4.2.3 Regulatory Setting

Federal

**Farmland Protection Policy Act (7 U.S.C. Section 4201)**

The purpose of the Farmland Protection Policy Act (FPPA) is to minimize the extent to which federal programs contribute to the unnecessary and irreversible conversion of farmland to non-agricultural uses. It additionally directs federal programs to be compatible with State and local policies for the protection of farmlands. Congress passed the Agriculture and Food Act of 1981 (Public Law 97-98) containing the FPPA—Subtitle I of Title XV, Section 1539-1549. The final rules and regulations were published in the Federal Register on June 17, 1994.

The FPPA is intended to minimize the impact federal programs have on the unnecessary and irreversible conversion of farmland to non-agricultural uses. It assures that, to the extent possible, federal programs are administered to be compatible with State, local units of government, and private programs and policies to protect farmland. Federal agencies are required to develop and review their policies and procedures to implement the FPPA every two years. The FPPA does not authorize the Federal Government to regulate the use of private or non-federal land or, in any way, affect the property rights of owners.

For the purpose of FPPA, farmland includes prime farmland, unique farmland, and land of statewide or local importance. Farmland subject to FPPA requirements does not have to be currently used for cropland. It can be forest land, pastureland, cropland, or other land, but not water or urban built-up land.

Projects are subject to FPPA requirements if they may irreversibly convert farmland (directly or indirectly) to non-agricultural use and are completed by a federal agency or with assistance from a federal agency (NRCS, 2008).

State

**California Department of Conservation (DOC), Division of Land Resource Protection**

The Department of Conservation provides services and information that promote environmental health, economic vitality, informed land-use decisions and sound management of our state’s natural resources. The Division of Land Resource Protection provides information, maps, funding and technical assistance to local governments, consultants, Resource Conservation Districts and non-profit organizations statewide with the goal of conserving the state’s agricultural and natural resources.

**Farmland Mapping and Monitoring Program**

The California DOC applies the Natural Resources Conservation Service (NRCS) soil classifications to identify agricultural lands, and these agricultural designations are used in planning for the present and future of California’s agricultural land resources. The DOC has a minimum mapping unit of 10 acres, with parcels that are smaller than 10 acres being absorbed into the surrounding classifications. Figure 4.2-1 shows the Important Farmland mapping information for the project area.
The list below provides a comprehensive description of all the categories mapped by the DOC (DOC, 2004). Collectively, lands classified as Prime Farmland, Farmland of Statewide Importance, and Unique Farmland is referred to as Farmland (DOC, 2004).

- **Prime Farmland.** Farmland that has the best combination of physical and chemical features able to sustain long-term agricultural production. This land has the soil quality, growing season, and moisture supply needed to produce sustained high yields. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.

- **Farmland of Statewide Importance.** Farmland similar to Prime Farmland but with minor shortcomings, such as greater slopes or less ability to store soil moisture. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.

- **Unique Farmland.** Farmland of lesser quality soils used for the production of the State’s leading agricultural crops. This land is usually irrigated, but may include non-irrigated orchards or vineyards as found in some climatic zones in California. Land must have been cropped at some time during the four years prior to the mapping date.

- **Farmland of Local Importance.** Land of importance to the local agricultural economy as determined by each county’s board of supervisors and a local advisory committee.

- **Grazing Land.** Land on which the existing vegetation is suited to the grazing of livestock. This category was developed in cooperation with the California Cattlemen’s Association, University of California Cooperative Extension, and other groups interested in the extent of grazing activities. The minimum mapping unit for Grazing Land is 40 acres.

- **Urban and Built-up Land.** Land occupied by structures with a building density of at least 1 unit to 1.5 acres, or 6 structures to a 10-acre parcel. This land is used for residential, industrial, commercial, institutional, public administrative purposes, railroad and other transportation yards, cemeteries, airports, golf courses, sanitary landfills, sewage treatment, water control structures, and other developed purposes.

