a geographic basis in the guidelines for each of the four multiple-use classes. Within those guidelines further refinement of direction is expressed in the goals for each Plan element. Direction is also expressed in certain site-specific Plan decisions such as Areas of Critical Environmental Concern (ACECs)." Plan elements for the CDCA Plan include: Cultural Resource Element, Native American Element; Wildlife Element; Vegetation Element; Wilderness Element; Wild Horse and Burro Element; Livestock Grazing Element; Recreation Element; Motorized-Vehicle Access Element; Geology, Energy and Mineral (G-E-M) Resources Element; Energy Production and Utility Corridors Element; and Land Tenure Adjustment Element.

Decisions within the CDCA Plan that are being amended by the DRECP are described in detail in Volume II, Chapter II.2, No Action Alternative.

I.2.1.1.2 Caliente Resource Management Plan

The Caliente Resource Management Plan (RMP) was approved in 1997. The Caliente Resource Area encompasses a geographic area including 13.8 million acres of land in central California. The area covered by this plan includes portions of Kern, Kings, San Luis Obispo, Santa Barbara, Tulare, and Ventura counties. Major cities include Bakersfield, Santa Barbara, and San Luis Obispo. Stretching from the Pacific Ocean across the southern Central Valley and through the Sierra Nevada Mountains, public lands are scattered across the planning area in numerous small parcels. The larger blocks of public land lie in the Carrizo Plain of eastern San Luis Obispo County, in the Lake Isabella–Walker Pass regions of Kern and Tulare counties, and in the Chimney Peak and Three Rivers regions of Tulare County.

The Caliente RMP consists of a combination of management objectives, allocations, and guidelines that will direct where things may happen, the resource conditions to be maintained, and the use limitations expected to be necessary to meet management objectives.

Decisions within the Caliente RMP that are being amended by the DRECP are described in detail in Volume II, Chapter II.2.

I.2.1.1.3 Bishop Resource Management Plan

The Bishop RMP was approved in 1993. The Bishop RMP provides direction for managing BLM-administered public land surface and federal mineral estate in the Bishop Resource Area, which is located in the eastern Sierra region of California in Inyo and Mono counties. The Bishop RMP focuses on four major issues: recreation, wildlife, minerals, and land ownership and authorization. In addition to these issues, specific decisions relate to ACECs, Special Recreation Management Areas, Scenic Byways, and streams eligible for study as

potential additions to the National Wild and Scenic River System. There are also decisions addressing livestock grazing, cultural resources, fuelwood harvesting, fire suppression, and an east–west transmission line corridor.

Decisions within the Bishop RMP that are being amended by the DRECP are described in detail in Volume II, Chapter II.2.

I.2.1.2 National Environmental Policy Act

The National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.) directs "a systematic, interdisciplinary approach" to federal planning and decision making and requires the preparation of EISs for "major federal actions significantly affecting the quality of the human environment." The CEQ [Council on Environmental Quality] Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations [CFR] 1500–1508) require federal agencies to identify and assess reasonable alternatives to proposed actions that will restore and enhance the quality of the human environment and avoid or minimize adverse environmental impacts. Federal agencies are further directed to emphasize significant environmental issues in project planning and to integrate impact studies required by other environmental laws and Executive Orders into the NEPA process. The NEPA process should therefore be seen as an overall framework for the environmental evaluation of federal actions.

Land use plan amendments are federal actions subject to NEPA compliance.

The NEPA and land use planning process includes public involvement through scoping, which CEQ regulations define as an "early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action." Volume V, Section V.1.1, of this document describes the scoping process. The federal agencies will review and address substantive public comments received for the DRECP and EIR/EIS. The EIS process culminates in issuance of a Record of Decision (ROD). The ROD will document the alternative selected for implementation; describe additional terms and conditions, stipulations, or mitigations that may be required; and discuss considerations that the agencies considered in making the final decision.

I.2.1.3 Federal Endangered Species Act of 1973

The Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.):

1. Provides a means whereby the ecosystems upon which endangered and threatened species depend may be conserved and provides a program for the conservation of such endangered and threatened species (Section 1531[b], Purposes).

2. Requires all federal agencies to seek to conserve endangered and threatened species and utilize applicable authorities in furtherance of the purposes of the ESA (Section 1531[c][1], Policy).
3. Requires all federal agencies to avoid jeopardizing the continued existence of any species listed or proposed for listing as threatened or endangered or destroying or adversely modifying its designated or proposed critical habitat (Section 1536[a], Interagency Cooperation).
4. Requires all federal agencies to consult (or confer) in accordance with Section 7 of the ESA with the Secretary of the Interior, through the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, to ensure that any federal action (including land use plans) or activity is not likely to jeopardize the continued existence of any species listed or proposed to be listed under the provisions of the ESA, or result in the destruction or adverse modification of designated or proposed critical habitat (Section1536[a], Interagency Cooperation, and 50 CFR 402).

Although not required by regulation (50 CFR 402.12[b]), BLM has determined it will develop a Biological Assessment for the purpose of evaluating the potential effects of its LUPA, a federal action subject to Section 7(a)(2), on species listed or proposed to be listed as threatened or endangered under the ESA, and on critical habitat that has been designated or proposed for designation within the Plan Area. If an action is likely to adversely affect listed species or critical habitat, consultation under Section 7(a)(2) would result in a Biological Opinion and/or Conference Opinion issued by the U.S. Fish and Wildlife Service (USFWS) to the federal action agency. The Biological Opinion may also include a Conference Opinion for proposed species or critical habitat (50 CFR 402.10). The Biological Opinion would indicate whether the USFWS believes the action would jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat (50 CFR 402.14(g)(4)). In addition, the Biological Opinion would provide a statement of incidental take if such take may occur (50 CFR 402.14(g)(8)).

I.2.1.3.1 BLM Special-Status Species

It is BLM policy to manage for the conservation of special-status plants and their associated habitats and to ensure that actions authorized, funded, or carried out do not contribute to the need to list any sensitive species as threatened or endangered.

BLM Handbook 6840 (BLM 2008) states:

> special-status species are: (1) species listed or proposed for listing under the Endangered Species Act (ESA), and (2) species requiring special management consideration to promote their conservation and reduce the likelihood and

need for future listing under the ESA, which are designated as Bureau sensitive by the State Director(s).

I.2.1.3.2 Executive Order 13112

Executive Order 13112, Invasive Species, (64 FR 6183 et seq.) provides that no federal agency shall authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species unless, pursuant to guidelines that it has prescribed, the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk or harm will be taken in conjunction with the actions.

I.2.1.4 National Historic Preservation Act of 1966

Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.), requires federal agencies to take into account the effects of their undertakings (projects), licensed or executed by the agency, on historic properties listed or eligible for listing in the National Register of Historic Places, and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings (16 U.S.C. 470[f]). The Section 106 process seeks to accommodate historic preservation concerns with the needs of federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties, commencing at the early stages of project planning. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects, and seek ways to avoid, minimize, or mitigate any adverse effects on historic properties. This investigation provides the information to evaluate the potential effects to cultural resources from each of the proposed alternatives.

Historic properties are defined as prehistoric and historic sites, buildings, structures, districts, and objects included in or eligible for inclusion on the National Register of Historic Places, as well as artifacts, records, and remains related to such properties (16 U.S.C. 470w[5]). Historic properties may include places of traditional religious and cultural importance to Indian tribes. Places of traditional religious or cultural importance to tribes may be archeological sites but often they are not. Consultation with tribes is required to identify such properties, assess their significance, determine the effects of the undertaking upon them, and determine appropriate treatment to avoid or reduce any adverse effect to them.

An undertaking is defined as a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency, including those carried out by or on behalf of a federal agency; those carried out with federal financial assistance; those

requiring a federal permit, license, or approval; and those subject to state or local regulation administered pursuant to a delegation or approval by a federal agency.

I.2.1.5 Omnibus Public Land Management Act of 2009

In June 2000, the Department of the Interior and BLM established the National Landscape Conservation System (NLCS) to provide for coordinated protection of the BLM's conservation lands. On March 30, 2009, President Barack Obama signed into law the Omnibus Public Land Management Act of 2009 (PL 111-11), which congressionally established the NLCS, to "conserve, protect and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations." The NLCS includes areas administered by the BLM such as national monuments, conservation areas, wilderness study areas, scenic trails or historic trails designated as a component of the National Trails System, components of the National Wild and Scenic Rivers System, components of the National Wilderness Preservation System, and public land within the CDCA administered by the BLM for conservation purposes (Section 202 of the Act).

