Segments 4–11 of the Tehachapi Renewable Transmission Project (TRTP), currently in the agency permitting process, are expected to be approved and constructed in the vicinity of the proposed project site within the next several years. Segment 4 of the TRTP initiates at the Cottonwind Substation and includes two new parallel four mile, single circuit 220 kilovolt (kV) transmission lines to the Whirlwind Substation and a new 15.6 mile, single circuit 500 kV transmission line from the Whirlwind Substation to the Antelope Substation.

**Conditional Use Permit (CUP) Approval**

Construction of the proposed project would also require approval of a CUP to allow the use of one temporary, mobile concrete batch plant to provide concrete and materials for WTG, substation, and operation and maintenance building foundations. The batch plant would be located onsite during construction only.

### 4.10.3 Regulatory Setting

**Federal**

**Bureau of Land Management, California Desert Conservation Area Plan, 1980**

The 25 million-acre CDCA Plan Area contains over 12 million acres of public lands spread within the area known as the California Desert, which includes the following three deserts: the Mojave, the Sonoran, and a small portion of the Great Basin. The 12 million acres of public lands administered by the BLM are half of the CDCA.

The CDCA Plan is a comprehensive, long-range plan with goals and specific actions for the management, use, development, and protection of the resources and public lands within the CDCA, and it is based on the concepts of multiple use, sustained yield, and maintenance of environmental quality. The plan’s goals and actions for each resource are established in its 12 elements. Each of the plan elements provides both a desert-wide perspective of the planning decisions for one major resource or issue of public concern as well as more specific interpretation of multiple-use class guidelines for a given resource and its associated activities.

On December 9, 2010 (with subsequent revisions on December 13, 2010, January 28, and March 15, 2011) the North Sky River Project proponent applied to the BLM Ridgecrest Field Office and the Renewable Energy Coordinating Office (RECO) to obtain rights-of-way (ROW) grants to utilize 30,462 linear feet of existing roads, improve 11,733 linear feet of the existing road, and construct 962 linear feet of new roads on BLM property in order to access the North Sky River Project site. Additionally, the application included a request for ROW for 9,200 linear feet of new gen-tie transmission line, use of 2,666 linear feet of existing roads and construction of 6,266 linear feet of new roads to access the generation-tie transmission line. The BLM is currently processing the ROW request. Granting of the ROW would require a determination of project consistency with the CDCA Plan by BLM. BLM will address project compliance with CDCA guidelines through the NEPA Environmental Assessment (EA) process. If the project generation-tie transmission line is not within an existing designated corridor or does not meet other guidance of the CDCA, a plan amendment will be made as part of the Decision Record. If the ROW is approved by BLM, a ROW
Figure 4.10-1
Kern County General Plan Map
Code Designations in the Project Area

KERN COUNTY GENERAL PLAN DESIGNATIONS
1. Non-Jurisdictional Land
   1.1 State and Federal Land
2. Physical Constraints
   2.4 Steep Slope
   2.5 Flood Hazard
4. Special Treatment Areas
   4.3 Specific Plan Required
   8. Resource
   8.3 Extensive Agriculture
   8.4 Mineral and Petroleum

North Sky River Wind Energy Project
and Jawbone Wind Energy Project
Draft Environmental Impact Report

May 2011

Jawbone Wind Energy Project Site
North Sky River Project Boundary
ZONING DESIGNATIONS
A - Exclusive Agriculture
A-1 - Limited Agriculture
E(20) - Estate 20 Acres
RF - Recreation Forestry
WE - Wind Energy
MH - Mobile Home

North Sky River Wind Energy Project
and Jawbone Wind Energy Project
Draft Environmental Impact Report

Figure 4.10-2
Existing Zoning – Kern County Zoning Classifications
Grant will be issued with stipulations to conform with the amended CDCA. In the event that North Sky River Project proponent is able to secure and easement for an an alternative generation-tie transmission line route that does not cross BLM lands, then an amendment to the CDCA would not be required.

Bureau of Land Management, West Mojave Plan, Adopted March 2005

The West Mojave Plan (WMP) is a habitat conservation plan (HCP) and amendment to the BLM California Desert Conservation Area (CDCA) Plan covering more than 9 million acres in five counties (Inyo, Kern, Los Angeles, San Bernardino, and Riverside) with the purpose of creating a comprehensive strategy to conserve and protect the desert tortoise (Gopherus agassizii), the Mohave ground squirrel (Spermophilus mohavensis), and almost 100 other sensitive species as well as the natural communities where they reside. The WMP includes the establishment of new Areas of Critical Environmental Concern (ACEC), ACEC boundary amendments, multiple use class changes, a management plan, and other general amendments to the existing CDCA Plan.