- **Other Land.** Land not included in any other mapping category. Common examples include low density rural developments; brush, timber, wetland, and riparian areas not suitable for livestock grazing; confined livestock, poultry or aquaculture facilities; strip mines and borrow pits; and water bodies smaller than 40 acres. Vacant and non-agricultural land surrounded on all sides by urban development and greater than 40 acres is mapped as Other Land.

**California Land Conservation Act (Williamson Act)**

The California Land Conservation Act of 1965, commonly referred to as the Williamson Act, is promulgated in California Government Code Section 51200-51297.4, and therefore is applicable only to specific land parcels within the State of California. The Williamson Act enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space uses in return for reduced property tax assessments. Private land within locally designated agricultural preserve areas is eligible for enrollment under Williamson Act contracts. The Williamson Act program is administered by the DOC, in conjunction with local governments, which administer the individual contract arrangements with landowners. The landowner commits the parcel to a 10-year period wherein no conversion out of agricultural use is permitted. Each year the contract automatically renews unless a notice of non-renewal or cancellation is filed. In return, the land is taxed at a rate based on the actual use of the land for agricultural purposes, as opposed to its unrestricted market value. An application...
Figure 4.2-1
Farmland Classifications

- Grazing Land
- Nonagricultural and Natural Vegetation
- Rural Residential Land
- Semi-Agricultural and Rural Commercial Land

Jawbone Wind Energy Project Site
North Sky River Project Boundary

Pacific Crest Trail
Butterbredt Canyon Rd
Jawbone Canyon Rd
Kelso Valley Rd
Juniper Ct

North Sky River Wind Energy Project
and Jawbone Wind Energy Project
Draft Environmental Impact Report
May 2011
for immediate cancellation can also be requested by the landowner, provided that the proposed immediate cancellation application is consistent with the cancellation criteria stated in the California Land Conservation Act and those adopted by the affected county or city. Non-renewal or immediate cancellation does not change the zoning of the property. Participation in the Williamson Act program is dependent on county adoption and implementation of the program and is voluntary for landowners.

The Williamson Act states that a board or council by resolution shall adopt rules governing the administration of agricultural preserves. The rules of each agricultural preserve specify the uses allowed. Generally, any commercial agricultural use will be permitted within any agricultural preserve. In addition, local governments may identify compatible uses permitted with a use permit (DOC, 2007).

California Government Code Section 51238 states that, unless otherwise decided by a local board or council, the erection, construction, alteration, or maintenance of electric and communication facilities, as well as other facilities, are determined to be compatible uses within any agricultural preserve. Also Section 51238 states that board of supervisors may impose conditions on lands or land uses to be placed within preserves to permit and encourage compatible uses in conformity with Section 51238.1.

**Farmland Security Zone Act**

The Farmland Security Zone Act is similar to the Williamson Act and was passed by the California State Legislature in 1999 to ensure that long-term farmland preservation is part of public policy. Farmland Security Zone Act contracts are sometimes referred to as “Super Williamson Act Contracts.” Under the provisions of this act, a landowner already under a Williamson Act contract can apply for Farmland Security Zone status by entering into a contract with the county. Farmland Security Zone classification automatically renews each year for an additional 20 years. In return for a further 35% reduction in the taxable value of land and growing improvements (in addition to Williamson Act tax benefits), the owner of the property promises not to develop the property into non-agricultural uses.

**Local**

**Kern County General Plan (KCGP)**

The KCGP states that agriculture is vital to the future of Kern County and sets the goals of protecting important agricultural lands for future use and preventing the conversion of prime agricultural lands to other uses (e.g., industrial or residential). The KCGP includes three designations for agricultural land:

- **8.1 Intensive Agriculture** - Minimum parcel size is 20 acres gross. Devoted to the production of irrigated crops or having potential for such use;

- **8.2 Resource Reserve** - Minimum parcel size is 20 acres gross, except lands subject to a Williamson Act Contract/Farmland Security Zone Contract, in which case the minimum parcel size shall be 80 acres gross. Devoted to areas of mixed natural resource characteristics including rangeland, woodland, and wildlife habitat which occur in an established County water district; and

- **8.3 Extensive Agriculture** - Minimum parcel size is 20 acres gross, except lands subject to a Williamson Act contract/Farmland Security Zone contract, in which case the minimum parcel size is 80 acres gross.
size shall be 80 acres gross. Devoted to uses involving large amounts of land with relatively low value-per-acre yields such as livestock grazing, dry-land farming, and woodlands.