The NLCS brings into a single system some of the BLM's premier designations. Inclusion in the NLCS does not create any new legal protections for the lands already designated as national monuments, conservation areas, wilderness study areas, scenic trails, or historic trails designated as a component of the National Trails System, components of the National Wild and Scenic Rivers System or components of the National Wilderness Preservation System. Inclusion in the NLCS system will create new legal protections through the land use plan decision for conservation lands in the CDCA. Within this document, lands within the NLCS are called "National Conservation Lands." The BLM will use the LUPA element of the DRECP to define which lands within the CDCA are included in the NLCS.

I.2.1.6 Other Relevant Federal Authorities

I.2.1.6.1 Antiquities Act of 1906

The Antiquities Act of 1906 (16. U.S.C. 431 et seq.) grants the president authority to designate national monuments to protect objects of historic or scientific interest. While most national monuments are established by the president, Congress has also occasionally established national monuments protecting natural and historic features. Since 1906, the president and Congress have created more than 100 national monuments. The BLM, National Park Service, U.S. Forest Service (USFS), and USFWS manage national monuments. No national monuments are within the Plan Area, although the Santa Rosa–San Jacinto Mountains National Monument is within the CDCA boundary.

I.2.1.6.2 American Indian Religious Freedom Act

This act (42 U.S.C. 1996) recognizes that freedom of religion for all people is an inherent right and that traditional American Indian religions are an indispensable and irreplaceable part of Indian life. Establishing federal policy to protect and preserve the inherent right of religious freedom for Native Americans, this act requires federal agencies to evaluate their actions and policies to determine if changes should be made to protect and preserve the religious cultural rights and practices of Native Americans. Such evaluations are made in consultation with native traditional religious leaders.

I.2.1.6.3 Indian Sacred Sites

Executive Order 13007 (Indian Sacred Sites), 61 FR 26771 et seq. (1996), requires federal agencies to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions to (1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and (2) avoid adversely affecting the physical integrity of such sacred sites.

I.2.1.6.4 Consultation and Coordination with Indian Tribal Governments

Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments; 63 FR 27655), provides, in part, that each federal agency shall establish regular and meaningful consultation and collaboration with Indian tribal governments in developing regulatory practices on federal matters that significantly or uniquely affect their communities.

I.2.1.6.5 Secretarial Order 3175

Secretarial Order 3175 (incorporated into the Departmental Manual at 512 DM 2; DOI 1993) requires that if Department of the Interior (DOI) agency actions might impact Indian trust resources, the agency must explicitly address those potential impacts in planning and decision documents, as well as consult with the tribal government whose trust resources are potentially affected by the federal action.

I.2.1.6.6 Secretarial Order 3206

Secretarial Order 3206, American Indian Tribal Rights, Federal-Tribal Trust Responsibilities (DOI 1997 and the ESA), requires DOI agencies to consult with Indian tribes when agency actions to protect a listed species, as a result of compliance with ESA, affect or may affect Indian lands, tribal trust resources, or the exercise of American Indian tribal rights.

I.2.1.6.7 Secretarial Order 3215

Secretarial Order 3215, Principles for the Discharge of the Secretary's Trust Responsibility (DOI 2003), guides DOI officials by defining the relatively limited nature and extent of Indian trust assets, and by setting out the principles that govern the Trustee's fulfillment of the trust responsibility with respect to Indian trust assets.

I.2.1.6.8 Secretarial Order 3308

Secretarial Order 3308, Management of the National Landscape Conservation System (DOI 2010a), furthers the purpose of the Omnibus Public Land Management Act of 2009 (PL 111-11), which established the NLCS under the jurisdiction of the BLM in order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations, and the president's initiative on America's Great Outdoors.

I.2.1.6.9 Wild and Scenic Rivers Act of 1968

Selected rivers in the United States are preserved for possessing outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values. Rivers, or sections of rivers, so designated are preserved in their free-flowing condition and are not dammed or otherwise impeded. A national wild and scenic designation essentially vetoes the licensing of new hydropower projects on or directly affecting the river. It also provides very strong protection against bank and channel alterations that adversely affect river values; protects riverfront public lands from oil, gas, and mineral development; and creates a federal reserved water right to protect flow-dependent values (16 U.S.C. 1271 et seq.).

I.2.1.6.10 National Trails System Act

The National Trails System was created by the National Trails System Act (16 U.S.C. 1241 et seq.) The act created a series of National trails "to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation." Specifically, the act authorized three types of trails: the National Scenic Trails, National Recreation Trails, and connecting-and-side trails. In 1978, as a result of the study of trails that were most significant for their historic associations, a fourth category of trail was added: the National Historic Trails.

National Scenic Trails. A congressionally designated trail that is a continuous and uninterrupted extended, long-distance trail so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant resources, qualities, values, and associated settings and the primary use or uses of the

areas through which such trails may pass. A segment of the Pacific Crest National Scenic Trail is located within the Plan Area.

National Historic Trail. A congressionally designated trail that is an extended, long-distance trail, not necessarily managed as continuous, that follows as closely as possible and practicable the original trails or routes of travel of national historic significance. The purpose of a National Historic Trail is the identification and protection of the historic route and the historic remnants and artifacts for public use and enjoyment. A National Historic Trail is managed in a manner to protect the nationally significant resources, qualities, values, and associated settings of the areas through which such trails may pass, including the primary use or uses of the trail. Segments of the Old Spanish and Juan Bautista de Anza National Historic Trails are located within the Plan Area.

National Recreation Trail. A trail designated by the Secretary of the Interior, through a standardized process, including a recommendation and nomination by the BLM. National Recreation Trails provide a variety of compatible outdoor recreation uses in or reasonably accessible to urban areas or high-use areas. The Nadeau National Recreation Trail is located in the Plan Area.

I.2.1.6.11 Wilderness Act of 1964

Enacted in 1964, this act (PL 88–577) established the National Wilderness Preservation System of areas to be designated by Congress. It directed the Secretary of the Interior, within 10 years, to review every roadless area of 5,000 or more acres and every roadless island (regardless of size) within National Wildlife Refuges and National Park Systems and to recommend to the president the suitability of each such area or island for inclusion in the National Wilderness Preservation System, with final decisions made by Congress. The Secretary of Agriculture was directed to study and recommend suitable areas in the National Forest System. BLM-administered lands were brought under the direction of the Wilderness Act with the passage of FLPMA in 1976. Sections 603 and 201 of FLPMA (43 U.S.C. 1701 et seq.) also directed the BLM to conduct inventories and make recommendations to the president for suitability of areas to be included in the system.

The act provides criteria for determining suitability and establishes restrictions on activities that can be undertaken on a designated area. Criteria set by Congress within this act state that wilderness areas have the following characteristics: (1) generally appear to have been affected primarily by the forces of nature, with the imprint of human's work substantially unnoticeable; (2) outstanding opportunities for solitude or primitive and confined types of recreation; (3) at least 5,000 acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value. The Wilderness Act also outlines accepted and prohibited uses of designated wilderness areas.

The act also sets special provisions for an agency's continuing management of existing or grandfathered rights such as mining and grazing and other agency mission-related activities. Lands acquired through donation adjacent to designated wilderness may become part of the wilderness upon completion of specific notification requirements.

I.2.1.6.12 Recreation and Public Purposes Act

This act (43 U.S.C. 869 et seq.) provides for the lease or disposal of public lands, and certain withdrawn or reserved lands, to state and local governments and qualified nonprofit organizations to be used for recreational or public purposes. Prices that are charged for land use or acquisition are normally less than market value of the specific lands. The act allows for reversion of the lands under certain conditions.

I.2.1.6.13 Surface Mining Control and Reclamation Act

This act (30 U.S.C. 1201 et seq.) establishes a program for the regulation of surface mining activities and the reclamation of coal-mined lands, under the administration of the Office of Surface Mining, Reclamation and Enforcement in the DOI.

