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
the addition of the WE Combining District to the existing zone districts would also be considered consistent with the General Plan designations. Because a small portion of the site is currently zoned A-1 MH, the zone change request includes a change to the A zone in order to bring that portion of the project boundary into consistency with the underlying agricultural designation.

Table 4.10-4 (located at the end of this section) provides a detailed review of the project’s consistency with applicable local and federal policies and regulations. The following subsections summarize the project’s consistency with these policies and regulations.

**Kern County General Plan (KCGP)**

**Chapter 1 - Land Use/Conservation/Open Space Element**

Applicable goals and policies from the Kern County General Plan require compliance with the Land Use/Conservation/Open Space Element (Land Use Element). The Land Use Element includes physical and environmental constraint designations which establish specific development requirements. The proposed project would be sited in areas designated with steep slope and flood hazard constraints. In order to ensure compliance with the regulations for these constraints, Mitigation Measure (MM) 4.6-1 requires the project proponent(s) to determine the final siting of project facilities based on the results of a final geotechnical study and implement recommended measures to minimize geologic hazards (refer to Section 4.6, Geology, Soils, and Paleontology, for full text of the MMs). In addition, mitigation for impacts associated with aesthetics, air quality, biological resources, cultural resources, hazards and hazardous materials, hydrology and water quality, and utility systems would be required for compliance with this element and potential impacts would be reduced to a less than significant level.

**Chapter 2 - Circulation Element**

This land use analysis and Sections 4.8 (Hazards and Hazardous Materials) and 4.16 (Transportation and Traffic) conclude that the project would be consistent with transportation-related plans and policies with implementation of MMs 4.8-8, 4.10-1, 4.16-1, and 4.16-4.

**Chapter 3 - Noise Element**

Section 4.12 (Noise) concludes that the project would be consistent with noise-related plans and policies with implementation of MMs 4.12-1.

**Chapter 4 - Safety Element**

Sections 4.6 (Geology and Soils), 4.8 (Hazards and Hazardous Materials) and 4.16 (Transportation and Traffic) conclude that the project would be consistent with safety-related plans and policies with implementation of MMs 4.6-1 and 4.8-10.

**Chapter 5 - Energy Element**

This EIR serves to comply with this element. Chapter 4 of this EIR evaluates impacts to 17 different environmental resources and issue areas. As discussed in these sections, mitigation measures have been recommended to minimize any potential adverse effects from project-related activities. In particular, with implementation of MM 4.12-1, the proposed project would comply with this element.
Kern County Airport Land Use Compatibility Plan (ALUCP)

The Kern County Airport Land Use Compatibility Plan requires compliance with FAR (refer to the discussion below) and notification of construction to Edwards AFB. The project site is located 22 miles west of the boundary of the Edwards AFB and 27 miles from the China Lake NAWS. As defined by Section 19.64 and Figure 19.08.160 of the Kern County Zoning Ordinance, the maximum allowable structure height in the proposed project area is 500 feet. Proposed project structures would not exceed a height of 500. The project site is located across several of the military review zones in Figure 19.08.106, including green (no review requirement), yellow (all structures over 500 feet), and red (wind turbines and communications towers over 80 feet and all other structures over 100 feet). Without military review, those structures falling within the yellow zone would be limited to 500 feet above ground elevation; those structures falling within the red zone, which includes the eastern portion of the site (10.1 percent of the site with 1,337 acres), would be limited to 80 feet above ground elevation for wind turbines and communications towers and 100 feet for all other structures. As stated in Section 3.0 (Project Description), depending on the WTG manufacturer(s) and model(s) chosen, the WTGs would range in height from 398 to 493 feet (see Tables 3-3 and 3-4), as measured from the top of the foundation to the blade tip (with the blade in the vertical position). Additionally MMs 4.10-1 and 4.8-8 would require notification of construction to Edwards AFB and China Lake and compliance with FAR Title 14, Part 77, respectively. Therefore with implementation of the proposed MMs, the project would be consistent with the Kern County Airport Land Use Compatibility Plan.