According to the Record of Decision (ROD) from March 2006, the WMP applies only to federal land under BLM jurisdiction, and the HCP for State and private land is not yet complete (BLM, 2006). The ROD also states the major elements of the HCP are described in the WMP, which include the covered species, boundaries of the conservation areas, survey requirements, funding requirements and implementing conservation actions for each species.

Federal Aviation Administration, Federal Aviation Regulation Title 14, Part 77

The Federal Aviation Administration (FAA) issues and enforces regulations related to air traffic control and the assignment and use of airspace. The FAA’s regulations are found in the Federal Aviation Regulations (FAR). FAR Title 14, Part 77, establishes the standards for determining obstructions in navigable airspace, including height limitations on structures taller than 200 feet or within 20,000 feet (3.8 miles) of an airport.

The standards and notification requirements of FAR Title 14 Part 77 are intended to: 1) evaluate the effect of the construction or alteration of structures on airport operating procedures; 2) determine if the construction or alteration would result in a potential hazard to air navigation; and, 3) identify measures to enhance safety. The FAA requires notification through the filing of the two part FAA Form 7460 (7460-1 Notice of Proposed Construction or Alteration, and 7460-2 Supplemental Notice), if any of the following criteria are met due to implementation of a proposed action (Title 14 Part 77.13) (FAA, 2007):

- Any construction or alteration [of a structure or object] of more than 200 feet in height above the ground level at its site
- Any construction or alteration [of a structure or object] of greater height than an imaginary surface extending outward and upward at one of the following slopes:
  - 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of each airport with at least one runway more than 3,200 feet in actual length, excluding heliports
  - 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of each airport specified with its longest runway no more than 3,200 feet in actual length, excluding heliports
- 25 to 1 for a horizontal distance of 5,000 feet from the nearest point of the nearest landing and takeoff area of each heliport

- Any proposed highway, railroad, or other traverse way for mobile objects, with a height which would exceed the standards of Part 77.13 (a) (1), (2) or (3)

- When requested by the FAA, any construction or alteration [of a structure or object] that would be in an instrument approach area (defined in the FAA standards governing instrument approach procedures) and available information indicates it might exceed a standard of subpart C of this Part [Part 77]

- Any construction or alteration of a structure or object located on a public use airport or heliport that meets the criteria of Part 77.13 (a) (5)

Local

Applicable goals policies and implementation measures for each resource analyzed have been previously identified in their respective "Regulatory Setting" section in Chapters 4.1 through 4.17. This section lists all applicable goals, objectives, policies, and implementation measures adopted for the purpose of avoiding or mitigating an environmental effect not previously identified in the above-referenced chapters as they relate to land use planning and the proposed project. A complete listing of applicable goals and policies is provided in Table 4.10-4.

Land use and planning decisions within and adjacent to the project site are guided and regulated by the KCGP and Kern County Zoning Ordinance. The KCGP contains goals, objectives, and policies and provide an overall foundation for establishing land use patterns. The Zoning Ordinance contains regulations through which the KCGP’s provisions are implemented. The most relevant regulations pertaining to wind energy development are presented below. The proposed project’s consistency with the KCGP and Zoning Ordinance is discussed under Impact 4.10-1 below.

Kern County General Plan (KCGP), Revised April 2008

The State of California Government Code 65300 requires Kern County to prepare and adopt a general plan. The KCGP was recently revised and was approved on April 1, 2008. Its purpose is to give long-range guidance to County officials making decisions affecting the growth and resources of unincorporated Kern County. The KCGP helps to ensure that day-to-day planning and land use decisions are in conformance with the long-range program designed to protect and further the public interest. It will be periodically reviewed and updated as the goals and requirements of the community evolve and change.

Chapter 1. Land Use, Open Space, and Conservation Element

1.3 Physical and Environmental Constraints

Goals

- **Goal 1.** To strive to prevent loss of life, reduce personal injuries, and property damage, minimize economic and social diseconomies resulting from natural disaster by directing development to areas which are not hazardous.

Policies

- **Policy 2.** In order to minimize risk to Kern County residents and their property, new development will not be permitted in hazard areas in the absence of implementing ordinances and programs. These ordinances will establish conditions, criteria, and standards for the approval of development in hazard areas.
Policy 3. Zoning and other land use controls will be used to regulate and, in some instances, to prohibit development in hazardous areas.