The law sets forth minimum uniform requirements for all coal surface mining on federal and state lands, including exploration activities and the surface effects of underground mining. Mine operators are required to minimize disturbances and adverse impact on fish, wildlife, and related environmental values and achieve enhancement of such resources where practicable. Restoration of land and water resources is ranked as a priority in reclamation planning.

I.2.1.6.14 Mineral Leasing Act

This act (30 U.S.C. 181 et seq.) authorizes and governs leasing of public lands for development of deposits of coal, oil, gas and other hydrocarbons, sulfur, phosphate, potassium, and sodium.

I.2.1.6.15 Federal Onshore Oil and Gas Leasing Reform Act

An amendment to the Mineral Leasing Act, the Federal Onshore Oil and Gas Leasing Reform Act of 1987, granted the USFS the authority to make decisions and implement regulations concerning the leasing of public domain minerals on National Forest System lands containing oil and gas. The act changed the analysis process from responsive to proactive. The BLM administers the lease but USFS has more direct involvement in the leasing process for lands it administers. The act also established a requirement that all public lands available for oil and gas leasing be offered first by competitive leasing.

I.2.1.6.16 General Mining Law of 1872

This authority (30 U.S.C. 21 et seq.) sets forth rules and procedures for the exploration, location, and patenting of lode, placer, and mill site mining claims. Claimants must file notice of the original claim with the BLM as well as annual notice of intention to hold, affidavit of assessment work, or similar notice.

I.2.1.6.17 Mining and Mineral Policy Act

This act (30 U.S.C. 21a) expressed the national policy to foster and encourage private enterprise in: (1) the development of economically sound and stable domestic mining, minerals, metal, and mineral reclamation industries; (2) the orderly and economic development of domestic mineral resources, reserves, and reclamation of metals and minerals to help assure satisfaction of industrial, security, and environmental needs; (3) mining, mineral, and metallurgical research, including the use and recycling of scrap to promote the wise and efficient use of our natural and reclaimable mineral resources; (4) the study and development of methods for the disposal, control, and reclamation of mineral waste products; and (5) the reclamation of mined land, so as to lessen any adverse impact of mineral extraction and processing upon the physical environment that may result from mining or mineral activities.

I.2.1.6.18 Taylor Grazing Act

The Taylor Grazing Act of 1934 (43 U.S.C. 315) provides for two types of authorized use: (1) a grazing permit, which is a document authorizing the use of the public lands within an established grazing district; and (2) a grazing lease, which is a document authorizing the use of the public lands outside an established grazing district. A grazing district is the specific area within which the public lands are administered in accordance with Section 3 of the Taylor Grazing Act. Public lands outside grazing district boundaries are administered in accordance with Section 15 of the act.

I.2.1.6.19 Consolidated Appropriations Act, 2012

The Consolidated Appropriations Act, 2012 (PL 112-74), affects management of the BLM's livestock grazing program.

The appropriations language directs the Secretary of the Interior to accept "the donation" of any valid existing grazing permit or lease within the CDCA. The term donation in this provision is interpreted by the BLM to mean "voluntary relinquishment" of the permit or lease to graze on a public land grazing allotment and the preferential position that the permittee or lessee enjoyed, in relation to other applicants, to receive that permit or lease.

In addition to automatic termination of the relinquished permit or lease, the Secretary is directed to permanently end grazing on the land covered by the permit or lease. Designating specific areas of land as unavailable for livestock grazing is typically a land use plan decision; however, in this case Congress has directed that the lands be unavailable for livestock grazing upon relinquishment. In addition, while forage allocation is typically a land use plan decision, Congress has directed the BLM to make the land available for mitigation by allocating the forage to wildlife use.

To reflect the permanent end to grazing, to allocate the forage to wildlife use, and to bring the CDCA Plan into conformance with the Consolidated Appropriations Act, the CDCA Plan must be amended. The Consolidated Appropriations Act does not itself amend the CDCA Plan. These land use changes resulting from application of the act may be accommodated during the next scheduled plan amendment.

I.2.1.6.20 Public Rangelands Improvement Act of 1978

The Public Rangelands Improvement Act (43 U.S.C. 1901 et seq.) establishes and reaffirms the national policy and commitment to (1) inventory and identify current public rangeland conditions and trends; (2) manage, maintain, and improve the condition of public rangelands so that they become as productive as feasible for all rangeland values in accordance with management objectives and the land use planning process; and (3) charge a fee for public grazing use that is equitable. This act also continues the policy of protecting wild, free-roaming horses and burros from capture, branding, harassment, or death, while facilitating the removal and disposal of excess wild, free-roaming horses and burros that pose a threat to themselves, their habitat, and to other rangeland values.

I.2.1.6.21 Wild Free-Roaming Horses and Burros Act

The Wild Free-Roaming Horses and Burros Act, as amended (16 U.S.C. 1331 et seq.) provides that wild horses and burros shall be considered comparably with other resource values in formulating land use plans, and that management activities shall be undertaken with the goal of maintaining free-roaming behavior.

I.2.1.6.22 Executive Orders 11644 and 11989

Executive Orders 11644 (1972; 37 FR 2877) and 11989 (1997; 42 FR 26959) establish policies and procedures to ensure that off-road vehicle use shall be controlled to protect public lands.

I.2.1.6.23 Executive Order 12898

The 1994 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (Executive Order 12898) requires that each federal agency consider the impacts of its programs on minority and low-income populations (49 FR 7629).

I.2.1.7 Renewable Energy Laws and Other Relevant Policies

I.2.1.7.1 Geothermal Steam Act of 1970

The Geothermal Steam Act of 1970, as amended, governs the leasing of geothermal steam and related resources on public lands (30 U.S.C. 1001 et seq.). This act authorizes the Secretary of the Interior to issue leases for the development of geothermal resources and prohibits leasing on a variety of public lands, such as those administered by the USFWS.

In accordance with the Geothermal Steam Act and the Geothermal Resources Leasing Rule (43 CFR 3201.10), the BLM may issue leases on the following "available" lands:

- Lands administered by the DOI, including public and acquired lands not withdrawn from such use.
- Lands administered by the USFS with its concurrence.
- Lands conveyed by the United States where the geothermal resources were reserved to the United States.
- Lands subject to Section 24 of the Federal Power Act, as amended (16 U.S.C. 818), with the concurrence of the Secretary of Energy.

Conversely, the BLM is prohibited from issuing leases on the following statutorily closed federal lands as defined in the Geothermal Resources Leasing Rule (43 CFR 3201.11).

- Lands where the Secretary of Interior (Secretary) has determined that issuing the lease would cause unnecessary or undue degradation of public lands and resources.
- Lands contained within a unit of the National Park System or otherwise administered by the National Park Service.
- Lands where the Secretary determines after notice and comment that geothermal operations, including exploration, development, or utilization of lands, are reasonably likely to result in a significant adverse effect on a significant thermal feature within a unit of the National Park System.
- Lands within a National Recreation Area.
- Fish hatcheries or wildlife management areas administered by the Secretary.
- Indian trust or restricted lands within or outside the boundaries of Indian reservations.
- Lands where Section 43 of the Mineral Leasing Act (30 U.S.C. 226 et seq.) prohibits geothermal leasing, including:
    - Wilderness areas or wilderness study areas administered by the BLM or other surface-management agencies.

- Lands designated by Congress as wilderness study areas, except where the statute designating the study area specifically allows leasing to continue.
- Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-sixth Congress (House Document 96-119), unless such lands are allocated to uses other than wilderness by a land and resource management plan or are released to uses other than wilderness by an act of Congress.

I.2.1.7.2 Energy Policy Act of 2005

On August 8, 2005, the Energy Policy Act of 2005 (42 U.S.C. 15801 et seq.) was signed into law. Section 211 of the act states:

> It is the sense of the Congress that the Secretary of the Interior should, before the end of the 10-year period beginning on the date of enactment of this Act, seek to have approved non-hydropower renewable energy projects located on the public lands with a generation capacity of at least 10,000 [MW] of electricity.

As of February 2014, the DOI has authorized 115 large-scale renewable energy projects nationwide on or involving public lands, including 27 solar facilities, 40 wind farms, and 48 geothermal plants. When completed, these projects will provide more than 16,316 MW of power. Other applications being reviewed could contribute to this goal.