Kern County Zoning Ordinance (Title 19)

Development of the proposed project would require 1,292 acres of the WE Combining District be incorporated into existing zone classifications. Implementation of the project would require amendments of Zone Maps 110, 111 131, and 132, as shown in Table 4.10-3, below.

<table>
<thead>
<tr>
<th>Case No.</th>
<th>Zone Map</th>
<th>Zone Change Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>110</td>
<td>A (Exclusive Agriculture District) to A WE (Exclusive Agriculture, Wind Energy Combining District);</td>
</tr>
<tr>
<td>2</td>
<td>111</td>
<td>A-1 MH (Limited Agriculture, Mobilehome Combining) to A WE (Exclusive Agriculture, Wind Energy Combining District), and to A</td>
</tr>
<tr>
<td>8</td>
<td>131</td>
<td>A (Exclusive Agriculture District) to A WE (Exclusive Agriculture, Wind Energy Combining District) and A FP (Exclusive Agriculture, Floodplain Combining)</td>
</tr>
<tr>
<td>9</td>
<td>131</td>
<td>A (Exclusive Agriculture District) to A WE (Exclusive Agriculture, Wind Energy Combining District)</td>
</tr>
<tr>
<td>5</td>
<td>132</td>
<td>A (Exclusive Agriculture District) to A WE (Exclusive Agriculture, Wind Energy Combining District) and A FP (Exclusive Agriculture, Floodplain Combining)</td>
</tr>
</tbody>
</table>

A total requested acreage zone classification to WE of 1,292 acres.

The purpose of the WE Combining District is to promote the use of an alternative to fossil fuel-generated electrical power in areas of Kern County that are identified to have suitable wind resources. The WE Combining District contains specific development standards and conditions that apply to all construction and siting of WTGs in this zone. With implementation of the proposed zone change, the project would be consistent with the Kern County Zoning Ordinance.
In addition, a three acre portion of the site is within the Zone A (100-year) flood hazard area as delineated on the Federal Emergency Management Agency’s (FEMA) Digital Flood Insurance Rate Maps (DFIRM). Therefore, the project proponents are also requesting incorporation of the Floodplain (FP) overlay zone district.

Implementation of the proposed project would also require approval of a CUP to allow the use of up to five temporary concrete batch plants for WTG, substation, and operation and maintenance and building foundations. Section 19.104.030 of the Kern County Zoning Ordinance specifies the basis for approval of a CUP and reads as follows:

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.

With implementation of MMs (refer to Table 4.10-4) the proposed project would be consistent with the KCGP and the Kern County Zoning Ordinance. In addition, with the implementation of the referenced MMs, the proposed temporary batch plant component of the project would not pose a threat to the health, safety, or welfare of the public or the surrounding property and would therefore, demonstrate compliance with the requisite findings for approval of a CUP. With implementation of the WE Combining District, the proposed project would be consistent with the purpose of the base zoning districts. Therefore, the proposed project would be consistent with the Zoning Ordinance.

**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 maximum height of the proposed WTG is 493 feet. Consequently, to ensure consistency with this FAA regulation, implementation of MM 4.8-8 (refer to Section 4.8) is recommended, which would require the project proponent(s) to file FAA Forms 7460-1 (Notice of Proposed Construction or Alteration).

**BLM – California Desert Conservation Area Plan**

A small portion of the proposed access roads and the generation-tie transmission line would traverse BLM lands designated as Limited and Moderate by the CDCA’s Multiple Use Class Guidelines. The guidelines state that new transmission line facilities may be allowed only within designated
corridors. Therefore, an amendment to the CDCA would be required to allow for the small segment of the generation-tie line crossing BLM lands.

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 install 30,462 linear feet of existing roads, improve 11,733 linear feet of existing road, and construct 962 linear feet of new roads on BLM property in order to access the proposed project site. Additionally, the application included a request for ROW for 9,200 linear feet of 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 Grant will be issued with stipulations to conform with the amended CDCA. In the event that the North Sky River Project is able to secure and easement for an alternative generation-tie transmission line route that does not cross BLM lands, then an amendment to the CDCA would not be required.