Implementation Measures

Implementation Measure A. Adopt requirements and procedures in zoning, subdivision, and site development regulation and building criteria for Seismic Hazard designated areas. Include the following in these requirements and procedures:

(1) The preparation of special geologic and seismic studies consistent with the requirements of the Safety Element (Chapter 4) of this General Plan.

(2) The following specific and detailed criteria shall apply within special studies zones and shall be included in any planning program, ordinances, rules and regulations adopted by the County pursuant to said Special Studies Zones Act (PRC Division 4, Part 2). If the precise location of a fault trace is depicted as “inferred” on the Kern County Seismic Hazard Atlas, require a setback of 100 feet from the appropriate location depicted:

   (b) Application for development permit for any project (as defined in the Public Resources Code Section 2621.6) within a special studies zone shall be accompanied by a geologic report prepared by a geologist registered in the State of California and directed to the problem of potential surface fault displacement through the project site, unless such report is waived pursuant to PRC Section 2623.

   (c) Geologic reports shall be filed with the State Geologist.

   (d) A geologist registered in the State of California, within or retained by the County, must evaluate the geologic reports required herein and advise the Kern County and Community Development Planning Department of the findings.

   (e) Comprehensive geologic and engineering studies should be required for any critical or essential structure as previously defined whether or not it is located within a special studies zone.

   (f) In accordance with Section 2625 of the Public Resources Code, each application for approval of a project within a delineated special studies zone may be charged a reasonable fee by the County.

1.4 Public Facilities and Services

Goals

Goal 1. Kern County residents and businesses should receive adequate and cost effective public services and facilities. The County will compare new urban development proposals and land use changes to the required public services and facilities needed for the proposed project.

Goal 5. Ensure that adequate supplies of quality (appropriate for intended use) water are available to residential, industrial, and agricultural users within Kern County.

Goal 6. Provide a healthful and sanitary means of collecting, treating, and disposing of sewage and refuse for the residents and industries of Kern County.
1.10 General Provisions

Policies

- **Policy 8.** The County shall ensure that new industrial uses and activities are sited to avoid or minimize significant hazards to human health and safety in a manner that avoids over concentrating such uses in proximity to schools and residents.

1.10.1 Public Services and Facilities

Goals

- **Goal 1.** Ensure that the County can accommodate anticipated future growth and development while maintaining a safe and healthful environment and a prosperous economy by preserving valuable natural resources, guiding development away from hazardous areas, and assuring the provision of adequate public services.

**Implementation Measures (From 1.4 - Public Facilities and Services)**

- **Implementation Measure C.** Project developers shall coordinate with the local utility service providers to supply adequate public utility services.
- **Implementation Measure D.** Involve utility providers in the land use and zoning review process.

Chapter 2. Circulation Element

2.5.2 Airport Land Use Compatibility Plan (ALUCP)

Goals

- **Goal 4.** Kern County will plan for a reduction of environmental effects without accepting a lower quality of life in the process.
- **Goal 5.** Maintain a minimum Level of Service (LOS) D for all roads throughout the County.

Policies

- **Policy 1.** Review land use designations and zoning near public and private airports, Edwards Air Force Base and Naval Air Weapons (NAWS) China Lake for compatibility.

Chapter 3. Noise Element

Implementation Measures

- **Implementation Measure E.** Review discretionary development plans to ensure compatibility with adopted Airport Land Use Compatibility Plans.

Chapter 4. Safety Element 4.5 Landslides, Subsidence, Seiche, and Liquefaction

Implementation Measures

- **Implementation Measure D.** Discretionary actions will be required to address and mitigate impacts from inundation, land subsidence, landslides, high groundwater areas, liquefaction and seismic events through the CEQA process.
Chapter 5. Energy Element

5.2 Importance of Energy to Kern County

Goals

• **General Goal.** To assert Kern County’s position as California’s leading energy producer, to encourage safe and orderly energy development within the County, including research and demonstration projects, and to become actively involved in the decisions and actions of other agencies as they affect energy development in Kern County.

Policies

• **Policy 7.** The processing of all discretionary energy project proposals shall comply with California Environmental Quality Act (CEQA) Guidelines directing that the environmental effects of a project must be taken into account as part of project consideration.