I.2.1.7.3 Secretarial Order 3285A1: Renewable Energy Development by the Department of the Interior

Secretarial Order (SO) 3285A1, dated February 22, 2010, establishes the development of renewable energy as a priority for the DOI. It established a DOI-wide approach for applying scientific tools to increase understanding of climate change and to coordinate an effective response to impacts on tribes and on the land, water, ocean, fish and wildlife, and cultural heritage resources managed within the DOI. SO 3285A1 also establishes an energy and climate change task force that identifies specific zones on U.S. public lands where the DOI can facilitate a rapid and responsible move toward large-scale production of solar, wind, geothermal, and biomass energy (DOI 2010).

I.2.1.7.4 BLM Solar Energy Program

The BLM developed and issued a Solar Energy Development Policy in 2007 to address increased interest in solar energy development on BLM-administered lands and to implement goals to construct renewable energy facilities on public lands. This 2007 policy establishes procedures for processing ROW applications for solar energy development

projects on public lands administered by the BLM in accordance with the requirements of the FLPMA and the BLM's implementing regulations (43 CFR 2800), and for evaluating the feasibility of installing solar energy systems on BLM-administered facilities. This policy was updated in 2010 by two more detailed policies that establish a maximum term for authorizations, diligent development requirements, bond coverage, potential best management practices for solar energy development projects, and interim guidance on how to calculate rent for utility-scale solar energy facilities (BLM 2010a, 2010b).

The BLM and Department of Energy prepared a Solar Energy Development Programmatic EIS (Solar PEIS) to assess environmental impacts associated with the development and implementation of agency-specific programs that would facilitate environmentally responsible utility-scale solar energy development in six western states (Arizona, California, Colorado, New Mexico, Nevada, and Utah). The DOI's ROD for the Solar PEIS identified Solar Energy Zones, which are areas with few impediments to utility-scale production of solar energy where BLM will prioritize solar energy and associated transmission infrastructure development. This ROD amended the CDCA Plan, the Bishop RMP, and the Caliente RMP.

The Solar PEIS designated two Solar Energy Zones in California, both of which are within the boundaries of the Plan Area. The Imperial East Solar Energy Zone has a total area of 5,722 acres and is in southeastern Imperial County near the U.S.–Mexico border. The Riverside East Solar Energy Zone has a total area of 147,910 acres and is in southeastern Riverside County. A third Solar Energy Zone, the West Chocolate Mountains, was designated through the West Chocolate Mountains Renewable Energy Evaluation Area ROD, signed in August 2013. The West Chocolate Mountains is also within the boundaries of the Plan Area. The Solar PEIS also identified "variance" lands with solar energy resource potential that are available for application and solar energy development with additional environmental reviews and clearances. Some 576,989 acres of "variance" lands were identified in the CDCA.

The Solar PEIS also included programmatic and Solar Energy Zone-specific design features to be required for all utility-scale solar energy projects on BLM-administered lands to avoid and/or minimize adverse impacts. For information on design features, see Appendix A, Section A.4 of the ROD.

The BLM executed a Solar Programmatic Agreement (PA) on September 24, 2012. Signatories include the BLM, the Advisory Council on Historic Preservation, and State Historic Preservation Officers from Arizona, California, Colorado, Nevada, New Mexico, and Utah. The PA establishes procedures the BLM will follow to meet its Section 106 obligations under the National Historic Preservation Act for all future, site-specific solar energy applications where the BLM is the lead federal agency and the application is for projects on

public lands managed by the BLM. The PA applies to all new solar applications processed under the Final Solar Programmatic Environmental Impact Statement (BLM 2012).

I.2.1.7.5 BLM Wind Energy Program

To address increased interest in wind energy development, implement the Energy Policy Act of 2005 recommendation to increase renewable energy production, and ensure the responsible development of wind resources on BLM-administered lands, the BLM evaluated wind energy potential on public lands and established wind energy policy. To support wind energy development on public lands while minimizing potential environmental and socio-cultural impacts, the BLM established a Wind Energy Development Program that includes (1) an assessment of wind energy development potential on BLM-administered lands through 2025 (a 20-year period); (2) policies regarding the processing of wind energy development ROW authorization applications; (3) best management practices for mitigating the potential impacts of wind energy development on BLM-administered lands; and (4) amendments of specific BLM land use plans to address wind energy development.

In connection with this program, the BLM, in cooperation with the Department of Energy, prepared a programmatic EIS in 2005 to (1) assess the environmental, social, and economic impacts associated with wind energy development on BLM-administered land; and (2) evaluate a number of alternatives to determine the best management approach for the BLM to adopt in terms of mitigating potential impacts and facilitating wind energy development (BLM 2005).

I.2.1.7.6 BLM Geothermal Leasing Programmatic EIS

In October 2008, the BLM published the Final Programmatic EIS for Geothermal Leasing in the Western United States (BLM and USFS 2008). It addressed geothermal leasing on lands administered by the BLM and the USFS in 12 western states including Alaska. Specific to the BLM, the ROD of the Final Programmatic EIS approved the BLM's decision to facilitate geothermal leasing of the federal mineral estate in these 12 western states. This decision (1) allocates BLM lands as open to be considered for geothermal leasing or closed for geothermal leasing; (2) develops a reasonably foreseeable development scenario that indicates a potential for 12,210 MW of electrical generating capacity from 244 power plants by 2025, plus additional direct uses of geothermal resources; and (3) adopts stipulations, BMPs, and procedures for geothermal leasing and development on BLM-administered lands.

I.2.1.7.7 Programmatic EIS Designation of Energy Corridors on Federal Land in 11 Western States

Section 368 of the Energy Policy Act of 2005 (42 U.S.C. 15801 et seq.), enacted August 8, 2005, directs the secretaries of Agriculture, Commerce, Defense, Energy, and the Interior (the Agencies) to designate under their respective authorities corridors on federal land in 11 western states (Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming) for oil, gas, and hydrogen pipelines, and electricity transmission and distribution facilities (energy corridors).

The Final PEIS was prepared by the BLM and the U.S. departments of Energy, Agriculture, and Defense as part of their work to implement Section 368 of the Energy Policy Act of 2005. The Final PEIS, released on November 28, 2008, identifies energy corridors to facilitate future siting of oil, gas, and hydrogen pipelines, as well as renewable energy development projects and electricity transmission and distribution facilities on federal lands in the West to meet the region's increasing energy demands while mitigating potential harmful effects to the environment.

Section 368 does not require that the agencies consider or approve specific projects, applications for ROWs, or other permits within designated energy corridors. Importantly, Section 368 does not direct, license, or otherwise permit any on-the-ground activity of any sort. If an applicant is interested in obtaining an authorization to site a project within any corridor designated under Section 368, the applicant would have to apply for a ROW authorization, and the Agencies would consider each application by applying appropriate project-specific reviews under requirements of laws and related regulations including, but not limited to, NEPA, the Clean Water Act, the Clean Air Act, Section 7 of the ESA, and Section 106 of the National Historic Preservation Act.

On July 7, 2009, multiple organizations filed a complaint in *Wilderness Society, et al. v. United States Department of the Interior, et al.,* No. 3:09-cv-03048-JW (N.D. Cal.). The plaintiffs raised a variety of challenges in response to the Agencies' RODs.

In July 2012, the BLM, USFS, and Department of Energy entered into a settlement agreement with the plaintiffs. One of the requirements of the agreement was that the BLM and USFS make future recommendations for revisions, deletions, and additions to the Section 368 Corridor network consistent with applicable law, regulations, agency policy, and guidance, and that they would consider the following general principles in future siting recommendations:

- Corridors are thoughtfully sited to provide maximum utility and minimum impact to the environment.
- Corridors promote efficient use of the landscape for necessary development.

- Appropriate and acceptable uses are defined for specific corridors.
- Corridors provide connectivity to renewable energy generation to the maximum extent possible while also considering other sources of generation, in order to balance the renewable sources and to ensure the safety and reliability of electricity transmission.