The policies, goals, and implementation measures in the KCGP for Agricultural and Forest Resources applicable to the project are provided below. The KCGP contains additional policies, goals, and implementation measures that are more general in nature and not specific to development such as the proposed project. Therefore, they are not listed below, but, as stated in Chapter 2, “Introduction,” all policies, goals, and implementation measures in the KCGP are incorporated by reference.

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

1.9 Resource (Land Use, Conservation, and Open Space Element)

Goals

- **Goal 1.** To contain new development within an area large enough to meet generous projections of foreseeable need, but in locations which will not impair the economic strength derived from the petroleum, agriculture, rangeland, or mineral resources, or diminish the other amenities which exist in the County.

- **Goal 2.** Protect areas of important mineral, petroleum, and agricultural resource potential for future use.

- **Goal 5.** Conserve prime agriculture lands from premature conversion.

Policies

- **Policy 1.** Appropriate resource uses of all types will be encouraged as desirable and consistent interim uses in undeveloped portions of the County regardless of General Plan designation.

- **Policy 2.** In areas with a resource designation on the General Plan map, only industrial activities which directly and obviously relate to the exploration, production, and transportation of the particular resource will be considered to be consistent with the General Plan.

- **Policy 5.** Areas of low intensity agriculture use (Map Code 8.2 (Resource Reserve), Map Code 8.3 (Extensive Agriculture), Map Code 8.5 (Resource Management)) should be of an economically viable size in order to participate in the State Williamson Act Program/Farmland Security Zone Contract.

- **Policy 7.** Areas designated for agricultural use, which include Class I and II and other enhanced agricultural soils with surface delivery water systems, should be protected from incompatible residential, commercial, and industrial subdivision and development activities.

- **Policy 11.** Minimize the alteration of natural drainage areas. Require development plans to include necessary mitigation to stabilize runoff and silt deposition through utilization of grading and flood protection ordinances.

- **Policy 12.** Areas identified by the NRCS (formerly Soil Conservation Service) as having high range-site value should be conserved for Extensive Agriculture uses or as Resource Reserve, if located within a County water district.

Implementation Measures

- **Implementation Measure C.** The County Planning Department will seek review and comment from the County Engineering, Surveying, and Permit Services Department on the
implementation of the National Pollution Discharge Elimination System for all discretionary projects.

- **Implementation Measure F.** Prime agricultural lands, according to the Kern County Interim-Important Farmland 2000 map produced by the Department of Conservation, which have Class I or II soils and a surface delivery water system shall be conserved through the use of agricultural zoning with minimum parcel size provisions.

- **Implementation Measure G.** Property placed under the Williamson Act/Farmland Security Zone Contract must be in a Resource designation.

**Kern County Zoning Ordinance**

The Wind Energy (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 wind turbine generators (WTGs). The following provisions apply to agricultural and forest resource issues related to the proposed project:

**Section 19.64.140(C):** Fencing shall be erected for each wind machine on 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.

**Section 19.64.140(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 therefrom “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.

**19.64.140(H):** All wind projects including wind generators and towers shall comply with all applicable County, State, and federal laws, ordinances, or regulations.

**Williamson Act Standard Uniform Rules**

Kern County has adopted a set of Agricultural Preserve Standard Uniform Rules that identify land uses that are considered compatible uses within agricultural preserves established under the Williamson Act. These rules are designed to restrict the uses of land enrolled in a Williamson Act contract to agriculture or other compatible uses. Agricultural uses include crop cultivation, grazing operations, commercial wind farms, livestock breeding, dairies, and uses that are incidental to agricultural uses. Other compatible uses include the erection of gas, electric, communications, water, and other similar public utilities.