Mitigation Measures

MM 4.10-1 Prior to the issuance of grading or building permits, the project proponent(s) shall submit a final project design to the authorized officer of Edwards Air Force Base and China Lake Naval Air Weapons Station. Said final project design, shall be in the form of a detailed plan as required by Section 19.64.140 (Detailed Plot Plan Required - Contents) of the Kern County Zoning Ordinance and shall include final specifications on the height and location of the wind turbine generators to be installed as well as the anticipated schedule of each construction phase.

Level of Significance after Mitigation

Impacts would be less than significant.

Impact 4.10-2: Conflict with any Applicable Habitat Conservation Plan or Natural Community Conservation Plan

The proposed project area is within the boundaries of the West Mojave Plan (WMP), which is comprised of a pending HCP and an approved amendment to the California Desert Conservation Area Plan for the desert tortoise, Mohave ground squirrel, and nearly 100 additional species. The WMP was approved for BLM lands only in 2006, and the portion of the WMP that would apply to non-BLM lands is still pending. Therefore, the WMP is only applicable to BLM lands within the proposed project. Elements of the proposed project that could potentially occur on BLM lands include access roads, transmission line right-of-way (ROW), and possibly a staging area. WTGs, the project substation, the O & M facility, and the majority of project roads and power lines would occur on private lands. The extent of impact to BLM lands is not known at this time pending final engineering of the gen-tie route and access roads. However, impacts would be a small proportion of the total disturbance associated with development of the proposed project.
The Jawbone-Butterbredt ACEC has been designated on most of the BLM lands in the proposed project area. As described in Section 4.4.2 (Biological Resources), this ACEC was established to manage and protect significant cultural and biological resources present in the transition zone environment between the mountains and the Mojave Desert. Provisions of the WMP applicable to the Jawbone-Butterbredt ACEC include a 1% limitation on allowable ground disturbance and the requirement of a 5:1 mitigation fee ratio. Impacts within the ACEC, should they occur, would be mitigated in accordance with the WMP through the context of an Environmental Assessment being prepared by the BLM for the proposed project. Through project design and the mitigation measures proposed for biological resources, the project proponent shall ensure consistency with the conservation goals of the HCP. With the implementation of mitigation proposed for impacts to biological resources, the proposed project would not conflict with the WMP on BLM lands or on private lands if it is approved.

Mitigation Measures

Implement MMs 4.4-1 through MM 4.4-31. No land use mitigation measures are proposed.

Level of Significance after Mitigation

Impacts would be less than significant.

Cumulative Setting Impacts and Mitigation Measures

Cumulative Setting

The geographic scope for cumulative impacts to land use includes closely related past, present, and reasonably foreseeable future projects within six miles of the proposed project site. This geographic scope of analysis is appropriate because it reflects the maximum distance land use may be affected by implementation of the proposed project.

Impact 4.10-3: Contribute to Cumulative Land Use Impacts

With regard to conflicts with any land use plan, policies or regulations, including HCPs, the incorporation of the WE Combining District, the issuance of a CUP for the batch plants, and the implementation of this EIR’s proposed MMs would ensure the project’s compliance with the County’s goals, policies, and regulations.

With regard to cumulative impacts, the proposed and ongoing projects identified in Tables 3-9 and 3-10 of Section 3.11 (Cumulative Projects) include six wind projects and one solar project in the vicinity of the proposed project site. Construction and operation of additional wind development near the proposed project site would be in the vicinity of established communities, such as the community of Mojave and the City of Tehachapi.

Potential land use impacts would include inconsistencies with the County’s general plan and zoning ordinance, as well as incompatibilities with existing land uses. However, the WE Combining District contains specific development standards and conditions that apply to all construction and siting of WTGs in this zone, and as noted in Table 3-9, each project would include a zone change to allow wind energy development. Implementation of the WE Combining District would ensure that wind energy development is consistent with federal, State, and County regulations. Therefore,
impacts of the proposed project would combine with impacts of past, present, and reasonably foreseeable projects to result in a less than significant cumulative impact.

**Mitigation Measures**

Implement Mitigation Measures 4.10-1 and 4.10-2.

**Level of Significance after Mitigation**

Cumulative impacts would be less than significant.