I.2.2 U.S. Fish and Wildlife Service

I.2.2.1 Federal Endangered Species Act

The USFWS administers the ESA. The purpose of the ESA is to provide a means whereby the ecosystems upon which endangered and threatened species depend may be conserved, and to provide a program for the conservation of such species. Under Section 7(a)(1) of the ESA, all federal agencies, including the USFWS, shall, in consultation with and with the assistance of the Secretary of the DOI, utilize their authorities in furtherance of the purposes of the ESA by carrying out programs for the conservation of listed endangered and threatened species. Under the ESA, the term "endangered species" means any species that is in danger of extinction throughout all or a significant portion of its range. The term "threatened species" means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

Section 9 of the ESA prohibits "take" of all federally listed species of wildlife, unless otherwise permitted or exempted. "Take" under Section 3 of the ESA is defined as "to harass, harm, pursue, shoot, hunt, wound, trap, capture or collect, or attempt to engage in any such conduct." "Harass" is defined by regulation as "an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering." "Harm" is defined by regulation as "an act which actually kills or injures wildlife" and "may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering."

A Section 10(a)(1)(B) incidental take permit constitutes an exception to the taking prohibition of Section 9 for nonfederal applicants and is based on an applicant's Habitat Conservation Plan (HCP). The GCP component of the DRECP is a programmatic type of HCP that the USFWS has prepared to fulfill the federal mandatory requirements in Section 10(a)(1)(B) of the ESA and support applications for incidental take permits covering renewable energy development on nonfederal lands. Section 10(a)(1)(B) allows the issuance of permits for the incidental take of threatened or endangered wildlife species and the inclusion of unlisted species in the permit (in anticipation of their potential to be listed in the future) as long as conservation actions for these species treat

them as if they were listed (that is, meet permit issuance criteria). The definition of "incidental take" under Section 10(a)(1)(B) is take that "is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity."

Take of federally listed plant species is not prohibited on nonfederal land under the ESA, and authorization under a Section 10(a)(1)(B) permit is not required. Section 9 of the ESA, however, makes it unlawful to remove and reduce to possession, maliciously damage or destroy federally listed plants from areas under federal jurisdiction and remove or destroy such plants in knowing violation of state law. In addition, Section 7(a)(2) of the ESA prohibits federal agencies from jeopardizing the continued existence of any listed plant or animal species, or destroying or adversely modifying the critical habitat of such species. Federally listed plant species are included in the DRECP and EIR/EIS in recognition of the conservation benefits to be provided for them under the plan and the assurances incidental take permit holders would receive if plants were included on the permit. If permits are issued to applicants under the proposed GCP, the permittees would receive "No Surprises" assurances for all plant and animal species on nonfederal lands covered by their permits under the USFWS's "No Surprises" regulation (50 CFR 17.22(b)(5) and 17.32(b)(5)).

According to Section 10(a)(2)(A) of the ESA, the CEC and the California State Lands Commission (CSLC) are submitting to the USFWS separate applications for incidental take permits under the GCP for renewable energy projects under CEC jurisdiction on nonfederal lands and within CSLC's existing land ownership. In addition, the USFWS also would consider issuance of future Section 10(a)(1)(B) permits to individual applicants or local jurisdictions that apply for incidental take authorization for renewable energy projects on nonfederal lands that are consistent with the USFWS proposed GCP.

The USFWS proposed GCP identifies the following mandatory elements of an HCP:

- The impact that will likely result from the proposed taking.
- Measures the applicant will take to monitor, minimize, and mitigate such impacts; the funding that will be made available to implement such measures; and the procedures to deal with Changed Circumstances and Unforeseen Circumstances.
- Alternative actions to such taking the applicant considered and the reasons why such alternatives are not proposed.
- Additional measures the USFWS may require as necessary or appropriate for purposes of the HCP.

The USFWS will decide whether to issue or deny Section 10(a)(1)(B) incidental take permits, based on the USFWS approval of the proposed GCP, after an opportunity for public comment. The USFWS may choose to (1) issue permits conditioned on an application's consistency with the terms and conditions of the GCP, (2) issue permits conditioned an

application's consistency with the GCP together with other measures specified by the USFWS, or (3) deny permits. The decision to issue incidental take permits is based on whether the GCP, and applications for permits under the GCP, comply with the following issuance criteria (50 CFR 17.22[b][2] and 50 CFR 17.21[b][2]):

- The taking will be incidental.
- The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking.
- The applicant will ensure that adequate funding for the HCP will be provided and procedures are in place to deal with Unforeseen Circumstances.
- The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild.
- Other measures required as necessary or appropriate for the purposes of the HCP will be met.
- The USFWS has received other assurances as it may require that the HCP will be implemented.

The GCP, like all HCPs, is required to distinguish Changed Circumstances from Unforeseen Circumstances in accordance with the HCP Assurances (No Surprises) Final Rule published in the *Federal Register* on February 23, 1998 (63 FR 8859 et seq.). The "No Surprises" policy provides assurances to permit holders that, as long as the terms and conditions of the permit issued under the GCP are being properly implemented, no commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources beyond the level otherwise agreed to in the permit would be required without the consent of the permittee, even if unforeseen circumstances arise after the permit is issued.

The USFWS also requires applicants to follow a "five-point policy" in developing HCPs (and GCPs) that focuses on the following specific components: (1) biological goals and objectives, (2) adaptive management as appropriate, (3) compliance and effectiveness monitoring, (4) appropriate permit duration, and (5) public participation. The purpose of this policy is to promote nationwide efficiency, effectiveness, and consistency in the USFWS's HCP program. The five-point policy guidance was published in the *Federal Register* (65 FR 35242 et seq., June 1, 2000) as a final addendum to the USFWS's *Handbook for Habitat Conservation Planning and Incidental Take Permitting Process* (USFWS 2000).

The GCP is the USFWS's proposed action evaluated in the EIS portion of this EIR/EIS (see Section I.3.3, General Conservation Plan Planning Process). The GCP provides a framework for streamlining future permit decisions after the overall interagency DRECP is approved. The USFWS Director signed a Final General Conservation Plan Policy on October 5, 2007

(USFWS 2007). A GCP is an "umbrella" type of programmatic HCP that the USFWS develops for adoption by subsequent interested parties who then apply for incidental take permits consistent with the GCP. The development of the GCP is undertaken by the USFWS, rather than by an individual applicant, and in this case is based on the DRECP's comprehensive conservation strategy for Covered Species. A GCP includes all the necessary information that a traditional HCP contains to demonstrate compliance with ESA issuance criteria. However, because the proposed GCP is not linked to any applicants, USFWS would not issue any incidental take permits under the GCP in conjunction with any ROD for the final DRECP and EIR/EIS.

If the GCP is approved and the ROD is signed, the USFWS would consider issuing future Section 10(a)(1)(B) permits for the incidental take of Covered Species resulting from renewable energy development on nonfederal lands within the DRECP's GCP Permit Area (see Section I.0.3.1.2, DRECP Permit Areas). USFWS would decide whether to issue individual permits to future GCP applicants through a streamlined application process. Applicants would need to complete an application form, pay the application fee, and demonstrate compliance with the terms and conditions of the GCP. Upon completing these three items, applicants may then be granted individual permits, subject to a determination of eligibility pursuant to 50 CFR 13.21(c) and completion of any administrative or noticing requirements.

Any future permits issued under the GCP would be severable, that is, the conservation benefits of the GCP would not depend on any one permittee. Furthermore, each applicant issued a severable permit under the GCP would receive "No Surprises" assurances with the permit. Under this process, USFWS would provide quarterly public notices in the *Federal Register* of permits issued under the GCP. Future renewable energy proponents may choose to apply for permits under the GCP or to develop their own plans using the traditional HCP process that would not incorporate the streamlined permitting process offered by the GCP.

I.2.2.2 National Environmental Policy Act

Issuance of incidental take permits under Section 10(a)(1)(B) is a federal action (by the USFWS) subject to NEPA compliance. Although ESA and NEPA requirements overlap considerably, the scope of NEPA goes beyond that of the ESA by considering the impacts of a federal action not only on fish and wildlife resources, but also on other resources such as water quality, socioeconomics, air quality, and cultural resources.

See Section I.2.1.2 for a discussion of additional NEPA requirements.