• **Policy 8.** The County should work closely with local, State, and federal agencies to assure that energy projects (both discretionary and ministerial) avoid or minimize direct impacts to fish, wildlife, and botanical resources, wherever practical.

• **Policy 9.** The County should develop and implement measures which result in long-term compensation for wildlife habitat, which is unavoidably damaged by energy exploration and development activities.

• **Policy 10.** The County should require acoustical analysis for energy project proposals that might impact sensitive and highly sensitive uses in accordance with the Noise Element of the General Plan.

5.4 Electricity Resources and Generation

5.4.2 Wind Energy Development

Policies

• **Policy 7.** The processing of all discretionary energy project proposals shall comply with California Environmental Quality Act (CEQA) Guidelines directing that the environmental effects of a project must be taken into account as part of project consideration.

Kern County Airport Land Use Compatibility Plan, Revised September 2008

Section 1.0 General Applicability

1.6.1. [T]he compatibility review process shall apply to the following types of land use development located within the airport influence areas defined in Section 1.3.1.

1.7.1(c). Prior to the approval of a proposal involving any type of land use development, as stated in Section 1.6.1, or other review as required by a Specific Plan, specific findings shall be made that such development is compatible with the training and operational missions of the military aviation installations. Incompatible land uses that result in significant impacts on the military mission of Department of Defense installations or to the Joint Service Restricted R-2508 Complex that cannot be mitigated, shall not be considered consistent with this plan.
The Kern County Zoning Ordinance establishes the basic regulations under which land is developed. This includes allowable uses, building setback requirements, and development standards. Pursuant to State law, the zoning ordinance must be consistent with the Kern County General Plan. Table 4.10-2, above, lists zoning designations for the project site.

### Section 19.08.160. Height of Structures.

A. Radio and television masts, communication towers, flagpoles, light standards, chimneys, and smokestacks, or any appurtenances thereof, may extend not more than forty-five (45) feet above the height limit specified in this chapter for buildings and structures, provided that the same may be safely erected and maintained at such height in view of the surrounding conditions and circumstances. A tower constructed for the purpose of supporting a wind-driven power generator may extend not more than forty-five (45) feet above the height limit specified in this chapter, provided that the same may be safely erected and maintained at such height in view of the surrounding conditions and circumstances.

B.1 Notwithstanding any other provisions in this title, within the area depicted in Figure 19.08.160, no zone modification or zone variance may be approved, and no building permit may be issued where a zone modification or zone variance is not required, for any structure or building that exceeds the maximum permitted heights shown in Figure 19.08.160 unless the military authority responsible for operations in that flight area first provides the Planning Director with written concurrence that the height of the proposed structure or building would create no significant military mission impacts.

### 19.12 Exclusive Agriculture (A) District.

The purpose of the A District is to designate areas suitable for agricultural uses and to prevent the encroachment of incompatible uses onto agricultural lands and the premature conversion of such lands to nonagricultural uses. Permitted land uses in this District include agriculture, commercial uses, utility lines and substations, resource extraction, energy development and miscellaneous accessory structures related to permitted uses. Small wind energy systems are permitted pursuant to Section 19.08.415.

### 19.14 Limited Agriculture (A-1).

The purpose of the A-1 District is to designate areas suitable for a combination of estate-type residential development, agricultural uses, and other compatible uses. Final map residential subdivisions are not allowed in the A-1 District. Permitted land uses in this District include agriculture, residential uses, commercial uses, utility and communication facilities, resource extraction, energy development, institutional uses, and miscellaneous accessory structures related to permitted uses.

### 19.62 Mobilehome (MH) Combining District.

The purpose of the MH District is to provide for the installation of mobilehomes with or without foundations in agricultural, resource-related, and residential zoned areas. The MH District may be combined with Limited Agriculture (A-1), Low-density Residential (R-1), Estate (E), Platted Lands (PL), or the Recreation-Forestry (RF) Districts. The uses allowed and regulations established by the MH District shall be in addition to the regulations of the base district with which the MH District is combined.

### 19.64 Wind Energy (WE) Combining District

The WE Combining District (Chapter 19.64) contains development standards and conditions (Section 19.64.140) that would be applicable to the siting and operation of WTGs. The following provisions apply to land use issues related to the proposed project:
Section 19.64.010

B. The WE District is a combining district and shall only be applied to the following district classifications: Exclusive Agriculture (A), Industrial (M-1, M-2, and M-3), Natural Resource (NR) with a minimum lot size of twenty (20) acres, Recreation-Forestry (RF) with a minimum lot size of twenty (20) acres, Limited Agriculture (A-1) with a minimum lot size of twenty (20) acres, or Estate (E) with a minimum lot size of twenty (20) acres.

Section 19.64.010

C. Fencing shall be erected for each wind machine or on the perimeter of the total project. Wind project facilities shall be enclosed with a minimum four-(4-) foot-high security fence constructed of four (4) strand barbed wire or materials of a higher quality. Fencing erected on the perimeter of the total project shall include minimum eighteen- (18-) inch by eighteen- (18-) inch signs warning of turbine dangers. Such signs shall be located a maximum of three hundred (300) feet apart and at all points of site ingress and egress. Where perimeter fencing is utilized, the Planning Director may waive this requirement for any portion of the site where unauthorized access is precluded due to topographic conditions.

D. All on-site electrical power lines associated with wind machines shall be installed underground within one hundred fifty (150) feet of a wind turbine and elsewhere when practicable, excepting “tie-ins” to utility type transmission poles, towers, and lines. However, if project terrain or other factors are found to be unsuitable to accomplish the intent and purpose of the provision, engineered aboveground electrical power lines shall be allowed.

F.6. Set Back From Public Highways and Streets, Public Access Easements, Public Trails, and Railroads. A minimum wind generator setback of one and one-half times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blade) shall be maintained from any publicly maintained public highway or street. A minimum wind generator setback of one (1) times the overall machine height shall be maintained from any public access easement or railroad right-of-way. A minimum wind generator setback of one hundred fifty feet shall be maintained from the outermost extension of any blade to any public trail, pedestrian easement, or equestrian easement.

19.88 Hillside Development. The purpose of the Hillside Development chapter is to provide for the reasonable use of hillsides and mountainous areas while protecting the public health, safety, and welfare by ensuring that development will not induce soil erosion, result in excessive grading, create sewage disposal problems, increase wildfire danger and slope instability, or lead to a loss of aesthetic value. This chapter implements the goals and policies of the County General Plan and various specific plans and sets specific standards and regulations for all grading and development of slopes exceeding thirty percent (30%) average natural slope. This chapter is not a base zoning district or combining district, but is applicable to all development in any zoning district on parcels designated Steep Slope (Map Code 2.4) by the County General Plan.

19.104.040 Basis for Approval

The decision-making authority may approve or conditionally approve an application for a conditional use permit if it finds all of the following:

A. The proposed use is consistent with the goals and policies of the applicable General or Specific Plan.

B. The proposed use is consistent with the purpose of the applicable district or districts.
C. The proposed use is listed as a use subject to a conditional use permit in the applicable zoning district or districts or a use determined to be similar to a listed conditional use in accordance with the procedures set out in Sections 19.08.030 through 19.08.080 of this title.

D. The proposed use meets the minimum requirements of this title applicable to the use.

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

4.10.4 Impacts and Mitigation Measures

Methodology

For the purposes of this analysis, relevant documents, particularly the KCGP and the Kern County Zoning Ordinance, were consulted and a site visit was performed. A discussion of the project’s consistency with plans and policies for each environmental topic area is summarized below and is described in more detail in the relevant environmental topic section of Chapter 4.

Thresholds of Significance

The Kern County CEQA Implementation Document and Kern County Environmental Checklist state that a project would have a significant impact on land use if it would:

- Physically divide an established community;
- Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect; or
- Conflict with any applicable habitat conservation plan or natural community conservation plan.

As discussed in the Notice of Preparation/Initial Study (NOP/IS), the proposed project was determined to have no impact with regard to the physical division of an established community, and conflict with any applicable habitat conservation plan or natural community conservation plan. The former issue will not be discussed in further detail in this report. The latter issue is being re-evaluated in the EIR because it was determined after circulation of the NOP/IS that the project site is located within a habitat conservation plan.

Project Impacts

Impact 4.10-1: Conflict with Any Applicable Land Use Plan, Policy, or Regulation of an Agency with Jurisdiction Over the Project Adopted for the Purpose of Avoiding or Mitigating an Environmental Effect

Section 1.11, “General Plan and Zoning Compatibility Matrix,” of the KCGP states that combining zone districts are considered consistent with the General Plan designations for which their primary or base zone district are consistent. Since most of the existing KCGP designations for the project site are currently consistent with the site’s zoning districts in accordance with State Planning and Zoning Law Section 65860, if the WE zone district is found to be applicable to the project site, then