I.2.2.3 Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 et seq.), is the domestic law that affirms, or implements, the United States' commitment to four international conventions (with Canada, Japan, Mexico, and Russia) for the protection of a shared migratory bird resource. Each of the conventions protect selected species of birds common to both countries (that is, they occur in both countries at some point during their annual life cycle). The MBTA protects migratory birds and their nests, eggs, young, and parts from possession, sale, purchase, barter, transport, import, export, and take. For purposes of the MBTA, take is defined as "to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect" (50 CFR 10.12). It is a strict liability statute wherein proof of intent is not an element of a taking violation. The MBTA applies to migratory birds identified in 50 CFR 10.13.

In general, the MBTA protects all birds occurring in the United States except for house (English) sparrow (*Passer domesticus*), European starlings (*Sturnus vulgaris*), rock doves (pigeons; *Columba livia*), any recently listed unprotected species in the *Federal Register*, and non-migratory upland game birds. The USFWS has regulatory authority over implementation and enforcement of the MBTA. For species listed under both the ESA and MBTA, the USFWS has the authority to authorize incidental take with special terms and conditions under Section 10(a)(1)(B) of the ESA and have this permit also serve as a Special Purpose Permit under the MBTA (50 CFR 2I.27). Special Purpose Permits are required in the event that an action would take, possess, or involve the sale or transport of birds protected by the MBTA. The Plan's GCP would consider how to incorporate an MBTA Special Purpose Permit into any 10(a)(1)(B) permit for ESA-listed species that are also protected by the MBTA. If any Section 10(a)(1)(B) permit is issued, any such take would not be in violation of the MBTA.

I.2.2.4 Bald and Golden Eagle Protection Act of 1940, as Amended

The Bald and Golden Eagle Protection Act (Eagle Act) (16 U.S.C. 668 et seq.) is the primary law protecting bald eagles (*Haliaeetus leucocephalus*) and golden eagles (*Aquila chrysaetos*). "Take" under this statute is defined as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, or molest or disturb." "Disturb" is defined as "to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle; (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior; or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior" (50 CFR 22.3).

In 2009, the USFWS promulgated a new permit rule under the Eagle Act that provides a mechanism to authorize unintentional take of eagles (50 CFR 22.26). Under this new rule, the USFWS can issue permits that authorize individual instances of take of bald and golden eagles

when the take is associated with, but not the purpose of, an otherwise lawful activity, and cannot be practicably avoided. The regulations also authorize permits for "programmatic" take, where take of eagles is anticipated to be (1) recurring, but not caused solely by indirect effects; and (2) occurring over the long term and/or in a location or locations that cannot be specifically identified, such as that associated with turbine operations for wind energy generation. However, under the regulations, any ongoing or programmatic take authorized must be unavoidable, even after the implementation of advanced conservation practices intended to avoid and minimize take. Project developers and operators are not legally required to seek or obtain an eagle take permit. However, the take of an eagle without a permit is a violation of the Eagle Act and could result in prosecution.

Eagle take permits may be issued only in compliance with the conservation standards of the Eagle Act. This means the take must be compatible with the preservation of each species, defined as "consistent with the goal of stable or increasing breeding populations" (74 FR 46836). A permit to take eagles under an ESA Section 10(a)(1)(B) permit can be issued when eagles are covered under an associated HCP or GCP as a Covered Species. Such a permit confers take authority under the Eagle Act because 50 CFR 22.11 extends Eagle Act take authorization to ESA permits that cover eagles. The provisions of 50 CFR 22.11 are predicated on the premise that Eagle Act standards for permitting take must be satisfied before take can be permitted under an ESA permit. Therefore, the avoidance, minimization, and other mitigation measures in the HCP or GCP project description, and permit terms and conditions, must meet the Eagle Act permit issuance criteria of 50 CFR 22.26.

For unintentional take of eagles that would occur under the DRECP, the USFWS must determine whether to authorize take of golden eagles under the regulatory provisions of the Eagle Act, either through an ESA Section 10(a)(1)(B) permit (for take resulting from Covered Activities on nonfederal lands) or through a take permit under the Eagle Act (for take resulting from Covered Activities on federal lands).

USFWS will authorize take of bald or golden eagles only if it is determined that the take (1) is compatible with the preservation of the bald eagle and the golden eagle and (2) cannot practicably be avoided. For purposes of these regulations, ''compatible with the reservation of the bald eagle or the golden eagle'' means ''consistent with the goal of stable or increasing breeding populations.''

Unintentional take permit issuance criteria are defined in the Eagle Act permit implementing regulations (50 CFR 22.26). The USFWS must find that all of the following criteria are met:

- The direct and indirect effects of the take and required mitigation, together with the cumulative effects of other permitted take and additional factors affecting eagle populations, are compatible with the preservation of bald eagles and golden eagles.

- The taking is necessary to protect a legitimate interest in a particular locality.
- The taking is associated with, but not the purpose of, the activity.
- The taking cannot practicably be avoided; or for programmatic authorizations, the take is unavoidable.
- The applicant has avoided and minimized impacts to eagles to the extent practicable, and for programmatic authorizations, the take will occur despite application of advanced conservation practices.
- Issuance of the permit will not preclude issuance of another permit necessary to protect an interest of higher priority as set forth in 50 CFR 22.26(e)(4).

I.2.2.5 National Historic Preservation Act

See Section I.2.1.4 for a description of the National Historic Preservation Act of 1966.

The issuance of incidental take permits under the GCP component of the DRECP and EIR/EIS would be a USFWS undertaking subject to Section 106 of the National Historic Preservation Act.

I.2.3 California Energy Commission

I.2.3.1 California Environmental Quality Act

The California Environmental Quality Act (CEQA; 14 California Code of Regulations [CCR] 15000 et seq.) requires a public agency that proposes to carry out, approve, or fund a project to analyze the project's impacts on the environment and, if significant environmental effects are identified, to adopt feasible mitigation measures or project alternatives that would avoid or substantially lessen the project's significant impacts. If a project's environmental impacts cannot be feasibly avoided or mitigated to a less-than–significant level, then CEQA prohibits the agency from approving, carrying out, or funding the project unless the agency determines in a statement of overriding considerations that the project's specific economic, legal, social, technological, or other benefits outweigh its significant environmental consequences.

The CEC's adoption of the DRECP would be an action subject to CEQA. The CEC is serving as the lead agency under CEQA. As lead agency, CEC is primarily responsible for preparing the CEQA environmental analysis contained in the EIR/EIS and certifying that the final document complies with CEQA requirements.

I.2.3.2 Warren-Alquist Act

In 1974, the Warren-Alquist Act (California Public Resources Code, Section 25000 et seq.) created and gave statutory authority to the CEC. The act designates the CEC as the state's primary agency for energy policy and planning. The CEC has six basic responsibilities:

1. Forecast future energy needs.
2. Promote energy efficiency and conservation by setting the state's appliance and building efficiency standards.
3. Support public interest energy research that advances energy science and technology through research, development, and demonstration programs.
4. Develop renewable energy resources and alternative renewable energy technologies for buildings, industry, and transportation.
5. License thermal power plants 50 MW or larger.
6. Plan for and direct state response to energy emergencies.

Forecasts of future demand for electricity are essential to ensure that California builds the power plants, transmission lines, and related facilities needed to provide reliable and affordable energy to its residents, businesses, and industries.

CEC has exclusive authority under California law to certify (license) energy facilities that are thermal power plants with a generating capacity of 50 MW or more and related facilities (California Public Resources Code, Section 25500). Related facilities under CEC's jurisdiction include structures that are appurtenant to the power plant itself, such as natural gas and water supply lines, generation-interconnection transmission lines from the plant, storage tanks, and roads. CEC does not have licensing authority over solar photovoltaic or wind generation facilities, since neither is a thermal technology.

CEC's certificate approving a power plant is in lieu of any permit or similar document that would otherwise be required by any state, local, or regional agency (California Public Resources Code, Section 25500). Before approving a power project within its jurisdiction, CEC must make findings on whether the project conforms to applicable local, regional, state, and federal standards, ordinances, and laws (California Public Resources Code, Section 25523, subdivision [d][1]). When necessary to ensure conformity with such standards, ordinances, and laws, CEC imposes conditions of certification on the project. If the project cannot be brought into conformance with local, regional, or state laws, ordinances, and standards, CEC may license it only if it first determines it is required for the public convenience and necessity, and there are not more prudent and feasible means for achieving the public convenience and necessity (California Public Resources Code, Section 25525).

Under the Warren-Alquist Act, CEC has independent authority to authorize take associated with power plant construction and operation if it is in conformity with the California Endangered Species Act (CESA) or, for projects that fall within the scope of an approved NCCP, with the terms of that NCCP. Under the Natural Community Conservation Planning Act (NCCPA), participating agencies with land use authority within an NCCP area receive take coverage through permits that the California Department of Fish and Wildlife (CDFW) issues under California Fish and Game Code Section 2835. These permits allow participating agencies to confer take authorization on a person or entity undertaking specific projects in conformity with the approved NCCP and the associated permit. Because the Warren-Alquist Act replaces the Section 2835 permitting process and provides the CEC with independent authority to issue take authorization in conformity with the terms of an approved NCCP, CEC need not and will not apply to CDFW for a Section 2835 permit under the DRECP for take associated with power plant licensing.

As part of its exclusive permitting authority, the CEC must confer with CDFW on a proposed project, including proposed mitigation measures and conditions of CEC certification, to ensure a project under CEC's jurisdiction complies with state laws and standards for the protection of biological resources. CEC will need to find that any project covered by the DRECP conforms to the terms of the DRECP once CDFW approves the plan as an NCCP.

I.2.4 California Department of Fish and Wildlife

I.2.4.1 California Endangered Species Act

CDFW administers the CESA, which, among other things, prohibits the take of plant and animal species designated by the Fish and Game Commission (Commission) as endangered, threatened, or candidates for listing as endangered or threatened in the state of California. California statutes and regulations administered and enforced by CDFW for implementation of CESA are set forth in the California Fish and Game Code and Title 14 of the CCR. "Take" is defined as to "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill" (California Fish and Game Code, Section 86). Section 2080 et seq. of the California Fish and Game Code prohibits the take of state-listed species without an incidental take permit from CDFW, or a determination by the director that a federal incidental take statement or incidental take permit is consistent with CESA (for species listed under both CESA and the federal ESA only). Furthermore, CESA's overriding purpose is to "conserve, protect, restore and enhance" endangered and threatened species and their habitats (California Fish and Game Code, Section 2052), and all state agencies, boards, and commissions have a duty to conserve such species (California Fish and Game Code, Section 2055).

CESA defines an endangered species as "a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant that is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat,

change in habitat, over exploitation, predation, competition, or disease" (California Fish and Game Code, Section 2062). CESA defines a threatened species as "a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts" required by CESA (California Fish and Game Code, Section 2067). CESA defines a candidate species as "a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant that the Commission has formally noticed as being under review by the department for addition to either the list of endangered species or the list of threatened species, or a species for which the Commission has published a notice of proposed regulation to add the species to either list" (California Fish and Game Code, Section 2068).

CESA authorizes the take of endangered, threatened, or candidate species if take is incidental to otherwise lawful activity and if specific criteria are met (California Fish and Game Code, Section 2081). An incidental take permit, issued pursuant to CESA, may not authorize the take of "fully protected" species, which are protected under other provisions of the California Fish and Game Code, as discussed in the following sections.

I.2.4.2 Natural Community Conservation Planning Act

The California Legislature created the NCCPA to implement broad-based, landscape-level planning that conserves and manages fish and wildlife, their habitats, and natural communities, while allowing for appropriate and compatible development and growth (California Fish and Game Code, Section 2805). The primary objective of the NCCPA is to conserve covered species and natural communities at the ecosystem scale while accommodating compatible land uses. The conservation strategy for an NCCP must avoid or minimize and mitigate the impacts of covered activities to covered species in the plan area and contribute to the recovery of those species.

When CDFW approves an NCCP, it may issue incidental take authorization pursuant to Section 2835, allowing for the taking of any covered species whose conservation and management are provided for in the plan. Section 2835 permits may be issued either to state or local agencies that are serving as plan participants and that issue permits or other approvals to project applicants or directly to individual project applicants. When CDFW approves an NCCP, incidental take authorization for covered activities within the plan area is accomplished through Section 2835 rather than through incidental take permits issued pursuant to CESA.

CDFW may also, at its discretion, provide regulatory assurances for plan participants receiving Section 2835 incidental take authorizations commensurate with long-term conservation assurances and associated implementation measures pursuant to the approved plan (California Fish and Game Code, Section 2820). CDFW must consider a

variety of factors in determining whether to provide regulatory assurances, including: (1) the level of knowledge of the status of the covered species and natural communities; (2) the adequacy of the analysis of the impacts of take on covered species; (3) the use of the best available science to make assessments about the impacts of take on covered species; (4) the reliability of mitigation strategies; (5) the appropriateness of monitoring techniques; (6) the appropriateness of the size and duration of the plan; (7) the sufficiency of the mechanisms for long-term funding of all components of the plan, including contingencies; (8) the degree of coordination and accessibility of centralized data for analysis and evaluation of the effectiveness of the plan; and (9) the degree to which a thorough range of foreseeable circumstances are considered and provided for under the adaptive management plan (California Fish and Game Code, Section 2820[f]).

To approve an NCCP, CDFW must make a series of findings and execute an implementation agreement that satisfies enumerated statutory requirements. CDFW will ultimately determine whether to adopt the DRECP as an NCCP. To approve the DRECP as an NCCP, CDFW must find, based upon substantial evidence in the record, that the NCCP:

1. Has been developed consistent with the process identified in the Planning Agreement, dated May 17, 2010.
2. Integrates Monitoring and Adaptive Management Program (MAMP) strategies that will be periodically evaluated and modified based on the information from the monitoring program and other sources, which will assist in providing for the conservation of Covered Species and ecosystems within the Plan Area.
3. Provides for the protection of habitat, natural communities, and species diversity on a landscape or ecosystem level through the creation and long-term management of habitat reserves or other measures that provide equivalent conservation of Covered Species appropriate for habitats within the Plan Area.
4. Develops reserve systems and conservation measures in the Plan Area that provide for, as needed for the conservation of species, all of the following: (a) conserving, restoring, and managing representative natural and seminatural landscapes to maintain the ecological integrity of large habitat blocks, ecosystem function, and biological diversity; (b) establishing one or more reserves or other measures that provide equivalent conservation of Covered Species within the Plan Area and linkages between them and adjacent habitat areas outside of the Plan Area; (c) protecting and maintaining habitat areas large enough to support sustainable populations of Covered Species; (d) incorporating a range of environmental gradients (such as slope, elevation, and aspect) and high habitat diversity to provide for shifting species distributions due to changed circumstances; and (e) sustaining the effective movement and interchange of organisms between habitat areas in a manner that maintains the ecological integrity of the habitat areas within the Plan Area.

5. Identifies activities, and any restrictions on those activities, allowed within reserve areas that are compatible with the conservation of species, habitats, natural communities, and their associated ecological functions.
6. Contains specific conservation measures that meet the biological needs of Covered Species and that are based upon the best available scientific information regarding the status of Covered Species and the impacts of permitted activities on those species.
7. Contains a monitoring program.
8. Contains a Monitoring and Adaptive Management Program.
9. Includes the estimated timeframe and process by which the reserves or other conservation measures are to be implemented, including obligations of landowners and NCCP signatories and consequences of the failure to acquire lands in a timely manner.
10. Contains provisions that ensure adequate funding to carry out the conservation actions identified in the NCCP (California Fish and Game Code, Section 2820[a]).

Concurrent with approving the DRECP as an NCCP, pursuant to the requirements of California Fish and Game Code, Section 2820(b), CDFW must also execute an implementation agreement that contains provisions to accomplish all of the following:

1. Define species coverage, including any conditions of coverage.
2. Establish the long-term protection of any habitat reserve or other measures that provide equivalent conservation of Covered Species.
3. Provide for the suspension or revocation of any Section 2835 permits, in whole or in part, if specified terms or conditions are violated. CDFW shall include a provision requiring notification to the permittee of a specified period of time to cure any default prior to suspension or revocation of the permit in whole or in part. These terms and conditions shall address, but are not limited to, provisions specifying the actions CDFW shall take under all of the following circumstances: (a) if the permittee fails to provide adequate funding; (b) if the permittee fails to maintain the rough proportionality between impacts on habitat or Covered Species and conservation measures; (c) if the permittee adopts, amends, or approves any plan or project without the concurrence of CDFW that is inconsistent with the objectives and requirements of the approved NCCP; and (d) if the level of take exceeds that authorized by the permit.
4. Specify procedures for amendment of the plan and the implementation agreement.
5. Ensure implementation of the Monitoring and Adaptive Management Program.
6. Provide for oversight of plan implementation for purposes of assessing mitigation performance, funding, and habitat protection measures.
7. Provide for periodic reporting to CDFW and the public for purposes of information and evaluation of Plan progress.

8. Provide mechanisms to ensure adequate funding to carry out the conservation actions identified in the Plan.
9. Ensure that implementation of mitigation and conservation measures on a plan basis is roughly proportional in time and extent to the impact on habitat or Covered Species authorized under the Plan. These provisions shall identify the conservation measures, including assembly of reserves where appropriate and implementation of monitoring and management activities, that will be maintained or carried out in rough proportion to the impact on habitat or Covered Species and the measurements that will be used to determine if this is occurring (California Fish and Game Code, Section 2820[b]).

I.2.4.3 Lake and Streambed Alteration Agreement

CDFW has jurisdictional authority over streams and lakes and wetland resources associated with these aquatic systems (California Fish and Game Code, Section 1600 et seq.). CDFW has the authority to regulate work that will "substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake." Such work activities of any person, state, or local governmental agency, or public utility are regulated by CDFW (California Fish and Game Code, Section 1602). All rivers, streams, and lakes in the state, including all forms of ephemeral desert washes and tributary systems, are subject to these requirements.

CDFW enters into a streambed or lakebed alteration agreement with a project proponent after proposing measures in the agreement to protect fish and wildlife resources that may be substantially adversely impacted by the project. CDFW includes under its jurisdiction habitats that may not qualify as wetlands under the federal Clean Water Act definition (33 U.S.C. 1251 et seq.), and therefore has jurisdiction over larger areas of the desert than those under U.S. Army Corp of Engineers jurisdiction.

A project proponent must submit a notification of streambed alteration to CDFW before undertaking the alteration. The notification requires an application fee according to the specific fee schedule determined by CDFW.

CDFW can enter into streambed alteration agreements that cover recurring operation and maintenance activities and also enter into long-term agreements to cover development and other activities described in regional plans.

I.2.4.4 Other Wildlife Protection Regulations and Statutes

California Fish and Game Code Sections 3511 (birds), 4700 (mammals), 5050 (reptiles and amphibians), and 5515 (fish) designate certain species as fully protected and provide that

those species may not be taken or possessed except pursuant to an approved NCCP or a permit from CDFW for "necessary scientific research, including efforts to recover fully protected, threatened, or endangered species." CDFW cannot authorize take or possession of fully protected species for necessary scientific research if that research is conducted in connection with mitigation for a project (California Fish and Game Code, Sections 3511, 4700, 5050, and 5515). If the NCCP component of the DRECP is approved by CDFW, CDFW and CEC will be able to authorize incidental take of any fully protected species that are included as Covered Species whose conservation and management is provided for in the NCCP (California Fish and Game Code, Sections 2835, 3511, 4700, 5050, and 5515).

In addition to CESA and Section 3511, the California Fish and Game Code includes other provisions for protection of birds, nests, and eggs. It is generally unlawful to take, possess, or needlessly destroy the nests or eggs of any bird and to take or possess any migratory nongame bird designated in the MBTA, except as allowed by the MBTA (California Fish and Game Code, Sections 3503 and 3513). It is unlawful to take, possess, or destroy any birds of prey, or to take, possess, or destroy nests or eggs of such birds (California Fish and Game Code, Section 3503.5). Birds of prey refer to species in the orders Falconiformes and Strigiformes.

The California Native Plant Protection Act of 1997 states:

> No person shall import into this state, or take, possess, or sell within this state, except as incident to the possession or sale of the real property on which the plant is growing, any native plant, or any part or product thereof, that the [California Fish and Game Commission] determines to be an endangered native plant or rare native plant (California Fish and Game Code, Section 1900 et seq.).

The act contains several narrow exceptions relating to agricultural operations or management practices, timber operations, mining assessment work, or removal of endangered or rare native plants from a canal, lateral ditch, building site, or road or other ROW.

Additionally, the California Desert Native Plants Act (Food and Agricultural Code Section 80001 et seq.) prohibits the harvest, transport, sale, or possession of specific native desert plants unless a person has a valid permit or wood receipt, and the required tags and seals. Unlike the other statutes discussed herein relating to the protection of fish, wildlife, and plants under California law, the California Desert Native Plants Act is administered by the California Department of Food and Agriculture, not CDFW.

I.2.5 California State Lands Commission

I.2.5.1 School Land Bank Act of 1984

In 1853, the U.S. Congress granted to the state of California approximately 5.5 million acres of land, generally the 16th and 36th section of every township and range in the state, for the specific purpose of supporting public schools. These lands are commonly referred to as "school lands." Over the years, most of those lands were sold. In 1984, the state Legislature passed the School Land Bank Act (California Public Resources Code, Section 8700 et seq.), which established the School Land Bank Fund and appointed the CSLC as its trustee. The School Land Bank Act directed the CSLC to develop school lands into a permanent and productive resource base for revenue generating purposes. Today, the CSLC manages approximately 468,600 acres of school lands held in fee ownership by the State of California and the reserved mineral interests on an additional approximate 790,000 acres statewide where the surface estates have been sold. Approximately 340,533 acres of fee-owned school lands are within the DRECP boundary. The CSLC is required to deposit revenue from school lands into the state treasury for the benefit of the State Teachers' Retirement Fund.

The CSLC negotiates leases for development of school lands consistent with the statutory directives discussed above and consistent with any additional policy directives deemed appropriate by the commissioners. Specifically, the CSLC is committed to the environmentally responsible use of school lands for renewable energy projects (see the *Resolution by the California State Lands Commission Supporting the Environmentally Responsible Development of School Lands Under the Commission's Jurisdiction for Renewable Energy Related Projects* adopted by the CSLC on October 16, 2008 (CSLC 2008). As a result, the CSLC's emphasis in administering school lands has been: (1) maximization of revenues from school lands' assets, (2) protection of the corpus of the trust, and (3) protection of the environment and compliance with CEQA.

I.2.5.2 Sovereign Land Jurisdiction

The CSLC also has jurisdiction and management authority over the beds and banks of navigable lakes and waterways. These sovereign lands are subject to the protections of the Common Law Public Trust. Sovereign lands under the jurisdiction of the CSLC in the Plan Area include the Colorado River and Owens Lake. Although CSLC is generally prohibited from alienating sovereign lands, CSLC negotiates leases of these lands where appropriate and beneficial to the people of the State of California, and where activities are determined by the CSLC to be not inconsistent with the Public Trust. Nothing in the DRECP and EIR/EIS should be construed to infringe on the CSLC's jurisdiction over the State of California sovereign lands.

I.2.5.3 State Mineral Resources

California Public Resources Code Section 6401 reserves California's mineral resources to the state. Unless a sale or exchange is with the federal government, the state is prohibited from relinquishing its rights to geothermal resources, oil, gas, oil shale, coal, phosphate, sodium, gold, silver, and all other mineral deposits in all lands owned or acquired by the state. State land sales are subject to a reservation of all mineral rights, a reservation of right of entry to prospect for and extract mineral deposits, fluids, or geothermal resources. The prospector or developer must compensate the surface estate owner for any damages to crops or permanent improvements resulting from resource removal.

I.2.5.4 Geothermal Resource Jurisdiction

The exploration and extraction of geothermal resources are under the jurisdiction of the CSLC. The geothermal program involves negotiation of lease terms, verification of production and royalty, review of exploration and development plans, review of individual well drilling programs, and on-site inspection of daily lease operations. Upon nomination, the CSLC may designate state lands for lease by competitive bidding to the highest responsible qualified bidder. Such nominations may be made by holders of exploration permits or any other party qualified to hold a lease (California Public Resources Code, Section 6108).

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